LEGISLATIVE COUNCIL

Tuesday, November 23, 1965.

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

QUESTIONS

NORTHERN HOSPITAL.

The Hon. Sir LYELL McEWIN: Has the Chief Secretary received a communication in relation to the hospital serving the Quorn and Hawker area and, if he has, can he do anything to assist the position?

The Hon. A. J. SHARD: I have received a communication. From memory, it was received last Wednesday or Thursday. I immediately sent it to the Director-General of Hospitals for a report on what, if anything, could be done to assist in the difficult position from the point of view of the doctor in that area, but I have not yet received a reply.

CITRUS COMMITTEE.

The Hon. L. R. HART: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. L. R. HART: During the term of office of the previous Government a committee was appointed to inquire into problems associated with the citrus industry, and I understand that the committee's report has been in the hands of the printer for some time. At a field day that I attended at Loxton on Friday, the Minister of Agriculture said that he would be introducing a Citrus Marketing Bill in another place tomorrow. As it is imperative that this legislation be dealt with before Parliament rises in December at the end of this part of the session, will the Minister of Local Government say whether the Government intends to make this report available to members before this legislation is introduced so that they will be acquainted with the committee's recommendations?

The Hon. S. C. BEVAN: I shall refer the honourable member's question to the Minister of Agriculture and let the honourable member have a reply as soon as possible.

MAITLAND SCHOOL.

The Hon. M. B. DAWKINS: Has the Minister of Labour and Industry, representing the Minister of Education, an answer to the question I asked last week about calling tenders for the Maitland Area School?

The Hon. A. F. KNEEBONE: Yes; I do have a reply. My colleague the Minister of Education informs me that tenders were called for the new Maitland Area School on October 14, 1965, and that they close today. Funds have been provided to enable the construction to proceed following the letting of a contract.

JUSTICES OF THE PEACE.

The Hon. C. D. ROWE: Earlier this year it was indicated that further justices of the peace would not be appointed unless there was some urgency until, I think, a survey had been made of the position and some scheme had been worked out whereby justices would be appointed only where they were actually required. I am receiving inquiries from people who have lodged nominations asking when a decision is likely to be reached. Will the Chief Secretary ask his colleague the Attorney-General whether he has yet been able to reach the stage where he can make further appointments without their being specially asked for in specific cases?

The Hon. A. J. SHARD: I understand that the survey mentioned by the honourable member has been almost, though not completely, finalized. I am not in a position to give a definite answer now but will take up the matter with the Attorney-General and let the honourable member have an answer in the next day or two.

ROAD AND RAILWAY TRANSPORT ACT.

The Hon. R. C. DeGARIS: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. R. C. DeGARIS: The Minister of Transport has made certain statements in the press about the implications of the proposed amendment to the Road and Railway Transport Act. The Minister referred, in one of these press statements, to erroneous reports and "uninformed opinions". I have spoken to many country people and have attended one large public meeting about this matter, and have found that people are very clear and well-informed on the implications of this proposed legislation. Would the Minister of Transport like to enlarge upon what he means by the phrase "uninformed opinions"?

The Hon. A. F. KNEEBONE: Yes. The "uninformed opinions" I have been reading in the newspapers refer to all sorts of statements that have no foundation in fact, because they have referred to the cost of living in country areas being raised by 10s. or 15s. a week. How they work this one out I do not know, because there has been no statement made about the schedule of charges proposed to be administered by this Act (when and if this Bill becomes an Act). These things have been discussed and it is now proposed that the

maximum charges shall be included in regulations provided for by the Act. Amendments have been prepared to be placed on the file (and these are the only amendments that have been prepared on this Bill), designed to put into the Bill specifically those things that were mentioned in the second reading debate that would indicate how the Bill was to be administered. People in the country organizing this sort of opposition could read *Hansard* to ascertain the facts and what is proposed in the Bill. The statement that the cost of living of people in the country will be raised by 10s. or 15s. a week is completely erroneous and misleading in view of the fact that it has been said (and we know this from what we intend by the Bill) that the amount that will be raised by charges in relation to competition with the railways will amount to £200,000 in a full year. We have also said that we expect that this type of control, which, incidentally, is in operation in various forms in every State except South Australia, may bring to the railways added revenue from freight of £1,000,000 in a full year.

When the figure of £200,000 for a full year is considered on the basis of the population of the State and when it is realized that there can be competition in regard to goods being transported either to or from the metropolitan area, it is seen that those people who say that this will entail an added cost that the country people alone will bear are completely wrong. This will cover competition with the railways, whether the goods be coming into or going from the metropolitan area. The total sum of £200,000 amounts to about 4s. a head, so, if the statement that the cost of living will increase from 10s. to 15s. a week is not erroneous, I am yet to hear an erroneous statement.

The Hon. C. D. ROWE: Further to the Minister's reply, the statement has also been made that this Bill will bring an additional £1,000,000 revenue to the State and that it is expected that, of that amount, £500,000 will be profit. Does the Minister think that the statement that the railways can make that much profit is a reasonable and considered one when, in point of fact, the railways are losing at the rate of £3,600,000 at present?

The Hon. A. F. KNEEBONE: This is an estimate, that is all. Nobody can say at this stage what profit will be made. However, the Railways Commissioner, who has been complimented in this Council in regard to his accounts, has estimated this amount.

The Hon. G. J. GILFILLAN: My question is directed to the Minister with reference to the statement about the city people paying the freight, or paying a large proportion of the freight.

The Hon. A. F. Kneebone: I would like the honourable member to ask a question.

The Hon. A. J. Shard: The Minister has called "question", Mr. President.

The Hon. A. F KNEEBONE: The position is that this matter will be debated in the other place and in this Council (because I am sure that it will be carried in the other place), and all these matters can be debated at the proper time.

The Hon. C. R. STORY: Do I take it from the last remark the Minister made that he wishes that this matter be now closed and that he desires that further questions be not asked of him upon this subject?

The Hon. A. F. KNEEBONE: No, I will continue to answer questions.

The Hon. A. J. Shard: Provided they are questions.

The Hon. A. F. KNEEBONE: Provided they are questions, but I do not wish to debate the matter, and I am sure you, Mr. President, will protect me from debate. The last question was in the nature of debate and the question came at the end.

The PRESIDENT: I think all honourable members know that they cannot debate a question.

The Hon. G. J. GILFILLAN: I shall put my question directly to the Minister. On what class of goods within the State does the metropolitan area pay freight charges? I exclude interstate freight.

The Hon. A. F. KNEEBONE: I do not quite understand the honourable member's question, but I believe that he asked me on what kind of article people in the metropolitan area pay freight. Freight charges for the railways operate both ways; from the city outwards and from the country inwards. I did not know that articles were carried free from the country to the city.

The Hon. G. J. Gilfillan: It is paid at the other end.

The Hon. L. R. HART: In view of the answer given by the Minister to the Hon. Mr. DeGaris, I ask the Minister whether he believes that the £1,000,000 increased revenue for the railways will be at the expense of private freight operators.

The Hon. A. F. KNEEBONE: That may be so; it is possible that it could happen.

LEASEHOLD LAND.

The Hon. C. D. ROWE (on notice): Where a person is given land held on leasehold tenure from the Crown by Will, and the leased land included in the gift by Will will result in the beneficiary holding land of an unimproved value in excess of £12,000, will the Minister of Lands give his consent to a transfer of the said leasehold land to the beneficiary named in the Will?

The Hon. S. C. BEVAN: Under Section 225 (2) of the Crown Lands Act consent cannot be given to the transfer of a Crown lease to a person who, if such transfer were approved, would hold property with a total unimproved value in excess of £12,000. However, special consideration would be given in borderline cases where the Land Board and the Minister were of the opinion that it would be just and reasonable to do so, in terms of section 225 (5) of the Act. Each case would need to be dealt with on its merits. However, the answer to the general question is that consent cannot be given.

SUPERANNUATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 18. Page 2919.)

The Hon. R. C. DeGARIS (Southern): I support the second reading of this Bill. During the last election campaign, both Parties made certain promises in relation to superannuation. These promises were rather similar, although they contained small differences. The Bill before us is to put into this legislation the policy enunciated in that campaign by the present Government, with the exception of one matter that was promised—that people contributing to the superannuation fund would be able to nominate a different retiring age. However, I believe this matter presents certain difficulties and that the Government intends later to introduce legislation to bring this into force. In the election campaign the present Government promised that the Superannuation Act would be completely overhauled, and I should like honourable members to bear that statement in mind when they are studying the Bill.

This measure increases the Government's contribution towards superannuation from 66⅔ per cent to 70 per cent and reduces contributors' contributions from 33⅓ per cent to 30 per cent. In his second reading explanation, after stating that the Government's contribution would be increased, the Minister made a significant statement that the increase in the Government's contribution would cost £40,000 per annum. The present annual cost to the Government of superannuation is about £1,500,000, so the extra £40,000 is slightly more than a 2 per cent increase, although members' contributions are decreasing by about one-tenth. This must be considered in relation to the statement made in the election policy speech that superannuation for public servants would be completely overhauled and also the Chief Secretary's statement, "We do not always want to be the State which is lagging." If one analyses the second reading speech one sees that, with a 70 per cent contribution by the Government, the South Australian scheme will be a good deal above the average of the other States, yet the increase is of only 2 per cent.

In considering a Bill of this nature, I think it is necessary to have certain information about the South Australian Superannuation Fund. On June 30, 1965, the balance of accumulated funds, excluding the voluntary savings fund, was £18,995,288, being an increase of slightly more than £1,500,000 during the year. It is interesting to note the increase in the earning rate of this fund over the years. In 1959 it was £4 17s. 11d. per cent, and by 1964 it had increased to £5 5s. 1d. per cent. Administration expenses for 1965 were £65,760, which was an increase of £6,684 over the expenditure for the previous year. The total amount credited against those administration costs was £23,563, including £3,991 from compulsory contributions by contributors at the rate of 5s. per annum, a contribution towards the administration of the voluntary savings fund of £14,259, and there were valuation fees and miscellaneous receipts. The net cost of administration, which was a charge on the general revenue of the State, was £42,197. In other words, the cost to the Government of administering this fund is slightly more than £42,000 per annum.

If one goes back to 1940, one sees a different picture. In that year the administration cost was £5,285. Contributions of 5s. a year by each member of the fund towards administration charges amounted to £4,142 and valuation fees to £1,176. A credit of £33 was paid to general revenue in that year. In other words, administration of the fund in 1940 was not a charge on the general taxpayer, but in the last financial year the charge on the Treasury for administering this fund on behalf of its members was £42,197. Over the years

various changes have been made in the Superannuation Act. Indeed, in the last 40 years there have been 17 amending Bills, each adding something to the improvement of superannuation in the South Australian Public Service. I think the last change came in 1963 or 1964 in the form of a regulation made under section 29 of the principal Act, in which the Government's contribution was raised from 60 per cent to 66⅔ per cent. Over the years the proportion contributed by the Government has increased from the original basis of 50 per cent (and 50 per cent by the member) to 60 per cent, then to 66⅔ per cent, and today there is the increase to 70 per cent. I have not had much experience in dealing with matters of superannuation and, to me, the Bill is rather complicated and difficult to understand. In it there are several other complicating factors than superannuation—the conversion to decimal currency and the alteration in the units that can be taken from an annual to a fortnightly pension basis.

I turn now to the Bill itself. Clause 4 repeals subsection (3) of section 8 of the principal Act. I should like briefly to quote what the Chief Secretary said in his second reading explanation:

Clause 4 removes the requirement that an actuary must be a member of the board.

At first sight, this appears to be a rather strange amendment. The Chief Secretary also said:

Honourable members will recall and greatly regret that some months ago the Public Actuary died and that, so far, a replacement has not been secured.

This amendment removes the obligation on the Government to appoint a qualified actuary to the board. Subsection (3) also contains a proviso to the effect that:

One member of the board shall be an actuary provided that, if there is in the State no competent actuary available and willing to act as a member of the board, this subsection shall have no effect.

So we see that, even though an actuary is not available, there is a proviso, an escape clause, allowing the appointment to the board of some person other than an actuary. I believe that, since the Superannuation Board was first formed, there has always been an actuary on the board. If this clause is accepted, no obligation is placed on the Government for the appointment of an actuary, if he is available, to the board. If a qualified actuary is available, he should be appointed to the board, because I cannot think of any person whose services would be more needed on this board than a qualified actuary. Perhaps the Government finds some difficulty with the words used in the proviso—"provided that, if there is in the State no competent actuary". Maybe it is the word "competent" that is causing the need for this amendment. The Government might find that, if it changed the word "competent" to "qualified", section 20 (2) of the principal Act might be sufficient. That reads, that the Public Actuary shall be the actuary to the board. That means that, if there is a Public Actuary, he shall be the adviser on actuarial matters to the board. However, I do not think this is quite sufficient. If a qualified actuary is available that person should, under the obligation of this Act, be a member of the board. I ask the Chief Secretary to look at this matter and make clearer to this Chamber the reason for this amendment.

Clause 5 amends section 21 (3) of the principal Act. It deals with the alteration of the contribution of 5s. a year by the member for the administration of the fund (with which I dealt previously) to 2c a fortnight. If my arithmetic is right, this is about the same rate. Some consideration could be given to the fact that, whereas the administration of the fund was 20 years ago breaking fairly even, at present it is costing the Treasury about £40,000 per annum to administer.

Clause 6 enables female employees of the Public Service who continue to be employed in the Public Service to continue to contribute to superannuation after marriage. I see no objection to that: in fact, I think it is a necessary provision in the Act. Clause 7 enables subscribers to the Police Pension Fund to take advantage of the voluntary savings fund in the superannuation scheme. Members of the Police Force have their own Police Pension Fund. There are probably reasons for this, in the way of differences in employment and contributions being on a different scale.

The Hon. A. J. Shard: It is a very good scheme.

The Hon. R. C. DeGARIS: Yes, agreed; there are very good reasons for it, and this will enable members of the Police Force who may have taken up the full number of units in their scheme to place money at 4 per cent in this fund, which is available to other members of the Public Service. I see no objection to clause 7.

Clause 8 is the most important in the Bill. It is a long clause, covering seven pages and containing 18 subclauses. It inserts a new Part VIA in the principal Act. It will be effective from February 1, 1966. This is a

sensible measure because it almost coincides with the introduction of decimal currency. There is other legislation, more controversial than this, that depends on the introduction of decimal currency. Subclause (1) of clause 8 introduces a new section 75c, stating that after January 31, 1966, pensions shall be payable fortnightly instead of twice monthly, as at present. Subclauses (2), (4), (5) and (7) increase pensions to widows, whether present or future, from 60 per cent of the contributor's pension to 65 per cent, and the rate for dependent children whose mothers are living from £1 to £2 a week. At present, the pension for orphan children is at the rate of £2 a week and this amendment provides a pension for children, irrespective of whether they are orphans or not, at the rate of £2 a week. New subsections (3) and (4) deal with the widow of a male contributor. Subsections (5) and (7) deal with the widow of a person at present drawing the pension. In all these cases, on the death of the contributor, or on the death of the pensioner at present receiving a pension, the widow will receive a pension of 65 per cent of the pension of the contributor. Therefore, there is an increase of 5 per cent in the pension payable to widows.

Subsections (3) and (6) deal with cases where widows re-marry, and there is a rather interesting point in this that harks back to some of the difficulties we have in Legacy in relation to widows who are in receipt of pensions and who desire to re-marry. However, I shall not weary the Council on that matter at present. Subsections (8) and (9) provide for the necessary adjustment in respect of past contributions, consequent upon the decision of the Government to increase its contribution from 66⅔ per cent to 70 per cent.

Regarding subsection (8), as I understand the new rates, which will be on a 70-30 basis, people already retired will receive a credit that will be made to them at a fortnightly rate. A person who has contributed over many years at a rate higher than 30 per cent and who is at present drawing a pension from the fund will have a credit in that particular fund. A credit will also be created in the account of a person already contributing but who has not retired. The credit of the person who is a contributor, as against a pensioner, will be passed on to the contributor by way of a slightly lower rate of contribution until the credit has been cut out. I consider that there is an anomaly in regard to this matter.

If a contributor has a credit in the account because for many years he has been contributing to the fund more than 30 per cent, it passes to the widow or to the dependants upon the death of the contributor. Upon the death of a person already retired, who has a credit in his account, the credit is not passed to his widow or dependants. Clause 8 of the Bill deals with a pensioner who ceases to be a contributor before January 31 and with the credit that may be built up in his account in the fund. New subsection (8) reads:

> Such difference shall not be deemed to be part of the pension of the pensioner for the purpose of determining any pension payable to his widow upon his death.

New subsection 9 (*f*) deals with a contributor and says:

> Any amount so standing to the credit of an employee shall upon his ceasing to be a contributor be paid to him or upon his death to his personal representative.

So, it can be seen that a distinction is made in this Bill between a person who has already retired and has a credit in the fund and a person who has not retired. I consider that the widow or dependants of the pensioner who has contributed more than 30 per cent to the fund should not be penalized in comparison with the person who is still a contributor. I point this out to the Chief Secretary, because I consider that it is an anomaly.

The Hon. A. J. Shard: It sounds so, but it is not. The widow gains some added increase as well in the Bill. She cannot get it both ways.

The Hon. R. C. DeGARIS: What the Chief Secretary says is true, but I still consider that there is an anomaly.

The Hon. A. J. Shard: All widows receive an increase.

The Hon. R. C. DeGARIS: Yes, but the widow receives an increase from 60 per cent to 65 per cent, whether her husband was a contributor or a pensioner. If a pensioner has built up a credit of, say, $200, which is quite possible if he has been contributing for a long time, and another pensioner has a credit of $10, which is also possible, the $200 credit will go back to the fund, not to the widow, but in both cases the widows will receive the same 65 per cent.

The Hon. A. J. Shard: You will not get a law to suit every case.

The Hon. R. C. DeGARIS: No, but I think there is a principle involved in this and that the Chief Secretary, with his fair-minded approach to matters placed before him, will agree with me.

The Hon. A. J. Shard: I had a look at it with the association at lunchtime, and the

association is happy about it. No-one is more fair-minded than I am when I am dealing with payments to pensioners.

The Hon. C. R. Story: None of those people you spoke to would be a widow.

The Hon. R. C. DeGARIS: Circumstances can change quickly. A man can be a contributor today and a pensioner tomorrow. I think the Government should make some effort to rectify the anomaly. Under this Bill, people will build up credits in their accounts because of over-contribution and, when they die, the credits will go back into the fund, not to the widows or dependent children. New subsections (10) and (17) (*a*) deal with new scales. Subsection (11) is interesting. It deals with the entitlements of contributors to the number of units they may take up. The entitlement to units under this Bill is increased for those with an income below £1,700 and decreased for those who have an income above that figure. In reading this section of the legislation it is difficult to work out exactly the entitlement of people for one unit of pension. I have prepared a table showing the salary, present entitlement to units and the proposed entitlement to units under columns 1 and 2 of clause 8 (11) and I ask leave to have this table incorporated in *Hansard* without my reading it.

The PRESIDENT: I have seen the table.

The Hon. A. J. Shard: I raise no objection to the insertion of the table.

Leave granted.

NEW SCHEDULE FOR SUPERANNUATION 1965-66.

Salary.	Entitlement $ Units. Present.	@ 1/75 1,025 @ 1/125 2,600	@ 1/104 of Total Salary.
$			
1,000	16	14	
*1,040			*10
1,100	16	15	
*1,144			*11
1,175	16	16	
*1,248			*12
1,250	16	17	
1,325	16	18	
*1,352			*13
1,400	16	19	
1,441	18	19	
*1,456			*14
1,475	18	20	
1,550	18	21	
*1,560			*15
1,601	20	21	
1,625	20	22	
*1,664			*16
1,700	20	23	
1,761	22	23	
*1,768			*17
1,775	22	24	
1,850	22	25	
*1,872			*18
1,921	24	25	
1,925	24	26	
*1,976			*19
2,000	24	27	
2,075	24	28	
*2,080			*20
2,081	26	28	
2,150	26	29	
*2,184			*21
2,225	26	30	
2,241	28	30	
*2,288			*22
2,300	28	31	
2,375	28	32	
*2,392			*23
2,401	30	32	
2,450	30	33	
*2,496			*24
2,525	30	34	
2,561	32	34	
2,600	32	35	
*2,600			*25
*2,704			*26
2,721	34	35	
2,725	34	36	
*2,808			*27
2,850	34	37	
2,881	36	37	
*2,912			*28
2,975	36	38	
*3,016			*29
3,041	38	38	
3,100	38	39	
*3,120			*30
3,201	40	39	
*3,224			*31
3,225		40	
*3,328			*32
3,350	40	41	
3,361	42	41	
*3,432			*33
3,475		42	
3,521	44	42	
*3,536			*34
3,600	44	43	
*3,640			*35
3,681	46	43	
3,725	46	44	
*3,744			*36
3,841	48	44	
*3,848			*37
3,850	48	45	
*3,952			*38
3,975	48	46	
4,001	50	46	
*4,056			*39
4,100	50	47	
*4,160			*40
4,225	50	48	
*4,264			*41
4,321	52	48	
*4,368			*42
4,350	52	49	
*4,472			*43
4,475	52	50	
*4,576			*44
4,600	52	51	
4,641	54	51	
*4,680			*45
4,725	54	52	

Salary. $	Entitlement $ Units. Present.	@ 1/75 1,025 @ 1/125 2,600	@ 1/104 of Total Salary.
*4,784			*46
4,850	54	53	
*4,888			*47
4,961	56	53	
4,975	56	54	
*4,992			*48
*5,096			*49
5,100	56	55	
*5,200			*50
5,225	56	56	
5,281	58	56	
*5,304			*51
5,350	58	57	
*5,408			*52
5,475	58	58	
*5,512			*53
5,600	58	59	
5,601	60	59	
*5,616			*54
*5,720			*55
5,725	60	60	
*5,824			*56
5,850	60	61	
5,921	62	61	
*5,928			*57
5,975	62	62	
*6,032			*58
6,100	62	63	
*6,136			*59
6,225	62	64	
*6,240			*60
6,241	64	64	
*6,344			*61
6,350	64	65	
*6,448			*62
6,475	64	66	
*6,552			*63
6,561	66	66	
6,600	66	67	
*6,656			*64
6,725	66	68	
*6,760			*65
6,850	66	69	
*6,864			*66
6,881	68	69	
*6,968			*67
6,975	68	70	
*7,072			*68
7,100	68	71	
*7,176			*69
7,201	70	71	
7,225	70	72	
*7,280			*70
7,350	70	73	
*7,384			*71
7,475	70	74	
*7,488			*72
7,489	72		
*7,592			*73
7,600	72	75	
*7,696	*74		*74
7,725	73	76	
*7,800	*75		*75
7,850	74	77	
*7,904	*76		*76
7,975	*76	78	
*8,008	*77	78	*77
8,100	*77	79	
*8,112	*78	79	*78
*8,216	*79	79	*79
8,225	*79	80	
*8,320	*80	80	*80
8,350	*80	81	
*8,424	*81	81	*81
8,475	*81	82	
*8,528	*82	82	*82
8,600	*82	83	
*8,632	*83	83	*83
8,725	*83	84	*83
*8,736	*84	84	*84
*8,840	*85	84	*85
8,850	*85	85	*85
*8,944	*86	85	*86
8,975	*86	86	*86
*9,048	*87	86	*87

The Hon. R. C. DeGARIS: I have shown the exact units that people may take, and I present the table for the information of members. Subclauses (12) and (16) of clause 8 are purely machinery clauses. Subclause (17) of clause 8 enables future entrants to the Public Service who are over 46 years of age to enter the scheme on certain specified terms.

Finally, I direct another query to the Chief Secretary. Previously there were a number of public servants to whom the Government was making a greater contribution than 70 per cent. I believe that this position is well known to most people and it was done as an act of grace to certain public servants who had given worthwhile service to the State of South Australia. I ask the Chief Secretary whether he will advise me of the effect of this amending Bill on these people. Will there be any increase in their pension rate? I believe that in this category the Government may be inclined to offer some increase in the pension rate to these people, and that this can be done under the regulation-making powers of section 29 of the principal Act. Apart from those queries—one regarding the obligation being removed for the appointment of an actuary to the board if one is available and the matter of the position of the widows of pensioners in relation to the over-contribution of the member—I support the second reading.

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

STAMP DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 18. Page 2920.)

The Hon. Sir LYELL McEWIN (Leader of the Opposition): The origin of this Bill comes

from a slight hint that was included in the policy speech of the then Leader of the Opposition, Mr. Walsh, when he stated:

There are certain loopholes in the existing legislation where the legal avoidance of stamp duties is possible, such as conveyances on properties. The legislation will be amended in keeping with our policy to overcome this problem.

That was in the Labor Party's policy speech, and it was elaborated upon after the then Leader of the Opposition went off the air, but no further reference was made to any suggested amendment to the Stamp Duties Act or any increase in taxation in that regard. Now we find this Bill introduced in this Chamber and it is nothing other than a taxation measure that has been made a little bit more palatable in the early clauses of the Bill. I find that the Minister commenced his explanation of the Bill by referring to clauses relating to the repealing of existing provisions governing amusement duty as mentioned in clauses 14, 15 (*b*) and 16. This is something that has not operated for a number of years; it means nothing, it is merely a bit of early window-dressing to the Bill to indicate that the Government was being generous in giving up something available to it in the way of revenue Then we go on to clauses 5, 15a, 17 and 18 relating to decimal currency. The Minister referred to the change from pounds to dollars and to the doubling of the duty. It is a provision that is necessary merely because of such a changeover.

So it appears to be a fairly innocuous measure until we reach clause 8, and then the Bill starts to "put the hooks in". That clause doubles the duty on cheques from 3d. to 6d. Clause 15e deals with the progressive increase in duty on receipts. It is 2d. at present and remains at 2d. on amounts up to £5. The duty on £50 goes up to 1s., or six times the present duty, and that continues progressively up to £500 when the duty is increased 12 times. So this becomes purely a revenue Bill and not, as suggested originally, something to correct an anomaly in conveyancing. I shall not attempt to address any of my remarks to conveyancing because that is something legal members of this Chamber are more able to deal with.

The Government moved along quietly for a while in extorting money from taxpayers. It started very quietly, with a slight skirmish dealing with such simple things as pistol licences that rose from 5s. to £1, and I understand that many people are waiting to pay but nobody will accept the fee.

The Hon. A. J. Shard: It is still being considered in another place.

The Hon. Sir LYELL McEWIN: Yes, but we have the unusual procedure of everything being held up until the Bill is passed in another place. It would be thought that the Government when looking for money would proceed quickly with this legislation because the other House received the Bill from this Chamber months ago. People should not have the inconvenience of being unable to pay their licence. They cannot get a receipt because they cannot get a bill in the first place.

The Hon. Sir Arthur Rymill: I got a bill for 2s. 6d.

The Hon. Sir LYELL McEWIN: But people cannot pay the money. It may be necessary to put a duty stamp on the receipt and they may even be waiting for that. As I said, we put this legislation through and it is still waiting to be dealt with in another place. It has been said that the Hawkers Act Amendment Bill will put certain people out of business, but I suppose that is still waiting to be dealt with in another place. Then we had a real skirmish on house rents and bus fares. These increases pleased everyone, particularly those who lived a couple of stops over a section and had to pay 50 per cent more! Then dog registration fees were increased, and we had a little nibble at the Companies Act to get some extra money.

We gradually worked up to something worth while; we dealt with a Bill in relation to land tax to bring in an extra £500,000. Following that, on November 4, an urgent Bill was introduced to raise nearly £500,000 a year from stamp duties. This was the innocuous Bill to correct some of the anomalies regarding people who did not use duty stamps! However, the measure will raise a considerable sum of money, even though it was not stated in the policy speech that it would be at all unpleasant.

All this comes at a time when the economy of the State is not expanding and seasonal conditions are such that business should not be affected in any way. Australia's wool cheque is down by about £80,000,000, and drought conditions are aggravating the problems of our wheat producers, who have had crop failures. The Government's contribution to help us out of these problems is to increase costs, which ultimately must affect employment! There will be less money to distribute in wages, which will mean that people will have less money to spend. Then there will be

reduced factory output, followed by restrictions on imports. So, the vicious circle will go on.

This Bill is no more than a hindrance to trade, and it will create a buyer resistance because of higher costs. No matter whether it creates higher costs or reduced profits, the result will be the same. Clause 13, which refers to holding receipts for two years, is the height of folly. Nobody can estimate how much this provision will cost business. If I buy something from the Chief Secretary but I do not want a receipt, he will have to place the receipt in a drawer. One can imagine how much paper will be wasted and how much filing will be necessary in an establishment like the Myer Emporium if it has to keep receipts for two years.

Country people who have monthly accounts at stores usually make payments by cheque. Soon these cheques will cost 6d. each, and in addition there is the cost of the postage stamp. The store will have to affix a duty stamp and must post back the receipt, which will cost a further 5d. The larger stores send out accounts on dates determined by the initial letter of each customer's surname; this saves difficulties in their office administration. On the day when an account is sent out an order may be received by the firm for more goods. When a cheque is sent it is credited to the account, and when the next statement is forwarded it shows a credit for the payment; the account is running for the whole period. I do not know what the position will be in future—whether it will be necessary to post out receipts for each payment or whether each payment can be held and a receipt sent for the complete payment. If individual receipts must be sent, the firm will have to pay stamp duty and postage each time a payment is made. Perhaps the Chief Secretary will tell us these things. I have wasted much time going through this legislation to sort out these things, but I cannot see any provision for them. Perhaps I am a little dumb in reading some of the Government's complicated legislation, which contains amendments that are not always in sequence, but it is difficult to ascertain the real meaning of much of the legislation.

Generally, purchases from retail stores are not taxation deductions, so people are not particularly interested in getting receipts. Usually, all they want is a cash register chit. Some people will become annoyed at this legislation and instead of paying by cheque they will draw cheques for cash and make separate purchases so that no bill is liable for stamp duty. What will happen then? If the Government wants to collect revenue on the whole amount, would it not be better to levy some monthly payment from each store assessed on cash register receipts? At least this would be much easier and more palatable, and it would obviate much office work. Generally most people want to get out of a shop as quickly as they can after making their purchases.

The Hon. Sir Arthur Rymill: I do not think the Government realizes the tremendous cost this will impose.

The Hon. Sir Norman Jude: I do not think the motorist has realized how much stamp duties will cost him.

The Hon. Sir Arthur Rymill: This will put a tremendous burden on all people in the State.

The Hon. Sir LYELL McEWIN: Will I be chased by a detective after making purchases at various counters because my purchases have not been aggregated? Obviously the purpose of this measure is to raise revenue, yet the Minister has said it does not mean anything. He said the Government would break even on it. If that is so, why are we meddling in business, making it complicated, and interfering with the freedom of trade between customer and vendor?

The Hon. L. R. Hart: The Government believes in aggregating most things.

The Hon. Sir LYELL McEWIN: Another thing is the payment by cheque where the payee or recipient of the cheque signs on the back of the cheque or sometimes on its face, endorsing it as having received the money. Some cheques have a space on the back for the stamp when the recipient signs denoting that he has received the money. Who is to police this? It is nothing to do with the bank. I have done it myself deliberately: when I have received a cheque I have signed it and given it to the bank without a stamp on it. The bank cannot do anything about it—it is nothing to do with the bank. It is not the bank's responsibility. The banks have an unconditional obligation to meet the face value of the cheque. The receipt is nothing to do with the bank. The Wheat Board, the butter factories, the Barley Board and even the Government pay out cheques where no receipt is required. What will happen? Has the payer, the drawer of the cheque, to deduct 2d. from what he owes and put a stamp on the back of the cheque? I cannot see how it will work. I would not stay long with a bank that tried to make me put 2d. on the back of a cheque that I was paying in, drawn to my credit. It is my money and

the bank has no right to take anything from it. I cannot see how this legislation can be policed.

Then what about the cash register receipts? Obviously, one can turn out a slip for £5 5s. and, if people are prepared to wait while all this goes on, a duty stamp can be put on it. That can be done but it is a further inconvenience to customers and I fail to see why it cannot be done in some other way. In other words, I want some simplification if we are to be asked to agree to this system of trying to get more compulsion, to see that everybody pays duty in some form or another. At least we should have a more simple form than we have in the Bill. The Government is trying to get more revenue and, in the same breath, we are told it will not mean anything to us. That reveals the utter stupidity of this part of the Bill. Clause 13 deals with the onus of proof—in effect, stating that a man is guilty until he is proved innocent. Section 84 (*b*) as amended will provide:

. . . in any case where a receipt would be liable to duty, refuses or without reasonable excuse (proof whereof shall lie on him) omits to give or tender a receipt duly stamped.

I should like the Minister to give me some more information on that. Is it because the Government thinks our business community is a gang of crooks, so much so that we have to assume that they are all guilty until they come along and prove themselves innocent? I do not like the clause. I do not know what we can do about that.

I have already referred to clauses 14 and 15. Clause 14 refers to amusements duty. This interests me because (and I have already mentioned this when speaking to an earlier Bill) this appears to be the only other source of revenue left to the Government. Apparently, it has temporarily shut the gate on that. We have all these other taxation measures before us to bring us up to the level of other States, but this one avenue for additional revenue has so far not been used. The Government could have left it open in case it needs another source of revenue at any time.

The Hon. A. J. Shard: We are not killjoys.

The Hon. Sir LYELL McEWIN: The Government has built things up to the stage where everything we do now is based on the fact that "some other State has this". We are not told about those States that are below us in some things but, in every field where the argument can be used that "the other States have it", we are told about it. When we get our costs up to the equivalent of those in other States and are taxed equally with them, then I am afraid it will be a poor look-out for South Australia. We did not build up our economy and prosperity on the basis of trying to chase the costs of other States. Rather have we built up our economy by deliberately trying to keep our costs below those of other States. It is upon that basis that all our prosperity depends, that we can manufacture and deliver our goods to where the markets are. We know that the nearest market is over 500 miles away. We have stamp duty, transport duty, road control—everything to impede us. I say without hesitation that it is bad for the State and I regret that we are asked to consider this legislation where no mandate was sought from the people at the time of the election. It is a complete breach of faith on the part of the Government with the electors of South Australia. I shall not delay the Council further. I support the second reading but reserve my vote in Committee. I have reservations about a number of these clauses.

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

HARBORS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 18. Page 2924.)

The Hon. C. C. D. OCTOMAN (Northern): I refer first to clause 3 of the Bill, which is a technical clause relating to the display of certain signals within 10 miles of a pilot boarding station. This removes an anomaly in respect of vessels approaching Port Augusta, and no objection can be raised to it. It has been mentioned that it has taken a long time to remedy this defect in the principal Act, which was probably brought about by the increased size of ships using this narrow channel in the approaches to Port Augusta, at the head of Spencer Gulf. Much larger shipping enters South Australian waters now than has been the case previously.

Clause 5 amends the principal Act and defines the areas of land in the hundreds of Port Adelaide and Yatala that the board is empowered to acquire or dispose of when the land is no longer required. Some problems have arisen regarding the disposal of land in what is known as Gillman Estate for industrial purposes and this amendment remedies the situation regarding the transfer of titles.

I have some reservations about clause 4, which increases the harbour charge that can be levied for the harbour improvement fund from 1s. a ton to 3s. a ton. As far as I can gather, the

present charge of 1s. a ton has never been invoked by the Harbors Board and, because of this, the reason for increasing the charge seems to be obscure. It seems that it would have been much simpler to delete the provision from the Act rather than amend it to provide for a higher rate.

The Hon. S. C. Bevan: It must be expected that it will be used.

The Hon. C. C. D. OCTOMAN: It evidently is expected that it will be, and that brings me to the point of my reservations about the clause. The Leader has just referred to Bills providing for increased charges that have been before the Council in recent weeks. Both this Chamber and another place have considered increased charges in relation to companies, hawkers, land tax, pistol licences, road and rail transport, stamp duties and succession duties. Before that we had increased water charges, increased Municipal Tramways Trust fares, increased Housing Trust rents, and Harbors Board charges. Therefore, although the harbour improvement fund charge may never have been levied, there could be justification for suspecting that it could be levied in the future at the rate of 3s. a ton, which is an increase of 200 per cent.

The Hon. Mr. Gilfillan drew attention to amended regulations dealing with increased harbour charges laid on the table of this Council. The charges in relation to some items have been increased by up to 40 per cent and, in relation to other items, up to 200 per cent. There can be no reasonable excuse for this, because the Harbors Board has consistently shown a surplus, after making provision for working expenses and capital charges. The surplus for the year 1964-65 was £307,000 and the implementation of the amended regulations could cost the community an additional £500,000 a year.

I am unhappy about the Minister's example of the tuna fishing and meat industries at Port Lincoln. The tuna industry, in particular, is extremely young. It has had and still has many difficulties to overcome. The perfectly logical argument has been advanced that other industries have had facilities provided for them without being levied in the way of this harbour improvement fund levy. Therefore, it is unjust to single out a new industry and to force it to contribute when industries that have been established in earlier times have not contributed. The tonnage of tuna exported from Port Lincoln has increased steadily and reached the figure of 6,000 tons in 1964. Much of this was invaluable as a dollar earning export.

Because of unfavourable conditions in early 1965, as the Hon. Mr. Geddes has mentioned. the tonnage of tuna processed at the Safcol factory at Port Lincoln dropped. The fish were not in the right place at the right time, and this could be called the fishermen's lament; it applies to all fishing. The tuna season will commence in a few weeks and it is expected that 35 tuna clippers will be operating from the port. Therefore, it will be seen that, although it is a young industry, it is rapidly expanding and is extremely valuable to this State. I should view with deep concern any proposal to levy additional charges on the industry.

My concern applies similarly to the meat-producing industry. There is no case for levying additional charges on that industry generally, and there is still less justification for levying a charge on that industry at Port Lincoln and not at other ports. At the moment, the industry in that area is facing certain difficulties, and to have to meet additional charges would place the district at a disadvantage to other parts of the State. Special harbour facilities have been provided by the Harbors Board for the roll-on-roll-off ship *Troubridge* at Port Adelaide, Port Lincoln, and Kingscote on Kangaroo Island. I hope that the provisions regarding the harbour improvement fund are not extended to enmesh an industry that gives a most important service to isolated parts of the State.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): I rise to reply to some of the things that have been said in regard to this Bill. First, I want to inform honourable members who have referred to the fishing and meat industries at Port Lincoln that I have an assurance from the General Manager of the South Australian Harbors Board that there is no intention of applying a harbour improvement rate in relation to the extension of harbour facilities at Port Lincoln. It was unfortunate that I chose that port in order to give an example of how the rate could be applied.

The Hon. Sir Lyell McEwin: What would come under that heading?

The Hon. A. F. KNEEBONE: He states in the minute:

The charge of 1s. mentioned has never been invoked. It was written into the original Act in 1913 and what the board require is that the figure be brought more into line with present-day money values . . .

I believe it was suggested by the board that the charge be 6s.; the Minister mentioned an amount of about 5s. and the amendment came from another place that it should be 3s. The Minister has accepted 3s., indicating that he has been reasonable. The comments continue:

Power to impose a harbour improvement rate of up to 3s. (instead of the present limit of 1s.) is required in case it should be necessary to impose such a charge, that is, an industry requiring special facilities, possibly for its exclusive use, the cost of which would not be met by the normal wharfage, conservancy and tonnage rates. It is also possible that the industry itself would be willing, in fact, offer, to pay this rate. (We have had one example of this in the past three years).

The Hon. C. D. Rowe: Do you think he was referring to Giles Point?

The Hon. A. F. KNEEBONE: He possibly could have been doing that.

The Hon. D. H. L. Banfield: Or the deep-sea port in the South-East promised some time ago!

The Hon. A. F. KNEEBONE: Possibly. The deep-sea port broke down in other years and we have not been able to repair the undercarriage of the portable port; we cannot shift it around. Reference was made to the amount of money that the Harbors Board has made during recent employed in making this surplus of £366,990, this was less than the surplus in 1961. It is interesting to note that honourable members have not referred to the amount of funds employed in making this surplus of £366,990, but I point out that they amounted to £21,373,840. I would say to those people who have always held up private enterprise as an example of what could be done with efficiency that I do not know what would happen to some of the companies on which honourable members on the other side of the Council sit as directors if the shareholders of those companies were told that funds invested or used in the year, amounting to £21,373,840, resulted in a surplus of only £366,990.

The Hon. R. C. DeGaris: That undertaking has to meet interest and capital costs.

The Hon. A. F. KNEEBONE: But does not private enterprise have to pay interest on money invested? This would be said to be sailing very close to the wind in private enterprise and I think, in view of the increased costs, that £366,990 is not a wide margin. I consider that this is a reasonable request. I notice that most members say they support the second reading, and I consider that the Bill should be passed in its original form.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Harbor improvement rates."

The Hon. Sir LYELL McEWIN: Do I understand from the Minister's remarks that this section, as inserted in 1913, has never been operated on?

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): The report states that the charge of 1s. has never been invoked.

The Hon. Sir LYELL McEWIN: I thought that in the interests of efficiency the Government might be repealing this in order to be consistent with its other legislation.

Clause passed.

Clause 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 18. Page 2926.)

The Hon. Sir NORMAN JUDE (Southern): In the amending Bill, as it reached this Council, I find little to cavil at. A report I have heard states that it is in a decidedly different tone from the way it was originally introduced in another place. It has been heavily amended to a satisfactory degree as far as I can see. The Bill insists on compensation being paid to the extent of the valuation put upon the land by the appropriate valuer. In the majority of cases of compulsory acquisition the valuer would be the Land Board, certainly for any considerable amount. The Act now provides that the money shall be paid into court where possession of the land is entered into. But now the Government valuation shall be paid to the vendor, upon entry. Naturally, I regard that as highly satisfactory. It is never satisfactory to me, when anything in the nature of compulsion is undertaken, that the person involved is detrimentally affected. Therefore, it is the first duty of honourable members to see that just compensation is paid in all cases. I believe this Bill sets out to do that and it will prove to be quite satisfactory. It has many other advantages, one being that it will speed up the machinery of compulsory acquisition. As I have been associated with the Highways Department, I know the problems the department has had when one person out of, say, 20 has held up a project that otherwise could have gone ahead months earlier. At the same time, however, I know that many people, due to legal requirements and procedures, have been unjustly kept waiting for their money. This Bill will do away with most of that.

I notice that interest at the rate of 5 per cent will be paid on any additional compensation awarded, and that is reasonable enough. I do not know whether 5 per cent is the existing bank rate permitted by the Loan Council. If it is, we cannot do anything about it, but it seems to me rather unfortunate that a person who may have to borrow money to buy another house after his house has been acquired must pay 7 per cent or 7½ per cent yet be paid only 5 per cent by the Government. I should like the Minister in his reply to say whether this is a statutory requirement.

As I see it, the Bill contains one or two shortcomings. In the clause dealing with the valuation of land, the valuation is to be that applying 12 months before the serving of the notice. This harks back to the unfortunate days of the war, when in 1942 land values were pegged. This was wise to prevent speculation by some people when others were looking after the interests of the country and did not have similar opportunities. I notice that an amendment is on honourable members' files to provide for the valuation to be that as at the date of the notice to treat.

The Hon. A. J. Shard: What did you do when you were Minister?

The Hon. N. L. JUDE: I am fully aware of that, but a notice to treat was given only as a last resort in those days. We always believed in negotiating for as long as possible. Several people proved difficult, however, and it was then necessary to resort to firm procedures. However, many people (in some cases trustees) do not want to negotiate; they wish to have the matter placed in official hands and will take whatever valuation the court places on land. This is understandable in certain cases. However, it is highly desirable that notices be served simultaneously on all people concerned when strip purchasing is carried out for easements or road widening. Although the Highways Department, in the interests of the people, does not pay more for land than it has to pay, it must be fair, but it is unfair to people who sell willingly to the department if other people eventually receive twice as much as they receive. Of course, the land may have increased in value, and I believe that the enhancement of values should be considered. Nobody can tell me that people do not benefit by improvements to roads, which usually result in the construction of footpaths, water tables and so on. However, that is not in the legislation now, and I am referring to it only as complementary to the whole argument.

I draw attention to what I fear may be the intention of the Government regarding compulsory acquisition of land for public purposes—setting up what may be termed a central buying authority. I, like many public servants and no doubt some Ministers, am fully aware that it is being mooted. I issue the warning that, although this may be satisfactory for buying large tracts of land for schools or hospitals, it will not be satisfactory in relation to strip buying for easements or road building. Often a strip of land only 7ft. wide is acquired, and I suggest it is better to leave this buying, particularly for the purposes of the Engineering and Water Supply Department and the Highways Department, in the capable hands of the men already doing it. These two vital departments rely on getting acquisition handled quickly and, if there is a central buying authority, they will be bogged down because any time they vary or enlarge a plan they will have to take their place in the queue. In the meantime, the authorities now operating will be short of work, although they will still be necessary because they are experts in valuing land for strip acquisition. Honourable Ministers should watch this possibility carefully, and I suggest that this proposition be viewed as an instance of further bureaucracy. I suggest that it be resisted to the utmost. That is all I wish to say for the moment. I support the second reading but shall have something further to say in Committee.

The Hon. R. A. GEDDES (Northern): By the streamlining provisions of this amending Bill, we must be sure of the guarantee that this will not be the principal means whereby land will be acquired for Government use. I firmly believe that the method referred to just now by the Hon. Sir Norman Jude, that of negotiation, is the fairest and most proper way of acquiring land. It is possibly human nature that in negotiation the time can sometimes be protracted. This Bill certainly cuts out humbug and makes it relatively easy, compared with the present Act, to acquire land compulsorily. The old and correct method of purchasing land—by negotiation—will be overlooked.

The Hon. S. C. Bevan: It will not. There is nothing in the Bill to prevent negotiation.

The Hon. R. A. GEDDES: That is correct: there is nothing in the Bill to prevent negotiation, but is there anything to say that negotiation shall take a minimum or a maximum time? What is the yardstick for determining the time within which compulsory acquisition by this legislation can come into effect? I realize it is humbug in this modern age and that it is

necessary, for the sake of efficiency, to reduce delay; but, when a *bona fide* owner of land, after all other methods have failed, has a minimum time of three months in which to quit his land that does not give him much time. It is not enough time for those of us who are tied in the ownership of land, particularly if there is a ruthless promoter wishing to take away a portion of the land. New section 23a (4) (*b*) states:

the estate and interest of every other person in such land whether legal or equitable, shall become converted into a right to compensation under this Act, and such person shall thereafter be entitled to receive from the Minister or the authority, as the case may be, interest at the rate of five per centum per annum, on such amount of the compensation payable to him under this Act as is for the time being unpaid, until the full amount of such compensation has been paid.

This 5 per cent is below the interest rate for bonds and, therefore, there is no penalty on the promoter if he offers a price for the compulsory acquisition of a person's land and, should the court decide after appeals have been made that the valuation price paid by the promoter was too small, and the balance is made up, the 5 per cent interest is paid. To pay interest is a reasonable attempt to be fair and I do not criticize the fact that interest will be paid. I am trying to make the point that the paying of 5 per cent interest is not a penalty to the promoter when it comes to the acquisition of land. If it was 8 per cent, I venture to say that a far truer and more accurate valuation would be obtained in the first instance, because the paying of 8 per cent interest on a large sum of money would not be viewed with any great pleasure by the promoter, and it would mean then that possibly we would reduce the amount of court work necessary should the seller of the land wish to go to court to get his just dues.

The Hon. S. C. Bevan: What interest rate would you get today?

The Hon. R. A. GEDDES: The Minister knows perfectly well that the interest rate in the principal Act is nil. I did say that I favoured the principal of paying interest. I do not criticize the paying of interest: I am trying to make the point that the payment of 5 per cent interest does not hurt the promoter when it is below bond rates of interest. However, if the interest rate was higher, it would benefit the valuation of the land. That is my point. New section 23b (7) states:

In subsection (2) of this section, "promoters' valuation" means a valuation made, on behalf of the promoters, by the Land Board referred to in the Crown Lands Act, 1929-1960, or by a person or class of person prescribed by regulation made under this Act as a person or class of person authorized to make valuations for the purposes of this section.

This subsection states that the valuation shall be made by the Land Board or by a person or class of person prescribed by regulation made under this Act. As I read it, it could mean that miscellaneous people (authorized, of course, by regulation) could make valuations. They could make valuations in favour of the promoter or the seller, depending on the sets of circumstances, if these other people, as it states in this subsection, apart from the Land Board are valuators who possibly reside within a district, say, where there is a need for the acquisition of a portion of land for a road, and the local valuator is asked to do the job for the Government so long as the necessary regulations are observed.

The Hon. S. C. Bevan: In this instance, the promoter would be the Government?

The Hon. R. A. GEDDES: Yes. I support in principle the amendments envisaged by the Hon. Mr. Rowe. The Hon. Mr. DeGaris, in relation to the value of land to be acquired, suggested that the period of time of 12 months should be altered. That is an interesting suggestion, which can be debated. There is the question of the ruthless land speculator or "shark" who hears a whisper that possibly it will be necessary for Government works to move to a certain area, thus producing a false impression of land values by subdivision, sometimes by fictitious sales of land so as to create a price that is really false compared with the true value of the land. I appreciate the argument advanced by the Hon. Mr. DeGaris regarding the genuine person who either has land with a house on it or has bought land to build on. The value 12 months ago would have been much less than today's value. I am wondering whether, on this question of when land should be valued, we should fix a period of six months prior, in order to overcome the problems that arise in relation to both the scrupulous and unscrupulous people concerned with the compulsory acquisition of land to the Government.

The Hon. H. K. KEMP secured the adjournment of the debate.

INHERITANCE (FAMILY PROVISION) BILL.

In Committee.

(Continued from November 18. Page 2927.)

Clause 5—"Persons entitled to claim under this Act."

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

In paragraph (*b*) to strike out the semi-colon after "person" and insert "and who at the date of death of such deceased person was receiving, or entitled to receive maintenance from such deceased person;".

Honourable members will realize that the categories of people involved in this legislation are contained in clause 5 and that the extension takes place primarily in paragraphs (*g*), (*h*), (*i*) and (*j*). The remaining paragraphs—(*a*) to (*f*)—are almost identical with the present law, and I do not consider there is any reason for interfering with that law at present. However, paragraph (*b*) changes the present law, which is confined to a wife who is receiving or entitled to receive maintenance from her former husband. This Bill changes the present provision; first, by making it apply to a wife or husband. This change does not worry me much, because a husband can claim maintenance from his former wife under the Matrimonial Causes Act, although I understand that such claims are almost unknown. The Act has been operating since 1959 (nearly six years), and I have heard of only one case where this has been done, and it was done to a limited extent.

I consider that the provision should be confined to the person who was receiving or entitled to receive maintenance. The divorced person could have remarried once or more than once, and it seems to me to be highly unnecessary for this provision to remain in such a wide form as is set out in the Bill. I consider that we should bring this category of divorced persons back to the existing law.

The Hon. A. J. SHARD (Chief Secretary): The Hon. Mr. Potter has a series of amendments and, if I am permitted to do so, I should like to give a preamble to all of them before dealing with the clauses specifically. All of these amendments run counter to the general scheme of the legislation, which is to provide a wide range of people who have the right to claim upon an estate and to leave it to the court to investigate in detail the legal and moral claims that arise from the varying circumstances surrounding the deceased and those, in some measure, connected with him.

It is impossible effectively to prescribe all the circumstances under which varying classes of people should be given or refused assistance by the court. Provisions that have left a wide discretion to the court to investigate have made, here and elsewhere, for a flexible administration, about which there has been no complaint. The Hon. Mr. Potter's amendments seek to confine the discretion of the court. As the discretion of the court has been so well exercised in the past, I can see no purpose in doing this, and I can see that numbers of anomalies and unfair situations could arise from the honourable members' proposals, where a very real moral claim might be excluded.

In detail, the amendment to clause 5 (*b*) proposes to limit the right to claim to divorcees who at the rate of the death of the deceased were receiving or entitled to receive maintenance from him. It is by no means clear from the amendment what entitlement to receive maintenance is meant to be. In many of the cases designed to be covered by the Bill, divorcees would have the right to claim maintenance, but their entitlement to receive maintenance could not be established until the circumstances of the particular case had been investigated and an order made. Within the terms of the Matrimonial Causes Act it would be possible then for a situation to arise where it would be proper for a woman to make a claim on the estate although she would have thought it of little use to make an application for maintenance during the life of the deceased. Why should she then be deprived of her claim? The Government is unable to accept the amendment.

The Hon. F. J. POTTER: I have listened with interest to the explanation given by the Minister, but I point out that I am not seeking to defeat the discretion of the court; in fact, rather than doing this, at a later stage I will be moving to give the court more discretion. This amendment has nothing to do with the court's discretion. It is limiting and establishing once and for all the class of person who is entitled to make a claim. The Minister says it is not possible to know what is meant by the words "to receive maintenance", but those words are in the existing Act. I am repeating what the Act says. As far as I know, they have not caused any difficulty in the past, nor has the existing Act. I think it is ridiculous for the Minister to say, "We are putting in something that might give difficulty" because it is already in the present Act. I think it is right that this category should be confined as it is at present.

The Hon. Sir ARTHUR RYMILL: I have listened with interest both to the mover and to the Chief Secretary in his reply. It seems to me that the matter causing the Chief Secretary concern could be overcome by inserting two more words in the amendment; that is, after the words "to receive" add the words "or claim". It would then read:

. . . and at the date of death of such

deceased person was receiving or entitled to receive or claim . . .

I understand that the Chief Secretary was concerned about a wife who, quite understandably, might have had a claim against her divorced husband but would not exercise that claim during his lifetime because she would not wish to be beholden to him. But after his his death the wife, rather than see the money go to a *de facto* wife or a new wife who may have been the adulteress, may decide to claim against the estate. Therefore, I move to amend the Hon. Mr. Potter's amendment as follows:

After the words "to receive" add the words "or claim".

The Hon. F. J. POTTER: I am prepared to accept the amendment, and I support it. As far as I can see this would overcome the difficulty raised by the Minister. It is difficult at this stage to know what effect the additional words will have because there is no doubt that under the Matrimonial Causes Act people have wide powers to make a claim. As far as I can see it will clarify the position.

The Hon. C. D. ROWE: There are two comments I have on the amendment. The first is that I have never had any complaint from a person because he considered himself to be precluded from whatever he was entitled to because of the provisions of the existing Act. I would like to hear from the Minister where the representations came from that led to the introduction of this Bill. My view is that this Bill is an effort on behalf of the Government to make it appear that it is being unduly generous regarding claims that may be permitted. I do not think the other Act imposes any hardship, and I think we are entitled to place some limitations on the people who can claim.

This Bill is probably a typical example of hard cases making bad laws. I agree that there may be individual cases where people have been deprived of their just rights. As against that, if the Bill is passed it will result in all kinds of people making claims and demands, and it could result in lengthy delays in administering estates. It extends the scope of people who may claim and it could result in the unsatisfactory position of somebody claiming and a family settling out of court in order that family history may not be aired in public. Everybody is aware that the thing most disliked is a family argument being brought out into the open. Many people are willing to pay considerable sums to avoid such occurrences. Under this Act it is possible for somebody far removed from the immediate family to make a claim with the result as I have just detailed. When I look at that side of the Bill as against what is suggested, I come down on the side of the limitations suggested by the Hon. Mr. Potter and the amendment suggested by Sir Arthur Rymill. I do not think we shall impose any hardship on anybody if we accept those amendments.

The Hon. G. J. GILFILLAN: I agree with previous speakers, but I should like clarification of the further amendment and its inclusion of the words "or claim". It appears to me that this would widen the scope almost to what it was before Mr. Potter moved his amendment. I would like to know who would be entitled to claim, and what limitations would be placed on a claim. It is my impression that any person can make a claim in the courts.

The Hon. C. D. Rowe: Yes.

The Hon. G. J. GILFILLAN: If that is so, I do not propose to support the Bill.

The Hon. Sir ARTHUR RYMILL: I discussed this point informally with Mr. Potter because it occurred to me that in a sense anyone is entitled to make a claim. I want to include the person who is entitled to claim successfully and who had a right to establish a claim.

The Hon. F. J. Potter: That is covered by the words "entitled to receive" in my amendment.

The Hon. Sir ARTHUR RYMILL: I think it will go the other way, because on one construction of that a person is entitled to receive maintenance if a claim for it has been established. I want, in addition to the words contained in the Hon. Mr. Potter's amendment, to provide that a person who would have been entitled to maintenance if it had been claimed would be entitled to a claim against the estate. This will involve drafting an amendment, in which perhaps the Parliamentary Draftsman will assist, so if I temporarily withdrew my amendment and the Bill were recommitted we might be able to improve on this provision. I think the Chief Secretary would prefer to widen this clause.

The Hon A. J. Shard: I have no objection, in the interests of progress.

The Hon. Sir ARTHUR RYMILL: I ask leave to withdraw my amendment temporarily.

Leave granted; amendment withdrawn.

The Hon. F. J. POTTER: Like the Hon. Sir Arthur Rymill, I have had some doubts about his amendment. I have followed the wording in the existing Act, which is the same as in the Queensland Act. The Western Australian Act mentions the person who, at the date

of death, was receiving or entitled to receive permanent maintenance by order of the court. In Tasmania the wording is:

. . . receiving or entitled to receive maintenance under or by virtue of any order made by a court of competent jurisdiction or by any agreement in writing entered into by the divorced wife of the deceased person before his death.

There are many versions of this, and in drawing my amendment I followed the wording in our own Act.

The Committee divided on the Hon. F. J. Potter's amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 10 for the Ayes.

Amendment thus carried.

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

In paragraph (*f*) (i) to strike out "was the mother or".

This is purely a drafting amendment, which has arisen because the draftsman lifted paragraph (*f*) from the old Act. Whereas the old Act defines certain words, the Bill does not do so. The words proposed to be struck out are unnecessary, as paragraph (*c*) deals with an illegitimate child.

The Hon. A. J. SHARD: My instructions are that this amendment removes the right of an illegitimate child to claim on the estate of the mother. I cannot conceive why this suggestion should be made. There are many cases obviously where an illegitimate child should have every right to claim upon the estate of the mother. In the light of my advice, I ask the Committee to reject the amendment.

The Hon. F. J. POTTER: An illegitimate child is a child of its mother and therefore a child of the deceased person, under paragraph (*c*). That seems to me perfectly obvious but, if the Chief Secretary wants to perpetuate what is nothing more than a drafting error, I shall raise no great objection; but I think honourable members will agree with my contention.

The Hon. Sir ARTHUR RYMILL: If there is any doubt about this (and no doubt the Chief Secretary has taken legal advice on the matter), I think it would be better to leave the words in.

Amendment negatived.

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

In paragraph (*g*) to strike out the semicolon appearing after the word "spouse" and add the following words "being a child who was being maintained wholly or partly or who was legally entitled to be maintained wholly or partly by the deceased person immediately before his death;".

All these paragraphs are new categories introduced by this Bill. They should be limited. I have taken this wording from the Queensland Act, Queensland being the only State, as far as I can remember, with this particular category in its Act. Accordingly, it is proper that we should have stepchildren who are entitled to claim being persons who are actually in the position of being maintained or legally entitled to be maintained by the deceased person immediately before his death. We must not forget that a child in this category can be well over the age of 21 and it is unnecessary that such a person should have a right to claim against the estate of a deceased person.

The Hon. A. J. SHARD: This amendment again introduces the question of entitlement to maintenance. As I pointed out on clause 5 (*b*), how is entitlement to be established? If it means "could have got the maintenance order if the child had applied for one", this again may exclude quite proper claims upon the estate, because the questions of what could fairly be paid out of the body of an estate differ from questions whether the income of the deceased was in all the circumstances sufficient to provide maintenance. In the light of those instructions, I ask the Committee to reject the amendment.

The Hon. F. J. POTTER: That explanation deals with children who perhaps are under 21 and dependent; it has no relation to children over the age of 21 who perhaps are not at all dependent upon the testator. Therefore, I persist with my amendment in spite of the explanation.

The Hon. Sir LYELL McEWIN: I support the amendment because I am being consistent in following the appeal that the Government has made to us so often this session. It draws on examples to be found in Commonwealth legislation and says that that is a complete justification for our introducing similar legislation. That is surely the case made out for this amendment. But now the Government is opposing the pattern it has established. If it is good in legislation that it sponsors, it is equally good in legislation that the Hon. Mr. Potter is proposing.

The Hon. C. D. ROWE: Under this Bill the Government professes to be much concerned about people who, it thinks, should have a claim against an estate but who in certain circumstances may be prevented. However, the result of the answer to a question I asked this afternoon is that in certain circumstances the father is prohibited from leaving property to his own wife or son. This is the first time in South Australia that one cannot leave property to his father or other members of the family. This apparent concern of the Government for these other people leaves me cold. I shall have more to say on this other matter, because I do not know what a man does with leasehold property when he is prevented from leaving it to his mother or father and he cannot convert it into freehold.

The Hon. S. C. BEVAN (Minister of Local Government): I have been intrigued by these arguments and by the reference to consistency. The Hon. Mr. Rowe maintains that the Government does not allow Crown lands held under lease to be handed over to his next of kin if it exceeds the value of £12,000. The honourable member is not being consistent. Then Sir Lyell McEwin says, "I shall support this amendment because there is no doubt that the Hon. Mr. Potter has looked at other Acts and picked the eyes out of them, and this is what the Government has been doing in other legislation." It is a pity that this Chamber could not have adopted this attitude when debating the Road Traffic Act Amendment Bill. It is obvious that the amendment is intended to restrict the present position considerably. The Government has considered the Bill, and considers it is doing the best that can be done in relation to the people referred to in the Act.

We have had many demonstrations in this Chamber that show that the Government will not be allowed to govern. Honourable members have taken the attitude that as they have the numbers they will prevent the Government from doing what it wants to do. That has been done this afternoon. The Government has no alternative, because numbers count, and I have no doubt that honourable members will restrict this Bill, because they are in a position to do so.

The Hon. F. J. POTTER: This is a question not of numbers counting but of each and every member of the Council considering an important aspect of the Bill. There is no legislation in operation anywhere that goes as far as paragraph (*g*). Queensland and New South Wales legislation mention the matter, and it is hedged around in those places with the same sort of restriction as I am attempting to give effect to here.

The Minister spoke of children who were minors, but here we could have a child of 40 years of age who had never seen the testator, who had no rights against him during his lifetime, but who had a claim upon his death. I cannot see any arguments against the amendment.

The Hon. Sir ARTHUR RYMILL: I consider that the Government, in trying to spread largesse among all and sundry (which it says is the basic purpose of the Bill), has overlooked the fact that it may deprive other people of the money. It may deprive people far closer to the testator of moneys by distributing those moneys far wider among people whom the testator did not wish to benefit, because this legislation alters the provision of a testator's will. I am finding it rather difficult to speak against this running fire of conversation.

The CHAIRMAN: Order! I point out to honourable members that there are many ramifications in this Bill.

The Hon. Sir ARTHUR RYMILL: This is a complicated Bill and, as the Hon. Mr. Potter has said, an extremely important one, because every word inserted enables more remote relatives of the testator to make a claim on his estate and thereby to deprive close relatives of a share in the estate. I suggest that that is the atmosphere in which the Bill will be considered. As the Hon. Mr. Potter suggested, there should be something in the provision to ensure that those making a claim have a real claim to the estate. Wherever this provision is invoked, we are upsetting a testator's will, and this is a solemn and serious thing.

The Hon. Sir NORMAN JUDE: Will the Minister inform honourable members who, if anybody, has asked for this Bill?

The Committee divided on the amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 10 for the Ayes.

Amendment thus carried.

The Hon. F. J. POTTER: On members' files they will see that I have an amendment to paragraph (*h*), but I do not intend to move it. Instead, I move:

That paragraph (*h*) be struck out.

The reason is that this clause deals with grandchildren and their right to make a claim, whether they be legally adopted or natural grandchildren. The only place where grandchildren are included in legislation is New Zealand, and there the right to make a claim is carefully hedged around: in fact, more so than in the amendment I had placed on file because the right in New Zealand exists only where the parent of the grandchild is deceased, or has deserted, or has failed to maintain the child, or the guardians did not know his whereabouts, or he is an undischarged bankrupt or a mental defective. Honourable members will see that in this category we are moving away from what might be termed first degree relationship and getting to the second degree relationship. I think there is no need to give the right to a grandchild, under any circumstances, to make a claim against a deceased person, in spite of the fact that there may be occasions, as are envisaged in New Zealand legislation, where such a grandchild has been deserted by a parent. This paragraph seems to set a dangerous precedent, particularly in view of the fact that adopted children are included. I consider the safest way is to delete the paragraph.

The Hon. A. J. SHARD: I ask the Committee to allow this paragraph to stand, because the amendment proposed by the Hon. Mr. Potter makes the position worse. The amendment limits the case to where the parent has died or has failed to maintain the child or where the grandchild does not know the whereabout of the parent. This would limit the powers of the court, and I ask the Committee to reject the amendment.

The Committee divided on the amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 10 for the Ayes.

Amendment thus carried.

The Hon. F. J. POTTER: I turn now to paragraph (i), which considers parents of deceased persons. The only other place where parents are introduced is again in New Zealand, and that country is notorious for spreading a wide net. However, in New Zealand the rights of parents to claim are considerably restricted as that right applies to a parent only where he or she was maintained by the deceased or where there was no widow, widower or legitimate child living at the date of decease. After giving that aspect consideration, I thought it fair to amend paragraph (i) by confining it to the case where the deceased person dies a bachelor or spinster. Here is a perfect example of Sir Arthur Rymill's comment; by allowing those categories to claim, we may defeat the rights of people much closer to the deceased. I move:

At the end of paragraph (i) to insert "if such deceased person dies without leaving a spouse or any children".

Where there is a widow or widower, or legitimate or adopted children of a deceased person, I do not think the parents should have the right to claim. Any honourable member could be placed in the position of having his own wife and children to think about yet an aged parent in receipt of a widow's or age pension would have the right to claim if this provision were left as it is. I think this is wrong, particularly as the claim arises only after death.

The Hon. A. J. SHARD: This amendment would deny the parent of a deceased legitimate child the right to claim where the deceased leaves a widow or children. This will unreasonably limit the discretion of the court. There may be quite proper cases where, given the conduct of the widow or children, the court would refuse their claims and where there was a proper obligation to the parent. I ask the Committee to reject the amendment.

The Hon. F. J. POTTER: This explanation does not seem to relate to the amendment.

The Committee divided on the amendment:

Ayes (13).—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, and C R. Story.

Noes (5).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, A. F. Kneebone, and A. J. Shard (teller).

Majority of 8 for the Ayes.

Amendment thus carried.

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

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

(*j*) Where the deceased person was an illegitimate child who dies without leaving a widow or any children—the mother of the deceased person.

The paragraph as it stands deals with parents of illegitimate children. There should be no difference between the position of the illegitimate child and that of the legitimate child; namely, the parent should have the right to

claim only if the child is without a widow or widower or children. That is in line with the amendment the Committee has just carried. The other aspect is to confine claims to mothers of illegitimate children. I think it is quite wrong that any person adjudged the father of an illegitimate child, who has no claims against that child during his lifetime and who may never have seen the child, should have the right to claim. Under the Maintenance Act, more than one man may be adjudged to be the father of a child, whereas there can be only one mother. The principle of the law has always been that the mother has rights of inheritance through her illegitimate child, and we should adhere to this, but it is ridiculous to provide that any person adjudged to be the father of an illegitimate child shall have a claim on the estate.

The Hon. A. J. SHARD: This amendment omits the right of an adjudged father to claim on the estate of a deceased illegitimate child of his, and again limits the right of the mother, as in the previous proposal. I see no reason why the father should be excluded if, in fact, he had the custody of the child and there was a perfectly proper family relationship. Where legitimation had been prevented by the law, it could be cruel indeed to deny the father's right. I ask the Committee to reject the amendment.

The Hon. F. J. POTTER: The Minister seems to be thinking of a child in the family circle, a young person under 21; but this is not confined to anybody under 21. The father has no rights, even of access to the illegitimate child; nor can he get an order for access. The only obligation imposed upon him by Statute is to maintain that child. In most cases, he never even sees the illegitimate child during his lifetime, because of this situation.

The Committee divided on the amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 10 for the Ayes.

Amendment thus carried; clause as amended passed.

Clause 6—"Spouse or children may obtain order for maintenance, etc., out of estate of deceased person."

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

In subclause (1) after "may" to insert "at its discretion".

We have been hearing much from the Minister about the court's discretion. These words are in the existing Act but, for some reason, they have been omitted from the Bill. They are very important. In my second reading speech I cited a judgment of the Chief Justice of the High Court, who pointed out how important these words are, because it is a discretion not only as to amount but as to whether a person is to be entitled to a claim. These are key words.

The Hon. A. J. SHARD: I regret that I cannot be consistent. For the first time this afternoon the Government agrees with the honourable member. We think these words are necessary, and accept the amendment.

The Hon. Sir ARTHUR RYMILL: From my experience of the Act, this discretion has worked well. To ensure that it continues to work well, it is essential that we keep the same wording; otherwise, if we depart from the words traditionally used, the court may use a different interpretation. In interpreting Statutes, the courts contrast what was in the previous Statute with what is proposed in the new Statute and, if Parliament alters the verbiage, a court will examine it to see whether it does not alter the meaning. Therefore, it is important to include the same words in this Bill. I am glad the Government has accepted the amendment.

Amendment carried.

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

In subclause (3) after "Act" to add "or on any other ground which the court thinks sufficient".

This amendment links up with the last one. These words, too, are in the existing Act and it is important that they be preserved; otherwise, a court, in considering a matter, may be limited to the sole ground of refusing a person because of his character or conduct. That is too much of a fetter on the court's discretion.

The Hon. A. J. SHARD: The Government is content with the provision as drafted, and I ask the Committee to reject the proposed amendment. It is considered that the clause is wide enough already and that it is undesirable to depart from the formal basis adopted by all courts elsewhere.

The Hon. F. J. POTTER: I cannot agree with the Minister. These words are in our Act, and I consider that they are there for an important reason. If they are not there, it seems to me that the only things a court can look at are the character or conduct of the applicant. In 99 per cent of cases, there would

be nothing in the character or conduct of an applicant to debar him from receiving a favourable order, but if the court has to look at all the circumstances of the case, and exercise its discretion accordingly, then the amendment is important. I regard it as being of equal importance to the one just carried regarding the discretion of the court.

The Hon. Sir ARTHUR RYMILL: I disagree with my honourable colleague on only one point—I consider that this amendment is more important than the other one, and he will probably agree with me on that. I do not propose to repeat what I said about the last amendment. What I said applies to this one *a fortiori*. These are extremely important words, and they qualify the whole sentence. They are words on which the court has acted many times. The whole purpose of the Bill seems to be to widen the categories of people who are to benefit in order to increase the revenue of the Government. The Government is trying to get more money in a direct way from other Bills, as Sir Lyell McEwin has pointed out, and it is also trying to get money into the Government coffers for Government purposes by forcing families to maintain people other than those they have to maintain at present. The rejection of the verbiage suggested by the Hon. Mr. Potter seems to bear that out, because the omission of these words removes portion of the court's discretion to make orders. If the Act is to operate as it has operated in the past, it is imperative that the words in the Bill be replaced.

The Committee divided on the amendment:

Ayes (14).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Noes (4).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, and A. J. Shard (teller).

Majority of 10 for the Ayes.

Amendment carried; clause as amended passed.

The Hon. A. J. SHARD: I ask that progress be reported and that the Committee have leave to sit again.

Progress reported; Committee to sit again.

Bill reported with amendments. Committee's report adopted.

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

PHARMACY ACT AMENDMENT BILL.

The Hon. A. J. SHARD (Chief Secretary) obtained leave and introduced a Bill for an Act to amend the Pharmacy Act, 1935-1952. Read a first time.

The Hon. A. J. SHARD: I move:

That this Bill be now read a second time.

It makes a number of unconnected amendments to the principal Act, which I deal with in order. The first amendment is dealt with by clause 3 (*b*) and (*c*) of the Bill. The effect of these subclauses will be twofold. In the first place, recognition will be given to degree status as in the Eastern States. At present, in addition to apprenticeship the general qualification is the Leaving examination with certain examinations before the board of examiners appointed by the Pharmacy Board. This qualification will remain but the provision for graduates will be additional and will gradually replace the present system.

In the second place it is provided that apprenticeship may be served not only (as at present) with a registered chemist, but also in a public hospital, mental institution or industrial establishment approved by the Minister. The Hospitals Department has sought provision for training in Government hospitals for some years and training in industrial establishments has been suggested by the Pharmacy Board as it will enable students to qualify as manufacturing or analytical chemists. In future, the period of apprenticeship will be prescribed by regulation and not set at a fixed period as under the principal Act. Clause 4 of the Bill inserts a new section 26aa in the principal Act to enable approved hospitals to employ registered chemists for the purpose of dispensing drugs or medicines for in-patients of the hospital. At present it is against the law for a hospital to employ its own chemist for this purpose.

Clause 5 of the Bill will enable the Friendly Societies Medical Association Incorporated to operate in more than the present 26 shops but not more than 36 shops. The present limitation has been in the principal Act for some years and was based at the time of its introduction on the number of shops being carried out or about to be carried out by the Association in 1947. The Government feels that with the extension of the metropolitan and near metropolitan area the request of the Association for an increase is justified. Clause 6 sets out in some detail the regulation-making powers of the board. At present these are in general terms, a position which the Pharmacy Board regards as unsatisfactory and it is desired to

bring the regulations up to date and cover a number of matters which are not already the subject of regulation. There could be some doubt as to the extent of the present regulation-making power.

Clause 7 of the Bill increases the penalties by approximately 100 per cent having regard to the change in money values since the present penalties were set nearly 20 years ago. Clause 3 (*a*) and (*d*) remove obsolete provisions from the principal Act.

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

MAINTENANCE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 18. Page 2929.)

The Hon. JESSIE COOPER (Central No. 2): I support in general this mammoth Bill which, as the Minister has explained in his second reading speech, amends and consolidates into one Act the present provisions of the Maintenance Act, the Children's Institutions Subsidies Act and the law governing the making and enforcement of orders for the payment of maintenance. Our respect is due to the Parliamentary Draftsman entrusted with this Herculean task. Enough, I think, has already been said about a proposed change in the technique of administering maintenance. I do not like to see any dictatorship set up, and in this field I believe it to be extremely dangerous, but from experience I consider that there is room for some improvement in the laws concerned.

We live at a time when training in social welfare work is at university level. Properly trained people are now available to us, although I admit that they are in heavy demand and short supply. The duties and functions of the new Social Welfare Advisory Council have been simplified and clarified, and the number of members is now five plus a chairman whereas in the old Children's Welfare and Public Relief Board it was eight plus a chairman. The new duties make it clear what is required of the members. Honourable members will realize that those duties and functions are for professionals and not for enthusiastic amateurs or people who have gained a live-long reputation by being on the outskirts of social work.

Several improvements have been made to the interpretation section. A definition of "adopted children" has been included, and it has been made wide enough to include not only children adopted within the law of this State, another State, or a Territory of the Commonwealth but also those adopted in a country outside Australia. This definition is set out in clause 7 (*a*). In clause 7 (*b*) the word "preliminary" replaces the word "confinement". At first sight, this may seem rather quaint in that the preliminaries at that stage would seem to be over, but this is in fact a sensible alteration, as the woman will be able to get assistance not only for her confinement but also for the two months before confinement, when her ability to maintain herself is restricted.

The definition of "uncontrolled child" is also widened and improved. The new definition is "a child who has acquired or is likely to acquire habits of immorality, vice or crime and whose parents or guardian appear or appears to be unable or unwilling to exercise adequate supervision and control over the child". I think this is a great improvement.

I turn now to clause 46, which deals with the attachment of earnings. New section 96b deals with orders for attachment. Although it seems a simple matter to order employers to garnishee wages of those defaulting in their maintenance commitments, it is, as defined in this Bill, a severe imposition upon the responsibility, time and efficiency of an employing organization. There are in the land laws that apply to debtors and their responsibilities, and they in their accepted form should be sufficient to deal with requirements of maintenance. If a man has assets, the courts already have the ability to enforce payment of debts. If a man has no assets to meet his debts, he can well be treated as a bankrupt, and his estate and income can be administered.

Since Attorneys-General have been meeting periodically around Australia, the impositions, restrictions and demands being put upon our business and commercial world have been growing at a prodigious rate. We have witnessed such a thing not only in this Bill but in the Companies Act and its amendment, and in many other directions. There seems to be among these gentlemen little appreciation of the merits of commercial rights and administrative efficiency.

I return now to the garnisheeing of wages or, as it is called here, the attachment of earnings. This requires a string of records, notifications and restrictions upon the employer's actions. Apparently he will be in dire straits if he dismisses a useless employee who happens to be under such an order. Under new section 96m (1), it appears that the most likely result of this attachment business is that a man under such order and out of a job may never be accepted by another employer, for in

truth it seems that the only protection that an employer will have against this imposition on his time and organization will be to ensure, as far as he can ascertain, that no such person commences with his organization. Surely, then, this last state of the deserted wife will be worse than the first. I therefore consider that this section should be deleted and that a debt of maintenance should be treated in the same fashion as any commercial or other unsatisfied debt.

I turn now to clause 49, which concerns reciprocal enforcement of orders. In general, it has been difficult in the past to get maintenanec for deserted wives from men who have moved into other States. This clause seems to provide for the named authority in other States to assist in collecting moneys where the South Australian courts have deemed it advisable. If workable, in many respects this will have some advantages over the present system, or lack of system. I have often spoken about this, but we still must overcome the major obstacle —to have the defaulting debtor located first, before these facilities can be used. Here again we have the age-old problem that a deserted wife has not the funds to inaugurate such a search. However, it may well be that the proposed sections will produce a valuable improvement in this field.

In section 99zc (still under clause 49 but now another 30 pages on in the Bill) there is a matter that I consider full of dangerous implications. It is a matter that should be subject to close Parliamentary examination before any such reciprocal rights are established. This is the provision giving power to get reciprocal arrangements with other countries. One can well imagine the problems that will arise if that provision becomes law. There is one provision, however, that I should like to commend particularly to honourable members—clause 62. This prevents a court from sending a child charged as neglected to what is now to be known as a reformative institution. (This is in accordance, if I may now say this in parenthesis, with the doctrine of never saying in one word what two or more words can do.) To me, it has always seemed a potential tragedy when a neglected child of any age, but particularly of tender age, has been sent to a reformatory. No matter how kind the treatment given to such a child, he is nevertheless in a place of correction and must be associated with children with some psychological defect. This is a situation surely to be deplored by all thinking people. This clause, therefore, fulfils a very real need.

Clause 88, which increases the penalty for the offence of ill-treating State children from £20 to £100, but leaves the maximum term of imprisonment of six months as it is, is also to be commended. It is horrifying to most people of this State to realize that such inhuman citizens are in our midst, but South Australia is, regrettably, no better than other places in this regard, and cruelty to State children by their foster parents or guardians (and, indeed, cruelty to children by their own parents) occurs regularly, as can be seen from our law reports. It may well be that we need a Society for the Prevention of Cruelty to Children, just as we have one for the prevention of cruelty to animals. Personally, I should be quite happy to see the term of imprisonment increased, also. I support this Bill in its humanitarian aims but will not support those clauses that I have criticized.

The Hon. H. K. KEMP (Southern): It is with diffidence that I rise to speak to this Bill. I have had personal experience of the tremendously kind and conscientious way in which pitifully neglected children left destitute in this State have been looked after in the past. There is no doubt that a child in South Australia left without parents and neglected has been looked after much better than a similarly neglected child anywhere else in the Commonwealth. A child really in distress in this State has been conscientiously looked after better than in other places in the world.

The Hon. Sir Lyell McEwin: And in a family atmosphere, not in an institution.

The Hon. H. K. KEMP: Yes. I have had personal experience of this. I do not want to make too much of this, however, because it may get back to my own children, those being the children I have had experience with. If a child can raise a cry in South Australia, it will be looked after. It has only to raise a cry and be heard by a neighbour, a policeman or a welfare worker to be well cared for. This is effective charity. If any really bad story of distress in this State is needed, it is generally to be found in cases of cruelty by relations within their own family, not where children have been left in the care and custody of the State or even left destitute and abandoned on a doorstep.

It must be realized that we are now substituting a whole new mechanism and a large volume of language in legal terms for a system that has worked effectively. I know there are people in South Australia who are cruel, but I do not think they have the opportunity or chance to be cruel that people have elsewhere in

the world. I am sure that never in South Australia have we heard tales anything like those (and here I am tempted to be profane) emanating from some of the Eastern States in the last year or two or three. In saying this, I am not speaking for myself or any electoral district: I am speaking from deep down inside me.

I am sure we could not have had any body to look after the interests of our poor little neglected children more conscientiously than the Children's Welfare Board during the last 10 to 20 years. We must examine whether we are not giving away something that possibly is not very well defined in our Statutes and rules but is something that really gets down to the fundamental kindness with which we look after our waifs and strays. I do not want to become too emotional about this but I do feel strongly about it.

We should not alter lightly the way of working of those tremendously conscientious people who have put their whole heart and soul into their work in respect of child welfare. The Hon. Mr. Rowe has seen these people working and the good work they have done. I do not think it is possible to point a finger at their work and its effectiveness.

I do not intend to go through the Bill in detail. It is a fairly good substitute. However, there is no recognition in this Bill of the work that has been done in the past, and our system has been more effective than any system operating in any other English speaking country. Why can there not be an acknowledgement of this? Doubtless, this Bill may make for easier administration and it may be that there are superficial reasons for taking these powers from the board and vesting them in a Minister.

The Hon. Sir Lyell McEwin: Do you think they would be safer vested in one man than in a board?

The Hon. H. K. KEMP: That is the point. The Children's Welfare and Public Relief Board was not a vested interest. The people on it were not making a fortune out of caring for the destitute children of the State. They devoted themselves to the re-establishment and integration in the community of those children left absolutely in the care of the board. It is not the children who are left completely to the State that are a problem today. The problem arises in respect of those abandoned children who are partially under the care of the State but in respect of whom parental care is still operative.

These are the distressing cases. These children cannot be adopted by families or re-established. Something must be done for them but their origin must be respected and no-one can be given the right to look after them as if they were their own. In dealing with this legislation, we are dealing with dynamite. We are providing for circumstances that do not come into many ordinary families or into the experience of most people. The situation of these children is appreciated only by those who have gone out and seen it for themselves. People who are anxious to help have a sense of obligation and realize that these children are not being given the chance that they should be given. Matters such as this are not usually reported in our daily newspapers.

This matter comes down to fundamental religion and conscience. Anyone who has been in the position where they could not have children themselves and wanted children to look after will appreciate what is involved. This legislation deals with sentimental circumstances and involves such issues as whether a person is going to do something worth while with his life. Many people have adopted the same attitude as Dickens: do not think that that spirit is not loose in the world today.

It has been shown clearly and widely that many people will take children in order to exploit them. Unless there is careful and conscientious administration of such measures as the ones with which we are dealing tonight, there can be exploitation of children by those who take them merely for the labour they can get out of them. I know from having gone through the records of the Children's Welfare and Public Relief Department in Adelaide that there are many examples of children having been taken from the State, fostered, and then having been brought back by the inspectors because they were not being given a fair deal. That is a horrible thing to say, but it is true. Children have been taken from South Australia and, although this language is unparliamentary, they have had their guts worked out. Children have been exploited in districts quite close to Adelaide until the situation has been discovered by the conscientious people working for us.

The Hon. Sir Lyell McEwin: Hitler exploited them, too.

The Hon. H. K. KEMP: Yes. He had very subtle methods of doing this, too. However, I have seen a child crying because his foster parent had sent him out to work on a cold morning, and that child had to do a certain amount of work before he went to school.

That is only one experience I have had, and it made me think hard.

I do not wish to speak at length on this matter, but I say to honourable members that we must look with suspicion at this Bill because there is no doubt that in this State we have an effective means of looking after a matter in which I am greatly interested, and that is the care of destitute children, those who have been abandoned. I do not worry much about wives and others who have been left, because a wife is able to fend for herself; it is the children, and only the children whom we must look after.

I doubt whether the scheme confronting us in this large amending Bill with an equally large number of pages will attend to this matter more effectively than has been done in the past. I say that because, unless there is a divorcement between the Minister and (to borrow a phrase from another place) all of the bulldust that goes on with Government, and the regard to humanity that must be behind an Act such as this . . .

The Hon. S. C. Bevan: Well, what is going on at the present time?

The Hon. H. K. KEMP: What is going on is that we are working under the old Act and the old board is to be turned out completely without any acknowledgement of the tremendously powerful job it has done over the last 100 years. That should not be so. We had an effective organization in this State and many children are looked after by church organizations and some by other means not connected with the State at all. However, they all, whether Salvation Army, Methodist homes, Church of England schools or the tremendously valuable Roman Catholic orphanages, come under the supervision of the Children's Welfare Department and that department operates under the board. The board has worked with such humanity and understanding of the true problems that I do not think we should do away with it.

I could go through the Bill clause by clause and indicate the many faults contained in it. These faults chiefly attach to the matter of trying to put into an Act, impersonally, that which has been done in a kindly and understanding way over so many years. I do not think that such a change is possible and I cannot reconcile myself to it. I would like to leave it at that.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Interpretation."

The Hon. F. J. POTTER: This clause deals with definitions contained in section 5 of the existing Act, and many of them are amended by clause 7 of this Bill. Has the Minister considered whether or not the time is appropriate for limiting the definition of "near relative", which honourable members will see is mentioned in section 5 of the Act. Has he considered whether this could now be limited to spouses, parents and step-parents? The present liability to maintain extends to grandparents, and it seems to me to be not in keeping with the modern State. It may have been appropriate in 1880 when the State Children's Act was in existence, but the time appears ripe to give some consideration to the definition. Nothing has been done about that in the existing clause, and it must be realized that "near relative" does have a wide meaning.

The Hon. A. J. SHARD (Chief Secretary): I am advised that the possible reason why it has not been altered is that there are a number of persons who now rely on orders made against near relatives under the existing Act.

The Hon. H. K. KEMP: Once a child is adopted, it completely loses its identity and becomes just as much a part of the adopting family as is a natural child. If we accept this amendment to the principal Act, there will be discrimination against an adopted child, and this is completely wrong. Does the Minister realize the implications of this clause? I oppose it, as it strikes against the tremendous happiness given to so many adopted children in the past.

The Hon. A. J. SHARD: I cannot enter into a debate on this subject, Sir.

The Hon. Sir LYELL McEWIN: This Bill was in another place for four months and it has been in this Chamber for only about four weeks, yet we are expected to turn over page after page and pass the various clauses. I was a Minister in this Chamber for a long time, and members of the Opposition often complained that they had not been given sufficient time to consider legislation. Objections have been raised to several clauses in this Bill, and I have every sympathy for those honourable members who have raised them. In the past everything has been done to preserve the sacredness of adoption, yet elsewhere in this Bill there is provision to follow up adopted children until they are 12 years of age. I am not prepared to vote on this clause now, as it is buried in many pages of a Bill that we have received only

recently. It is our duty to analyse legislation, yet the Minister cannot comment on this clause. Surely we are entitled to have some explanation.

The Hon. C. D. Rowe: It is the new idea of Ministerial responsibility!

The Hon. Sir LYELL McEWIN: If I have to vote on this clause, I will oppose it.

The Hon. A. J. SHARD: It was never my intention to force anyone to vote. This Bill has been before Parliament for several weeks, even months.

The Hon. Sir Lyell McEwin: It came here on November 2.

The Hon. A. J. SHARD: It was before Parliament for four months.

The Hon. Sir Lyell McEwin: But in another place. We deal with our own business.

The Hon. A. J. SHARD: We have work to be done, and honourable members could have done their homework on this Bill previously. I did not want to debate this definition, for obvious reasons.

The Hon. Sir Lyell McEwin: Of course you would not!

The Hon. A. J. SHARD: At least, I know how to conduct myself.

The Hon. Sir LYELL McEWIN: I rise on a point of order, Mr. Chairman. I do not know if the Minister is suggesting that I do not know how to conduct myself. I am here to carry out a responsibility as a responsible member of this Parliament. If the Minister suggests that I am not responsible, I object and ask him to withdraw.

The Hon. A. J. SHARD: I did not say anything about your not knowing how to conduct yourself, but somebody seems to be upset because we are sitting tonight.

The Hon. C. D. Rowe: That is not so. The Hon. Mr. Kemp made a specific request.

The Hon. A. J. SHARD: A suspension was moved, and there were some "Noes".

The Hon. C. D. Rowe: I did not hear them.

The Hon. A. J. SHARD: I did. We have a big Bill to deal with, and the obvious reason why I do not want to debate this matter is that the whole concept surrounding an adopted child is what the Hon. Mr. Kemp does not want. This clause is to make an adopted child a member of the family adopting it, but Mr. Kemp does not think that that is correct—he thinks that the child should have some time to go back to his parents. It is a delicate matter, but the Government has given it considerable thought and it thinks that in the vast majority of cases this clause will be in the best interests of adopted children. We do not want to hurt one another's feelings on this matter, but it is a big Bill and we have only two weeks to go before Parliament is adjourned. We must get down to some work, and if questions are asked by everyone on every part of measures we will not complete our work.

The Hon. Sir LYELL McEWIN: I appreciate any effort the Minister makes to reply, but we are not here to be warned off and told that we cannot consider a Bill adequately because we have only a week or two to go. I pointed out that it took another place four months to consider this Bill. If this is the way the Minister intends to approach this Bill in Committee, he has very little hope of getting it through.

The Hon. A. J. Shard: That is what you said from the word "go".

The Hon. Sir LYELL McEWIN: The Minister suggested that, as the Bill contained 129 clauses, we needed a long time to deal with it. I know we do, and I am not prepared to rush through a Bill of this importance. As one with some experience in this department, I know that consideration has been given to this legislation, and I said so when I spoke on the second reading. The Minister has no reason to suggest that I am not co-operative. He can refer to my second reading speech, where there was no suggestion of wanting to hold up this Bill. If he wants to adopt the attitude of threatening—

The Hon. A. J. Shard: There has been no suggestion of a threat.

The Hon. Sir LYELL McEWIN: If we are asked to do in two or three nights what it took another place four months to do, the challenge is accepted. I am prepared to help but shall not be browbeaten. If an honourable member wants information, I suggest that the Minister give that information and not try to escape it by saying, "You put this through or else!"

The Hon. A. J. SHARD: Mr. Chairman, on a point of order, I have never at any time said, "Put this through or else!" It is not the first time that bad verbiage has been used.

The Hon. Sir LYELL McEWIN: I accept the point of order. If I have misunderstood the Chief Secretary, I am happy that he understands; but I see no misunderstanding about verbiage when the Chief Secretary says, in reply to a question asked, "We have to get this through. Parliament is going to rise next week and it has got to pass through, and that's it." If I am not entitled to conclude that this suggests, "You put this through

or else!", then I do not understand the English language. Let the Chief Secretary produce a dictionary that gives any other meaning to it. If he is prepared to give explanations and answers and to assist the Committee, I can promise him assistance from this side. I have not suggested any opposition to the Bill.

The Hon. C. D. ROWE: I come into this discussion because of the point raised by the Hon. Mr. Kemp, who expressed anxiety about the use of the words "adopted child" in new section 5a, and "adoptive parent" in the same section. The honourable member feels we are placing undue emphasis on an adopted as opposed to a natural child. I am wondering whether it is necessary to have all these definitions of "adopted child" in this particular section of the Act. I think the Adoption of Children Act provides that, once a child is an adopted child, it becomes for all purposes a child of the marriage and entitled to all the rights and responsibilities of an accepted child. If that is the law and the Adoption of Children Act covers that point (I have not had an opportunity to go into it in detail but I think that is the position) it does not seem necessary to me to go to this exhaustive definition in this section. If that is not necessary, I certainly agree with the Hon. Mr. Kemp that we do not want to create any greater distinction between a natural child and an adopted child than is necessary. That is what the honourable member asked the Minister about. We need not discuss it. I should like that aspect looked at. If that is done, the honourable member will have his question answered.

The Hon. H. K. KEMP: I come back to this again and again. It will completely upset the provisions governing the adoption of children. This legislation will lead parents to adopt children under conditions of complete uncertainty as to their parenthood for at least 12 years.

The Hon. R. A. Geddes: Why would they be uncertain?

The Hon. H. K. KEMP: You go and do your homework! Do honourable members realize the problems we are presenting to every person wanting to adopt a child?

The Hon. S. C. Bevan: We are waiting for you to tell us about it.

The Hon. H. K. KEMP: I have been up against it. You have to decide whether to tell a child whether or not it is adopted.

The CHAIRMAN: It would be better if the honourable member addressed the Chair.

The Hon. H. K. KEMP: I am sorry. These decisions have to be made when the child is still under control, at an early age. These are pertinent considerations for about 800 people in South Australia every year, who have to decide whether they are to be truly adoptive parents or parents just grafted on. As we have been working under the State law, it has been possible to do a good job for these children. If parents are to be uncertain about where they stand until the children are 12 years old (as this Bill implies), we are completely and utterly messing up the whole works. I put it more firmly than that: it will be impossible for an effective adoption to take place in South Australia, as this Bill now stands.

The Hon. A. J. SHARD: It is correct, as the Hon. Mr. Rowe suggested, that the Adoption of Children Act provides in this way within the State but the Parliamentary Draftsman advises me that the need for this definition—

The Hon. S. C. Bevan: It goes further than the boundaries of the State.

The Hon. A. J. SHARD: —is to cover the adoption of children in other territories and countries. Our Act does not cover that.

The Hon. F. J. POTTER: Has the Minister any information about the number of sections in which the phrase "adopted child" is used?

The Hon. A. J. SHARD: I cannot tell the honourable member that.

The Hon. C. D. ROWE: I notice that section 12 of the Adoption of Children Act states:

> When an order of adoption has been made, the adopting parent shall for all purposes, civil, criminal, or otherwise howsoever, be deemed in law to be the parent of such adopted child, and be subject to all liabilities affecting such child as if such child had been born to such adopting parent in lawful wedlock; and such order of adoption shall thereby terminate all the rights and legal responsibilities and incidents existing between the child and his or her natural parents, except the right of the child to take property as heir or next of kin of his natural parents directly or by right of representation.

I think that clarifies the position. The Minister has raised the point that there may be a child that has been legally adopted according to the law of the land where its parents lived at the time of the adoption and there may be some question whether that adoption will be recognized in this State. That is the reason for this definition here.

The Hon. H. K. KEMP: This is covered in another section of that Act, that any adopted child coming into South Australia and having been adopted under any other law becomes answerable to our own law here. The inheritance of property is looked after by other Statutes.

Clause passed.

Clause 8—"Repeal of Part II of principal Act and substitution of a new part therefor—"

The Hon. F. J. POTTER: I seek your ruling on procedure, Mr. Chairman. This clause covers some 10 pages and introduces new sections from section 6 to section 39. Is it your decision that these sections be taken separately, because they all have marginal notes and they all deal with separate matters? If clause 8 is put as one, we shall be passing 10 pages in one vote.

The CHAIRMAN: I am happy to meet the wishes of honourable members. Do honourable members wish me to read the marginal notes each time so that, if there is anything to which an honourable member has objection, I can note the objection at that time? Very well, I shall read the marginal notes. The first one is "Repeal of Part II of principal Act and substitution of new Part therefor—". The next is "Incorporation of Minister."

The Hon. G. J. GILFILLAN: New section 6 (2) provides that the Minister shall, in his corporate name, be capable of suing and being sued and of acquiring, holding and disposing of real and personal property of any kind. I seek an explanation of the meaning of that provision, because there is no reference to the type of property. It seems to be a broad provision.

The Hon. C. R. STORY: I, too, have been wondering about the powers of the Minister and should like a little more information, if the Minister can give it, particularly regarding the provision for acquiring, holding and disposing of real and personal property of any kind and of doing and suffering all such other acts and things as the bodies corporate may by law do or suffer. As I see it, that affects personal things.

The Hon. A. J. SHARD: It simply means that the Minister takes over from the board. All these things may have been done by the board, but the Minister will take the responsibility now.

The Hon. G. J. GILFILLAN: That still does not answer my question as to what limitation there is on acquiring, holding and disposing of real and personal property of any kind.

The Hon. C. D. Rowe: That does not give any powers against the child.

The Hon. G. J. GILFILLAN: Another section refers to the property of the child. This appears to be a sweeping power given to the Minister, without any limitation as to what it applies to.

The Hon. S. C. Bevan: It is the power that the board has now.

The CHAIRMAN: The next marginal note is "Judicial notice to be taken of seal and incorporation of Minister." The next is "Abolition of Children's Welfare and Public Relief Board."

The Hon. C. D. ROWE: When I spoke on the second reading of this Bill, I expressed considerable anxiety about abolishing the board and placing everything under the control of the Minister. I still have misgivings about that, and speak now without reference to any particular Minister or any particular Government. There is much advantage in having an independent board not subject to political influence or to any Minister in Ministerial office. While it is the policy of the Government to abolish the board and vest all powers in the Minister, I doubt that the future will show that that is a wise move.

I know that some dissatisfaction with the board has been expressed, but there will be dissatisfaction with the work of the Minister, no matter how efficient he may be. This is the sort of administration where there must be some dissatisfied customers. The Minister will be a person extraordinary if that does not happen. I consider that in a multitude of counsellors there is great wisdom and that what is required by this Act should be done by a board rather than by a Minister with sole power. Everyone has his own particular slant on things and his own particular approach to problems. Everyone is affected by his own particular circumstances, as has been demonstrated in this Chamber tonight. We cannot dissociate ourselves from the circumstances with which we are surrounded, nor can we keep our thoughts completely impartial or free from emotion, and that is the difficulty when power is vested in one Minister.

However, when this power is vested in a board, the members of which are vitally interested in the matter, are dedicated to the job and can see not one point of view but a dozen points of view, we get better administration. I want to make two things clear. The first is that I am not satisfied that we are advancing the interests of the people that this Bill seeks to help by transferring power to the Minister and the second is that I want to place on record my appreciation of the very effective work that the Children's Welfare and Public Relief Board has done over many years. I know there has been criticism of the board, but for my part and from my experience the members have done a very good job and I am

concerned that they are to be dispensed with in one line in the form of the words "shall be abolished". I do not suppose other words could have been used, but I express my appreciation of the conscientious work that the members of the board have done.

The Hon. Sir LYELL McEWIN: Having made submissions at some length during the second reading debate on this clause I wish to support the remarks of the Hon. Mr. Rowe. Having had an association with the board for so many years I know, first of all, they were selected as people dedicated to the service and welfare of children placed under the care and control of the department. They gave their services to the maximum possible degree in a voluntary capacity and carried out this work because they were able to give time to it that a Minister will not be able to afford. I would not be concerned if I was sure that at all times there would be experienced officers as advisers. I mentioned the appointment of the members when I addressed myself to the Bill and, as I said, Ministers and officers change; they have to.

A good officer in a good department cannot remain there because, under the conditions of the Public Service, he must move on or remain in the one grading. It is possible that there will be a change in Minister simultaneously with a change of officers, and all the knowledge and human understanding gained over a period could disappear in a matter of a month and in its place would be a new and inexperienced person with no association with this type of work. Therefore, the effective work carried on through experience, combined with people who are wrapped up in such work, could be lost and replaced by inexperience. In such an event serious repercussions could be expected.

We are aware that these changes are being made as a result of the policy of the Government, and it is apparently something we are expected to accept. I wish to say I am not accepting it with any satisfaction at all. I am objecting to the change because I think it is wrong. The chairman of the board has been the administrator in the past, and the sole administrator between meetings of the board. It has been a matter of presenting what he has done to the board for acceptance or criticism. He has had a steering committee of 12 people and not an advisory committee that he will have under this Bill and which will meet at the request of two members of the committee or when the director sees fit to call a meeting.

Why should the Director want to call them together, unless he is in trouble and wants them to help him surmount something that has caused difficulty? Give some people power for a while and they begin to think they are almighty or bureaucratic. I see no reason why the Director would want to be hampered by calling a committee together. It would depend on the constitution of the committee, but we do not know who will be appointed to it—whether it will be a team of theorist or other people. We have all had experience of theorists; we have seen some in politics, and we are aware of the contributions they can make. There is nothing like experience, kindness and love when dealing with children. We are going to give all of that away for some doctrine of control and direction by a Minister. I do not know what kind of Minister or directions we shall have, but I point out that in this case my faith is in numbers and a properly selected board dedicated to this type of work. I am sure such a board would produce better results.

All I can say is "Good luck to the Government and to the board and all concerned". I only hope that all their roses will be of best perfume and the brightest colours, but I venture to say that they will have their withering days.

The Hon. C. D. ROWE: I wish to refer to the new section 14. In my view the powers contained therein are far too wide. The Minister has the general care and custody of a State child and that is to be expected, but paragraph (*c*) states:

> The power to utilize any services of the department or of any officer or employee of the department for the promotion of social welfare within the community;

That power is too wide and could allow the Minister to use the power for personal publicity for the Government in carrying out its policy. It would involve the spending of public money to help the Government and I believe there should be some limitation imposed. I am also concerned with paragraph (*a*), which states:

> The general care and custody of and the control over the persons of all State children and the control of the property of all State children to the exclusion of all other persons claiming such care, custody or control;

In addition, I refer to paragraph (*b*), which reads:

> The power to establish homes and to recommend to the Governor that any home be declared by proclamation to be an institution.

Does that mean that the Minister can establish those homes on his own say-so? I do not know what the cost of such homes may be but experience of children's homes has taught me that it can be extremely high. I presume that

Parliament could come into the picture and be consulted on such a matter, but will the Minister say whether this could mean that the Public Works Standing Committee would not investigate projects involving more than £100,000? I mentioned this in my speech during the second reading debate, and I would have thought that the Minister would have a reply available.

The Hon. A. J. SHARD: We have the information and nobody should know better than the Hon. Mr. Rowe that a Minister is limited to any amount of money that he can spend in any direction without an authorization from Parliament. The honourable member in his capacity as Minister in a previous Government knows that nobody can do these things, first, without consent of Cabinet, secondly, without finding out whether the money is available, and thirdly, without scrutiny by the Auditor-General. We all know that what a Minister can spend without Cabinet approval cannot be reconciled with the ridiculous statement made by the honourable member.

The Hon. H. K. KEMP: All of these institutions are now in existence, and they are being set up again by this Bill. This clause is not to set up a new scheme; it is to modify the old scheme, so the wording is fundamentally wrong. It is a taking-over rather than a new creation, and the fact that these institutions are already in existence is not recognized. Is the Minister trying to set up a parallel institution?

The Hon. Sir LYELL McEWIN: Paragraph (*b*) provides that the Minister shall have power to establish homes and to recommend to the Governor that any home be declared by proclamation to be an institution. Certain homes have been recognized by the department and approved. Does paragraph (*b*) mean that in preference to those institutions the Minister can provide other homes and tell the existing homes they are no longer wanted? I am not satisfied with the Minister's shaking his head and refusing to explain how this is to be interpreted.

Paragraph (*c*) provides that the Minister shall have power to utilize any services of the department or of any officer or employee of the department for the promotion of social welfare within the community. "Social welfare" is a new expression, and I should like to know what it refers to. I should also like to know what "power to utilize any services" means. Paragraph (*d*) provides that the Minister shall have power to establish centres and provide facilities and financial and other assistance for the promotion of social welfare. Again, what is meant by "social welfare"? If the Minister can define it, I shall be happier about it but, rather than accept a shake of the head, I shall vote against this new section.

The Hon. A. J. Shard: That is your right.

The Hon. Sir LYELL McEWIN: We are expected to consider this matter in Committee, yet we are told that if we cannot understand it we should vote against it. If that is a challenge, I am prepared to accept it, but it is not the way I wish to treat legislation, and it is not the way we are accustomed to treating it. If the Minister has a reply, let us have it. Surely we are not to be treated as a kindergarten. If that is the Minister's attitude, we may as well report progress and go home, as I am not prepared to accept it. Surely there must be an answer. If the Minister has something on the paper in his hand, I am prepared to listen to it.

The Hon. A. J. SHARD: Since I have been a member of this Chamber I have never seen a clause like this dealt with, nor have I seen a clause dealt with like this. It appears to be good tactics. I am prepared to sit here as long as everyone else is.

The Hon. Sir Lyell McEwin: What about answering the question?

The Hon. A. J. SHARD: Before the dinner adjournment a certain honourable member said it would not take half an hour to deal with this Bill, but it has taken almost half an hour to deal with one honourable member. New section 152, which is inserted by clause 98, provides for the retention of existing homes. The power to establish homes and to recommend to the Governor that any home be declared by proclamation to be an institution is normal procedure, as other homes may be needed. This clause gives the Minister an authority that the board has had previously, and the authority can be exercised by Executive Council.

The Hon. Sir Lyell McEwin: What about paragraph (*c*)?

The Hon. A. J. SHARD: The same applies.

The Hon. Sir LYELL McEWIN: I mentioned three paragraphs. The Minister has dealt with paragraph (*b*), which relates to homes. I have asked about paragraph (*c*), which relates to the services of an officer and the promotion of social welfare within the community. Is this comparable with the work of a national fitness committee, where someone is appointed to deal with youth exercises? This has nothing to do with homes.

The Hon. A. J. SHARD: This paragraph deals with the power to utilize any services of

the department or of any officer, and is similar to the powers that the board has had. This has been going on for many years, and it is being taken away from the board and given to the Minister.

The Hon. Sir LYELL McEWIN: I am still at a loss. This provision is in general terms. What officer does it now? Is this to give power to organized committees in relation to social welfare work, which is done voluntarily now?

The Hon. A. J. Shard: I have told you what it means. If you cannot see it, that is unfortunate.

The Hon. Sir LYELL McEWIN: I cannot. Because of the lack of information, I ask for your ruling, Mr. Chairman, on whether we are dealing with this matter in new sections? I am speaking about paragraph (*c*). I am prepared to assist the Minister with the Bill, but, if his attitude is one of frustration, then out of frustration I oppose paragraph (*c*) of new section 14 (1).

The ACTING CHAIRMAN (Hon. C. R. Story): The Chairman has ruled earlier that we would take the clause and deal with the new sections in it. We are now dealing with new section 14 (1). I do not think there is any reason why an honourable member should not move if he wishes to delete any paragraph from (*a*) onwards at this stage without voting against the whole clause.

The Hon. Sir LYELL McEWIN: I did not set out to vote against any of the provisions but the Committee is entitled to an explanation from the Minister. In the absence of such explanation, I move:

To strike out paragraph (*c*) of new section 14 (1).

The Hon. M. B. DAWKINS: Paragraph (*d*) is more wide open than paragraph (*c*). In the absence of any explanation, does the Leader intend to move for the deletion of paragraph (*d*) also?

The ACTING CHAIRMAN: We are dealing at the moment with paragraph (*c*).

The Hon. R. C. DeGARIS: The Chief Secretary said that paragraph (*c*) was only transferring to the Minister powers that the board already had. Is that so?

The Hon. A. J. SHARD: If the board never had that power, I should like to know what power it had. It went out of its way to help people and to put them on to a decent footing. This provision simply means that this power is transferred to the Minister to do exactly what was done previously by the board.

The Hon. R. C. DeGARIS: Can the Chief Secretary indicate where I can find it in the principal Act?

The Hon. A. J. SHARD: No, I cannot.

The Hon. Sir LYELL McEWIN: The whole point of this is the interpretation of this provision. I know that officers of the department went out and helped necessitous cases, but I do not know what this new situation will be. Perhaps a legal mind can interpret it better than mine can. We want to know what the words "for the promotion of social welfare within the community" mean. Is it something on the lines of the National Fitness Council, or what is it to be? Surely there is an explanation of this. We are told it does not exist in the Act, yet it gives no more powers than are in the Act. Then why is it here? All we want is an explanation. If it does the work that I expect the welfare department to do and that it has always tried to do, I am happy, but, without some explanation of how far this takes us and what it means, I am not prepared to accept this paragraph. I was never more sincere in moving an amendment than I am now. I want to know what is included in these powers. What can be done? Surely there is some answer to the drafting of this paragraph. To my lay mind, it seems to give an open cheque. I want some assurance.

The Committee divided on the amendment:

Ayes (12).—M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin (teller), C. C. D. Octoman, C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Noes (6).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, A. F. Kneebone, F. J. Potter, and A. J. Shard (teller).

Majority of 6 for the Ayes.

Amendment thus carried.

New section 20—"Establishment of Social Welfare Advisory Council."

The Hon. L. R. HART: New section 25 provides that the members of the Council shall be paid such fees and allowances as are prescribed. Are the members of this Council to be paid out-of-pocket expenses, or are they to be on a salary, and who is to prescribe the salary? New section 10 (*d*) makes provision for "such other offices and positions in the department as are necessary". I should like the Minister to say whether the members of the Social Welfare Advisory Council will come into that category and, if so, whether they will be covered by the provisions of the Public Service Act and be subject to superannuation and such other conditions as are laid down in the Act?

I appreciate that the offices of Director and Deputy Director shall be in accordance with the Public Service Act as amended. However, there is also provision that all employees of the department shall be appointed by the Minister, and it may be that the members of the council are not employees of the department because they are appointed by proclamation. I consider that the Minister should explain this clause.

The Hon. A. J. SHARD: The members of the advisory committee will not be officers employed full time and they will not come under the Public Service Act, because they will be paid a fee for their services in that particular job, and nothing else.

The Hon. Sir NORMAN JUDE: I know that you were not in the Chair at the time, Mr. Acting Chairman, but I do not think we carried new section 14, as amended.

The ACTING CHAIRMAN: We have not reached the end of clause 8. We are still proceeding through the new sections. When we have done that, that motion will then be put.

The Hon. F. J. POTTER: On a point of order, I think all these new sections are part of clause 8 and up until now they have not been put individually and voted on. I take it that the final question whether clause 8 stands as printed will not be put until we get to the end of the clause.

The Hon. R. C. DeGARIS: Before the motion on the clause is put, can any new section that we have dealt with be reconsidered without a recommittal?

The ACTING CHAIRMAN: Provided that the clause has not been amended at that point. If the honourable member wishes to go back to, say, page 13, where the last amendment was, he can do so.

The Hon. Sir LYELL McEWIN: I am not sure whether I mentioned this matter in my second reading speech, but I am interested in the provisions of new section 19 (1) (*f*). I think the age mentioned in the principal Act is seven years and the whole principle of our legislation is that we do not unnecessarily take a child from its parents. In other words, the child can be adopted and live normally with the family or parents. This case deals with an illegitimate child, and it could be that the child is living happily and being cared for satisfactorily by the mother. I know of cases where the mother did not want to part with the child, and because of the attention the mother had given to the child, it was considered desirable that she should retain it. In those circumstances, it is better if a departmental officer does not appear at the house periodically.

Of course, there may be cases where it is necessary for the department to take some interest in the child when the child is more than seven years of age. If that is provided only in exceptional cases I am happy with it, but I would like some assurance or explanation from the Minister that it does not mean that the child must grow to the years of understanding realizing that some stranger is about the place making inquiries and causing embarrassing questions. I believe the limit of 12 years is there to provide only for exceptional cases, but I am concerned with the interests of the child in this matter.

The Hon. A. J. SHARD: The purpose is to provide only for the supervision of the child. The Parliamentary Draftsman advises that the relevant provision dealing with the supervision of the home is section 189 of the Maintenance Act. This measure is purely supervising the child until such time as it comes under the control of the Act that I mentioned.

The Hon. Sir LYELL McEWIN: That is the point I am making. The Minister's reply suggested that the child remain under supervision until 12 years of age and that that applies irrespective of other things. I do not want this provision to operate under the legal interpretation of the Parliamentary Draftsman, because this is a Bill which requires humanity in administration in the interests of the child. What I wish to avoid is supervision of the child until 12 years of age, together with the regular calling and inspection, with the child possibly saying, "Who is this man, mum?", and the neighbours asking, "Who is the boyfriend?". Such a procedure is undesirable in the interests of the child, and surely, at seven years of age, the department should have some idea as to how the child is being cared for.

The Hon. A. J. SHARD: I advise that at any time when it is clear that supervision is not required it ceases. Only in exceptional cases when a child is over the age of seven years would there be visits.

The Hon. Sir LYELL McEWIN: I am quite happy if it is not obligatory.

The Hon. JESSIE COOPER: I am not satisfied with that explanation. Section 189 states specifically that the home or place of residence, and every part thereof, of any illegitimate child under the age of seven years shall be open to inspection at any time by any member or officer of the board. This clause before us refers to supervision up to 12 years. I am

appalled that any illegitimate child should be subject to this supervision until 12 years old. The age limit should be seven years. I know that section 189 is still in the Act, but this section states, "supervise any illegitimate child under the age of 12 years", and it does not say, "when necessary". I think Sir Lyell McEwin is correct in his objection.

The Hon. Sir ARTHUR RYMILL: It seems to me that these are collateral powers and that they should be exercised in that manner.

The Hon. F. J. POTTER: I think the difference between the two sections comes back to the question of supervision. Section 189, still in the Act, deals with the visitation of homes and states substantially that the home is to be open to entry for inspection of any illegitimate child up to the age of seven years. In paragraph (*f*) we speak of "supervising" and I think there is a difference between visiting a child in a home up to seven years and supervision after that age up to 12 years.

The Hon. Sir Arthur Rymill: It does not use the word "thereafter" does it? It says "up to 12".

The Hon. F. J. POTTER: Yes, but he could be supervised at any age from birth up to 12 years, but under section 189 he can be visited. Both powers can be exercised. I know from experience that this power of the department is objected to strongly by many mothers of illegitimate children. They are unhappy about such visits, particularly if they care for the child properly and give it a good home. On several occasions women have complained to me that they do not like this regular visiting by welfare officers when they have at all times carefully looked after a child in a first-class home. Although there is provision in section 189 that inspection of the home may cease if the board is satisfied that the child is being properly cared for, it is, in my experience, not often that this is so and the regular visitations are kept up by the welfare officer. There seems to be further extension of the power granted under section 189.

The Hon. JESSIE COOPER: If we are to view this collaterally, does this mean that "supervise" in paragraph (*f*) means that the child can be visited at the home until the age of seven, and not visited between seven and 12? In that case, what does "supervision" mean? Surely it should mean an inspection of living quarters. I think this is a good case of snooping. I believe that if a woman has an illegitimate child she should not be hounded by a department for 12 years. Seven years is long enough.

The Hon. A. J. SHARD: Section 189 (1), as amended by clause 132, will contain the following proviso:

Provided that where the Director is satisfied that an illegitimate child is being properly cared for in its home or residence, such home or residence shall not be open to entry and inspection under this section.

If the child is looked after properly, the Director will not want to inspect the home. When it is clear that supervision is not necessary, it ceases, and only in exceptional cases is a child over seven visited.

The Hon. Sir ARTHUR RYMILL: One may well ask what "supervise" means, as it seems to be an all-embracing term. Surely it would mean that the person concerned with the supervision would be able to go to the place of residence of the child to see what was going on.

The Hon. F. J. Potter: You think that, if "supervision" means sending a child to the office, that is worse than having someone go to the home?

The Hon. Sir ARTHUR RYMILL: I do not think "supervise" is defined, although I am not clear about it.

The Hon. A. J. Shard: "Inspection" is the only power of supervision.

The Hon. Sir ARTHUR RYMILL: This probably has an all-embracing meaning; it would mean everything necessary under the normal meaning of that word. If that is so, I think this means that it is a power ancillary to that contained in the principal Act and that it extends the operation of that Act to the age of 12 instead of 7.

The Hon. A. J. SHARD: I have been advised that, if the child has been looked after well, officers are now instructed to cease visiting under section 189. This power is necessary to guard against trading in children, which has grown up elsewhere. Sections 108 and 109 of the principal Act are extended to children of 12 years of age. If there is any difficulty over this matter, and honourable members would like time to consider it, I am prepared to move that progress be reported. However, we may have reached the end of our queries on this.

The Hon. Sir LYELL McEWIN: I assure the Minister that I do not want to stop progress on this Bill. The replies have reassured me, as I expected that this would be the position. In South Australia we have been free of trafficking in children, and I would not expect there to be any trafficking in future. I do not want to delay this Bill, and we always have the right to recommit if we desire.

The Hon. A. J. Shard: I do not think I can give any better explanation.

The Hon. Sir ARTHUR RYMILL: I think the Minister has made the matter reasonably clear, and I am satisfied with the explanations.

The Hon. Sir LYELL McEWIN: New section 31 provides:

The Director may, subject to any directions given by the Minister, afford relief, whether in money or by the supply of commodities to, or for the maintenance of, such destitute or necessitous persons as the Director thinks fit, and, subject to the regulations, may authorize or direct the admission of any such person into a suitable home.

This new section contains many qualifications. I know that the Minister must be advised by his officers and that he has to approve their recommendations. However, the word "direct" is used. What does that mean? I would not like the position to be that the Minister will direct his officers, as there will be many disappointed people if that happens. Does this alter the usual practice, which is that the Minister has responsible officers to carry out the administration and that he is more or less a stop-gap to take the responsibility for any mistakes? If the Minister gives directions, they may not be in accordance with recommendations of his officers, and there may be some trouble.

The Hon. A. J. SHARD: New section 31 is a replica of section 22 of the principal Act, except that the word "Director" is used instead of "the board". Section 22 of the principal Act provides that the board may do certain things subject to the direction of the Minister. "The board" is taken out and the Director is given authority to do exactly the same as the board did.

The Hon. Sir LYELL McEWIN: That clarifies the position. If that is the explanation, I accept it.

New section 33—"Recovery of cost of past relief from relatives."

The Hon. F. J. POTTER: This provision has an interesting history. It deals with the recovery of relief from a person, or a near relative of that person, who has been granted relief. It is really a repetition of section 24 of the principal Act. Subsection (2) of that section states:

If the court is of opinion that such person, or the father, or other near relative as aforesaid is able to repay the whole or part of the amount or cost of such relief and that such circumstances exist as to make repayment desirable . . .

The words "such circumstances exist as to make repayment desirable" seem to me difficult of interpretation. I know they are in the existing Act but they were not there until 1963, when they got into the Act by an amendment by the Labor Party. Since then, I understand there has been no test in any court of law of what these words mean. Until 1963 the department, when it wanted to establish a case for repayment of the relief granted, had only to lodge a complaint alleging that the defendant was a near relative of the recipient of the relief, that the relief had been granted and that the defendant was able to repay the relief. That was all that it was necessary to establish in order to satisfy the court that a case had been made out. The onus was put on the defendant anyway to refute the allegations; but in 1963 the then Opposition inserted these additional words—that in addition to those things one had to show that repayment was in the circumstances desirable. What onus these words placed on the prosecution it is difficult to determine. Parliament should clearly understand what factors are to be taken into account.

The Bill provides that the ability of the defendant to repay is no longer to be the *prima facie* reason for repayment. The Government may feel that an order should be made only on some express proof of means to repay. If so, I cannot see why these words should be in at all. Perhaps the only other possibility is that the Government does not want to impose any duty upon the defendant to repay relief issued to a wife who had deserted her husband. If "desirable" meant this, the court would be required to determine all the matrimonial rights between the respective parties. As these cases are or can be dealt with by justices of the peace, that sort of inquiry may be rather protracted and haphazard. Therefore, I should like to hear from the Minister his explanation of these words, and why he thinks it is necessary for them to be in the Bill, because, as far as I understand, they have never been interpreted to this day. They impose an additional handicap upon the recovery of relief from a defendant.

The Hon. A. J. SHARD: I am advised that similar action took place in another place and the answer given there was that the words are easily understandable and it should be left to the court to decide the answer.

The Hon. H. K. KEMP: The Minister does not appreciate how much bitterness has arisen from this provision. Again and again, orders for maintenance have been made by magistrates, taking into account the ability of the deserting husband to pay, and then the relief that has already been given to the widow has

been taken out of that maintenance order leaving her with a slim income. This provision needs close attention. At present we almost place the duty on the department of recovering from the maintenance order made by the court the relief that has already been given, which frequently leads to distress.

The Hon. L. R. HART: I want a definition of "near relative". In section 24 (1) of the old Act the relatives are named. Subsection (2) refers to "the father, or other near relative", but "near relative" there is qualified by subsection (1). As the old Act has been repealed, there is no such guidance. Only the term "near relative" is used. Does "near relative" mean the same as in the old Act?

The Hon. F. J. Potter: It is in the definitions of the old Act.

The Hon. S. C. Bevan: The old Act has not been repealed.

The Hon. A. J. SHARD: The definition of "near relative" has not been changed. It is still the same as in the old Act.

New section 39—"No deductions without order of court."

The Hon. F. J. POTTER: I mentioned this provision in my second reading speech. This is a procedure backed by statutory authority and, to my own knowledge, it has caused hardship to many people in the past. The woman (as it is in most of these cases) is required to sign an authority before she is afforded relief that when moneys are available from another source, whether from her husband or from a near relative, the repayment of payments made by the department or a portion thereof may be deducted.

In other words, if a woman receives £5 a week allowance from the Government and later gets from her husband £8 a week, she will only be paid £5 a week, because £3 will be deducted each week to repay the allowance that has been paid to her by the department.

There is ample power in the Act to enable the department to proceed against the husband for recovery of relief that has been afforded. If the circumstances make it desirable (whatever that may mean) in terms of new section 33, the department will be able to recover from the husband or near relative. Even though a minimum amount of 10s. or £1 a week may be paid by that person, nevertheless the right is there and it would be better if that were done, rather than keeping the widow on an income of £5 a week when she could be getting £8 a week.

The Hon. A. J. Shard: That is if it is paid regularly.

The Hon. F. J. POTTER: In my experience, it does not matter whether it is paid regularly or not. The amount is deducted every time a payment is made, whether payments are made every week or whether a few weeks are missed. The woman receives only the minimum amount, when she could legally be entitled to receive more. I realize that, to some extent, any Government must be interested in protecting its revenue and obtaining all the payments it can, but it seems to me to be wrong in principle to insist or demand that the woman give this authority before anything is advanced to her.

If an officer went to her afterwards and said, "You are receiving £8 a week from your husband. Will you authorize the deduction of £3 a week?", that would not be so bad. However, the system that has been operating in the past and that apparently will operate in the future is that the woman must sign the authority for the deduction before she receives any relief. Will the Government consider altering this procedure, which is causing real hardship in some cases? I should like to hear from the Minister whether a more equitable procedure can be adopted in future.

The Hon. Sir Lyell McEwin: He has been given another note.

The Hon. A. J. SHARD: It is all right. You are asking the questions. New section 39 is almost identical with old section 38. The Government agrees with the Hon. Mr. Potter's complaint. However, it is necessary to have authority in some cases. I think honourable members would readily agree with that. Entirely new procedure is about to be announced so that administratively we shall be able to cope with that difficulty. That is the assurance that the honourable member wanted, and he has it.

The Hon. F. J. POTTER: I thank the Minister for that reply, because I know that this has been a really sore point in the past.

The Hon. Sir LYELL McEWIN: I thought I overheard the Chief Secretary pass a remark that I was a "poor cocky". A cocky, as you know, is a very imitative bird. We seem to have had a lot of that tonight. I have not drawn attention to it before, but I think it is contrary to the Standing Orders for notes to be passed from the gallery to a Minister regarding a Bill. Until the Minister made this remark, I was prepared to let it go. May I have your ruling, Mr. Chairman, on whether it is in accordance with Standing Orders? There are

proper means of getting assistance and I do not object to them, but when the Minister passes insulting remarks across the Chamber—

The Hon. A. J. Shard: Do you ever look in the mirror?

The Hon. Sir LYELL McEWIN: I hope I have the floor for a moment. May I have your ruling in regard to what has been happening this evening, Mr. Chairman?

The CHAIRMAN: It is, of course, completely out of order for anybody in the public gallery to pass down notes, especially by the Messenger, to the Minister or to any other honourable member. I had not taken any notice of it, because no objection was taken, and I considered that it was assisting the passage of the Bill. However, I think that, as notice has now been taken, it will be necessary to ask the Parliamentary Draftsman for messages.

The Hon. D. H. L. Banfield: Some little boys never grow up.

The CHAIRMAN: I ask the honourable member whether he will withdraw that remark.

The Hon. D. H. L. BANFIELD: I withdraw the remark, Mr. Chairman.

The Hon. A. J. Shard: Things are different if they are not the same. This is one-way traffic.

The Hon. C. D. ROWE: There is only one thing that I should like to say. I think I have remained patiently quiet, after having been told that my last remark was ridiculous, or something to that effect. All I want to say is that we have agreed to the whole of clause 8, with the exception of new section 14 (1) (*c*). We were discussing that section when, by interjection, the Minister of Local Government said that what was suggested under this section applied already. Apparently, what we can do under this provision we are doing now, so that the operation of that section will not stop any work going on at the present time.

New section 39b—"Means of support."

The Hon. F. J. POTTER: This deals with the question that arises on a complaint being heard under section 66, which still exists and will not be changed. This section allows a wife to apply to a court for summary protection. She can do this if she can establish to the satisfaction of the court that her husband has been guilty of desertion, or adultery, or cruelty, or wilful neglect to provide maintenance, or habitual drunkenness or other grounds set out in that section of the Act. If the court is satisfied that she has established a case, it may make an order first that she be relieved from the obligation of cohabiting with her husband, secondly, she may be granted the custody of children and, thirdly, she may be awarded maintenance for herself and the children. Under section 66, one of the grounds available to the woman is that her husband has to provide reasonable maintenance for her, and section 39b sets out to establish some kind of formula on which the court can decide whether or not there has been reasonable maintenance provided. I draw the attention of honourable members to paragraph (*a*), which states:

> The court shall have regard to the accustomed conditions in life, but not the means or earning capacity, of the first-mentioned person.

This appears to be something new because even under the Matrimonial Causes Act, where a wife applies for maintenance, it is provided that the wife's capacity to earn and her income is something the court must take into account in determining maintenance. However, under this clause her earning capacity is not to be taken into account in determining whether or not reasonable maintenance has been provided for her. Turning to subsection (2) of section 39b dealing with the amount a husband may be ordered to pay, I quote:

> . . . in ascertaining the financial position of the person or persons for whose maintenance or for whose benefit the order is to be made the court shall disregard any moneys that any such person has earned or received, is earning or receiving or may thereafter earn or receive solely or mainly because of the desertion or neglect of the defendant . . .

In other words, a wife may be deserted by her husband, apply for summary protection under this order, but may go out to work and earn money. That money is not to be taken into account when assessing maintenance. How long is such a state of affairs to continue? I sympathize with the person who is drafting the Act, for the situation may arise that it is unfair to regard the moneys presently coming in to a wife because of the fact that she has had to go out and earn money, but there may be circumstances when a woman will say, "I am earning £10 a week and now I have an order for £10 or £15 a week from my husband. I like this, and I will continue to work even though I have my maintenance."

There seems to be no time limit. This is contrary to the situation existing under the Matrimonial Causes Act where the capacity of both parties to earn, together with the income of the wife and husband, is used as a measuring stick when determining a maintenance order. However, this appears to be a new principle and, although I am in sympathy with the motives, I am worried as to where the principle will begin and where it will end.

The Hon. A. F. Kneebone: On your argument, doesn't the defendant get off paying anything if the wife is earning more money than the defendant?

The Hon. F. J. POTTER: He may.

The Hon. A. F. Kneebone: It does not seem right.

The Hon. F. J. POTTER: It has always been done that way, and if it is good enough for a Commonwealth Act we should be chary of introducing new clauses in our Act. It may create a difficult situation. If the wife continues to earn, she does so of her own free will. If that money was taken into account when she was living with her husband it should be taken into account if she was not living with him. I appreciate that, for some period, if she is a deserted wife and forced to earn she cannot be blamed or penalized for receiving extra money. Can the Minister say how far this new principle is expected to go?

The Hon. A. J. SHARD: The principle behind new section 39b was discussed at a meeting of Attorneys-General, who took the view that, as the wife had to go to work to earn because of being deserted by her husband, her earning capacity should not be considered in deciding the amount of money to be paid.

The Hon. F. J. Potter: For how long will it go on?

The Hon. A. J. SHARD: For as long as it is in the Act.

Clause passed.

The Hon. A. J. SHARD: I ask that progress be reported.

Progress reported; Committee to sit again.

SUCCESSION DUTIES ACT AMENDMENT BILL.

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

PRICES ACT AMENDMENT BILL.

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

ADJOURNMENT.

At 10.30 p.m. the Council adjourned until Wednesday, November 24, at 2.15 p.m.