LEGISLATIVE COUNCIL

Wednesday, November 24, 1965.

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

PETITION: TRANSPORT CONTROL.

The Hon. R. C. DeGARIS presented a petition signed by 2,846 electors and residents of the electoral districts of Mount Gambier, Millicent and Victoria of the Southern District, Legislative Council, alleging that any further restrictions on the use of road transport by taxation legislation or otherwise was detrimental to the interests of the State, and that the cost of any such legislation or control would add to the cost of living in the country areas of the State and would discriminate against the residents of such areas. The petition had been certified by the Clerk of the Legislative Council as complying with Standing Orders, was respectfully worded and contained a prayer that no legislation to effect any such control, restriction or discrimination might be passed by this honourable Legislative Council.

Received and read.

QUESTIONS

TRAMWAYS BOARD.

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

Leave granted.

The Hon. L. R. HART: In this morning's newspaper there is a report of what is described as a noisy meeting of 200 members of the Tramway Employees Association, at which meeting a resolution was passed calling on the Trades and Labor Council to ask the Labor Government to place the Tramways Board under the control of the Minister of Transport, the Hon. Mr. Kneebone. In view of the present Government's passion for abolishing boards, one would almost believe that the particular resolution could have been prompted. Will the Minister of Transport say whether he agrees with the decision of this meeting and whether he would welcome an approach from the Trades and Labor Council to abolish the Tramways Board and to place control of the tramways with the Minister?

The Hon. A. F. KNEEBONE: As this is a policy matter, I do not propose to give my own personal views on it. The Government will have to consider this matter at the appropriate time, if such a request is made.

MEMBERS' ACCOMMODATION.

The Hon. Sir ARTHUR RYMILL: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. Sir ARTHUR RYMILL: I want to refer to the lack of accommodation for private members in this House of Parliament (and that, of course, applies to another place as well). This matter has been in my mind for a long time, as at present there is very little accommodation for private members. They seem to be accommodated three or four to a room. There is no privacy for interviews. There is only one interviewing room, as far as I know, for all members of the Legislative Council. I have not intervened in the matter in the nine years that I have been in the Parliament, because I have an office in the city, where I have done much of the work.

However, the work is building up all the time and I often have occasion now to see people here. My own situation is that a room known as the Party room, which I can assure the Council is of no use whatsoever, is shared by three members for Central No. 2 at present, and but for the happy fact that we have a female member in the District it would be shared by four. That room is available to every member of our Party at any time. It contains all the records, and so it affords us no privacy at all. I understand that sooner or later the Government Printing Office will be available. I also imagine that the old Legislative Council building to the west of Parliament House could be available. I am not suggesting that those buildings would be convenient for members but it may be that other sections of Parliamentary activities could be shifted there. I am sure that the Government is as conscious of the matter as I. I am not blaming the Government for this situation; it has been with us for many years. Can the Chief Secretary say whether the Government is giving any consideration to this matter, which is of extreme importance to all of us? If it has not been considered up to the present, will the Government have serious regard to it?

The Hon. A. J. SHARD: I, like the Hon. Sir Arthur Rymill, have been disturbed for years about the packed accommodation in Parliament House, for members of this Chamber in particular. For the last three years, when I was Leader of the Opposition, I had my own private room. I think it is unfortunate that there is only one interviewing room. The Clerk of Parliaments will bear out that I sometimes fancy myself as an

architect, and I have outlined what I think can be done. I will take up this matter with the President to see whether something can be done. The Government has not given any thought to additional accommodation for members in the Parliament as a whole. As honourable members know, it is difficult to find accommodation for the additional Minister in another place. Now that this matter has been raised, I will take it up with Cabinet to see whether anything can be done to alleviate the position.

The Hon. Sir ARTHUR RYMILL: In thanking the Chief Secretary for his reply, I should like to make it clear that I know that no further accommodation is available, and I know that you, Mr. President, have done your utmost to accommodate us. This means that another building must be provided or the use of other buildings must be obtained. I do not suggest that anything can be done at the moment.

The PRESIDENT: It is just passing the buck.

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: Yesterday, in reply to my question concerning the use of the words "uninformed opinion", the Minister of Transport said that the Government intended under proposed legislation to raise £200,000 per annum from fees and licences. As the return to the Government under the Road Maintenance (Contribution) Act of one-third of a penny a ton-mile is, I believe, about £1,000,000, I think it reasonable to assume that the return under this Act from intrastate transport is between £300,000 and £400,000. Will the Minister say whether it is reasonable to assume from his statement that many trucks will be forced off the road and, if that is not so, that £200,000 is an inaccurate estimate?

The Hon. A. F. KNEEBONE: I am not quite sure of the way the honourable member put his question, but I think he is labouring under a misapprehension if he thinks that State laws can apply to interstate transport; they cannot, because of section 92 of the Commonwealth Constitution. This legislation will apply only to people picking up and dropping in South Australia; it will not affect interstate transport. Therefore, the adding of money which is to come from interstate transports defeats the purpose of using that figure.

The Hon. R. C. DeGARIS: Perhaps the Minister did not understand the question, so I ask leave to explain it again.

Leave granted.

The Hon. R. C. DeGARIS: My question was about intrastate, not interstate, transport. I said that under the Road Maintenance (Contribution) Act about £1,000,000 was derived, and that at a reasonable guess I would say that £300,000 or £400,000 comes from intrastate transport at one-third of a penny a ton-mile. The Minister said yesterday that the revenue to be derived under the new legislation would be £200,000, and the fee under this legislation is much higher than one third of a penny a ton-mile. Is is reasonable for me to assume on the answer given yesterday that many trucks will be forced off the road in South Australia? If this is not so, is it reasonable to assume that the estimate of £200,000 given is inaccurate?

The Hon. A. F. KNEEBONE: I think that the honourable member is getting two Bills confused. I also think that the statement that the cost of charges envisaged under this legislation is much higher than charges under the Road Maintenance Act would depend on the amount of competition with the railways that is undertaken by people in connection with those charges. I still do not agree that the sum of more than £200,000, as an estimated figure of the return from this Bill, is wrong. As to the rest of the question regarding transport being forced off the road, I do not envisage that this will happen because in other States where this type of legislation is even more severe than here road transport flourishes alongside the railways, despite this type of thing. Therefore, I cannot see there will be any great number of vehicles forced off the road. Incidentally, I consider that these questions regarding a Bill that is at present under consideration in another place may be out of order.

PISTOL LICENCES.

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

Leave granted.

The Hon. L. R. HART: Under the Pistol Licence Act it is required that a person shall register a pistol annually on or before December 31 in each year. It has been brought to my notice that people at present applying for a pistol licence, or a renewal of such a licence, are having their applications refused. The issuing authority in this case is the Police Department. I ask the Chief Secretary, is it

a fact that the Police Department has been issued with instructions to refuse applications for pistol licences or their renewal before December 1?

The Hon. A. J. SHARD: I hope I did not miss any of that question, but the part dealing with the Police Department can be answered by saying that that department has not received any instructions from me as Chief Secretary to do the things it is alleged to be doing. A question along similar lines was asked in another place yesterday, and it is all news to me. If anything like that is being done I do not know where the authority came from. However, honourable members can be assured I will have inquiries made and try to have a reply available tomorrow.

The Hon. Sir NORMAN JUDE: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. Sir NORMAN JUDE: I am afraid my question is similar to that asked by the Hon. Mr. Hart, but with more detail. I received last Wednesday a notice regarding the payment of a pistol licence. I drove some three miles to the local police station with a cheque to pay the licence. I take it that it cost the Police Department 5d. to send me the account. The policeman on duty at the police station informed me that he was unable to accept cash but that he would hold my cheque. He waved a sheaf of papers in front of me and said they were applications under the Act that had already been paid promptly there. I said, "Why can't you take the money? There has been no alteration to the Act." He said, "Well, Sir, you read this", and he handed me an instruction that he had received. I accept the Chief Secretary's assurance that he did not issue instructions that no money was to be received for pistol licences for the time being, pending possible alteration to the legislation. Will the Chief Secretary ascertain who was responsible for this special instruction and will he advise the Council whether this action was contradictory to Statutory authority, there being no alteration to the Act at present? Further, will he consider the reasonableness of accepting the fees already paid by *bona fide* applicants, in many cases at considerable inconvenience and expense?

The Hon. A. J. SHARD: I do not want to repeat what I said before. I will take up this matter, find out the position and discuss it with Cabinet tomorrow morning. I hope to be able to tell the Council the exact position tomorrow afternoon.

PRICES ACT AMENDMENT BILL.

Second reading.

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

Its principal object is to extend the duration of the principal Act, which expires in December, for another 12 months. Before dealing with this extension, I refer to two other matters. The first is that, with the adoption of decimal currency in February and the continued use for a limited period of the old currency, some provision will be required in relation to prices orders in force on and after the date of adoption of the new currency. Such a provision is contained in clause 3 of the Bill, which adds a new subsection to the interpretation section of the principal Act to provide, in effect, that on and after February 14, 1966, maximum prices shall be either those fixed in the old currency or, as the case requires, equivalents in decimal currency calculated according to what is known as the comprehensive table, which contains references to halfpennies and which the Prices Commissioner proposes to adopt. This is purely a necessary machinery amendment.

The other matter to which I desire to refer is the continuance of the sections inserted in the principal Act in recent years covering certain trading practices. It is the Government's intention to introduce as soon as practicable a general measure governing restrictive and unfair trading practices, which will include the provisions now in the Prices Act. Those provisions will then be taken out of the Prices Act and enacted in permanent form. However, the Prices Act expires in December and it has not been and will not be possible to introduce the new measure before the Council rises in December. It is for this reason that the Prices Act is now being extended in its present form. I deal now with the subject of the continuance of price control, dealt with by clause 4 of the Bill.

In asking the Council to agree to an extension of the Prices Act for another 12 months, the Government is satisfied of the continued need for a public authority to watch price movements that may occur over this period and to take action where warranted in the interests of the community. As a result of the £1 basic wage increase last year, the 1½ per cent margins increase and the increases in Customs

and Excise duty recently, internal pressures in the economy are increasing and are already evidenced by an upward trend in some prices. It is considered necessary that the machinery to contain unjustified price increases be retained. Continuance of the Prices Act will also ensure that the lower prices of a wide range of commodities in this State compared with other States will be maintained. The Government's reasons for wishing to extend this legislation include the following: First, the introduction of decimal currency in February, 1966. Unless watched carefully, some traders could use the advent of decimal currency to their own advantage. The continuance of the Prices Act will enable the public to be protected against any unwarranted price rises that could result.

Secondly, the Government's policy is to ensure that the consumer gets a fair deal. Current trading conditions have become so complex and involved that many consumers, including persons on fixed incomes, find it difficult to make ends meet without some assistance and guidance. The department has rendered a valuable service to many of these people in the past and it is most desirable that they continue to be afforded the opportunity to approach the Prices Department, which not only looks after their interests but is constantly rendering them assistance in a number of ways. Thirdly, the policy of the Government is to also watch the interests of the primary producer and to give assistance wherever possible. In this respect, and particularly in the present circumstances, some of the benefits that primary producers are enjoying would not be possible without the extension of the Prices Act.

Fourthly, apart from pricing, the department is covering a rather wide field of activities, which include special investigations for the Government. The outcome of these investigations has been of considerable benefit to various sections of the community. Inquiries into a number of hire-purchase agreements, insurance claims, used car transactions, etc., have also been made, and it is in the interests of the community that these activities be continued. Fifthly, this State continues to enjoy the lowest house building costs in Australia and savings on houses are considerable. For example, a five or six room house of about 12 squares of brick construction can be built for up to as much as £800 less than in other States. As a result of the lower costs, with the same amount of money more houses can be built here than in other States. If the Prices Act is not extended, this most favourable differential could be considerably whittled down.

Since the 1961 census, when South Australia was shown to be one of the best housed States in the Commonwealth, this State has improved its position still further. The following figures (Commonwealth Statistician) illustrate the number of new houses and flats completed for the year June 30, 1965, for each 10,000 head of population: South Australia, 122; Western Australia, 115; Victoria, 99; New South Wales, 95; Tasmania, 74; Queensland, 85. Proof of the State's commercial growth is given by the following percentage increases for 12 months over the previous 12 months for retail sales of goods (excluding motor vehicles, parts, petrol, etc.), as obtained from the Commonwealth Statistician:

	Percentage increases for 12 months ending June over previous 12 months.	
	1964	1965
South Australia	9.2	9.3
New South Wales	3.9	6.4
Victoria	6.7	7.4
Queensland	8.2	7.8
Western Australia	6.6	8.1
Tasmania	3.7	6.9

Sixthly, the legislation on unfair trading practices has since its inception proved itself to be working well. A number of undesirable practices have been stopped since the legislation was introduced. It is most desirable that these measures that have proved popular with a large cross section of the business community and the public in general be continued. I ask the Council to vote for an extension of the Prices Act until the end of December, 1966.

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

STAMP DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 23. Page 2954.)

The Hon. G. J. GILFILLAN (Northern): This Bill is another addition to the long list we have had in this session to increase the revenue of the State. The Hon. Sir Lyell McEwin said that this matter was not mentioned by the Premier, who was then the Leader of the Opposition, in his policy speech before the last election, except for a reference to one particular part of the Bill when he said that steps would be taken to close a certain loophole that enabled people to avoid the payment of stamp duties. No warning was given of the remainder of the Bill. In the circumstances, I do not think it can be claimed that this measure

was forewarned or that any mandate was given by the people for such a far-reaching revenue Bill.

The Hon. C. R. Story: The Government has not acted on all the mandates it was given, has it?

The Hon. G. J. GILFILLAN: No. There were mandates for such things as free school books.

The Hon. M. B. Dawkins: And amalgamation of the banks.

The Hon. G. J. GILFILLAN: There seems to be an almost indecent haste to get these revenue Bills before Parliament. We have 64 Bills on our files and, although most of them are administrative, we have 14 increasing the revenue of this State by way of increased fees. We have many Bills that increase considerably the penalties prescribed in the principal Acts. In addition to increased charges provided for in Bills, we have had laid on the table about 160 regulations, many of which also provide for increased fees.

The Hon. A. F. Kneebone: How many?

The Hon. G. J. GILFILLAN: I have not found that out, but I can get the information for the benefit of the Minister. From my experience, I would think that the percentage of regulations providing for increased fees is in excess of the percentage of Bills providing for additional revenue in that way.

The Hon. A. F. Kneebone: That is only an opinion.

The Hon. G. J. GILFILLAN: I would be pleased to get the information for the Minister. It may be possible to work out the amount of revenue involved, because one regulation alone could bring in extra revenue of £500,000. I am referring to a regulation on which I spoke yesterday. I can confirm the figures and, if the Minister wishes, I can go through all of these files.

The Hon. S. C. Bevan: You are not complaining about doing some work, are you?

The Hon. G. J. GILFILLAN: It was my intention to check these files and have the figure ready today. I checked the Bills themselves, and found that there were 14 that increased revenue by increasing fees. It appears that this Government is determined to change the status of South Australia from that of a low-taxed State, perhaps the lowest in the Commonwealth, to that of a highly taxed State in a very short time.

The Hon. C. R. Story: Do you think 1968 will be the year of the big pay-out?

The Hon. G. J. GILFILLAN: To answer that would, again, be giving an opinion. As far as I can see, despite all this increased revenue, we could still have trouble in meeting our financial commitments because of the heavy commitments that have been undertaken by the Government since it has been in office. I can well understand the concern felt by taxpayers throughout the State. There are one or two rather surprising provisions in the Bill.

Clause 13 makes it obligatory on any person, except those persons listed in the exemptions, to tender a receipt for any amount of 10 dollars or more. I am surprised at the principle involved. This is not related to a check as far as proof of payment for income tax purposes is concerned. The provisions cuts across the right of two people to conduct a financial transaction of a minor nature without being faced with the necessity of issuing a receipt and keeping a record of that receipt for at least two years. The freedom of the individual is involved.

The Hon. C. R. Story: Is any provision made for meeting the cost of additional inspectors to police this?

The Hon. G. J. GILFILLAN: Not in the Bill. However, this will be an expensive item to police properly and, unless it is policed properly, we shall find that the honest person will be penalized and that the person who is, perhaps, not quite so honest will avoid payment of the extra cost involved.

The Hon. D. H. L. Banfield: Do firms now keep receipts for 12 months?

The Hon. G. J. GILFILLAN: They keep records, which is slightly different. They are not obliged to keep stamped receipts.

The Hon. C. R. Story: A crossed cheque is sufficient.

The Hon. G. J. GILFILLAN: As long as there is proof. This will add to the bookkeeping and administration costs of many businesses and will also place a heavy burden on the time, as well as on the finances, available to small businesses. A vast amount of work will be involved in a small business conducted by the proprietor alone or with the help of one assistant in issuing all these receipts. This will be an imposition on the small trader and an infringement on the rights of people to negotiate financial matters. It is surprising that, although these people will be forced to make this contribution, bets will be exempted. Item 9 in the schedule of exemptions exempts receipts or acknowledgments for any money paid to or by a person licensed under Part IV

of the Lottery and Gaming Act for or as a result of any bet on any racecourse, trotting ground, place where a coursing meeting is being held, or premises registered under Part IV during the holding of a race meeting for horse races, trotting races or coursing meetings. Item 10 exempts receipts or acknowledgments for any money paid to or by persons for or as a result of any bet on a totalizator operated by any racing club. I do not object to these exemptions, but it is rather peculiar that small businessmen will be taxed on transactions that are part of their living yet transactions on sporting and recreation events will be exempt.

The Hon. D. H. L. Banfield: But a percentage is already taken out, isn't it?

The Hon. G. J. GILFILLAN: Yes, in taxation.

The Hon. D. H. L. Banfield: That does not apply to a small businessman.

The Hon. G. J. GILLFILLAN: If he is lucky enough to have any money left after the Government has finished with him, he will certainly pay taxation.

The Hon. R. A. Geddes: And succession duties.

The Hon. G. J. GILFILLAN: Yes, if he has anything in his estate. I am concerned at the trend of taxation in this State and at the way the Government is raising revenue by direct taxation (which is dealt with here), by regulation (which is not so obvious to the public), and by this type of taxation (much of which is unseen). The average person is not aware of this; he knows about it only when the cost of living goes up. This adds up to a frightening sum in relation to the future of this State.

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

PHARMACY ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 23. Page 2966.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, but I do not wish it to be taken that I necessarily support every provision, as at least one provision—that in clause 5—is open to much controversial debate. This Bill, which was introduced into this Chamber only yesterday, raises some matters that are not of great importance in principle, although the matter contained in clause 5 may be of great importance. The Bill does several things. The first amendment, which is contained in clause 3, deals with apprenticeship, and it seems to me that these provisions are satisfactory. It is perhaps a little strange that the qualified chemist, who is required to undergo training, is called an apprentice.

The Hon. A. J. Shard: That is one of the amendments; he should be described as a trainee.

The Hon. F. J. POTTER: I understand the Minister is saying that he will move for the term to be changed. That is a good thing, as "apprentice" has a particular meaning that is inapplicable to these people.

The Hon. A. J. Shard: I am told that it is not correct to call someone in a profession an apprentice; he should be called a trainee.

The Hon. F. J. POTTER: Clause 4, which exempts the management of hospitals approved by the Chief Secretary from the provisions of section 26 and 26A, seems to me to be a sensible provision. I understand that all the clauses, except possibly clause 5, have been approved by the Pharmacy Board and by all people interested in the profession of pharmacy. Clause 6 sets out in detail the matters on which regulations may be made under the Act. The old Act did not set out in detail what subject matter could be dealt with by regulations; there was merely a blanket provision that enabled the board, with the approval of the Governor, to make regulations. Clause 6 seeks to set out in detail the matters to be the proper subject of regulations. These regulations will in due course come before Parliament and be subject to scrutiny. I have one query about paragraph (*j*), which provides that the conditions under which the practice of pharmaceutical chemistry in a pharmacy is to be conducted and under which medicines are dispensed, compounded or made up, are to be subject matters for regulations. I do not know whether the word "conditions" is wide enough to include hours, but I consider that this is an important aspect of a pharmaceutical business. Pharmacies are not covered by the provisions of the Early Closing Act; they can open and close at whatever hours they wish. I think that, in the circumstances that exist, some regulation of hours is desirable. I should like to hear from the Minister later as to whether or not it is considered that hours are included in the provisions for regulations under clause 6. The only possible clause to cover that would be the one I referred to, but I doubt whether it could be so extended.

Turning to clause 5, which I consider to be the controversial clause of the Bill, provision is made for the Friendly Societies Medical

Association Incorporated to carry on the business of selling goods by retail in not more than 36 shops. As honourable members may know, that association at the present time conducts 26 dispensaries, 25 being in the metropolitan area and one at Port Pirie. It can be seen that the increase is considerable. This association has been established in this State for over 50 years and it appears to have flourished. I understand that the activities of these 26 shops have not altogether been appreciated by chemists or pharmacists in private practice because the association's pharmacies enjoy better economic conditions than the private chemists.

It should be mentioned that the Pharmacy Act permits a chemist's shop in this State to be owned by an unqualified person, and this seems an aspect of the legislation that should be given attention by the Government. There seems to be no reason why ownership of pharmacies should not be restricted to qualified chemists. I know the subject is not included in the amending Bill, but I think it should be. The extraordinary situation exists that, although it is not possible for a medical, dental or legal practice to be owned by an unqualified person, a pharmacy may be owned by such a person even though I know that under the provisions of the Bill it must be controlled by, or under the management of, a qualified person for the purpose of dispensing.

It seems to me that the profession of pharmacy is such that it is equally important to the public that the ownership should be in qualified hands for the reason that if a breach of the Act is committed then the person employed is the one who gets the blame. He is the person dealt with by the board for any unprofessional conduct but the actual owner of the shop may not be dealt with because the board would have no powers over him. It may well be that he may be the principal person responsible in a case of misconduct, because it is open to an owner to direct his employees. To some extent this does have something to do with clause 5 because the friendly society dispensaries are owned and controlled by people who are laymen in the sense that they are unqualified and outside the jurisdiction of the Pharmacy Board as far as control of unprofessional conduct is concerned.

The friendly societies have been established in this State for over 50 years. I am told that originally they were established to provide relatively cheap medicine for lodge members in needy circumstances. The Pharmaceutical Society of South Australia and the Federated Pharmaceutical Service Guild (South Australian Branch) have supplied me with certain particulars and statistics that I consider should be placed before honourable members. I consider that they call for some comment by the Minister in the Committee stage of this Bill. The societies mentioned tell me that today only one friendly society member in 10 is an initiated member of a lodge whilst the remainder are people from all walks of life who have joined the National Health Services Association for the purpose of contributing to and receiving hospital and medical benefits.

In 1942 this State Parliament legislated to prevent a pharmacy system developing here. Honourable members will remember the publicity given at the time to the Bill and to the possibility that a big chain firm known as Boots would be established in South Australia. Consequently, in 1942 the Pharmacy Act was amended for the purpose of eliminating additional company-owned pharmacies. That situation still exists and the legislation has been effective. It has been put to me by the societies I mentioned that that protection may come to naught if we permit an extension of business and activities by the friendly society dispensaries because they may become the chain pharmacy that Parliament legislated to prevent in 1942. The guild tells me that today the friendly society dispensaries are a real threat to the pharmacist carrying on his own business, for several reasons. First, they are able to operate on a non-profit basis and enjoy substantial taxation concessions. It is estimated that the capitation fees, which are 3d. a week for an individual and 6d. a week for a family, in themselves bring into the friendly societies about £100,000 tax-free income a year. These societies pay tax on only one-tenth of their takings at non-public-company rates. These takings in themselves are substantially reduced by heavy discounts to members.

Honourable members will remember that in 1961, only a short time ago, this Parliament allowed the friendly societies to invest in the wholesale druggist business. I am informed that this form of activity, which has grown tremendously, enables friendly societies to buy at least 20 per cent better than private chemists can and, because of the large volume of prescriptions channelled through their dispensaries, their purchasing power enables them to enjoy from manufacturers concessions not available to private chemists. Honourable members will also remember that not long ago there was considerable public controversy about the

operation of the Commonwealth pharmaceutical benefits. Until 1959 pharmaceutical benefit prescriptions were free, and many friendly society members did not pay any extra capitation fee for medicine; indeed, they obtained their prescriptions from private chemists as well as from their own stores.

On March 1, 1960, the Commonwealth Government imposed a charge of 5s. for each pharmaceutical benefit supplied by private chemists but it allowed the friendly societies to forgo this charge to their members. This was set out in section 92a of the National Health Act. Prior to the 5s. impost, most people went to private chemists or to friendly society dispensaries, because the cost of a prescription was nil in both cases, and the business that accrued to chemists as a result of that Act went fairly equitably between the private chemists and the friendly societies. In fact, maybe the private chemists got more of it than the friendly society dispensaries. But, with the advent of this 5s. charge, I am told (I think we all remember some of this publicity) that lodges, not the friendly societies themselves but the Druids, the Oddfellows and the other lodges involved in the association, commenced a television and radio advertising programme to advertise the advantages given to members under the National Health Act—that they could get their medicines prescribed at the fee fixed by the association at 1s. for each prescription. I am told that by 1965 the number of people who had joined up with friendly societies for medical benefits had increased by 132,000.

This increase in friendly society membership naturally must make some inroads into the business previously enjoyed by private chemists. Figures given to me show that in 1958-59 the friendly societies' share of the national health dispensing was 5.8 per cent. Following the introduction of the 5s. charge, this rose sharply in 1960-61, and by 1962-63 it had risen to 14.4 per cent. In April, 1964, the Commonwealth Government recognized that some difficulty was accruing to private chemists by the friendly societies being able to dispense medicines at 1s. a prescription, as opposed to the 5s. a prescription applying to private pharmacists. Therefore, it altered the legislation to provide that after April, 1964, the friendly societies had to charge 5s. a prescription, the same as the private chemists had to, but they were not obliged to make this 5s. charge to members and dependants of members who were at that date subscribing to the association. In other words, from April, 1964, onwards new members were treated equally with those persons not in a friendly society: they all had to pay 5s.; but members and dependants of members who were subscribers in April, 1964, continued to pay at the reduced rate.

The guild tells me (and there is some justification for its saying this) that it will take about 20 years before that advantage that members existing in April, 1964, enjoyed will have worked itself out and the equalization that the amendment of the Commonwealth Act provided will come fully into force.

The Hon. D. H. L. Banfield: Does the guild member gain anything; has he recovered any of that?

The Hon. F. J. POTTER: It could not act in any other way.

The Hon. D. H. L. Banfield: Is the position in reverse after 1964?

The Hon. F. J. POTTER: No. The position remains exactly as it is, on my information. The great majority of members who subscribe to friendly societies reside in the metropolitan area. This is borne out by the fact that there is only one friendly society dispensary outside the metropolitan area—at Port Pirie. Any increase, therefore, in the number of dispensaries permitted (and this clause would permit a further 10) would enable dispensaries to be opened up in large country areas, because the metropolitan area of Adelaide is reasonably well covered by the friendly societies at the moment with their 25 shops.

The question is whether or not this is desirable, because, after all, some country areas are developing into fairly large centres of population—Whyalla, Port Augusta, Murray Bridge and (not far from the metropolitan area) Elizabeth. It seems to me that no pioneering by the friendly societies association would be necessary if it was given the right to set up shops in these areas. They would be entering into direct competition with the private pharmacists who, perhaps, have been conducting their businesses for many years. At present, the friendly societies are permitted to open as many shops as they like in any area, but they must trade only with their own members.

The Hon. A. J. Shard: They are not even allowed to sell a tube of toothpaste to a non-member, although the grocer next door can sell to anyone.

The Hon. F. J. POTTER: Section 26e—(1)—(*a*) of the principal Act, which was inserted in 1947, provides:

A Friendly Society may—

in respect of any shop in which it carries on the business of selling goods by retail give notice to the board stating that in that shop the society does not and will not sell goods by retail to any person other than—

(*i*) a financial member of a friendly society;

(ii) the wife, husband, or child of a financial member of a friendly society;

The Hon. A. J. Shard: Why should they be restricted, when supermarkets can do it?

The Hon. F. J. POTTER: This Act allows a friendly society to sell—

The Hon. A. J. Shard: Only to members.

The Hon. F. J. POTTER: Yes.

The Hon. A. J. Shard: And the supermarkets can sell to anybody. Is that fair?

The Hon. F. J. POTTER: I am not disputing that. I am saying that there is provision in the Act for friendly societies to open up anywhere they like, if they are willing to trade only with their own members. The Act requires them to display at all times in the shop in a conspicuous position a notice carrying the words:

Goods sold only to financial members of friendly societies and to their wives, husbands, and children under 16.

The Hon. A. J. Shard: If a person other than a member or the wife, husband or child of a member bought a tube of toothpaste at a friendly society shop, there would be a breach of the law and a person would be liable to prosecution.

The Hon. F. J. POTTER: That is right. I am not saying that this would be a practical or economic proposition, and I do not want the Minister to misunderstand me. I am saying that if they chose to do so, there would be nothing legally to prevent them. I can appreciate, as I am sure all honourable members can, why this has not been done. In fact, we can say categorically that advantage has not been taken of that particular provision. Nevertheless, advantage could be taken of it. One may be forgiven for picking up what the Minister has said. He has said that they have not done so because they are in direct competition with the neighbouring supermarket or the neighbouring grocery store. This makes me a little suspicious about the matter.

The Hon. A. J. Shard: No, you misunderstood me. I said that the supermarket could legally sell the goods in competition with the private pharmacist, but the friendly society would be breaking the law by selling to other than the people prescribed.

The Hon. F. J. POTTER: The implication of what the Minister says is that it is only if the friendly societies can actively compete with the supermarkets or the nearby private pharmacists that they are at all interested in expanding into these areas. That is the point I want to make because it seems obvious to me that the friendly societies are not interested in confining themselves to supplying pharmaceutical benefits to their members; they want to sell to the general public also, not only pharmaceutical lines but all the other lines that we know chemists are stocking now, many of them in competition with the supermarkets and other stores.

There is no doubt that, if friendly societies are given the opportunity provided in this Bill, they will want to set up chemists shops in selected localities, perhaps where they will be competing with private pharmacists who have pioneered the area, and they will want full competition, with no holds barred. I am told that the friendly societies at present are handling more than 30 per cent of the total prescription volume in the areas in which their dispensaries are situated.

I am also told that in many cases they employ only the legal minimum number of qualified pharmaceutical chemists and that many of them have a large number of unqualified staff employed under the supervision of one registered person. I wish it to be known that I am not familiar with the position in this industry to any great extent; I have endeavoured to base my arguments on some of the information presented to me today by the guild. Arguments may be submitted that are contrary to the contentions I have put forward.

Until I know in more detail what is the actual position and until I know that this particular provision in clause 5 will not be a disastrous move as far as private pharmacists in this State are concerned, I shall not be prepared to indicate whether I shall vote for or against the provision. The full facts of the situation should be given to this Council. I am sure that all honourable members will want to look carefully at the details I have given today and will want to hear arguments presented, either for or against the contentions that I have put. I consider that a great matter of principle is involved. It touches the freedom of the individual and amounts to private enterpries versus a kind of monopoly.

The Hon. A. J. Shard: Or a co-operative?

The Hon. F. J. POTTER: Or a co-operative. In many cases, a co-operative can be a monopoly. I am not suggesting that just because something is called a co-operative, it is given, as it were, a kind name. Perhaps "monopoly" has a very restricted meaning. I should like much more information from the Minister than he has given in the second reading explanation. All he has said is that this provision has not been changed since 1947 and that the Government considers that the increase in the number of friendly society shops is justified. I think that there is an obligation upon the Government to give the Chamber the full reasons. If it can satisfy me that the provision is justified, I may be prepared to support it. If not, I have grave doubts about doing this, as I think it is dangerous to interfere with the freedom of the individual pharmacist. I am sure we all wish to have the best possible community service from pharmacists, and I think there is little to complain about existing services. If this clause is passed, I fear there will be a great interference with the opportunity of the private pharmacist to make a living. Although I support the second reading, I should like to hear the Minister either in Committee or in closing the second reading debate explain the reasons for introducing this clause.

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

SOUTH AUSTRALIAN RAILWAYS COMMISSIONER'S ACT AMENDMENT BILL.

Returned from the House of Assembly with the following amendment:

Page 2—After line 15, insert the following new clause:

4a—"Amendment of principal Act, s. 98—Special conditions, if just and reasonable, may be made."

Subsection (1) of section 98 of the principal Act is amended—

(*a*) by striking out the word "twenty" therein and inserting in lieu thereof the word "forty"; and

(*b*) by striking out the passage "one pound for any sheep, pig or other small animal" therein and inserting in lieu thereof the passage "ten pounds for any pig, or four pounds for any sheep or one pound for any other small animal".

Consideration in Committee.

The Hon. A. F. KNEEBONE (Minister of Transport): The effect of the new clause moved by the Premier in another place is to raise the rate of damages recoverable from the Railways Commissioner for loss or injury in respect of livestock. The present limits are £50 for a horse, £20 a head of cattle, and £1 for any pig, sheep or other small animal. The Government was approached by the South Australian Stock Salesmen's Association and asked to fix a more realistic maximum, since the present rates have been in operation for many years. The Government agreed, and the new clause increases the rates to £40 a head of cattle, £10 a pig and £4 for any sheep. I recommend that the amendment be accepted.

The Hon. Sir NORMAN JUDE: I am glad that this amendment has been made and that the amendment made in this Chamber was accepted by another place. This new clause brings up to date the amounts inserted into the legislation many years ago. I suggest that the amendment be accepted.

The Hon. D. H. L. BANFIELD: This will be of benefit to the country people who send stock to market. As the Hon. Sir Norman Jude has said, it brings money values up to date, and it may be an incentive to the Railways Department to be more careful in handling stock. It will benefit country people, and I support it.

The Hon. L. R. HART: As a country member, I would be delighted to see this amendment accepted. It is an act of generosity that we do not see often. We must remember that when bitter pills are to be handed out it is far better for them to be coated with a little sugar. This can be regarded as a little sugar for some of the bitter pills we have had recently and some of the bitter pills to come. I should like to know how much has been paid out in compensation in recent years and how much this will cost the Treasury. I have had some dealings with the Railways Department in relation to stock transport, and I know it is difficult to get any compensation when animals are lost in transit. Although this may be a generous offer, we may find it more difficult than ever to collect compensation. I do not know why this provision was not in the Bill when it was introduced here. Although I think it is merely a sop, as the Minister is in a generous mood I am sure that honourable members will be happy to accept it.

The Hon. Sir NORMAN JUDE: Section 91 deals with the fees that may be charged; these are regulated by by-law. I trust that the Minister will see that the percentage referred to in section 98 (2) is not increased unduly.

The Hon. A. F. KNEEBONE: I am overwhelmed at the gracious manner in which

honourable members are accepting this amendment!

Amendment agreed to.

EXCESSIVE RENTS ACT AMENDMENT BILL.

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It amends the Excessive Rents Act, 1962. The chief purpose of the Bill is to prevent evasions of the principal Act and of the Housing Improvement Act, 1940-1961, by the owners of substandard houses. Both these Acts provide for a scheme of rent control, but the practice has grown up of owners of substandard houses requiring their tenants "to sign agreements for sale and purchase", thereby placing the transaction outside the purview of each of the two Acts. Such agreements really amount to a letting under another name as the "purchasers" would be most unikely ever to be in a position to complete purchase. A number of such agreements have recently come to the notice of the Housing Trust.

Many of these agreements affect small cottages and contain conditions which are particularly onerous upon the purchaser. For example, although these houses are invariably substandard within the meaning of the Housing Improvement Act and as such are proper subjects for action by a local board of health, the purchaser is nevertheless under the terms of the agreement obliged to carry out any order of a local board or other authority. Further, the purchaser is required to paint and keep in good order a house which is, in fact, in a very dilapidated condition. The agreements in question provide for a purchase price of £2,000 with weekly payments of about £6 a week plus the payment of rates and taxes by the purchaser for about four years, leaving a substantial sum (about £750) at the end of this period. The purchaser will almost inevitably be unable to pay this sum and, if he defaults on the agreement, he leaves the owner in possession of the property and the substantial rents paid over the period are forfeited.

Clause 7 of the Bill inserts new sections 15a and 15b in the principal Act. New section 15a will enable such a "purchaser" to apply to a local court for an order setting aside the agreement for sale and purchase. It will be observed by honourable members in this connection that the Housing Trust has, in addition to the purchaser, the right to apply to the local court for an order granting relief to a purchaser from his obligation under the agreement. Such a provision is considered desirable since in many cases the purchaser because of his limited means, lack of knowledge of his legal rights or perhaps because of intimidation by the owner cannot or will not make the application himself.

An order under this section may be made if the court is satisfied that the agreement is an attempt to evade the operation of the principal Act or of the Housing Improvement Act or that it is harsh or unconscionable. The court may also order an account and impose on the parties any terms and conditions it sees fit (subsection (3) of the new section). Thus, unless the justice of the case otherwise demands, the court will ensure that the purchaser may continue in occupation (subsections (4) and (5)) for the remainder of the term of the agreement for sale and purchase or for such lesser period as the court determines. Subsection (4) (*b*) provides that, in an appropriate case, the owner may be ordered to repay to the purchaser at the end of such occupation (which may be described as a statutory tenancy) any surplus he has built up by paying under the agreement amounts in excess of what the court considers would have been a fair rent. The rent for the statutory tenancy will be fixed by the court having regard to all the matters specified in section 8 of the principal Act and to all amounts paid by the purchaser and the owner pursuant to the agreement (subsection (3)). The other terms and conditions of the statutory tenancy will be determined by the court in such manner as it feels fit. (Subsection 4 (*a*).)

Subsection (5) provides that the purchaser shall not by virtue of an order made under this section be entitled to remain in occupation of the house for a period longer than that stated in the agreement. Subsection (6) makes it clear that when the court makes an order under paragraph (*a*) of subsection (4) the terms and conditions as determined by the court shall be binding on the owner and purchaser and may be enforced in case of breach as if the terms and conditions were an agreement made between them.

By virtue of the definition of "purchaser" in subsection (1) of the new section, if the purchaser dies, his widow or certain members of his family may apply in his stead or may obtain the benefit of an order under the new section.

(This corresponds with a provision in the Rent Restrictions Act (U.K.).) Subsection (8) of the new section provides for a variation of the statutory tenancy, upon application by the purchaser or the owner, if there are alterations or additions to the house or the accommodation, etc., provided therein. Subsection (9) confers upon the local court the same powers when dealing with an application under this section as it has in the exercise of its ordinary jurisdiction. By virtue of subsection (10), the court's decision will be final. Subsection (11) provides for a penalty of one hundred pounds for failure to comply with any provision of the court's order. Subsection (12) is an evidential provision that enables production of a copy of the *Gazette* in any application under this section showing that a house has been declared to be substandard to be *prima facie* proof of that fact.

The Bill also makes certain other important amendments to the principal Act. New section 15b (also inserted by clause 7) provides that in any application under the principal Act no costs may be awarded against a party unless his conduct in making the application has been vexatious, oppressive or unreasonable. The combined effect of clauses 3 and 4 of the Bill is that the definition of "letting agreement" in the principal Act is revised to provide that tenancies for three years or more will be excluded from the operation of the Act. (At present only one year tenancies are so excluded.) As a consequential measure the exclusion of one year tenancies is restricted to existing agreements.

Clauses 5 and 6 make amendments consequential on the insertion of new sections 15a and 15b. Clause 5 also makes an important amendment relating to distress for rent. Section 16 of the principal Act abolishes distress for rent of any dwelling house and section 5 provides that the Act shall not apply to any premises when any notice fixing the maximum rental thereof is in force under the Housing Improvement Act. The combined effect of these two sections is that tenants in substandard houses (*i.e.*, those to which the Housing Improvement Act applies) have no protection against distress for rent. Clause 5 therefore amends section 5 so as to abolish distress for rent in respect of such premises. Clause 8, which inserts a new section 16a, provides that it is an offence punishable by maximum penalty of £100 for any person who, without the consent of the tenant of the premises, or without reasonable cause, interferes with the use and enjoyment of the premises or any furniture, services or conveniences in or available to the tenant in the premises. Under subsection (2), where a landlord or his servant, etc., has been convicted of an offence under subsection (1), the local court can order the landlord to put the tenant in the same position as he was before the interference with his enjoyment of the premises. (Penalty: £100.)

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

EIGHT MILE CREEK SETTLEMENT (DRAINAGE MAINTENANCE) ACT AMENDMENT BILL.

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

The Hon. S. C. BEVAN (Minister of Local Government): I move:

That this Bill be now read a second time.

In consequence of proposals put forward to the Minister of Lands by a deputation on behalf of the settlers in the Eight Mile Creek Settlement, the Government has agreed to introduce this Bill to amend the basis of valuation for the purposes of assessing the drainage maintenance rates in the settlement so as to provide that the valuation be based on the unimproved value of each holding rather than its market value as now applying. This action is proposed as the proposed basis of valuation is considered more equitable between individual settlers.

The principal Act provides for a quinqennial valuation to be made in respect of each five-year rating period, the last of which expired on April 30, 1965. A valuation in respect of the five-year rating period which commenced on May 1, 1965, has already been made on the basis of market value and notified to settlers under the existing provisions of the Act but, in view of the proposals contained in this Bill, an assessment of drainage rates for that five-year rating period will not be made on the basis of that valuation. It is, however, proposed that the annual drainage rate declared and levied on each of the holdings in respect of the rating period that ended on April 30, 1965, shall be the drainage rate on that holding for the year ending on April 30, 1966, and a quinquennial valuation on the new basis of unimproved value will be made for each five-year rating period commencing on or after May 1, 1966.

Clause 3 of the Bill alters the definition of "rating period" to accord with the new proposals. Clause 4 enacts a new section 4a, which provides that the annual drainage rate declared and levied on each holding in respect

of the five-year rating period which ended on April 30, 1965, shall be the drainage rate on that holding for the year ending on April 30, 1966. This has the effect of extending that rating period by one year until April 30, 1966. The new section also provides for the recovery of rates and of interest at 5 per cent per annum on unpaid rates but empowers the Minister to remit the whole or any part of the interest on grounds of hardship or for any other sufficient reason.

Clause 5 replaces subsection (1) of section 5 of the principal Act. The new subsection requires the Director to determine the average annual expenditure for each future five-year rating period after estimating the expenditure that would be incurred during that period in connection with the maintenance, care, control and management of the drains and drainage works in the settlement; and also requires the Land Board to make a valuation of the unimproved value of the land in each holding. The clause enacts a new subsection (1a) which defines "unimproved value" of land as defined in the Land Tax Act. The clause also enacts a new subsection (3), which provides that the valuation made on the basis of market value of land in respect of the rating period that, but for this Bill, would have commenced on May 1, 1965, is cancelled and shall have no force or effect. Clause 6 amends section 12 of the principal Act by allowing the Director power to extend the time for payment of rates in respect of any year of a rating period other than the first year.

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

LAND TAX ACT AMENDMENT BILL.

The House of Assembly intimated that it disagreed to the Legislative Council's suggested amendment.

Consideration in Committee.

The Hon. A. J. SHARD (Chief Secretary): The amendment suggested by the Council to the other place was to limit the operation of the increased land tax to this year, 1965-66, after which it would revert to the rate applying for 1964-65. In effect, the Council said that it agreed to the increased land tax proposed by the Bill, but only for the year 1965-66, which meant that at the end of that financial year the matter would have to be reconsidered. The other place has intimated that it is not prepared to accept that amendment. We need not debate it further now. It was a clear-cut issue here, so I formally move:

That the suggested amendment be **not** insisted upon.

The Hon. Sir LYELL McEWIN (Leader of the Opposition): When this Bill was before the Council it was well discussed and this point referred to by the Chief Secretary was closely examined by honourable members here. It was made clear that, whilst we were prepared to accept for this year the increased tax requested by the Government, in view of the forthcoming reassessment to be made early next year we thought that the Government should bring down a measure for next year and this Parliament should then have an opportunity to review the scale of charges. As I have said during my second reading speech, all taxation ought to be in the hands of Parliament. If, after we have had the new quinquennial assessment, the Government desires to have something of a permanent nature for a period, Parliament can consider the matter then. As far as the present is concerned, this Council was definite about inserting the suggested amendment and I oppose the motion moved by the Chief Secretary and also ask the Committee to vote against it.

The Committee divided on the motion:

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

Noes (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 (teller), C. C. D. Octoman, F. J. Potter, C. D. Rowe, Sir Arthur Rymill, and C. R. Story.

Majority of 10 for the Noes.

Motion thus negatived.

A message was sent to the House of Assembly requesting a conference at which the Council would be represented by the Hons. G. J. Gilfillan, L. R. Hart, A. F. Kneebone, Sir Lyell McEwin and A. J. Shard.

Later:

The House of Assembly granted a conference, to be held in the Legislative Council conference room at 3.15 p.m. on Thursday, November 25.

SUCCESSION DUTIES ACT AMENDMENT BILL.

Second reading.

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

The principal amendments contained in this Bill are threefold. First, in accordance with the policy of the Government announced at

the last election, it raises the basic exemption for widows and for children under 21 from £4,500 to £6,000, and for widowers, ancestors and descendants from £2,000 to £3,000. Secondly, it increases the rebate of duty in respect of land used for primary production and which passes to a near relative, so that an amount of £5,000 in particular estate is entirely freed from duty, and so that larger estates receive substantial concessions in addition to the basic exemptions which are provided. This, too, is in accordance with election promises.

Thirdly, the Bill provides for increased rates on higher successions as a taxation measure to raise revenues more nearly in line with revenues raised in other States, and at the same time provides for the elimination of a number of methods by which dispositions of property may be arranged to avoid or reduce duties payable. At present an ordinary succession to a widow of £6,000 involves a duty of £225, and it is proposed that this will be entirely eliminated. The new duty will remain lower than the present rate on widows for successions under £19,000, and beyond that figure will be higher than at present. For widowers and adult children there is at present a duty of £125 on a £3,000 succession. This will be eliminated and the new rate will remain lower up to a succession of £8,000 and will be higher above that figure.

The new provisions mean that a widow succeeding to a primary producing property with a net value of £11,000 will pay no duty, whereas at present she would pay £682 10s., and she will pay less than at present if succeeding to primary producing property with a net value below about £23,000. A son succeeding to primary producing property with a net value of £8,000 will, under the new proposals, pay no duty instead of £525 at present, and he will pay less than at present if succeeding to primary producing property with a net value below about £17,500. The effective rebate of duty to a widow succeeding to primary producing property will vary from £775 if the succession is worth £11,000, up to £2,000 if the succession is worth £110,000. This compares with rebates of £292 10s. and £2,884 respectively at present. The rebate in the new provisions is more favourable than at present for all successions to primary producing property to widows of less than about £28,000. For other near relatives, the rebates follow a closely similar pattern. The examples I have given do not take account of the special provisions in clause 31 relating to rebates in respect of matrimonial homes.

For the year 1964-65, the succession duties raised in this State amounted to £3,302,000, or about 63s. a head of population. For the other States the comparable revenues per head were—New South Wales, about 92s.; Victoria, about 100s.; Queensland, about 62s.; Western Australia, about 38s.; and Tasmania, about 55s. The five other States together raised about 84s. a head, or nearly one-third more than South Australia at 63s. This arose substantially because the effective severity of our rates was appreciably lower than elsewhere, particularly on the larger estates, and partly because it has been practicable in this State to arrange various means of disposition of an estate to reduce duties payable. It is difficult to compare South Australian tax rates with those elsewhere, for the South Australian rates are levied upon successions according to the size of each succession and without regard to the size of the total estate. Elsewhere, the rates vary according to the size of the total estate and not according to the extent of each individual succession. However, a table derived from Commonwealth statistics of estate duty levied through State offices for 1963-64 (the latest published) shows the percentages of State probate or succession duties allowed as deductions for Commonwealth duty purposes according to the size of estates. I ask leave to have this table incorporated in *Hansard* without my reading it.

Leave granted.

ESTATE DUTY LEVIED THROUGH STATE OFFICES.

	South Australia.	All other States.
	%	%
£10,000 and under £15,000	7.6	7.2
£15,000 and under £20,000	8.1	8.5
£20,000 and under £25,000	9.8	9.6
£25,000 and under £30,000	10.3	10.4
£30,000 and under £40,000	10.9	11.8
£40,000 and under £50,000	10.9	13.9
£50,000 and under £60,000	9.9	15.9
£60,000 and under £70,000	13.5	18.0
£70,000 and under £100,000	13.6	21.3
£100,000 and over	18.4	23.9

The Hon. A. J. SHARD: The table shows that, on estates up to £30,000, the present South Australian rates are broadly comparable with the average in the other States, but on estates of greater value than £30,000 they bear much less heavily than those of other States. The rates and provisions now proposed will narrow those differences. Because of the time taken in assessment and the time allowed for payment of duty, the net yield in revenue by virtue of these amendments is not expected to be very great in 1965-66. It will possibly be

less than 5 per cent of the present yield, or about £150,000. For a full year, however, it is hoped that the net revenue will be increased by about 20 per cent to 25 per cent, or by about £750,000. Even so, the yield a head would still be below 80s., whereas the other States combined last year raised about 84s. a head.

I turn now to the provisions of the Bill in more detail. An important change made by the Bill is that an administrator of an estate will be required to include in the one return all property which by virtue of this Bill is to be deemed to be derived from a deceased person. This will avoid the present loss of revenue owing to the separate treatment of different successions; for example, testamentary successions, joint estates, settlements and gifts. At present, under the principal Act, separate and additional returns are required from the administrator, a donee of a gift, a surviving joint tenant, etc., and the property to which the returns relate is separately chargeable with duty and, except in a few specified cases, may not be aggregated with other property derived from the deceased.

New subsection (2) of section 7 of the principal Act [added by clause 7 (*b*)] provides for the general aggregation of property subject to duty so that duty will be assessed on the total amount of all dutiable property derived by a particular beneficiary and the whole of the composite duty must be paid by the administrator. (The amount of this duty must, by virtue of the general law relating to trusts, be paid out of the estate, and the administrator will then have to recover from any donee, joint tenant, etc., the due proportion of duty attributable to any gift, joint property, etc.) This amendment will not affect the obligation of a trustee of a settlement or deed of gift to register the document even though the administrator is required to include the relevant property in his composite return and to pay duty on it. The requirement to register will ensure that the documents come before the Commissioner of Succession Duties and will protect the revenue because the trustee is not always the same person as the administrator and many settlements are made many years before the death of the settlor.

Clause 4 (*a*) tightens the provisions of the principal Act by inserting therein a definition of "disposition", modelled on a definition in the New South Wales Act, so that any surrender, release or other like transaction will be subject to duty in the same manner as a simple transfer, conveyance, etc. There is some doubt whether the present provisions of the principal Act apply so as to render gifts by surrender, release, etc., subject to duty.

Clause 4 (*b*) revises the definition of "net present value" by removing the anomalous distinction that property passing under a deed of gift is valued at the time of the donor's death whereas, in the case of a simple gift, the date of the disposition determines the value. The new definition makes the date of the disposition the determining date in both cases, and the effect will be that once the beneficial interest in property has passed to the donee he will be taxed on the value thereof. He will not be able to reduce the amount of duty applicable merely by dissipating the gift. In other respects, this definition is revised in keeping with the new provisions of section 8, which I shall explain shortly and the effect of which is that many of the references in the principal Act to property accruing on a person's death are rendered redundant and misleading.

Clause 5 inserts new section 4a in the principal Act providing that, except in relation to persons dying on active service, which I shall explain later, the amendments made by the Bill apply only in relation to persons dying only after the Bill becomes law. Clause 6 inserts a heading to sections 7 to 19 of the principal Act. Clause 7 replaces the portion of section 7 that provides for duty to be assessed on the total value of certain types of property, with new subsection (2) requiring duty to be paid on the aggregate amount of all property derived by any person from a deceased person. This clause also adds new subsection (3) to section 7 as a machinery provision.

Clause 8 (*c*) effects a revision of Part II of the principal Act by adding new paragraphs (*d*) to (*p*) to section 8 (1), specifying all property which is to be deemed to be included in the estate of a deceased person and which is to be subject to duty, clause 8 (*a*) and (*b*) making necessary machinery amendments. Under the principal Act this property is dealt with, in slightly different fashion in each case, by sections 14, 20, 32, 35 and 39a. These sections are reproduced in the new paragraphs with minor drafting alterations. There is a change of substance in the case of gifts with a reservation [new paragraph (*o*)] which are at present subject to duty even if the reservation ceases or is surrendered many years before death. The new paragraph removes this anomaly by excluding such gifts from the dutiable estate if the reservation ceases and the donee assumes full possession and enjoyment continuously for one year before the death of

the donor and there is no fresh or renewed reservation in that period. This paragraph (except for the one-year period) corresponds with a provision in the corresponding Victorian and New South Wales Acts. The words "whether enforceable at law or in equity or not" qualifying the reservation have been taken from the New South Wales Act. This will strengthen our Act by making gifts with a reservation subject to duty whatever the legal nature of the reservation.

Under section 8(1), as amended, all property therein mentioned will be deemed to be derived from a deceased person so that the ancillary provisions of Part II will apply in like manner to all such property. The scheme of this subsection, as amended, will correspond with a provision in the Victorian Act. The new scheme envisaged by section 8(1), as amended, necessitates a re-arrangement of several provisions of Part II and many amendments of a machinery or drafting nature which are provided for by many of the remaining clauses of the Bill. New subsection (1*a*) of section 8 (inserted by clause 8(*d*)) will give extraterritorial application to all property mentioned in that section. At present the principal Act applies extra-territorially only in the case of property comprised in a settlement or deed of gift and in the ordinary case of property derived under a will or upon intestacy. Provision against double duty being payable in any such case is made by existing section 8 (2). New subsection (1*b*) of section 8 (also inserted by clause 8(*d*)) is the same as subsection (5) of existing section 35, and new subsection (1*c*) of section 8, modelled on existing section 21, enables a different net present value to be given to property passing under a document which is part of a settlement and in part a deed of gift. The Bill provides for the repeal of existing sections 21 and 35.

Clause 9 (*b*) adds new subsection (2) to section 11, replacing subsection (3) of section 20, and clause 9 (*a*) makes a consequential amendment. Consequentially upon the new scheme of section 8 (1), as amended, the effect of section 11, as amended, will be that duty chargeable on any property mentioned in section 8(1), as amended, will be a first charge on such property, which will include property passing by way of gift, but as mentioned in new subsection (2) of section 11, there will be exceptions in the case of a settlement, deed of gift or gift. Clause 10 (*b*) adds two new subsections to section 12 so as to enable the Commissioner, if the administrator is not able to pay duty on any property comprised in section 8 (1), as amended, to require a trustee of such property or any person who is or was beneficially entitled thereto to file a return. Clause 10 (*a*) makes a consequential amendment. Section 12, as amended, will conform to sections 26(1) and 37 (1) of the principal Act. Upon approval of the return such person will, by virtue of new section 16a (inserted by clause 14), be required to pay the duty. Section 14 relating to gifts made in contemplation of death is repealed (clause 11) and replaced in part by new paragraph (*d*) of section 8 (1) and in part by new section 19a. The amendments to sections 15 and 16 (clauses 12 and 13) are consequential on clause 10.

Section 28 (1) provides that, in the case of property comprised in a settlement or deed of gift, a trustee or a beneficiary nominated by the Commissioner must pay duty out of such property. This provision is replaced by new section 16a (inserted by clause 14) providing that a trustee or other person who is required to file the statement pursuant to new subsection (3) of section 12 shall pay duty on the property concerned but, in the case of the trustee, liability for duty will be limited to the value of such portion of the trust property as, before the death of the deceased person, he had not disposed of pursuant to the trust. In the case of a beneficiary, however, there is no such limitation: once he has become entitled to the beneficial interest in dutiable property he will be personally liable for his due proportion of duty. This appears to be a necessary amendment in view of the scheme of the Bill which makes the administrator (and, through him, the estate) liable for duty in such cases. This amendment is designed to prevent (say) a donee of property from throwing the burden of duty attributable to such property on beneficiaries under the will of the deceased person where, for example, he was given the property two years before the death and in the meantime has dissipated or disposed of the property.

Clause 15 amends section 18 consequentially on new section 16a. New section 19a, which I have previously referred to, is inserted in the principal Act by clause 16, which clause also inserts certain headings and repeals sections 20, 21, 21a and 22, now redundant by virtue of the new scheme of section 8 (1). Clause 17 repeals sections 26, 27, 28, 29 and 30 and also inserts a heading to section 31 but the effects of the repealed sections are preserved

by other sections of the principal Act as amended by this Bill. Clause 18 repeals section 32, the provisions of which have been transferred to section 8 (1), and also inserts a heading to section 33. Clause 19 amends section 33 consequentially on the new provisions of section 8 (1). Clause 20 repeals sections 34, 35, 36 and 37, now redundant by virtue of the new provisions of section 8 (1), and also inserts a heading to sections 38 and 38a. Clause 21 makes a consequential amendment to section 38 by extending the application of that section to all property mentioned in the new provisions of section 8 (1). New section 38a (inserted by clause 22) recognizes administrative practice by enabling the Commissioner to extend the time for payment of any duty under the principal Act. At present the Act provides for an extension of time for payment only in respect of certain classes of property. This clause also enables the Commissioner to postpone the date from which interest is to run. The clause also inserts a heading to the remaining provisions of Part II.

New section 46a (inserted by clause 23) is complementary to section 46, which gives an administrator or trustee power to impose a charge on property for the purpose of adjusting duties as between persons beneficially entitled to property subject to duty. This power will no longer be sufficient in all cases because, in the case of property given away within three years before death, for example, the property may not be in existence or may have been disposed of by the donee at the time when the administrator is required to pay duty on it. Such duty must be paid out of the estate and by virtue of the new section the administrator will be able to recover from the donee the due proportion of duty attributable to the property concerned. Subsection (2) of the new section provides that where duty is recoverable from a trustee there will be the same limitation on the trustee's liability as is provided for by new section 16a (2) and the trustee will have power of sale over the trust property in order to indemnify the administrator who has paid duty. Subsection (3) of the new section is a machinery provision.

Clause 24 amends section 48 consequential on the new provisions of section 8 (1). Clause 25 adds a new paragraph to subsection (1) of section 55aa of the principal Act, which confers a remission of succession duty on the estates of persons who died on active service in the World Wars, in Malaya or in Korea. The scope of this section is extended to any proclaimed areas or operations and may thus be applied to any members of the forces who die in Vietnam or Malaysia or in any operations that may be proclaimed, subject to the limitation that the death must be caused by wounds, an accident or disease and must occur within 12 months thereafter. In addition, by clause 26 (*b*), the amount of the exemption is raised from £5,000 to £10,000. New section 55b (4) (inserted by clause 26 (*d*)) enables this remission of duty (namely, the exemption of £10,000) to be granted in the case of a person dying on active service in any such area if the death occurred before the Bill becomes law. Clause 26 (*a*) and (*c*) and clauses 27 and 28 amend sections 55b, 55c and 55d consequentially upon the new scheme of section 8 (1), and clause 29 is consequential on clause 30.

Clause 30 repeals and re-enacts section 55f relating to rebates of duty allowable in respect of land used for primary production which passes to a widow, widower, descendant or ancestor under the will or upon the intestacy of the deceased. The new section provides for a reduction of up to £5,000 on dutiable property, the £5,000 being the total amount which may be deducted in a particular estate. The value of the interest derived by any such beneficiary will be deducted from the value of the aggregate amount of property which he derives and duty will be assessed on the resultant amount. For the purposes of the rebate, only moneys charged on the land and any amount required to be paid by a devisee as a condition of his succession to the land and any amount by which the value of his interest is reduced by reason of any obligation imposed on him as such a condition will be taken into account by the Commissioner in determining the value of his interest.

Clause 31 of the Bill enacts new section 55i, which will provide for certain rebates of duty in respect of successions involving matrimonial homes. The effect of the section will be to enable a widow to succeed to an interest in the matrimonial home up to £4,500 together with other property of the value of up to £4,500 without payment of any duty. In these circumstances, she would have a clear exemption of up to £9,000. Likewise, a widower will be able to succeed to an interest in a dwellinghouse valued at up to £2,000 together with other property to the value of up to £2,000 without paying duty. The rebate will apply to direct testamentary dispositions and tenants in common as well as joint tenancies. At present the provision for a succession is available only in the case of joint tenancies. The provisions will, of course, be restricted to

the matrimonial home and the rebate will be accordingly reduced as the amount left to the widow or widower increases beyond £9,000 in the case of a widow and £4,000 in the case of a widower. The new provisions will be broadly parallel with the provisions for rebates in connection with primary producing land and, of course, if a rebate is available in respect of a matrimonial home as part of primary producing land it will not be available also under the new proposals.

Clause 32 amends section 56 consequentially upon section 8 (1), as amended. Section 56 enables the Commissioner to assess duty on property given to an uncertain person or on an uncertain event on the highest vesting that may be possible under any will, settlement or deed of gift. This section is amended to extend its application to all property subject to duty and to any possible aggregation of property with any other property that a person derives from the deceased person. Clause 33 (*a*) repeals subsection (1) of section 58, which provides against double duty being payable and which is no longer necessary in view of the new scheme of section 8 (1). Clause 33 (*b*) makes a minor drafting amendment to subsection (2). Clause 34 amends section 63 of the principal Act consequentially upon the new scheme of section 8 (1).

Clause 35 (*a*) and (*b*) extends the scope of section 63a of the principal Act, which requires insurance companies to obtain a certificate from the Commissioner before paying out on any policy on the life of a deceased person. The amendment extends this requirement to policies on the life of the deceased person where the proceeds are payable to some other person but enables payment of 75 per cent of the proceeds in such cases. Clause 35 (*d*) and (*e*) and clause 36 are consequential on the new scheme of section 8 (1). Clause 37 makes an important amendment, the effect of which I have explained earlier. This clause amends the Second Schedule to the principal Act to provide for a general increase in succession duty rates, although the basic exemptions are increased—from £4,500 to £6,000 in the case of widows and children under 21 years, and from £2,000 to £3,000 in the case of widowers, ancestors and descendants over 21 years.

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

SUPERANNUATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 23. Page 2951.)

The Hon. C. R. STORY (Midland): I support this Bill. Yesterday, we listened to a good speech from the Hon. Mr. DeGaris on it, and I do not propose to cover that ground again. In his second reading explanation, the Chief Secretary said that there was a promise in the policy speeches of both the present Government and the present Opposition that something along the lines of this Bill would be introduced, and that the Government had taken the opportunity to have an inquiry made and to bring down this amending Bill. He stated:

It is proposed to provide for optional subscription for full pension upon retirement up to five years earlier than the compulsory retirement ages of 65 for men and 60 for women. It has not been possible to include the necessary provisions in the present Bill, because they are necessarily of a highly technical nature. This is a matter that can be dealt with by special supplementary legislation in due course, and the Government will bring down such a measure as soon as reasonably practicable.

We have had in this Chamber this session some very technical legislation which even our lawyer friends have found it hard to comprehend. I now find it difficult to understand why we are held up for this provision. I do not think that anything can be so highly technical that the great brains that seem to be at the helm in some of these matters cannot find a way around it. This provision would greatly benefit people in the Public Service who would have the opportunity of retiring five years earlier than expected, in some circumstances. I am sorry that this Bill was not presented to us complete.

The Chief Secretary also said that this legislation would bring us well up to the level of other States in Australia in this matter. The figure given is 70 per cent as the new Government contribution, whereas in some other States it is as low as 66 per cent, while the Commonwealth percentage is just above it (72 per cent), the person involved making up the balance. The Chief Secretary has said that we do not always want to be the State lagging behind. I do not agree that we are always lagging behind. The fact that we now have hit the front in this particular measure may indicate that we are going to hit the front, too, in the taxation field. In a State like South Australia, we have to be careful, because we have not the natural advantages of the other States, that we do not overdo the hand-outs.

I am not criticizing this Bill, because I agree that it has been overdue for some time, and the previous Government realized that when it gave an undertaking that it would do something about it, if returned. About £1,500,000 a year is being paid into the fund at present. I offer this suggestion to the Minister who is giving me attention, because it is something to which the public servants of this State are entitled. At present, those who are contributing to the superannuation fund are building up a nest egg for their old age and they are going to save the Commonwealth Government much money by way of social service benefits. Some of the people mentioned in this Bill will receive sufficient money from the superannuation fund to render them taxable when they retire. I think it is only fair that people who have made that provision for themselves ought to be given some taxation benefit.

The Hon. S. C. Bevan: Isn't that a matter for the consideration of the Commonwealth Government?

The Hon. C. R. STORY: The Minister has made the point that I wanted him to make, that this is a matter for the Commonwealth Government. I want the Minister to use his influence in Cabinet to put this proposition on behalf of the State, as a real thing for the superannuated people of South Australia. It seems to me to be unfair that they should be taxable when they have made such a provision for themselves. If they do not make that provision, they will be a drag on the Commonwealth through having to be paid social service benefits.

The Hon. R. C. DeGaris: Do you suggest that they be offered a tax deduction?

The Hon. C. R. STORY: Yes, in view of the fact they would otherwise receive social service payments or age pensions.

The Hon. S. C. Bevan: If they provide for themselves, why should they be taxed at all when they retire?

The Hon. C. R. STORY: I agree with the Minister.

The Hon. R. A. Geddes: They do not have to pay amusement tax.

The Hon. C. R. STORY: I should not think there would be much need for amusement tax at that time. I now wish to deal with the appointment of the actuary. As a result of the death of Mr. Bowden, we are without an actuary and clause 4 removes the requirement that an actuary be a member of the board. I do not know a great deal about the subject, but I ask the Minister whether this is a good thing. Apart from a few curt words there is no explanation of this subject.

I do not know whether the reason is that we cannot procure the services of an actuary at the moment, or whether it is intended to go along without the services of such a person. I should like an explanation of that matter. Clause 8 deals with the pensioners and provides for the necessary adjustments in respect of past contributions following the decision to increase the Government subsidy from 66⅔ per cent to 70 per cent, with a credit to contributors who have paid more than 30 per cent in contribution. Clause 8 inserts the following new section 75c (8):

In respect of every pensioner who ceased to be a contributor before the thirty-first day of January, one thousand nine hundred and sixty-six and who is receiving a pension on that day and in respect of whose pension the contribution by the Government to the Fund is less than seventy per centum of such pension, the contribution by the Government to the Fund shall after the said thirty-first day of January, one thousand nine hundred and sixty-six be an amount equal to seventy per centum of such pension and the difference between the total of the contributions made by the Government before and after the said thirty-first day of January, one thousand nine hundred and sixty-six shall be paid thereafter to the pensioner in addition to his pension. 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 section 75c (9) (*f*) provides:

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.

The effect of this is that under subsection (8) the contributions of persons who have retired at the date mentioned and die afterwards are paid back to the fund, but the contributions of persons who are contributing up to that time are paid to the personal representatives of the contributors upon the death of the contributors. There must be an explanation for this. It seems to me to be unfair, because there does not appear to be any really logical reason for differentiating. In one case, an estate loses the benefit of contribution, and I should like the Minister to examine that matter for me.

The Hon. S. C. Bevan: This particular clause has to be considered in conjunction with the clauses above it.

The Hon. C. R. STORY: I have read the clauses and it does not appear to me that this matches up equitably on the two classes of person mentioned in the two cases. They were lumped together in the second reading explanation as though they were in the same

category. Apart from the other matters I have mentioned, I think the Commonwealth Government could do something about a tax concession.

The Hon. S. C. Bevan: Perhaps if the Commonwealth Government changed there would be a chance of that.

The Hon. C. R. STORY: I think it is only a matter of making representations, as the Commonwealth Treasurer is a humane man. If the Government takes up this matter in the proper way with him, the request will probably be properly considered.

The Hon. S. C. Bevan: Perhaps the concession should be extended to all superannuated persons.

The Hon. C. R. STORY: The Minister may well consider that, as I understand changes will be made in relation to other categories of people who receive superannuation. I agree with the comments made by the Hon. Mr. DeGaris yesterday, and support the second reading.

The Hon. R. A. GEDDES secured the adjournment of the debate.

COMPULSORY ACQUISITION OF LAND ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 23. Page 2958.)

The Hon. H. K. KEMP (Southern): I think this Bill as a whole is extremely good and that the Government is to be congratulated on introducing it. We must regard it as necessary in the same way as we regard plumbing as necessary, and as with plumbing it should be clean and efficient. The Hon. Mr. DeGaris raised a point about the time at which valuations were taken. I query whether the valuation should be that at the time the notice is given in the case of protracted negotiations, which have been known to take place.

Sometimes negotiations have taken years and, although the Bill provides for entry within three months of the giving of the notice, I understand from statements made by the Minister that it is not intended that this power will always be exercised. Rather, the past procedure is more likely to be followed. When there are drawn-out negotiations, great changes in values may occur. There is, of course, a safeguard in that the final valuation rests on the decision of the Land Board, which has been extremely fair in its assessments in the past. However, it is doubtful whether it is sufficient to rely on this continuing.

Clause 14 allows entry within three months of serving a notice, and I think that it is understandable that the Government requires this comparatively short period and that it is in the public interest that it be short. However, this will relate to agricultural land, and particularly to horticultural land; for instance, it will apply in the Adelaide Hills in relation to the proposed freeway. A period of three months is not sufficient to enable many of our horticultural crops to be harvested, and they represent very big money.

It is not unusual to find a gross value of £2,000 to the acre in intensive horticulture, but no mention is made of this. Although this matter may well be left to the Committee stage, the valuation should take into consideration the value of crops destroyed. As the Hon. Sir Norman Jude has said, the discretionary power of the court covers this to some degree.

I thoroughly agree that extending the period of notice and delivery of papers from three to four weeks is desirable. In many cases it is surprisingly difficult for people to find records quickly; one often has to search to find valuable farm records. Many of us keep our income tax records in all types of place where a city dweller would not expect to find them, and it is suprising how much material must be shifted before one can get at the records, let alone look for them.

The Government is to be congratulated on the way it has tidied up this matter in relation to valuations. In the past, there have been several distressing incidents when people have had to wait a considerable time for their money. I am concerned about the acquisition of frontage strips along main roads in the city and country; this has occurred right through the Onkaparinga Valley. I understand that that does not come under the Act.

The Hon. S. C. Bevan: Why?

The Hon. H. K. KEMP: It is usually a matter of negotation rather than of compulsory acquisition.

The Hon. S. C. Bevan: Once a proclamation is made, this comes under the Act.

The Hon. H. K. KEMP: In this case I think the mode of payment should be examined because I know that along Unley Road a number of landholders have moved back the prescribed 7ft. and they have not been able to obtain recompense for so doing. It means that they have sacrificed an area of their property, but only some have been paid.

The Hon. S. C. Bevan: Do you mean just serve the notice and it may be taken up later?

The Hon. H. K. KEMP: I think you—

The PRESIDENT: The honourable member must address the Chair.

The Hon. H. K. KEMP: I am sorry, Sir. I do not consider it necessary to detain the House any further on this Bill. It has my strong support.

The Hon. L. R. HART (Midland): I appreciate that there is a need where an authority requires land for a public purpose to ensure that such authority is in a position to be able to acquire that land reasonably easily. Nobody likes having to acquire land or any other item compulsory, and every effort is usually made to acquire land for the use of a public utility by other means, but there are occasions when compulsion has to be used. I appreciate the good work that is done by officers of various departments when it is found necessary to exercise compulsion in obtaining certain land. These officers operate on a policy laid down by the Government of the day. It is not a particular officer who should be criticized if criticism has to be made of the methods used in the compulsory acquisition of property, but rather the policy of the Government of the day.

In the acquisition of property certain ethics should be observed and in the main they are observed. However, it should be appreciated that when this Bill first entered another place it was designed not to seek consideration for both parties concerned in the acquisition of property but rather to give protection to and facilitate the acquiring of the land by the acquiring authority. In the acquisition of land the matter of paramount imporance is that adequate compensation should be paid and such compensation should be based on comparable values of adjacent property. I am not sure whether this is the position regarding compensation that is paid to persons from whom land is acquired. There seems to be a tendency for the values to be under the value of comparable adjacent properties. In many instances a certain value is placed on the property by the acquiring authority and, if the estimated or the actual cost of court proceedings is added to that figure, then a fair and adequate price generally would result. Such a state of affairs as that should not exist.

When a property is being acquired two matters must be taken into consideration: first, the actual value of the property and, secondly, another value based on the disturbance cost to the person from whom the land is being acquired. In addition, where only a portion of the land is acquired, a severance value is placed on the property. Where the question of disturbance is involved, I believe insufficient stress is given to this facet. To begin with, where the property is being acquired it is usually acquired at a value that existed 12 months prior to the time of the notice to treat. In other words, it is a value that existed 12 months prior to the time when the land was acquired.

Considerable discussion has taken place in this Chamber on this Bill and I do not wish to pursue that angle any further. However, on the question of disturbance I think there needs to be considerable emphasis placed on the aspect of compensation concerned because there are cases where a person has property acquired and the compensation paid for it is insufficient to enable that person to be re-established on another property of comparable value. In most cases this happens to people of limited means; people who live in small homes or old homes the value of which are not great. However, to such a person that property has a value that cannot be replaced by the payment of what would be regarded as normal compensation.

I believe that that aspect of compensation should be examined by the acquiring authority. Most of these authorities know a considerable time ahead the property that they wish to acquire and on occasions they would have that knowledge perhaps three, five or even 10 years prior to the time that the property was actually required. People in the line of fire of possible acquisition are sometimes prevented from carrying out any improvements or developmental work on that property, or they may be prevented from selling that land. I could illustrate the position more clearly by quoting instances. This delaying of the acquisition of land is done for the purpose of conserving Government moneys. I do not blame any Government for trying to conserve its money, but here again the individual must be considered.

There is a town (now a city) not far from Adelaide where a person held a property in the path of a possible freeway. At some stage when he no longer wished to use this property he decided to subdivide it and sell it but, when he applied to subdivide, he was prevented from doing so by a means that I believe is not ethical. (It appears that Government departments and the Town Planner's Office work in league with one another in the acquisition of land or property.) In this case, he was not

informed that in due course a freeway might go through his property but that it could not be subdivided because it could not be sewered. Thereupon he proved that the property could be sewered. Then he made further approaches to have the property subdivided but was told it was too low-lying and could not be drained or economically filled.

He can prove that he can economically fill and drain this country but what is the purpose of doing so when, as soon as he does it, he will be told he cannot subdivide? He may even be told the truth, that it may be required later for the purposes of a freeway. He can negotiate with the acquiring authority if he wishes but the whole purpose of preventing the subdivision is that, once he is permitted to subdivide any portion of it, the value of the property is on a subdivisional basis and, while he is being prevented from subdividing, the acquiring authority can acquire the property on the basis of "broad acres", in which case the value will be lower. So some acquiring authorities are not playing the game. If it considers that a property may be needed, let the acquiring authority acquire it and not prevent the owner by some subtle means from subdividing and getting his just rewards from it.

In another town land has been acquired for the purpose of another dual highway. The person involved in this case has had some land acquired, and he possesses other land. The place where he was living has been taken over by the Highways Department and he has built another house on another portion of the block. The area where the old house existed has recently been bulldozed and carted away and any trees and vegetation have been taken away—and this is in the middle of a town. The soil is sandy. According to the provisions of his contract, the contractor was required to reduce the area to a certain level. In doing so, he in effect has set up a sand drift in the middle of the town. This has tended to reduce the value of adjacent properties. The owner of this land has other land still in his possession and he wishes to dispose of some of it. He has two blocks that he wishes to sell but he is being prevented from selling because the acquiring authority (the Highways Department) may want this land or a portion of it for a service road; so he cannot sell those two blocks.

The Hon. S. C. Bevan: Prevented by whom?

The Hon. L. R. HART: He is not able to sell them because he is not being allowed to split his title. He can be prevented by the council from splitting his title in this case, because it is an unsewered area, and in an unsewered area a block has to be of a certain size and, if the acquiring authority was to take the necessary land for a service road, it would reduce his blocks to such a size that he would not be able to sell them, because they would not come up to the stipulated size for an unsewered area. Also, it is now known that the Highways Department is looking at it from another angle, trying to decide whether or not it will by-pass the town. This will depend on a traffic survey, which may take two years or longer. In that time this person will be prevented from disposing of the rest of this property.

The Hon. Sir Norman Jude: But he will growl like anything if he gets by-passed!

The Hon. L. R. HART: That is all right. If an authority believes that it will require land, it is up to it to purchase it and pay over the value of the property to the person from whom it was acquired and not prevent him from obtaining its proper value from another source. Some people are placed in the position where they have to have their land acquired compulsorily. Some people prefer to negotiate, because they do not want their names dragged through the courts. Then there are people (including members of Parliament) who are not allowed to do business with the Government. In this case a member of Parliament could not negotiate with the department for the acquisition of any property he might own; it would have to be compulsorily acquired.

The Hon. S. C. Bevan: Something like Downer's property.

The Hon. L. R. HART: Maybe so, but that was not compulsorily acquired, anyway. What would be the position where land was being acquired for a reserve in a situation where the local council and the Government were paying fifty-fifty, where the council would be entitled to a 50 per cent subsidy on the cost of the land acquired? In this case, it would be acquired compulsorily, and who would be responsible for the legal costs? I consider that a local government body should not be involved in meeting the costs of acquisition of land for this particular purpose. It may be that it would not be so involved if the Government accepted its responsibility for acquiring the land. Responsibility would then rest with a Government department. However, this Bill is, to a large extent, a Committee Bill. I think that a person from whom land is being acquired needs protection, but this Bill does not set out to give protection to that person.

However, to facilitate progress of the measure, I support the second reading.

Bill read a second time.

The Hon. R. C. DeGARIS moved:

That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the basis of compensation.

Motion carried.

In Committee.

Clauses 1 to 3 passed.

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

Progress reported; Committee to sit again.

FAUNA CONSERVATION ACT AMENDMENT BILL.

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

The Hon. S. C. BEVAN (Minister of Local Government): I move:

That this Bill be now read a second time.

It amends the Fauna Conservation Act, 1964, and it has a four-fold object, namely—

(*a*) to clarify the position of police officers exercising powers under Part II with regard to the production of identity cards;

(*b*) to solve problems arising from the existing wording of subsection (2) of section 40 on such matters as the granting of permits to authorized bird banders permitting them to attach bands to birds for ornithological purposes in a fauna reserve or sanctuary or a game reserve and conferring upon landowners powers to destroy pest fauna within a sanctuary or game reserve on their land;

(*c*) to enable an inspector or an owner or occupier of any land which is the whole or a part of a prohibited area, fauna reserve, fauna sanctuary or game reserve to authorize any person to destroy any dog, cat, vermin or other animal or bird in accordance with that section;

(*d*) to provide that a person granted a permit to destroy pest fauna may permit either for payment or otherwise other persons to destroy the pest fauna without requiring a Ministerial endorsement to the permit as required by section 69 of the principal Act.

Clause 3 accordingly amends section 14 of the principal Act to provide that the provisions of Part II of the Act requiring an inspector to show an identity card to any person when exercising any powers under that Part shall not apply to members of the police force who may perform any such powers without producing an identity card. This amendment is desirable for the following reasons. Section 13 (2) of the Act states that a member of the police force is an inspector under the principal Act and section 14 of the principal Act provides that the Minister shall issue an identity card to every person appointed as an inspector. It is not considered necessary that police officers should be issued with identity cards for the purposes of this Act and in any event it is doubtful if, having regard to the wording of the said section 13 (2), that police officers are "appointed" as inspectors under the Act. The new subsection (2) is therefore inserted in the principal Act to remove any doubts in this respect. Clause 4 amends section 33 of the principal Act and provides that an owner or occupier of any land which is the whole or part of a prohibited area, fauna reserve, fauna sanctuary or game reserve may authorize any person to destroy any dog, cat or vermin or other animal and bird as is described in subsection (1) of this section. The amendment has the effect of extending the categories of persons who may destroy such birds or animals. The wording of subsection (1) as it stands has been found to be unnecessarily restrictive.

Clause 5 amends section 40 of the principal Act by striking out the passage "fauna reserve, fauna sanctuary or game reserve" in subsection (2) thereof. The existence of this passage in that subsection has had the effect of preventing the Minister granting permits to members of the Australian Bird Banding Scheme to attach bands to birds in a fauna reserve, fauna sanctuary or game reserve since "taking" in the subsection would include a taking for bird banding purposes. This is considered by the C.S.I.R.O. Bird Banding Scheme as placing an undesirable restriction on the part that South Australia can contribute to Australian ornithology generally. The Government agrees that the restriction in subsection (2) is undesirable in this respect. If the Minister does not wish the holder of a permit under section 40 to take fauna from a fauna reserve, fauna sanctuary or game reserve he has power under section 68 of the principal Act to insert a condition to this effect. The striking out of the abovementioned passage would also enable landowners who have a fauna reserve or sanctuary or game reserve on their land to be granted permits to destroy pest fauna on these areas which they are at present precluded from doing by

reason of the existence of these words in subsection (2).

Clause 6 amends section 69 of the principal Act. This section deals with a prohibition on the transfer of licences or permits. It includes a provision that the Minister may make an endorsement on any licence or permit permitting persons other than the holder of the permit to take or sell animals, birds or eggs under the permit or exercise any other rights given by the licence or permit. Except for permits issued under paragraph (*c*) of subsection (1) of section 40 of the principal Act there is no difficulty in obtaining the name of a person for endorsement as required by this section. But a holder of a permit under paragraph (*c*) of subsection (1) of section 40 at the time of his application may not know the name of the person who will be destroying the pest fauna, for example, casual labour may be used to destroy pest fauna such as kangaroo. Provision is therefore considered necessary for permits issued under that paragraph to be issued without Ministerial endorsement thereon as required by section 69 with regard to permits granted under other provisions of the Act.

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

INHERITANCE (FAMILY PROVISION) BILL.

(Continued from November 23. Page 2965.)

In Committee.

Clause 7—"Time within which application to be made."

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

In subclause (1) to strike out "twelve" and insert "six".

This clause deals with the time within which an application may be made by any person wishing to make a claim against the estate of a deceased person. I understand that six months was the time provided for when the Bill first went to another place. Also, six months is the period in the existing Act, the Testator's Family Maintenance Act. The time was extended to 12 months before the Bill reached this Chamber. There is no need for this extension: six months is adequate for a person to make a claim. Honourable members should appreciate that it is six months from the time of the grant of probate, not from the date of death. In most cases the time lag between the date of death and the obtaining of a grant of probate would be at least two, and possibly three, months, so a period of six months after that should be adequate. After six months, we know that the winding-up of an estate is at least under way, if it has not been finalized. It is not necessary to delay the winding up of an estate for a further six months, especially as subclause (3) states:

An extension of time granted pursuant to this section may be granted—(*a*) upon such conditions as the court thinks fit.

For these reasons I ask the Committee to accept my amendment.

The Hon. A. J. SHARD (Chief Secretary): I ask the Committee not to accept the amendment, for the very good reason that the draft Bill to make this six months instead of 12 months was prepared by the previous Attorney-General. The original proposals for alteration of the legislation dealing with the Testator's Family Maintenance Act arose from the fact that it was found by the courts that in some cases the six months' limitation had worked a signal injustice. The particular case to which I refer honourable members is *in re Tiller deceased: Gum v. Tiller*, reported in South Australian State Reports, 1963, at page 117. In that case, there was an application under the Testator's Family Maintenance Act by a married woman who was entitled to make an application. The application was made shortly before the expiration of the six months' period.

Probate had previously been granted to the sole devisee and legatee under the will and, as the application was made, in due course, after the six months expired, the matter was referred to the Master for the making of an order for direction as to who should be the parties to the application. When the matter was before the Master, it was found that two other people ought to be involved. One was a minor and the other was an inmate of Parkside Mental Hospital, and both had to be represented by the Public Trustee. It was found that, as they had not made an application within the relevant time and as no-one had done so on their behalf, they could not be before the court. So, even though an application relevant to the estate had been made within the time limit, the court could not bring in the other people who should be concerned in the discussion as to the maintenance provisions under the will. Those people were under a disability. As a result, prior to the decision of the Full Court, a minute was sent from the Master to my predecessor concerning this very matter, and that is where the whole thing originated. Part of the minute read:

However, in the next two or three months it is probable that the Full Court will be asked to consider a point of law, arising under the

Testator's Family Maintenance Act, 1918-1943, which will involve the limitation of time for making an application under the Act. It could be that, when the point of law has been determined, a proposal might be made for amendment of the Statute.

It went on to discuss the fact that in most other States where testator's family maintenance was provided the same strict limitation as to time that existed in this State did not exist. My predecessor considered the matter at some length and, in due course, authorized preparation of a draft Bill upon this basis and he approved this provision. That is why it came before the court. It has been shown that the strict limitation of six months does work hardships and, therefore, it has been decided to provide an extended period of limitation so that, where an application comes before the court, there will be time to bring in all persons concerned who may be suffering disability.

The Hon. F. J. POTTER: I appreciate the Chief Secretary's reasons for not accepting this amendment but the circumstances of the case that he cited could arise even with a 12-month period. The court has power to extend the time "upon such conditions as it thinks fit", provided the application is made before the final distribution of the estate. None of these provisions is in the existing Act, which states:

No applications shall be heard by the court at the instance of a party claiming the benefit of this Act unless the application is made within six months from the date of the grant in this State of probate of the will, or letters of administration.

Obviously, in the case cited by the Chief Secretary there was no power to the court to do anything about the people who had been overlooked.

The Hon. H. K. Kemp: It could be more than 12 months.

The Hon. F. J. POTTER: Yes. Consequently, as we have these safeguards, there is no real reason for making the period 12 months. I understand that originally it was six months.

The Hon. A. J. Shard: No. My understanding is that, when the original draft Bill went to another place, the period was 12 months. I do not want to pit myself against a lawyer, but the reason for the form of the provision is that a similar case could arise, even after 12 months. Nobody could be prejudiced in any shape or form and I urge the Committee to leave the clause as it is.

The Committee divided on the amendment:

Ayes (12).—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), and C. R. Story.

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

Majority of 7 for the Ayes.

Amendment thus carried; clause as amended passed.

Clauses 8 to 13 passed.

Clause 14—"Method of apportioning duty on estate."

The Hon. H. K. KEMP: I should like some information on paragraph (*b*). We all believe that a man who dies intestate dies without leaving a will, but this paragraph refers to a will in existence before a person's death, and automatically cuts out intestacy. Can the Chief Secretary explain this paragraph?

The Hon. C. R. STORY: I, too, should like an explanation of the paragraph. It does not appear to me to make sense at the moment. However, if a satisfactory explanation is given, I shall be happy to go along with it.

The Hon. M. B. Dawkins: Clause 9 (*b*) is in the same wording.

The Hon. A. J. SHARD: It means that if the court makes an order, the duty is to be assessed on the same basis as if the deceased had made a will bequeathing property in the same terms as those ordered by the court.

The Hon. F. J. POTTER: I think the Minister has satisfactorily explained this rather peculiarly worded section. It is designed entirely for the reallocation of duties. In other words, if an estate is left by will and there is then an interference with the disposition under that will by virtue of an order of the court, in order to reassess the duties that arise because of the variations made by the court order, this has to be a reassessment as though it were done by some testamentary disposition. Consequently, in the first case, if the man dies leaving a will, he must be deemed to have made a codicil. The same applies with the person who dies intestate; we have the peculiar position that he has notionally made a will.

Clause passed.

Remaining clauses (15 and 16) and title passed.

Bill reported with amendments.

Bill recommitted.

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

The Hon. R. C. DeGARIS: In the absence of the Hon. Sir Arthur Rymill, who has a

foreshadowed amendment on honourable members' files, I move:

After "receive" second occurring to insert "or obtain".

The Hon. F. J. POTTER: Honourable members will recollect that yesterday, in endeavouring to meet an objection raised by the Minister to my amendment, the Hon. Sir Arthur Rymill moved that the words "or claim" be inserted. I was caught off balance and accepted his amendment. Afterwards, we conferred, and Sir Arthur decided that "claim" was not a satisfactory word; I agreed with him. Then the words "or obtain" were suggested by him. I think the word "obtain" is almost a synonym of "receive". If one says, "I received relief" one means "I obtained relief". I have confirmed this situation with the Parliamentary Draftsman and, as these words are not in other Acts and as I took the wording for my amendment from the existing Act, which is identical with other Acts, the Parliamentary Draftsman considers that these words do not add anything and that they may complicate the words in the clause as amended. Therefore, I cannot support the amendment.

Amendment negatived.

Bill reported without further amendment. Committee's report adopted.

Bill read a third time and passed.

LOTTERY AND GAMING ACT AMENDMENT BILL (DECIMAL CURRENCY).

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

PISTOL LICENCE ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

(*Sitting suspended from* 5.46 *to* 7.30 *p.m.*)

MAINTENANCE ACT AMENDMENT BILL.

In Committee.

(Continued from November 23. Page 2981.)

Clauses 10 to 13 passed.

Clause 14—"Repeal of ss. 44 and 45 of principal Act and divisional heading."

The Hon. F. J. POTTER: In my second reading speech I pointed out to the council that it has always been a defence to a charge under section 43 of the Act, namely a charge of desertion or unlawfully leaving a person without adequate means of support, that a *bona fide* offer to adequately maintain a wife in the home is sufficient defence. I was concerned with the fact that amendments to later sections in the Act would make this defence no longer tenable. Such a defence is available under section 44 of the Act and although it has been expressed that a *bona fide* offer of maintenance in a suitable home is sufficient to discharge an order, in practice a court has regarded this as sufficient grounds for not making an order in the first place. Under this provision section 44 has been struck out and I consider it important that it should be restored. This amendment will fit in with certain other amendments that I intend to move later in relation to clause 29 of the Bill. The first set of a series of amendments I intend to move is to retain section 44. I move:

To strike out "Sections 44 and" and insert "Section".

The Hon. A. J. SHARD: The Government has examined the proposed series of amendments and this amendment will have the effect of restoring section 44 to the principal Act. That section will enable a court to vary orders made under that Division (which includes section 43 orders) and will expressly provide that where a husband has been ordered to pay maintenance to his wife under section 43, a *bona fide* offer made by him to his wife to maintain her adequately in his house would be a ground for discharging the order. The restoration of this section will remove the doubts expressed by the Hon. Mr. Potter without adversely affecting any other provision of the Bill and the amendment may be agreed to.

Amendment carried; clause as amended passed.

The CHAIRMAN: This will necessitate making an amendment to the marginal notes of clause 14. Are honourable members agreeable that this be done? Very well; the alteration will be made.

Clauses 15 to 23 passed.

Clause 24—"Provision for blood tests."

The Hon. F. J. POTTER: I move no amendment to this clause, which provides for a blood test that may be ordered at the request of the defendant in any affiliation case. So far, we have always assumed that science has not been able to establish any positive proof of paternity through a blood test but that it can establish a negative proof—that by the taking of a blood test from the mother and the putative father of the child it can be established beyond doubt in some circumstances that the man involved cannot be the father of the child. It goes no further than that. The only alternative result is that the man may be the father of the child.

I understand that certain recent scientific writings have indicated that there is developing a test that can show a positive result—that the

putative father is in fact the father of the child. If this is so or if it appears that it may be so in the future, there would be some grounds for requiring a blood test to be administered at the request of the mother of the child, whereas it can at present be demanded only at the request of the person alleged to be the father of the child. So in future there may be grounds for amending this provision to provide for a blood test to be made at the request of the mother of the child.

Clause passed.

Clause 25—"Repeal of sections 62-65 of principal Act."

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

In new section 65 (1) to strike out "any two justices of the peace (whether sitting as"; to strike out "or otherwise)"; to strike out "this Division" and insert "section 47 or section 48a of this Act"; to strike out "justices think" and insert "court thinks"; in new subsection (3) after "justices" first occurring to insert "or the magistrate constituting the court and, if necessary,"; to strike out "justices" second occurring and insert "court".

These are consequential amendments. Their purpose is to make it clear first of all that any *ex parte* application is to be made to a court of summary jurisdiction and not, as at present provided in the Bill, to two justices of the peace, whether sitting as a court of summary jurisdiction or otherwise. It is undesirable that we should have two justices of the peace sitting informally because they may be subject to a writ of mandamus if they refuse to act in any particular circumstances. It is desirable that it be clearly shown that the application is to a court of summary jurisdiction. Furthermore, this question of maintenance is confined to maintenance by a near relative, and this is provided for in sections 47 and 48a of the existing Act. We should keep to the present situation for these two provisions—to make it a court of summary jurisdiction and to confine the operation of this provision to the proceedings under sections 47 and 48a of the Act. I have conferred with the Parliamentary Draftsman on this and have his support for these amendments, so I hope the Government will support them.

The Hon. A. J. SHARD: These amendments will have the effect of enabling an *ex parte* application to be made to a court of summary jurisdiction (instead of to two justices) for a temporary order for the maintenance of a child of the family for a period of three months or until the making or refusal of an order for the maintenance of the child upon complaint. The amendment is acceptable to the Government.

Amendments carried; clause as amended passed.

Clauses 26 to 28 passed.

Clause 29—"Repeal of section 76 of principal Act and enactment of new headings and new sections 76-76r in lieu thereof."

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

In new section 76c (2) (*b*) after "under" first occurring to insert "Division III of", and after "under" second occurring to insert "that Division".

I referred to this matter in my second reading speech and pointed out that I was concerned that subsection (2) of this new section might cut across the accepted answer (to a charge under section 43) that the husband had offered to maintain his wife adequately in his home. The Committee has restored section 44, which provides for that defence, and it would be somewhat inconsistent to leave subsection (2) as it presently reads, which is in conflict with section 44.

I propose to confine the operation of this subsection, because this refers to a *bona fide* offer by a party or parent to provide a home, and this, of itself, is not sufficient. Section 44 requires not only a *bona fide* offer of a home, but also adequate maintenance therein. Accordingly in order to confine this particular section to the appropriate proceedings, the proceedings under section 66, it is necessary to pass the amendment that I have moved. I am not sure that this clause, which has been taken word for word from the Victorian Act, has any real part in our legislation. However, it cannot do any harm by being applied only to section 66, because this question may be raised by a child of the marriage and not necessarily by a spouse.

The Hon. A. J. SHARD: The amendments to this clause proposed by the Hon. Mr. Potter will have the effect of confining the application of subsection (2) of new section 76e to the provisions dealing with the summary protection of married women contained in Division III of Part III of the Act. In view of the amendment to clause 14, which restores section 44 of the principal Act, this amendment is agreed to.

Amendment carried.

The Hon. F. J. POTTER: I refer honourable members to new clause 76f. When I made my second reading speech, I was concerned about whether we were interfering with the onus of proof in affiliation proceedings. At present, if the defendant in an affiliation case denies on oath that he is the father, it is necessary for the mother to have some

corroborative evidence. In this case, we have a slightly different position. If the defendant does not make the denial on oath, then corraborative evidence from the mother's side of the case is not required. I have had a fairly lengthy discussion with the Parliamentary Draftsman and am fairly satisfied that, although this appears at first sight to be a shifting of the onus, it really amounts to the same thing. Therefore, I do not propose to move any amendment.

Clause as amended passed.

Clauses 30 to 45 passed.

Clause 46—"Enactment of subdivisions 3 and 4 of Division I of Part IIIa of principal Act."

The Hon. JESSIE COOPER: I ask honourable members not to accept this clause. From the beginning I have taken the view that this Bill has been introduced for humanitarian reasons to help someone. As far as I can see, the provision for the attachment of earnings does not help anyone. It certainly does not help employers, as there is no reason why they should become debt collectors. It does not help the man concerned, because if he finds that he has to have his wages garnisheed under a maintenance order he may change his position frequently. It certainly does not help in another sphere, as the employer will not welcome anyone else in this category if he already has people with maintenance orders employed. So, ultimately it will not help the wife, who will be further penalized. I cannot see anything that makes this clause a good move.

I think it is about time commercial and industrial interests were considered. When one considers how much work they will be asked to do, one realizes that this is an imposition. This work will have to be done accurately, as employers will have to make out returns. I think honourable members should carefully consider this clause, as they have a duty to commercial sections just as they have a duty to every section of the community. I am amazed that garnisheeing of wages has been introduced by a Labor Government. I thought this was foreign to the Labor Party's ideals.

The Hon. A. J. SHARD: I ask honourable members not to oppose this clause, which is a uniform provision throughout Australia and which was decided upon at a conference of Attorneys-General. The basic reason for introducing it is to have uniform legislation throughout Australia.

The Hon. JESSIE COOPER: This is exactly why I oppose the clause. Ever since the Attorneys-General have been meeting there has been a complete disregard of commercial interests. No account is ever taken of the employer, who does so much for this State.

The Hon. S. C. Bevan: This will help women.

The Hon. JESSIE COOPER: It will not help them.

The Hon. F. J. POTTER: In many respects I am not unsympathetic towards the views of the Hon. Mrs. Cooper. The principle of garnisheeing wages or attaching earnings was never heard of until the Commonwealth Matrimonial Causes Act came into existence. That Act provided for the first time a procedure for garnisheeing wages to secure maintenance of wives. I do not think I am being unfair in saying that the system has been a signal failure. I am not sure whether it has failed because it has been bogged down on procedural matters; however, it has not been a success.

Following the introduction of this new principle in the Commonwealth legislation, I think it was during last session that a similar provision was inserted into our Maintenance Act to provide for the garnisheeing of wages. I do not know that that has worked very well, as not very much procedure was set up to give effect to it. However, this year we have a refined version of both aspects of the matter—the provision for an attachment of earnings order and the machinery by which the employer can be brought into the total picture. I think it should be clear what employers are required to do. If they receive a demand in writing from the court, they must supply the court with a statement, presumably by letter, setting out the employee's earnings. I do not think that is a serious obligation. The next obligation is to deduct from the employee's wages or salary week by week the amount of the court order.

The Hon. S. C. Bevan: This procedure is adopted in other cases where garnishee orders are made.

The Hon. F. J. POTTER: That may be so, although under the provisions of the Mercantile Law Act the garnisheeing of wages is forbidden. I have spoken previously about the difficulty this causes in bankruptcy proceedings in this State. Employers are not unused to making deductions from salaries or wages. They are compelled to make deductions for Commonwealth taxation purposes and they also make deductions for such things as insurance, superannuation, hospital and medical benefits and so on. In this instance it will certainly be in only a few cases that they will be called upon to make deductions of the type we are discussing.

I am not unsympathetic with the Hon. Mrs. Cooper on this matter, or unappreciative of the position in which employers may find themselves. The question for honourable members is whether or not this provision for the attachment of earnings is to be inserted at all. If so, it must involve the minimum procedure that the Act requires. It is not workable without some form of compulsion upon the employers. If a decision is made against attachments, it would be necessary for other procedures to be followed. A husband could be brought before a court and sentenced to imprisonment and the warrant suspended as long as he fulfilled the conditions of an order made against him. Another method would be to take civil proceedings against the debtor and a warrant of execution could be entered against his possessions. It is pointed out that an entirely new procedure would be involved under this amending Bill.

The Hon. Sir Lyell McEwin: Is there any variation with subsections (1) and (2) of section 79a of 1963?

The Hon. F. J. POTTER: That is struck out. The difference is that in the amending Bill more detailed procedure is set out whereas under section 79a the procedure laid down is extremely brief. If honourable members compare that section with the substituting clause 46 of this amending Bill it will be seen that the whole matter follows through and a complete procedure is set out.

The Hon. S. C. Bevan: There is no difference in principle.

The Hon. F. J. POTTER: That is so. Section 79a was inserted in 1963, but the trouble with that section is that no detailed procedure was set out and for that reason it was not completely effective. A similar position results from the procedure under the Matrimonial Causes Act, which is fairly complicated, and for that reason it also was not completely successful. Whether this amending Bill will work only time will tell.

Returning to Mrs. Cooper's comment, this will involve an employer in some extra work for which he will not be paid. It will mean another deduction he must keep his eye on. It is unfortunate that the employer must be involved but there is no other way except by following the alternative procedures I mentioned earlier.

The Hon. R. A. Geddes: Is there a penalty if the employer does not comply with this part of the Act?

The Hon. F. J. POTTER: Section 96ka on page 61 of the amending Bill has a provision that any person failing to comply with the requirements of the subdivision may be guilty of an offence and I presume that would apply to an employer. Section 96m on the same page covers the matter of an employer dismissing an employee because of an attachment order against his earnings.

The Hon. C. C. D. Octoman: He cannot be dismissed under any circumstances?

The Hon. F. J. POTTER: The employer has the right to hire and fire under the common law, but it is specifically laid down here that he cannot dismiss an employee just because he is a person subject to one of these orders. This is probably a restriction on the rights of the employer and on his freedom. I have set out the position as fully as possible and I believe that honourable members must take a philosophical attitude as to the proper procedure to be adopted. There seems to be no escape from the fact that the employer is the key figure in this.

The Hon. C. D. ROWE: I wish to make two comments, but I am unable to speak at length on the first, which would be in reference to Mrs. Cooper's remarks as to the conference of Attorneys-General. The other matter is that I am inclined to support this clause. My only reason for not doing so is that I would always be doubtful in my mind whether we would be doing a service to a wife who is entitled to maintenance by providing for this attachment procedure. If a person is working at a time of full employment when an attachment notice is served upon him he will immediately leave and go to another employer. Whether that will make it more difficult for the wife to get maintenance is debatable but that is my main point. I believe it is the responsibility of a husband to maintain his wife and the law should ensure that that is done and that the wife does not become a charge on the State. I am disposed to support the Bill as it is drawn.

The Hon. JESSIE COOPER: This afternoon a senior legal man of this State rang me and he instanced exactly the position that Mr. Rowe has mentioned. He said that this was a most socially undesirable step. He said, "If this is done, the woman will suffer more." He was perfectly sure that there would be a change of employment by the man concerned, and that there would be an influx of men assuming false names. He was definite about this. I have made my statement. If it is the opinion of the Committee that commercial interests have no right in this matter and that employers can occupy their time doing Government work, I can add no more.

The Hon. F. J. Potter: The Crown is not bound by this.

The Hon. R. A. GEDDES: The Minister said that this provision was Australia-wide in its acceptance. If this Bill is defeated and a man leaves his wife in South Australia and goes to work in another State, are there any provisions whereby he can be apprehended as regards paying maintenance to his wife?

The Hon. F. J. POTTER: This is only just one method, not the sole method. I am cynical about it anyway, because it is not a very effective way of collecting maintenance. My experience is that, when an order is made against a man, he changes his job and/or his name. It may be effective against a man who cannot or does not wish readily to change his job. However, there is nothing more effective than the old-fashioned method of giving a person 28 days, the warrant being suspended while he pays so much a week. There is still the suspended gaol sentence, and there are civil remedies, too. This clause has a limited application but may be worthwhile in some cases. However, I do not share Mrs. Cooper's fear that this will be universal and widespread. If I thought it had anything but limited application, I would not support it.

The Hon. R. C. DeGaris: Do you think that people will either come to or return to South Australia if this Bill is defeated?

The Hon. F. J. POTTER: Interstate traffic in people wishing to escape their maintenance obligations goes on all the time. There is still a big defect in this legislation. We still have to catch the hare, anyway. There are just as many people coming to South Australia to dodge maintenance obligations from other States as there are people leaving this State to escape our maintenance orders.

The Hon. C. D. ROWE: The answer to the question raised by the Hon. Mr. Geddes is that the Attorneys-General conference considered this matter and devised a modern formula that would greatly facilitate the recovery of maintenance from people who absconded to other States. This will make a great contribution to the revenue.

The Hon. JESSIE COOPER: Further to the question of the Hon. Mr. Geddes, the great problem is first to catch the hare. Despite the conference of the Attorneys-General, the last figure showed that 12,000 people could not be traced. It is ridiculous to keep on talking about people having their wages garnisheed when they cannot be caught. That is the biggest obstacle of all. I have supported the employers and now I am supporting the women. First, the man has to be located. If he cannot be, who will institute the search? The wife has not enough money for her normal food and clothing. The deserted wife cannot afford to try to locate a man in, say, Murray Bridge. What is the use of having this sort of nonsense? We are not helping anybody; we are not helping the wife. This is poppycock.

The Hon. Sir LYELL McEWIN: The trouble always has been that, if someone gets over the border, he cannot be traced. Nothing can be done about it.

The Hon. F. J. POTTER: This provision is much better once the hare has been caught. I move:

In new section 96b (3) after "order" first occurring to insert "or that, at the time when the application was made, there was due under the maintenance order and unpaid an amount equal to not less than—

(*a*) in the case of an order for weekly payments—four payments; or

(*b*) in any other case—two payments,".

The words "persistently failed to comply with the requirements of the order" are not capable of an exact meaning. Accordingly, I am proposing an amendment that will bring this provision on all fours with the existing Matrimonial Causes Act. It overcomes the difficulty of the word "persistently".

The Hon. A. J. SHARD: The amendment of this clause will have the effect of bringing new section 96b into line with the Matrimonial Causes Act of the Commonwealth and the Maintenance Act of Victoria, and we agree to it.

Amendment carried; clause as amended passed.

Clauses 47 to 122 passed.

Clause 123—"When officer of the department compellable to give evidence or produce documents."

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

In new section 180a to strike out "which has come to his knowledge by reason" and insert "in connection with which any officer of the department has in the course"; and after "such officer" to insert "given advice to or been consulted by any person".

I consider this to be a most important amendment. The clause as drafted provides that no officer of the department shall at the hearing of any proceedings before a court be compellable to give evidence or produce any documents, etc. This is a restriction which is widespread in its application and which will have the effect that if an attendant, say, in an institution committed an assault or an indecency on a child in the institution anyone who witnessed the occurrence and who

happened to be an officer of the department would not be compelled to give evidence. It might also be necessary for one departmental officer to give evidence on a claim by another officer in civil proceedings or in a workmen's compensation matter.

I do not think it should be so wide, particularly as I understand that the clause was intended merely to give some protection to prosecuting officers in court. His Honour Mr. Justice Bright last year held that prosecuting officers of the Children's Welfare and Public Relief Department did not enjoy the professional privileges that accrued to solicitors, so it was decided that some effort should be made to correct the position. However, the clause is too wide, and I propose by my amendment to restrict it. The amendment will confine the privilege to circumstances when an officer has been consulted or has given advice to any person.

The Hon. A. J. SHARD: These amendments will have the effect of limiting the privilege that can be claimed by officers of the department under new section 180a to cases where the evidence or document relates to any matter in connection with which any officer of the department has, in the course of his duties as such officer, given advice to or been consulted by any persons. The amendments do not depart from the principles contemplated by the new section, and are accepted by the Government.

Amendments carried; clause as amended passed.

Clauses 124 to 149 passed.

Clause 150—"Consequential amendments to other Acts."

The Hon. C. D. ROWE: This is the last clause in the Bill and it sets out in the schedule Acts that are to be amended in accordance with the particulars set out in that schedule. I believe it amends about 10 Acts. It seems to me that it would be almost impossible for a layman, or even a lawyer, to be able to find out what this new Act provides unless a fairly early reprint is made of it. I hope that the Government will be able to make arrangements for this to be done, as it will be difficult enough for members to make the necessary amendments to the various Acts. Anybody having to advise on this Act would be placed in a difficult position if, for instance, a point arose under the Criminal Law Consolidation Act. Care would have to be taken to make sure that reference was made to an amendment under the Maintenance Act.

The Hon. A. J. SHARD: I appreciate the comments of the Hon. Mr. Rowe and even without consulting the Parliamentary Draftsman I would have agreed to take this matter up. However, I have been given an assurance now, after consulting with the Parliamentary Draftsman, that it is the intention of the Attorney-General to have this Act reprinted and consolidated as a matter of urgency as soon as possible.

Clause passed.

Schedule and title passed.

Bill reported with amendments. Committee's report adopted.

Bill recommitted.

Clause 8—"Repeal of Part II of principal Act and substitution of new Part therefor"—reconsidered.

The Hon. M. B. DAWKINS: I move:

In new section 14 (1) to strike out paragraph (*d*).

Honourable members may recall that yesterday I expressed the opinion that paragraph (*d*) was at least as wide as, if not wider than, paragraph (*c*). We were not given a satisfactory explanation of these paragraphs, which are new to this legislation, not being in the old Act. Paragraph (*d*) is superfluous. There are eight other paragraphs giving the Minister general powers, which I think are ample. We have no clear definition of the term "social welfare". A wide interpretation of that phrase is possible.

The Hon. A. J. SHARD: I ask the Committee not to delete paragraph (*d*). Its purpose is to give the Minister and the Director power, if they believe it desirable, to do just what the paragraph says—to establish centres and provide facilities and financial and other assistance. This may be a new departure from the point of view of this department, but it is not new from the point of view of the Government. The previous Government did things like this, assisting certain people by donations and aiding various institutions and bodies by means of the line "Chief Secretary (Miscellaneous)".

All this is subject to the control of the authority that has to get its money from the Treasury and then run the gauntlet of the Auditor-General and then, if it so desires, to establish these centres. That is all this paragraph is doing. Where no other body is ready to assist neglected children, this department may feel it is necessary to assist and guide them. If the Committee feels it is acting wisely by denying the Minister and the Director this opportunity, then by all means delete this paragraph; but, rather than strike it out now,

let us wait and observe its effect. If money is wasted on something of little value, that is the time to criticize and delete the provision; but do not shut the door on people who want to do something for our under-privileged children.

The Hon. C. D. ROWE: I have not yet made up my mind about this paragraph but am interested to know what has been done so far. I understand a club is being established in the Norwood district and some officers are doing good work. I have heard favourable reports about what is being done there. What exactly is being done at Norwood; what money is being spent? Are premises being purchased or rented? Is equipment being purchased; how many people are employed there? Why is it necessary to have this provision to enable it to be done elsewhere if it is being done under the Act at the present time?

The Hon. M. B. DAWKINS: I still maintain that paragraph (*d*) is superfluous to the Minister's requirements. He derives ample powers from the other paragraphs of this subsection.

The Hon. R. A. GEDDES: I oppose the deletion of paragraph (*d*). I think this is a wonderfully wise and sensible provision. We have only just begun to touch on the great problems of neglected children and delinquency in all its aspects. I see nothing ruthless about this, remembering, as the Chief Secretary has reminded us, that permission must be obtained from the Government to spend the money and then one has to run the gauntlet of the Auditor-General. What is the money being spent on? It is being spent on trying to help children who have fewer advantages than, possibly, our own children have. This Bill streamlines the provisions dealing with the welfare of children.

The Hon. C. R. STORY: I am undecided, like the Hon. Mr. Rowe. I think the Minister has some information that will help us, and should like to hear it.

The Hon. R. C. DeGARIS: I am in a similar position. I am not raising any objection to the spending of money to assist delinquent children or anyone else who may need assistance. However, I am in a quandary over the paragraph. I wonder exactly what the term "social welfare" means and how far it goes. Secondly, what is meant by "conduct, control and regulate"? I consider that any money available for this purpose should be spread over the whole of the community. It would be better to foster and assist organizations already doing good work in this field from one end of the State to the other than to establish State-controlled centres for social welfare.

If we analyse this, we find that the provision in the clause will relate only to the settled areas. I do not think it would be possible to establish centres in small country towns such as Lameroo and Pinnaroo, or anywhere in that area. The provisions will be restricted to the city and the larger industrial centres. I know of an organization in a country town that is interested in youth work and the welfare of children. It has spent £15,000 on the establishment of a youth centre. The Government, under a certain subsidy scheme, contributed £2,000 towards the cost of building the centre, which is controlled by the local community. This is a better way of handling the matter than the placing of responsibility to conduct, control and regulate these centres on the State.

The Hon. A. J. SHARD: The purpose of the Bill is to do, in the main, most things to which reference has been made. The Hon. Mr. Rowe said certain worthwhile work was being done at Norwood. I myself know nothing about that.

The Hon. C. D. Rowe: That is the exact point. The Minister has gone off at a tangent, and Cabinet does not know about it.

The Hon. A. J. SHARD: Don't get hot under the collar. When one particular Minister is affected, the honourable member is always ready to cut his throat. That is the Hon. Mr. Rowe's attitude to one particular Minister. If the honourable member wants to have a go at me, let him have a go at me, but I ask to be allowed to finish my remarks. I understand that the club at Norwood has been called the Pilot Youth Club for neglected children. Little has been done at Norwood, because there is no authority for it. I assume that what has been done has come within provisions in the Miscellaneous line of the department's financial provisions. The idea is to set up the club.

I agree with the Hon. Mr. DeGaris and am advised by the Parliamentary Draftsman, who drew up this Bill in consultation with the Chairman of the board, that the idea is to assist the established bodies to do a better job in the interests of the youth centres, wherever they are. It is a step in the right direction and some good may be done. If honourable members decide (and it is up to them to decide) to say, "No, we are not going to try to improve conditions for the people outside", they will take the provision out. If they think that a trial is worthwhile, they

will leave it in and watch the progress made with interest. If it is a failure, the matter can be raised again in the future.

The expenditure of any large amount of money on this scheme must come before Cabinet, and the matter will be watched closely. No-one can spend Government money ill-advisedly for very long. Only this morning I signed a docket requesting the Auditor-General's Department to visit a certain place because something in the book work is not right. That sort of thing never goes longer than six to nine months before it is discovered. This new section is an attempt to do something for children, where necessary, and the idea is to help youth centres that are set up, to enable them to a better job than they are doing.

The Hon. JESSIE COOPER: I shall oppose this amendment. I have had a good deal of experience of youth work. For the last three years I have been a member of the National Fitness Council of this State and have seen the existing organizations working. I have been most impressed by the way the work of the National Fitness Council is carried out in this State and the modern methods that are adopted. Until this year this has come under the aegis of the Education Department and it is now under the Department of Social Welfare.

I understand that the scheme at Norwood is operating with the advice of certain officers of the National Fitness Council. The pilot scheme will operate in the same way as such things as the Duke of Edinburgh's awards for boys and girls, which is one of the greatest weapons against juvenile delinquency in Australia. I could not agree more with the Hon. Mr. Geddes, who knows the problems of a big city, and we must try to do anything we can to help in this regard. Therefore, I shall support the Government on this provision.

The Hon. M. B. DAWKINS: I was interested in and impressed by the remarks of the Hon. Mr. DeGaris and was equally interested in the fact that the Chief Secretary said it was the Government's desire to do what the Hon. Mr. DeGaris had instanced and support existing facilities and help them to continue to do good work in the community. To do that, there is no need to have the power to establish centres or to conduct, control or regulate activities within those centres. If the Government wishes to help centres already established, there is no need for it to have power to establish centres.

The Committee divided on the amendment:

Ayes (5).—The Hons. M. B. Dawkins (teller), R. C. DeGaris, G. J. Gilfillan, L. R. Hart, and C. C. D. Octoman.

Noes (12).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, R. A. Geddes, Sir Norman Jude, H. K. Kemp, A. F. Kneebone, Sir Lyell McEwin, F. J. Potter, C. D. Rowe, A. J. Shard (teller), and C. R. Story.

Majority of 7 for the Noes.

Amendment thus negatived.

Bill read a third time and passed.

LOTTERY AND GAMING ACT AMENDMENT BILL (BETTING CONTROL BOARD).

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

JUVENILE COURTS BILL.

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

DECIMAL CURRENCY BILL.

Adjourned debate on second reading.

(Continued from November 17. Page 2874.)

The Hon. M. B. DAWKINS (Midland): This Bill is supplementry to the Commonwealth Act and is most important, in that the currency we use, whether the old or the new, is completely involved in our business life, in all aspects of trade and even on the home front. The several specific Acts that require adjustment are recorded in the schedule and I do not intend to refer to them in detail.

I give general approval to the Bill, which is consequental upon the Commonwealth Government's decision to introduce decimal currency on February 14 next. As a layman, I would have preferred to see the pound retained as the unit of currency and I regret that, in adopting the dollar, we appear to be moving away from the Old Country and a little towards the dollar area. If the pound had been retained, the 1s. would have become equal in value to the present 2s. and thus there would have been 10 shillings to a pound, and the 1d. would have been equal to 2.4d. of present currency, and there would have been 10 pennies to a shilling. The lowest denomination would have been a halfpenny, equal to 1.2d., which is the value of the proposed new cent. This would have maintained our present main unit, the pound, at its present rate, but there would still have been some confusion in the change-over.

However, I regret the move away from the British currency. The Commonwealth has decided on a unit of currency to be known as the dollar, which will be equivalent in value to the present 10s., and it is necessary for us to pass the complementary legislation now before us. Many people have been attending classes

in decimal currency and, therefore, it can be expected that many will know something about it when it comes into effect, but I fear that, for all those who will know something about it, there will be many who do not and, undoubtedly, there will be much misundertanding. This will be increased by the fact that it will not be possible to arrive at exact amounts of exchange in some cases.

It appears to a layman that two years is an unnecessarily long period to use dual currency. In this period, confusion will be added to confusion, but I have no doubt that full consideration has been given to that aspect and this period is probably unavoidable in the eyes of the experts. I have studied the Bill and the second reading explanation of the Minister, and do not propose to go through all the points at this stage. I indicate that I support my friend, the Hon. Mr. Gilfillan, in his queries on clauses 8 and 9. I shall listen with great interest when the Minister closes the second reading debate or explains these clauses in Committee.

I consider that clauses 8 (2), 9 (1) and 9 (2) appear to give the Government very wide powers to add to the schedule as it thinks fit, without reference to Parliament. While the Council has demonstrated that it is happy to give the Government wide powers, I am not disposed so to do. I reserve the right to consider any amendment that may be moved in Committee, but I support the second reading.

Bill read a second time.

In Committee.

Clause 1 passed.

The Hon. A. J. SHARD (Chief Secretary): As honourable members know, this Bill is associated with legislation now before the Commonwealth Parliament, and it is necessary that progress be reported until after that legislation is passed.

Progress reported; Committee to sit again.

ADJOURNMENT.

At 10.3 p.m. the Council adjourned until Thursday, November 25, at 2.15 p.m.