LEGISLATIVE COUNCIL

Thursday, October 20, 1966.

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

ASSENT TO BILLS.

His Excellency the Governor, by message, intimated his assent to the following Bills:

Apprentices Act Amendment,
Appropriation (No. 2),
Licensing Act Amendment.

QUESTIONS

SCHOOL TAPE RECORDINGS.

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

Leave granted.

The Hon. R. C. DeGARIS: It has been brought to my notice that a school welfare club has been listening to a tape recording by the Minister of Education entitled, "What my Government is doing for education in South Australia." As the Government placed a ban on the distribution to schools of a publication by the Commonwealth Government, can the Chief Secretary say whether the Government would have any objection to the distribution not of a publication but of a tape recording by the Minister-in-Charge, Commonwealth Activities in Education and Research, on a similar topic, or a tape recording by the Commonwealth Minister for Defence entitled, "What my Government is doing for the security and defence of Australia"?

The Hon. A. J. SHARD: If I may be permitted to digress for a moment or two before answering the question, I express the views of all honourable members of this Council when I extend to the Hon. Colin Rowe a welcome on his return from overseas. We are all pleased that he is looking so well and we trust that his wife, too, is well and that their trip has been enjoyable and educational.

Honourable Members: Hear, hear!

The Hon. A. J. SHARD: Regarding the question asked by the Hon. Mr. DeGaris, I know nothing at all about the matter but I shall have a report prepared and make it available to the honourable member early next week.

SCHOOL BUSES.

The Hon. G. J. GILFILLAN: I ask leave to make a statement prior to asking a question of the Minister of Labour and Industry, representing the Minister of Education.

Leave granted.

The Hon. G. J. GILFILLAN: In the last session I asked the Minister a question relating to the minimum requirements for the provision of subsidized school bus services in remote country areas and asked whether the Government, failing the possibility of reducing these minimum requirements, would consider paying to the children in those areas a daily travelling allowance comparable with the cost to the Government of supplying transport to children in cases where the minimum requirements for the subsidized bus service were met. On February 10 last the Minister replied and, in the latter part of his reply, said:

With regard to the second part of the honourable member's question, it can be stated that when more finance is available it will be possible to give consideration to the matter of increased daily travelling allowances to children not travelling by school transport in country areas.

In view of the fact that we are now in another financial year and the Estimates have been passed by Parliament, will the Minister obtain a further report on this matter?

The Hon. A. F. KNEEBONE: I shall be pleased to get a report for the honourable member.

SEED CERTIFICATION.

The Hon. R. C. DeGARIS: I ask leave to make a statement prior to asking a question of the Minister of Local Government, representing the Minister of Agriculture.

Leave granted.

The Hon. R. C. DeGARIS: On Tuesday last I asked a question of the Minister relating to the seed certification practices of the Agriculture Department. I have been informed that a meeting of seed growers throughout the South-East is being held at Bordertown tonight to consider the position in which they have been placed by the directions to which I referred in my previous question. The small seed industry in South Australia has a wide reputation throughout the State (indeed, throughout the world) and any breakdown of the accepted practices can do considerable harm to that reputation. When I asked my question, I stressed the urgency of the matter, and I now ask the Minister whether there has been any change of heart by the department and whether any information will be available before the meeting is held at Bordertown tonight.

The Hon. S. C. BEVAN: I have no information in reply to the question the honourable member asked on Tuesday last, and I think it would be impossible to make the information available before the meeting is held. I am prepared to take up the matter again with the Minister of Agriculture for his consideration and reply.

BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL.

Second reading.

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

That this Bill be now read a second time.

It is designed not only to consolidate, amend and reproduce the State law relating to the registration of births and deaths but to incorporate therein the State law relating to registration of marriages.

Prior to the coming into force of the Commonwealth Marriage Act, 1961 (hereinafter referred to as "the Commonwealth Act"), the State law with regard to marriage was contained in the Marriage Act, 1936-1961, which deals with such aspects of marriage as qualifications of celebrants, celebration of marriages and validity of marriages. Apart from the provisions of the Marriage Act dealing with regulation of marriage, the whole field of the substantive law in relation to marriage is now covered by the Commonwealth Act, which has been in force and has applied in this State for some years. With regard to the registration of marriages, section 6 of the Commonwealth Act provides:

"This Act shall not be taken to exclude the operation of:

(*a*) the law of a State or of a Territory in so far as that law relates to the registration of marriage;

(*b*) ...".

It is therefore considered that the Marriage Act, 1936-1961, has been superseded by the Commonwealth Act but that, having regard to section 6 referred to above, the provisions of the said Marriage Act with regard to registration should be written into the proposed consolidated Bill. This presents no real problem, for an examination of the registration provisions of the Marriage Act (that is, sections 5, 6 and 7) shows that they are in substantially the same form as the registration provisions of the existing Births and Deaths Registration Act (that is, sections 6, 7, 8 and 9). All that has been needed in most instances is to add the words "and marriages" after the words "births and deaths". It is well known that marriages are registered with the same authority (that is, the Principal Registrar), as births and deaths are registered. No administrative problem is therefore created by the amalgamation and, in fact, administration of the registration of marriages, births and deaths will, if the Government's proposals in this Bill are accepted, be, if anything, facilitated.

With regard to the State law in relation to births and deaths registration and marriages registration, the following principal amendments are proposed in this Bill: (*a*) the adoption of the Commonwealth Act definition of "authorized celebrant" in lieu of the persons described in section 8 of the Marriage Act as being authorized to celebrate marriages in the State; (*b*) the deletion of Part IV of the existing Act dealing with "still births" and the substitution in lieu thereof of a new Part IV dealing with children not born alive; (*c*) new provisions with regard to notification of births designed to facilitate and improve the existing system; (*d*) a provision to enable the Principal Registrar to approve registrations of births six months or later from the birth; (*d*) provisions to enable the registration of the christian names and surname of a child whether the parents are married or not and also to permit a parent to change the christian names of a child; (*f*) the adoption of a uniform medical certificate of the cause of perinatal death; (*g*) a provision to register the death of a person on a ship or an aircraft when the ship or aircraft reaches a port or airport in this State next after the death; (*h*) a provision to expedite the registration of a death where an inquiry or inquest has been held by a coroner so that probate may be obtained or the assets of a deceased can be dealt with as soon as possible, and to enable a limited copy of the registration to be issued; and (*i*) a provision to ensure that deaths of servicemen occurring on war service outside Australia in any hostilities in which the Commonwealth is engaged may be registered in this State.

With this bare outline of what the Bill intends to provide for, I shall now move on to a consideration of each clause and, where a clause in the Bill reproduces a provision in the existing Births and Deaths Registration Act (hereinafter referred to as the "1936 Act") or the Marriage Act, I shall merely draw attention to the section in the Act that corresponds with the clause in this Bill. In clause 1 the Bill is cited as the "Births, Deaths and Marriages Act, 1966". Clause 2 of the Bill states that this proposed legislation other than Part VII thereof will come into operation on a date to be fixed by proclamation. In this connection it may be stated that it will take six to 12 months before the administrative machinery necessary to incorporate the new procedures envisaged in this Bill will be ready. Part VII will, however, come into operation when this Bill is assented to. The reasons for this will be mentioned when I come to deal with

Part VII. Clause 3 sets forth the extent to which the Acts in the First Schedule are repealed. Clause 4 deals with the arrangement of the Bill, and it will be noted that Parts IV and V are new Parts in this proposed legislation.

Clause 5 is the general definition provision. The new definitions deserving special comment are "child", "child not born alive" and "parent". I have already referred earlier to the new definition of "authorized celebrant". In the definition of "child" a child shall be deemed to have been born alive if the child's heart has beaten after the child has been completely expelled or extracted from its mother. This definition, like the definition of "child not born alive", is of importance with regard to the new certificate of cause of perinatal death which has been adopted in this proposed consolidation. The National Health and Medical Research Council of Australia considered the definition of a "live birth" and came to the conclusion that it was essential from a medical point of view that the concept of the "heart beating" should form part of this definition. It was not considered that the fact that the child breathed was an essential factor in this definition. With regard to "child not born alive" the same concept has been incorporated in that definition but in a negative sense, that is to say, a "child not born alive" means a child whose heart has not beaten after its complete expulsion or extraction from its mother and is either a child of not less than 20 weeks' gestation, that is, where the period of its gestation is reliably ascertainable, or in any other case a child weighing not less than 400 grammes at birth. It will be seen that these considerations are relevant with regard to the signing of the medical certificate of cause of perinatal death which appears in the Thirteenth Schedule. The definition of "parent" has been extended to cover the situation where, for example, the Minister became a guardian of State children under section 13 of the Maintenance Act, 1926-1965.

Clause 6 of the Bill corresponds with section 6 of the Births and Deaths Registration Act, 1936, and the only addition to that section appears in subclause (5) which provides for the Deputy Registrar to perform the duties of the Principal Registrar if he is sick, absent on leave or indisposed or if there is a vacancy in the office of Principal Registrar. Clause 7 corresponds with section 7 of the 1936 Act except that it provides for a general register of births, deaths and marriages and not merely births and deaths. Clause 8 corresponds with section 8 of the 1936 Act. Clause 9 corresponds with section 9 of the 1936 Act except that instead of the Governor appointing a district registrar for any district the Minister will, under this proposal, have this power. It is felt that this is desirable since many of these appointments are often for short periods only, for example, while a district registrar is on leave. Clause 10 corresponds with section 10 of the 1936 Act. Clauses 11, 12 and 13 cover much the same ground as sections 11, 12, 13 and 14 of the 1936 Act but have been redrafted to take into account the amendments proposed by this Bill, such as the deletion of the still birth provision and the incorporation of the registration of marriage provisions and at the same time are designed to define the procedure for registration in a more precise manner.

Clause 14 provides that the occupier of the premises in which a child is born, whether alive or not, shall within seven days after the birth notify the Principal Registrar and give to him the particulars as are specified in subclause (1). The purpose of this new clause is to enable the registry more effectively to ensure that all births are registered. Other States in the Commonwealth have a similar provision. At present the Registrar has to check through records of the Child Endowment and Maternity Branch of the Commonwealth Social Services Department, but the procedure is rather complicated. Births are, under the Notification of Births Act, notified to the Central Board of Health and local boards of health within 36 hours of the birth, but the information given is not adequate for the purposes of registration of births and little use has been made of this procedure. It is therefore proposed under this Bill that the Notification of Births Act, 1926, should be repealed and the Principal Registrar will make available necessary information to any authorities including local authorities who may need it. The notice referred to in this section shall be in accordance with the form in the Fourth Schedule.

Clause 15 corresponds with section 15 of the 1936 Act except that instead of the parent of every child born alive furnishing particulars for registration within 42 days it is laid down that the particulars shall be supplied within 60 days. Particulars to be furnished would be in the form in the Fifth Schedule. This period of 60 days is uniform with provisions in other States. Clause 16 corresponds with section 16 of the 1936 Act except that an occupier has a duty where the parent is absent or dead etc. to furnish information of the birth within 60 days after the birth and not 42 days as at

present. Clause 17 corresponds with section 17 of the 1936 Act. Clause 18 corresponds with section 18 of the 1936 Act and it will be noted that under clauses 16, 17 and 18 the information statements that are required will be furnished directly to the Principal Registrar.

Clause 19 deals with the registration of an illegitimate child and is basically the same as section 19 of the 1936 Act but has been amended to provide that the name of any person acknowledging himself to be the father of the child may authorize the Principal Registrar to enter his name in the register by duly completing the form of authorization on the information statement (subclause (4)) and also in subclause (5) to make clear when the name of the father may be inserted in the register of any child born out of lawful marriage, that is, where the paternity of the child has been established by an affiliation order or otherwise by a decree of a court of competent jurisdiction. Subclause (6) takes into account the fact that Part VI of the Commonwealth Marriage Act dealing with legitimation applies concurrently within the State with Part IX of this proposed Bill. Clause 20 corresponds with section 20 of the 1936 Act which provides for registration in cases where the birth is not registered within the prescribed period. It, however, amends the existing provision by providing that the birth may be registered after six months by the Principal Registrar but not after seven years from the date of the birth of the child. It is, however, made clear in subclause (1) (*c*) of this clause that no birth will be registered after the expiration of seven years from the date of the birth of the child unless a Judge of the Supreme Court or local court or Stipendiary Magistrate makes a written order authorizing the registration. Most States in the Commonwealth have a provision basically the same as this, but some States differ as to the periods in which registration may be effected without an order of the court.

Clause 21 is a new provision and provides for a child's surname (which will be the surname of the father) to be recorded in the register if the child was born the legitimate child of his parents, or if the registration of his birth is effected under the provisions of Part IX of this Act, or if the name of the father of the child at the time when the birth was registered has been entered pursuant to clause 19, but in any other case (other than those mentioned above) the child's surname to be entered in the register will be the surname of the mother at the date of the child's birth. It has not been the practice in this State to register the surname of a child. He has usually assumed the surname of the parents if they were married to each other. Where the parents are not married to each other there has been some element of doubt regarding the correct surname although the father may have acknowledged paternity and signed the registration or the information statement. To remove this doubt, it is considered desirable that the surname as well as the christian names of the child should be registered.

Clause 22 is also a new provision which replaces section 22 of the 1936 Act. The clause describes the circumstances in which the christian names of a child may be inserted in the register. These circumstances are as follows: if any child whose birth is registered in the State (*a*) has been registered without a christian name and has had such a name given to it after registration; or (*b*) has had a christian name given to it in addition to that given at the time of registration; or (*c*) has had another christian name given to it in place of a registered christian name, then the parents of the child at any time within two years of the date of the birth may, by signing a form in accordance with the Ninth Schedule, request the Principal Registrar to register the name so given. The Principal Registrar may register the name so given under this clause on the request of one parent if the other is dead and, in the case of an illegitimate child, a request by the mother alone is sufficient. The reasons for inserting this provision are that in many cases parents omit to state the christian name of the child for registration or state an unsuitable name. Under the existing law no provision existed for a parent to change the christian name. The clause also enables the registration of an additional name if given after the date on which the registered name was given.

Clause 23 provides for the payment of fees for additional names as are prescribed in the Nineteenth Schedule. This replaces section 23 of the 1936 Act. Clause 24 replaces section 24 of the 1936 Act and provides for a change of surname. This clause enables a person who has attained the age of 21 years or has previously been married whose birth is registered in the Register of Births or in respect of whom an entry has been made in the Adopted Children's Register under the provisions of the Adoption of Children Act, to change his surname or any of his names by signing an instrument in accordance with the form in the Tenth Schedule.

Subclause (3) makes it clear that the reference to the change of name includes a

reference to the addition or omission of a surname or other name in substitution for his existing surname or other name. Subclause (4) provides that where a child has not attained the age or 21 years and has not been previously married the parents of that child whose birth is registered in the Register of Births may by signing an instrument in accordance with the form in the Eleventh Schedule change the surname of the child.

Subclause (5) provides that the instrument may be signed by one parent if the other is dead or by the mother alone if the child is illegitimate. Subclause (6) however qualifies subclause (5) and states that the change of surname of a child who was over the age of 16 years when the instrument was signed shall not take place unless the consent of the child to a change of surname is written on the instrument.

Subclause (8) deals with the case where the mother of a child whose birth is entered in the Register of Births is married to a person other than the father of the child and enables the mother, with the consent of the person to whom she is married, in writing, to sign an instrument in accordance with the form in the Twelfth Schedule changing the surname of the child to the surname of the person to whom she is married. This is qualified by subclause (9) which provides that if the child is over 16 years of age his consent to a change of surname must be recorded on the instrument.

Subclause (10) states that, where the marriage of the parents of the child has been dissolved or annulled by the order of a court, the instrument shall not be effective to change the surname of a child unless when the instrument was signed the mother of the child had custody of the child by order of a court. In all the cases mentioned above the instrument recording the change of name shall not be effective until it is deposited with the Principal Registrar.

Subclause (12) provides that, where the Registrar is satisfied that the provisions of subclauses (1), (4) and (8) have been complied with or a change of name has been effected in another State or any part of the British Commonwealth by deed poll, Royal licence or other legal process and that such instrument effecting the change has been duly deposited and registered in the appropriate office in the State or part of the British Commonwealth in which the change was made, he can cause an entry referring to the change of name in the appropriate registration or entry. This clause does not permit the change of a surname of a woman who has been married to be entered in the registration of her birth. Under existing law the provisions for endorsing a change of name are rather vague and there is no means of ascertaining how or when a person has lawfully changed his name. The present proposals are much more specific in this regard.

Clause 25 introduces a new Part IV into this proposed legislation and provides for notification of children not born alive. The clause lays a duty on the medical practitioner who is in attendance on the mother at the time of her confinement to sign a medical certificate of cause of perinatal death where a child is not born alive. The form will be in accordance with the form in the Thirteenth Schedule and the medical practitioner must forward within 48 hours of such confinement the certificate to the Principal Registrar. Upon signing the certificate the medical practitioner will in turn sign a notice in the form of the Fourteenth Schedule and send the same to the occupier of premises where the birth took place and the occupier must deliver it to the person disposing of or responsible for the disposing of the body of the dead child.

Subclause (3) provides that a person shall not dispose of a body of a child not born alive unless he has received a notice in accordance with the form in the Fourteenth Schedule or the disposal is authorized in writing by a member of the police force not under the rank of sergeant who has personally made inquiries into the circumstances relating to the birth. Subclause (4) provides that any person who disposes of the body of a child not born alive shall forthwith forward to the Principal Registrar a notice or the authorization referred to in subclause (3).

Subclause (5) is a transitional provision, which enables the registration of still births to continue until the provisions of this Part come into effect. The insertion of this subclause is not strictly necessary, since the position is covered by section 12 of the Acts Interpretation Act. As has been previously mentioned this clause envisages the adoption of a uniform medical certificate as to the cause of perinatal death. This form of certificate has been accepted by the other States and is the result of instructions on this matter received from the Prime Minister in 1964. As will be observed when I come to deal with clause 39, the medical practitioner has a similar duty to sign such a certificate where a child dies within 28 days after birth.

Part V deals with the registration of marriages and comprises clauses 26 to 28, inclusive. As I have previously indicated, the Marriage Act, 1936, is being repealed by this proposed legislation and this Part will be sufficient to provide for the registration of marriages and corrections of entries and changes of names on the registration. Clause 26 lays down that when the Principal Registrar receives an official certificate of marriage from an authorized celebrant under the provisions of the Commonwealth Marriage Act he shall, as soon as practicable, enter the certificate in the General Register of Marriages. This provides for more streamlined procedure than is provided for by existing section 33 of the Marriage Act.

Clause 27 deals with the alteration of an entry in the register where a person registered in the Marriage Register has changed his name. This clause replaces section 66 of the Marriage Act. Clause 28 corresponds to section 67 of the Marriage Act, 1936, except that subsection (6) of that section has been deleted.

Part VI which comprises clauses 29 to 40 inclusive deals with the registration of deaths. Clause 29 corresponds to section 28 of the 1936 Act, except that the period in which the occupier of the building or place in which the death occurs shall within 14 days (and not 10 days, as under section 28 of the 1936 Act) furnish particulars for the registration of the death.

Clause 30 is a new provision which lays a duty on the person in charge of an aircraft or ship travelling to this State where a death occurs on that aircraft or ship to report the death to the coroner as soon as practicable after the arrival of the aircraft at an airport or a ship at a port. Upon notification the coroner must make such inquiries as he considers reasonable to inform himself correctly of the identity of the person, cause of death and the place at which the death occurred and furnish to the Principal Registrar such particulars as he has been able to ascertain and the cause of death and the Principal Registrar must thereupon register the death. Under existing legislation there is no provision to register the death of a person other than that of a member of the armed forces of the Commonwealth, unless the death occurred within the State.

Clause 31 deals with the late registration of death and is similar in concept to clause 20 which deals with late registration of birth. Clause 32 corresponds to section 30 of the 1936 Act. Clause 33 provides for the notification of the result of inquest inquiries, and is basically the same as section 31 of the 1936 Act. Clause 34 enables the coroner holding an inquest or inquiry on any dead body to order the body to be buried. This provision is designed to expedite the registration of a death so that probate may be obtained or the assets of a deceased be dealt with as soon as possible.

Clause 35 provides that, except as is otherwise provided in this Part, a death shall not be registered by the Principal Registrar, etc., unless there has been produced to him in relation to the deceased person a certificate as is referred to in clause 39 (1) (*a*) or a copy of the order and statement referred to in clause 34.

Clause 36 will permit a death to be registered where the cause of death is unknown. This clause applies where an order has been made under clause 34 by a coroner stating that the cause of death is unknown and that a further inquiry is necessary to establish the cause of death. When the coroner has completed his inquiry, he must notify the Principal Registrar of the cause of death, and the Principal Registrar will thereupon enter the cause of death in the registration certificate. Any certified copy of the death registration or any extract therefrom issued before the cause of death has been entered shall be endorsed with the words "incomplete registration—cause of death unknown pending coronial enquiry". This clause, like clause 34, is designed to enable a deceased's estate to be dealt with more expeditiously.

Clause 37 corresponds to section 33 of the 1936 Act. Clause 38 corresponds to section 34 of the 1936 Act. Clause 39, which describes the duty of the medical practitioner with regard to the death of any person, is an enlargement of section 35 of the 1936 Act so as to incorporate not only the provision dealing with the signing of a cause of perinatal death of a child who has died within 28 days after birth but also to provide for the situation where the medical practitioner has made a post-mortem examination of the body of any person, including such child as is referred to above. Under the existing section 35, a certificate may be given by the medical practitioner who attended the deceased in his last illness or by the medical practitioner who examined the body. The expression "examine the body" could suggest merely a visual examination only. This would clearly be insufficient in most cases to ascertain the cause of death. This clause makes it clear that the medical certificate as to cause of death can be issued where the medical practitioner has carried out a post-mortem examination.

There is an important proviso on this clause to the effect that, in all cases of sudden unexpected death or where it has come to the knowledge of the practitioner that death has occurred from unnatural causes or under any circumstances of suspicion, the practitioner must not issue any such certificate but report the cause to the coroner. Subclause (2) is a penalty provision and is much the same as section 35 (3) of the 1936 Act, except that a further offence of knowingly making any false statement in any certificate or notice under this clause is created. The effect of this clause generally is that undertakers may arrange for the burial of a dead person before the death has been registered provided that a medical practitioner has issued a certificate as to cause of death. This procedure has been followed successfully in other States and would, if adopted, provide an independent check on death registration. Clause 40 corresponds to section 36 of the 1936 Act, which was inserted by Act No. 44 of 1947.

Part VII deals with the registration of deaths of persons dying outside the State whilst on war service. This Part comprises clauses 41 to 45 inclusive, and corresponds to Part VA of the 1936 Act. The only amendment introduced in this Part and also in Part VIII of this Bill is that a definition of "war" has been inserted. It has been defined as meaning any hostilities in which the naval, military or air forces of the Commonwealth are engaged. The existing Parts VA and VB of the 1936 Act do not include a definition of "war". "War" in the proposed Parts VII and VIII has been defined in rather wide terms so as to enable the registration of deaths of servicemen, etc., in Vietnam and Malaysia. The existing provisions leave it in doubt whether deaths of servicemen on war service in these theatres of military operations can be registered under the existing Act. The problem that presents itself really turns on the meaning which in public international law is normally given to the word "war". A "state of war" *de jure* is said to exist when a proclamation of war has been made. Many writers on international law consider that it is only when a proclamation of war has been issued against an enemy state that a "state of war" exists. There is, however, by no means universal agreement on this matter. They all nevertheless recognize that a *de facto* "state of war" exists when a country engages in hostilities with an enemy country. It is considered that by adopting this proposed definition of "war" the problem that has arisen due to the absence of any declaration of war against, for example, Vietnam, will, for the purpose of the registration in this State of deaths of servicemen in Vietnam, be overcome. The definition has been drafted in such a manner as to ensure that there is no conflict or inconsistency with any Commonwealth legislation on the subject.

As honourable members are probably aware, four deaths of servicemen in Vietnam from this State have been reported up to July 22, 1966. The Principal Registrar has not registered these deaths to date because the existing provisions, as I have said, are not considered adequate to cover the Vietnam situation. The Government considers that the proposed amendment will enable these deaths to be registered as soon as the legislation comes into force, thus reducing any hardship or inconvenience that has been caused to date to next of kin of dead servicemen.

Part VIII deals with registration of deaths of persons dying within the State whilst on war service or dying at sea. This Part corresponds to Part VB and the definition of "war", as I have said relating to that Part, relates also to this Part: the only amendment made to the existing Part VB is to extend the operation of the provision dealing with deaths of persons at sea on any British ship to apply to deaths at sea on any Australian ship.

Part IX deals with legitimation of children, and comprises clauses 53 to 65 inclusive. Apart from clause 58 (dealing with the saving of existing legitimations) and minor drafting amendments, this Part is substantially a repetition of Part VI of the 1936 Act and needs no further comment. Part X deals with miscellaneous matters, and comprises clauses 66 to 80. Apart from drafting amendments, this Part merely repeats Part VII of the 1936 Act.

The other amendments proposed by this Bill are of a minor nature and are intended either to improve the administration of the legislation dealing with registration of births, deaths and marriages or to improve the drafting of the existing Act.

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

STAMP DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 19. Page 2377.)

The Hon. C. M. HILL (Central No. 2): In general terms I support the Bill, because obviously the Government is greatly in need of revenue. Regrettable though it is that policies have been implemented demanding considerable revenue, nevertheless that is the

state of affairs in South Australia today. This measure has the purpose of obtaining considerable revenue. I shall limit my remarks to two aspects of the Bill.

First, I deal with conveyancing, memoranda of transfer and real property transactions. The stamp duty on these is considerably increased by this measure, the increase varying from 25 per cent upwards. It is a great pity that this increased tax must be borne not only by people of the State generally who buy property but also by those of moderate means who buy houses in the suburbs, and particularly in the outer suburbs of Adelaide, where many properties change hands. Those people are of moderate means, and here is a tax that by this measure is considerably increased from what it has been for many years.

But the problem is not only limited to persons of moderate means buying small houses: it also must be faced by business people buying larger properties and country people paying large sums of money for country properties. My experience teaches me that people have not much money to spare in their property transactions. A high proportion of the money spent in buying these properties is borrowed and, because of the limited amount of cash that people have, they must be careful how they spend it. Here is a further part of that limited capital that people have being eaten away by this form of taxation.

For example, let us take a house property in the price range of $11,000. When the transfer is produced for registration at the stamp duty office the present stamp duty is $110, but now it is to be increased by this measure to $137.50, which is a 25 per cent increase. Again, a property being transferred for a consideration of $13,000 at present attracts a stamp duty of $130, but now that is being increased to $175, or an approximate increase of 35 per cent.

Coming to more valuable properties, worth $15,000, the stamp duty until now has been $150, but it is to be increased to $225—a 50 per cent increase. Moving into the realm of farms, we find country properties where the consideration involved can easily today be $80,000. The present stamp duty on that would be $800, to be increased to $1,200, a 50 per cent increase. An extra $400 as one item of taxation in one transaction of that kind is a considerable amount of money to find.

Further, a point that worries me on this is that many people have entered into these contracts without the knowledge that this stamp duty will be increased. I cannot help thinking that they will be badly treated when they discover that, when their transfers are produced at the stamp duty office, they will be forced to pay these increases when, upon entering into their contracts some time ago, they had no knowledge that it would be increased. Many young people are involved in this. In the outer fringe suburban areas, like Modbury and Tea Tree Gully, many people buying their houses and have found that bank finance is not immediately available to them.

When they found it impossible to borrow from finance companies and other people on a temporary basis, their finance was held temporarily by the builder or by the project development company (the vendors in the transactions). Those people are still purchasing these houses under agreements. Stamp duty under section 16 of the principal Act does not apply until the transfer is produced at the stamp duty office but in these instances these transfers have not been produced. These people were told when they first contracted to purchase their houses that the Government rate of duty was so much.

The Hon. Sir Norman Jude: You are now speaking of small houses, mainly?

The Hon. C. M. HILL: Yes; I am dealing at the moment with the small house purchasers. These people were told that the duty would be such and such. They have not very much money. Many of them are trying to save up for this item of transfer fees and costs in a separate account, or on the side, so that, when bank finance is available, they will be able to provide this need in cash. These people will be shocked by this increase. It is unfortunate that they should run into this further problem at this time.

However, I do not think this problem can be limited only to people of smaller means. I am sure that country members here will agree that there are people in the country who buy properties and the actual settlement date is held over or deferred until other assets or properties can be disposed of. Perhaps funds have to be got together for settlement purposes. These people signed contracts believing that the stamp duty would be such and such in regard to the larger properties that they were buying. If they do not hurry, they will not be able to save the extra duty. If they cannot quickly amass the money needed for settlement they will find that the stamp duty will have increased by 50 per cent on the larger properties.

The Hon. C. D. Rowe: The fees on mortgages were increased some time ago.

The Hon. C. M. HILL: Yes. I have given some thought to how this section of purchasers can be assisted. I find great difficulty in seeing how they can be, but there may be some means by which they can be helped. If it is possible to help these people who contracted in the knowledge that stamp duties on a particular transaction would be such and such, (if it could be kept to that figure) it would be fair. I think it is unrealistic to expect that the day of the proclamation of the Act might be held over for a certain time; that certainly would be one way of assisting in this matter, but I do not see much hope of that happening.

At best, I hope that the purchasers who are in this position and are able to expedite the production of documents at the stamp duty office will, in fact, do that and do it quickly because, particularly with regard to the larger transactions on the figures I have quoted, it will mean a great deal of money to them. There may be a considerable number of buyers throughout the State able to hasten the preparation and production of memoranda of transfer at the stamp duty office and it is to be hoped that those people will do that as soon as they possibly can.

The second point I make deals with a matter that has been spoken of in considerable detail by both the Hon. Sir Lyell McEwin and the Hon. Mr. DeGaris. It concerns hire-purchase companies and the problem with which they are faced because of the increase in tax referred to in the Bill when clients repay loans quickly. Although the Hon. Mr. DeGaris quoted several instances in detail yesterday, I wish to mention two further examples which I think will help me in my argument.

Consider a loan from a hire-purchase company of $2,000 taken out by a person for a 12-month term at the flat interest rate of 7 per cent. The total interest charged to such a person amounts to $140 so that the total to be repaid over the 12-month period will be $2,140. If the borrower repays the loan within the first month an interest rebate is allowed him of $118.47, which would mean that the finance company earned interest on that transaction amounting to $21.53. However, the company has paid the stamp duty, which under the Bill will amount to $30.

Of course, the company immediately has a loss on that item alone (that is, interest earned compared with stamp duty payable) but that is not by any means the whole extent of the loss to the company. The company has had to borrow the money from investors in order to lend it and, if we assume that the company pays 7 per cent to such investors or debenture holders, it means it has had to pay $11.66 in interest for that money for the short period of one month.

Therefore, the first loss I mentioned would amount to $8.47, but to that figure must be added the $11.66, being interest on the debenture. In addition, administrative costs incurred by the company in its establishment and in its conduct of its business must be added. From this it can be well understood why hire-purchase companies are very concerned with this measure as it stands at the present time.

Taking the same amount of $2,000 repaid within two months, rebate of interest, as against $140 originally charged, would be $98.72, giving the company interest earned on the transaction in two months of $41.28. That would show a small profit (after the stamp duty of $30 had been paid) of $11.28. However, by that time interest costs paid to debenture holders would have doubled because the money was borrowed for two months and interest would therefore increase to $23.33. It can be seen again that the company would incur a loss, a loss further increased by administration costs that must be added.

Surely, bearing in mind the comments of the honourable members I have mentioned and the examples I have quoted, it must be agreed that is an unsatisfactory state of affairs. If the position remains as it is one effect will be that it will tend to stifle the consumer credit industry, and that is a serious matter. If hire-purchase companies can let their money out, or trade with it in some way for profit as compared with this method, they will naturally channel money elsewhere. If that is done, it will affect demand for items in retail stores, such as washing machines, refrigerators and motor cars.

We must look carefully at any legislation that will further adversely affect the sale of the items mentioned, particularly motor cars. If that does not happen, and there is no stifling, the only answer would be that the finance companies would have to increase their rates. Whom will that affect? It will hit the little people, those of moderate means who borrow from finance companies in order to purchase the items I have referred to. Nobody wants to see hire-purchase interest rates increase, but that may well be the only alternative.

It has been suggested as an answer to the problem that a rebate be made to those companies either by the stamp duty office or by the Government in instances where early repayment of a loan is made. I do not know whether

the Government would consider such action; I doubt it, because it has committed itself with its present policy and it simply must obtain revenue from somewhere. I shall listen with interest to the Minister's reply in this debate.

The Hon. A. J. Shard: Does the honourable member want an answer to the same question as was previously asked?

The Hon. C. M. HILL: Yes. However, on the assumption that the Government is not in a position to decrease the estimate of the amount it expects to obtain from this legislation, or is not prepared or is unable to decrease the amount of revenue from this measure, I put forward the suggestion that the formula which the companies work on under the Hire-Purchase Agreements Act may be altered in such a way that in the event of early repayments a company may be permitted to make a further charge against a borrower who has repaid. That further charge would, in effect, be an off-set against the amount of stamp duty that the company had to pay when the transaction was first entered into.

The Hon. R. A. Geddes: That would not encourage early repayment.

The Hon. C. M. HILL: I know that.

The Hon. R. C. DeGaris: Neither does the Bill itself encourage that.

The Hon. C. M. HILL: I know that the proposal I am making will not encourage people to pay off the amount quickly. I also know that the thrifty people who scrape the money together, for early repayment, the people we ought to be helping, will bear the burden under my proposal, unless the Government is prepared to hand out rebates to the companies.

The Hon. R. A. Geddes: It could afford to, couldn't it?

The Hon. C. M. HILL: It should be able to afford to, but whether it can is a big question. Rather than force the finance companies to increase their interest rates overall, those who pay off quickly will be charged more and will be paying the price of this Government's policies. I put that suggestion in a constructive way, because I do not want to see hire-purchase companies endeavouring to channel funds into other sources of investment.

We do not want to get to the stage where young people cannot buy appliances and motor cars produced by the workers of this State. I consider that the Government should consider taking some such action. I am forced to agree to the Bill because of the financial plight of the State, but I trust the points I have raised will be considered by the Government.

The Hon. Sir ARTHUR RYMILL secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL.

In Committee.

(Continued from October 19. Page 2386.)

Clause 6—"Power of Governor to make regulations."

The Hon. Sir ARTHUR RYMILL: I move:

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

If this amendment is carried I shall then move to insert after paragraph (*a*4):

(*b*) by inserting at the end thereof the following subsections (the previous portion of the section as amended by this section being designated as subsection (1) thereof):—

(2) Every regulation made under paragraphs (*a*), (*a*1) and (*a*2) of subsection (1) of this section shall be—

(*a*) published in the *Gazette*; and

(*b*) laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next session of Parliament.

(3) If no notice of a motion to disallow any such regulation is given in either House of Parliament within fourteen sitting days after the regulation was laid before that House of Parliament, the regulation shall take effect on the day following the fourteenth sitting day after it was so laid before that House or the fourteenth sitting day after it was laid before the other House, whichever occurs later, but if any notice of motion to disallow the regulation has been so given in either House or both Houses of Parliament, the regulation shall come into effect only if and when that motion or those motions is or are negatived.

I apologize to honourable members for the lateness in getting my amendment on to their files. I did my best to get it on earlier, but it needed careful draftsmanship and I considered it proper to submit it to one of the official draftsmen. He has done his best in the limited time at his disposal to get it through as quickly as possible. We also had to get the amendment roneoed.

If I may help honourable members in those circumstances, and as I said during the second reading debate, if the amendment is carried any regulation made under the first three paragraphs of clause 6 will have to lay on the table for 14 days before coming into effect. As honourable members know, under the general law of the State a regulation comes into effect immediately it is promulgated, but it is subject to disallowance.

In this case, we have an instance where the egg, perforce, must be scrambled and then be unscramblable. If the regulation comes into force immediately, every council affected will have to alter its accounting system immediately and, by the time the regulation can be disallowed, which at the earliest would involve quite a lapse of time, the councils concerned would have to alter their systems. If the councils then wanted to revert, they would have a tremendous job getting back to where they started.

I think the sensible thing to do is to give councils, by law, an opportunity of making representations about the effect of regulations and to give the two Houses of Parliament the opportunity of considering the effect of those regulations. I emphasize the words "by law", because yesterday the Minister said he was prepared to give certain assurances in the matter. As a personal matter, I would certainly accept the Minister's assurance without question. However, the Minister may not be in office later when the regulations are promulgated, or his hands may be tied by someone else.

We are dealing with the law of the land, and it is all very well for people to give assurances, although I have said that I would accept such assurances. If the person giving them was in a positon to fulfil them, I have no doubt that he would do that. However, he may not be in that position, and I think the only thing to do is to write the provision into the law. I am subject to correction, but I think the amendment fulfils what the Minister himself has said he would do. This amendment could delay the matter longer than would be the case if the Minister had his way. However, in my view, this is the only legal way of doing it, and that is why I submit the amendment and recommend it to the Committee.

The Hon. F. J. POTTER: I rise on a point of order. I think there is on members' files an amendment dealing with an earlier matter in this clause. I refer to the amendment in connection with receipts, which I think the Minister said he was prepared to accept.

The Hon. R. C. DeGARIS: This is a rather interesting position. I am quite in favour of the Hon. Mr. Hill's amendment but I think we should deal with the Hon. Sir Arthur Rymill's amendment first. If the Hon. Sir Arthur's amendment is carried, there will be no need to deal with the Hon. Mr. Hill's amendment. Therefore, I think we should continue with the Hon. Sir Arthur Rymill's amendment and, depending on the result, the Bill could be recommitted to deal with the Hon. Mr. Hill's amendment.

The Hon. Sir ARTHUR RYMILL: Although this is only a technical matter, in point of lines I think my amendment has priority.

The Hon. S. C. BEVAN (Minister of Local Government): I totally oppose the amendment, which could mean that any regulation in the future might never be given effect to.

The Hon. Sir Arthur Rymill: That is correct.

The Hon. S. C. BEVAN: Then I suggest that, if honourable members support the amendment, they should delete the whole clause. There has been much controversy over this Bill over the last six weeks. Yesterday afternoon, I met a deputation from the Municipal Association and the Municipal Officers Association. When I reported progress yesterday, a note was sent to me from this organization as follows:

Our deputation is satisfied with the interview with you today, if your assurance about consultations *re* approved regulations before introduction of regulations is announced in the House and incorporated in *Hansard*. If this is done, the deputation will notify other M.L.C.'s accordingly.

This means that the opposition of people who had been opposed to this clause and who had been running back and forth over the last six weeks was removed. I will not be put in between a power group on one side and the Opposition in this Chamber. If they cannot agree, we shall see what the Opposition will do. I shall not lend myself to these tactics, by this organization or by any other. The purport of this amendment is to defeat the clause altogether. I gave an assurance about writing a date of operation into these regulations when proclaimed, and last night I was told that one member of this Chamber had informed the members of the deputation that this could not be done. If the honourable member was sincere in saying that, he should have checked whether it could be done. If he knew otherwise when he informed these people, it was a deliberate lie. In no circumstances can I or the Government accept the amendment.

The Hon. Sir Arthur Rymill: To which honourable member are you referring? You are looking at me.

The Hon. S. C. BEVAN: The honourable member knows perfectly well. I was not looking at him. I know perfectly well that I cannot defeat this amendment, but if it is carried I shall ask that the clause be deleted. If that is not done here, it will be done somewhere else.

The CHAIRMAN: It will not be necessary for the Minister to move for the deletion of the clause if he votes against it.

The Hon. S. C. BEVAN: I will ask leave to move that the clause be deleted.

The Hon. Sir Arthur Rymill: You do not have to.

The Hon. S. C. BEVAN: I know it can be voted against, but this is not by any means the last say. Honourable members know that all this clause seeks is to put into the Act power to make regulations for specific things: it is not a matter of making regulations. This amendment is absolutely contrary to provisions relating to regulation-making powers.

The Hon. Sir Arthur Rymill: No, it is not.

The Hon. F. J. Potter: We did it in the legislation relating to electricians last session.

The Hon. S. C. BEVAN: No, that was nothing like this.

The Hon. Sir Arthur Rymill: And your Government agreed to it, what is more.

The Hon. S. C. BEVAN: This is contrary to the principle regarding regulation-making powers adopted in this State. I understood that Sir Arthur Rymill said that this was the intention. If that is so, why not vote against the clause? I appeal to honourable members to be reasonable. The clause flows from the investigation of the accounting committee.

The Hon. R. C. DeGaris: It was rejected by the Local Government Officers Association.

The Hon. S. C. BEVAN: It was not.

The Hon. R. C. DeGaris: The first one was.

The Hon. Sir Lyell McEwin: I think the Minister may have been a bit hasty about this.

The Hon. S. C. BEVAN: This is not the main reason for opposition in this Chamber. The principal reason given by the Municipal Association for its rejection was that I had not consulted it, and honourable members know that.

The Hon. Sir Norman Jude: No.

The Hon. S. C. BEVAN: I say "Yes".

The Hon. Sir Norman Jude: I say I have never seen any of them. Don't try to tell me what I know.

The Hon. S. C. BEVAN: These people came to me on a deputation.

The Hon. Sir Norman Jude: All right, but they did not see me about it. Don't put words into my mouth. I may know more about this than you do.

The Hon. S. C. BEVAN: Sir Norman Jude said "No" to my statement, but I can say "Yes"—that one of the principal objections of that body to the Bill was that I did not consult it. This body told me that at a deputation, in front of others.

The Hon. C. M. Hill: I would think that was a reasonable objection anyway.

The Hon. S. C. BEVAN: Is that what is wrong with the Bill—that I did not consult a body outside Parliament and ascertain its wishes on the Bill and that therefore it must be defeated? Are outside bodies to govern this State, which is what members are intimating?

The Hon. Sir Norman Jude: Local government has a pretty fair say, and don't you forget it. You say you have put your faith in it.

The Hon. S. C. BEVAN: I have had much to do with local government for many years, and particularly in the last 18 months. Local government in this State is much closer to the people than Parliament is, but as Minister I have a duty to the Government, to Parliament and to the ratepayers, and I do not forget it. I hope that the Committee will not continue with this amendment. However, if it is carried, I shall seek leave to move the amendment that I have intimated, and the Committee can vote on that.

The Hon. L. R. Hart: Why don't you move your amendment now?

The Hon. S. C. BEVAN: I can't, because the amendment that I am talking about is now before the Committee and I cannot move another amendment while that amendment is still being considered. The honourable member should know that. I am pointing out my objections to it. I hope it will not be persisted with.

The Hon. R. C. DeGARIS: I seem to have incurred the wrath of the Minister of Local Government by something I said yesterday. The Minister accused me of probably being deliberate in telling a lie to certain members in the Chamber yesterday. I may have been wrong, but I can assure the Minister that in no way was it a deliberate misdemeanour. The Minister in reply said something similar, but I do not think anybody here would accuse him of being deliberately untruthful. He said, "It has never happened before in the history of South Australia" that a regulation lay on the table of the Council for 14 days before it had any power. But it happened last year in connection with the electrical workers' legislation. I do the Minister the courtesy of not accusing him of deliberate lying. There is nothing in this legislation before us that

forces the Minister to make these regulations and circulate them for the approval of everybody before they become operative. We have had assurances from the Minister time and time again—"Let this go through and we will fix it up in another place", an assurance that he will do something about it. It would be wrong for us to accept such an assurance. We can accept the assurance of the Minister on a personal basis, of course, but we are here to see that legislation leaves this Chamber as we want it to, and we cannot accept assurances from members of this Government or of any other Government in South Australia.

If we accept assurances like this, why have a Parliament at all? It is not the answer. It is up to us to see that any legislation leaving this Chamber is as we want it to be after the consideration and deliberation of honourable members here. I know that in clause 6 there are certain things that I do not like in regard to the regulation-making powers. It is obvious that regulations could be introduced making changes in the whole system of accountancy and finance methods and making their use by councils and their officers compulsory. That could happen before Parliament could see or do anything about the regulations. The Minister has given some assurance, but surely we cannot accept it when the Bill is before us. We should include in it what we want. Therefore, I support the amendment as moved by the Hon. Sir Arthur Rymill.

The Hon. C. M. HILL: The Minister became very upset about this matter a moment or two ago. In all fairness, I have to pursue the point a little further, because he stated that it was submitted to him that the main reason why people in local government were objecting to this measure was that they had not been consulted.

That is not all the story on that, and it is only fair that another aspect should be mentioned. Some of these people were given the impression (that is a fair way to put it) previously that they were to be consulted. That point must be introduced when local government is being told, "Why should I consult you, in the first place?" Local government people were given the impression that they were to be consulted. That point is relevant.

The Hon. Sir ARTHUR RYMILL: I should like to say (because there have been certain implications and inferences in the Ministerial statement) that no-one has approached me on this, other than that I have received a letter from the Mayor of Glenelg similar to the one the Hon. Mr. Hill read yesterday. That is the only approach I have had. I have not had talks with anybody at all. I have moved this amendment because I think, in view of the discussions and the preparedness of the Minister to give certain assurances, that this is the way to write those assurances into the Bill. I should like to refer to the Minister's remarks about taking out clause 6 altogether.

I urge the Committee not to fall for that one: it is tactics on the Minister's part. I am assuming for the moment that the Committee will agree to my amendment. It may not, in which case it does not matter; but, assuming it does agree to my amendment, the position will be that, if the Committee then allows the Minister to take out clause 6 altogether, he will see that the clause is reinserted in another place; it will then come back to us and we, if we think fit, will go into a conference, not on the Bill as amended in the way we think it ought to be (assuming that that is the wish of the Committee) but on the Bill itself as presented to us, which is an entirely different thing. If honourable members want this amendment, let them put it in and stick to it and not allow the Minister to use this as tactics by taking out the clause altogether.

I think there is much merit in the clause. That is why I am not voting against it, but I do not think that Parliament should yield up its rights to any Ministry in the making of regulations so that they come into effect and Parliament will be powerless to alter them because they will come into effect and have to be acted upon immediately, since accountancy is a day-to-day matter and, if methods are prescribed, councils have to adopt them. We can have all the assurances in the world, but people may not be in a position to carry them out.

We are making law, we are not giving assurances in this Chamber. If the Committee agrees to this amendment (which, after all, is very much in line with what the Minister himself has said) I urge the Committee to insert the amendment and stick to it, because I think the Bill would be very much better with clause 6 standing with this amendment than if we took clause 6 out altogether.

The Hon. F. J. POTTER: I, too, feel that clause 6 is important. I think it is most necessary, and obviously when these regulations are introduced they will be particularly valuable in more ways than one as far as local government administration in the State is concerned. It is also obvious that, if they are

to be used in a realistic way, their implementation will probably be costly to certain individual councils, if not to all councils. I am not condemning them for that reason; I think any process of real change, particularly in administrative accounting matters, is naturally costly and I think that clause 6 may well be one of the best clauses to go into the Local Government Act.

The Minister said that he has given assurances that, as I understood him to say, any regulations he causes to be made under the Act will not come into operation immediately because he will include as part of the regulations a clause that they are only to come into operation after a fixed day. This has been done occasionally; it was done recently in connection with milk bottle regulations. It was interesting that in that case Parliament disallowed the regulations only three or four days before they were due to come into operation. We may well get into such a position in this instance. If the Minister has given such an assurance, why did he do so? For the very purpose to enable local government to examine the regulations and perhaps protest to him about some of the provisions. What is the difference between that being done and the amendment suggested by Sir Arthur Rymill? The result would be the same, and I find it difficult to understand why the Minister is so hot under the collar about the amendment. I believe that the amendment would be a better method of achieving what is desired.

The Hon. S. C. BEVAN: I ask honourable members to examine closely the amendment suggested by the Hon. Sir Arthur Rymill and then to vote against it. When the honourable member said that nobody could quote him, I thought I made it plain that I was not quoting him when he asked me, "Who is the member referred to?" He went on to say that I was looking directly at him. If so, I must have suddenly become cross-eyed because I was certainly not looking at the Hon. Sir Arthur Rymill. The member concerned was well aware of whom I was speaking because he got up soon afterwards and made a statement. I repeat what I said yesterday in this Chamber and what I have told the people who visited here yesterday that this could not be done.

The Hon. R. C. DeGaris: The Minister and I would both be in the same boat after the statement he has made.

The Hon. S. C. BEVAN: I was not playing tactics, as Sir Arthur Rymill said I was. When I made that statement I had no intention of attempting to get the clause put back again in another place. As far as I am concerned, clause 6 will have to go out altogether if it is eliminated here. The honourable member said it is tactics; but perhaps it is tactics on his part to defeat the whole of the Bill. When the honourable member asks that this amendment be carried he does so well knowing that if this amendment is carried it will have the effect of defeating the whole of the Bill.

The Hon. Sir Arthur Rymill: Oh, no!

The Hon. S. C. BEVAN: His words were, "We should stick to it." If the other place stuck to its idea, as perhaps has been anticipated, then that would be a good enough excuse and achieve the purpose of defeating the whole of the Bill. If that is the idea of the honourable member, why not throw the Bill out now?

The Hon. Sir Arthur Rymill: That was not what I meant at all when I said we should stick to it; I meant in this Chamber as it goes to another place. We are always reasonable, you know.

The Hon. S. C. BEVAN: I repeat I would still do it; I would seek leave to take clause 6 out altogether, and leave it out.

The Hon. Sir Arthur Rymill: But why?

The Hon. S. C. BEVAN: We may as well have that, as this; it destroys the Bill.

The Hon. R. A. Geddes: How does it destroy it?

The Hon. S. C. BEVAN: Where does the fear come into this? What is wrong with the accounting procedures being introduced to district councils and local government as from July 1 each year, which is the commencement of the financial year? It could not be done in the middle of the financial year because it would be necessary to wait.

The Hon. R. C. DeGaris: That is when you have to do it.

The Hon. S. C. BEVAN: I do not want to tell the honourable member what I think of that. His interjection was stupid. I repeat that alterations could not be made in the middle of the year, and it would be necessary to wait for the end of a financial year before making changes. That would be on July 1 each year. This is going to finish the matter as far as clause 6 is concerned if the amendment is carried. It is in the hands of this Chamber, and if it is carried I will immediately seek leave to delete clause 6 from the Bill and, as far as I am concerned, it will stay out.

The Hon. Sir NORMAN JUDE: I do not know whether the Minister appreciates the point or not, but all regulations made by local government do not come into effect until they have been on the table for 14 days and have undergone the scrutiny of the Parliamentary Committee on Subordinate Legislation. However, under this Bill it is a case of the Government making regulations for local government, which is not quite the same as local government regulations brought forward through Executive Council. If the Minister is to be consistent, why cannot he apply his own regulations that he might find desirable and accept the same terms he applies to local government itself?

The Hon. S. C. BEVAN: It is laid before the Council and if Parliament is not in session it is in operation. If the honourable member is correct then we do not want any of this at all.

The Hon. Sir NORMAN JUDE: The Minister is wrong; any regulation sent to the Subordinate Legislation Committee is not in operation.

The Hon. S. C. Bevan: Is the honourable member speaking of by-laws or regulations? I know who is wrong. I thought the Hon. Sir Norman had had sufficient experience as a Minister to enable him to know the difference between a regulation and a by-law. I was referring to a regulation. The honourable member knows the system that operates in this Parliament. I point out that a by-law is a different matter altogether.

The Hon. Sir Norman Jude: Fair enough, but they come to almost the same thing.

The Hon. C. D. ROWE: A week ago today I was in Disneyland, and I am reminded of that now. Of course, I have not heard the debate, but I hope I understand the position correctly. I also hope that other honourable members understand it correctly. These regulations will have a far-reaching effect on the majority of councils and will deal with the manner in which the councils keep and present accounts.

The regulations would need to be perused by all interested parties for a considerable time before they were given the force of law. These particular regulations involve putting in a new scheme and could result in councils having to purchase machines and employ additional staff. That could involve much money and it is essential to ensure that people know that regulations will remain in force for a long time. It is not desirable to have a position where regulations are promulgated, say, at the end of March, become effective on July 1, and then be disallowed in September or October.

I think the logical thing to do is to accept Sir Arthur Rymill's amendment. I do not think it contains anything different from the Minister's promise to the people concerned to consult them regarding the content and form of regulations before they are proclaimed. In other words, the Minister has told these people that he will let them know the legal position before regulations come into effect. As the Hon. Sir Arthur has said, Parliament is supreme. The result will be the same: all we are arguing about is how we achieve that result, and, with respect to the Minister, I agree with the Hon. Sir Arthur.

The Hon. S. C. BEVAN: I gave an assurance to local government that it would have ample opportunity of studying draft regulations before they were submitted to Cabinet or Executive Council and before they were placed before Parliament. I also said that anybody or everybody could object to the regulations, as they desired. As the Hon. Mr. Rowe has said, a regulation may be promulgated in March or in May and may take effect as from July 1. However, this would be contrary to assurances which I have given and which appear in *Hansard*. I should not like to be accused of not having carried out an assurance.

The Hon. C. D. Rowe: I was not questioning the Minister's sincerity at all.

The Hon. S. C. BEVAN: I appreciate that and I hope the honourable member does not think any of my remarks suggested that he was. The Hon. Mr. Rowe has not yet had an opportunity to make himself conversant with what has gone in the debate. I repeat that the deputation from the industry was satisfied, as I was informed yesterday afternoon.

The Hon. C. D. Rowe: What is the objection to writing your assurance into the Bill?

The Hon. S. C. BEVAN: My assurance is nothing like the amendment. The amendment means that any honourable member can move at any time he thinks fit for disallowance of a regulation. One honourable member may say two or three words about a regulation on one day and another honourable member may then move the adjournment of the debate. In such circumstances, the debate could go on for three or four weeks.

The Hon. F. J. Potter: That is always there, isn't it?

The Hon. A. F. Kneebone: If it is, why write it into this Bill?

The Hon. S. C. BEVAN: Section 38 (*c*) deals with regulations and by-laws and provides for them to come into effect from the date of publication or from a later date fixed by the order making such regulation. A regulation could be delayed for 12 months. It is no good honourable members saying that the industry is up in arms about this clause, because honourable members have been informed in the same way as I was informed late yesterday afternoon. Information was given to me during the debate and one of the reasons why I sought leave to report progress was so that the views of those concerned could be made known to honourable members. I reported progress instead of putting the clause to the vote yesterday, as I had felt inclined to do.

I have answered the matters raised by honourable members and have pointed out that it is intended to fix such dates as will give everyone ample opportunity of examining the intent and of protesting to the Subordinate Legislation Committee. Honourable members will have the opportunity to move for disallowance. If the amendment is carried, it will nullify the clause.

The Hon. M. B. DAWKINS: I indicated earlier that, like the Hon. Mr. Story, I thought this clause should be removed from the Bill at this stage. I did not think that there should not be a clause similar to this clause but I thought that it was premature at present because the accounting committee was still looking at these matters. This amendment to my mind inserts the Minister's assurances into the legislation, although the Minister does not see it that way. I support Sir Arthur Rymill's amendment, as it will to some extent remove my objections to the clause as it now stands.

Amendment carried.

The Hon. C. M. HILL: I move:

In paragraphs (*a*3) and (*a*4) to strike out "receipts" and insert "revenue".

It seems that the accounting committee has agreed to this principle.

The Hon. S. C. BEVAN: I accept the amendment.

Amendment carried.

The Hon. Sir ARTHUR RYMILL: I move to insert the following new paragraph:

(*b*) by inserting at the end thereof the following subsections (the previous portion of the section as amended by this section being designated as subsection (1) thereof):—

(2) Every regulation made under paragraphs (*a*), (*a*1) and (*a*2) of subsection (1) of this section shall be—

(*a*) published in the *Gazette*; and

(*b*) laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then in session, and if not, then within fourteen days after the commencement of the next session of Parliament.

(3) If no notice of a motion to disallow any such regulation is given in either House of Parliament within fourteen sitting days after the regulation was laid before that House of Parliament, the regulation shall take effect on the day following the fourteenth sitting day after it was so laid before that House or the fourteenth sitting day after it was laid before the other House, whichever occurs later, but if any notice of motion to disallow the regulation has been so given in either House or both Houses of Parliament, the regulation shall come into effect only if and when that motion or those motions is or are negatived.

This has been debated fully, and I take it that the previous vote was a test vote. Honourable members will notice that the amendment applies only to paragraphs (*a*) (*a*1), and (*a*2). I have deliberately omitted paragraphs (*a*3) and (*a*4), which apply to budgets, because I think this clause is not necessary in relation to them.

The Hon. C. M. HILL: I wonder whether the mover will consider including paragraph (*a*3). It was brought to my notice by the Town Clerk of Adelaide, who until 12 months ago was a senior officer in the Melbourne City Council, that this could be a very dangerous matter. I have a judgment on this matter in Pollard *versus* the City of Oakleigh. In general terms, this matter dealt with mischievous ratepayers who could upset the rate and cause it to be invalidated by the court in certain circumstances. The matter turned on the actual amount of information that a council could be forced under these regulations to disclose in its budget. There is no dispute with the general principle that an annual budget is a prerequisite for the fixing of a rate but, if a council is forced to put certain information into that budget (for example, some reserve fund) a reserve fund can be accumulating for the purposes of buying a park within a city. The fund may accumulate for many years, and the council is forced to declare that each year as a reserve fund.

A ratepayer can attempt to claim through the court that the park is not required, that the funds are there, that they are ratepayers' funds, that the rate in these circumstances is too high, that it should be declared invalid, and that the council can indeed declare a lower rate than the one it has. I do not know the

full details, but this appears to be the general principle. Another reserve fund may be involved, concerning long service leave, which has to be accumulated: it has to be disclosed in an annual budget of this kind. And so we can go on: even the allowance for the Lord Mayor, and so forth.

Because of this case and the judgment here, there is a danger to local government in the requirement that may be insisted upon by this accounting committee forcing councils to disclose certain things which, in the best interests of the council and of the ratepayers, should not be disclosed each year. Therefore, I should like to see paragraph (*a*3) included in this amendment.

The Hon. S. C. BEVAN: I oppose the inclusion of paragraph (*a*3) in the amendment. I feel that the Hon. Mr. Hill does not appreciate the full position about annual budgeting. According to him, the ratepayers have no right to know about the business. But whose money is it—the councils' or the ratepayers'? According to the honourable member, a somewhat capricious ratepayer can say, "You have this and you have that; therefore, you should spend it." I repeat my question: whose money is it? I agree that there are reasons for not disclosing details each year of the special or separate funds that he has mentioned.

The honourable member wants it all covered under this paragraph so that, under the amendment moved by Sir Arthur, they need not bring down a budget until this is embodied in a regulation. It would mean that for a considerable period things would have to be covered up. I object to this. Councils do not always like to disclose the true position to ratepayers, and that is why they get so much opposition from them. This provides that they shall bring down an annual budget.

The Hon. C. M. Hill: It says more than that here.

The Hon. S. C. BEVAN: If a council does not bring down an annual budget, how is it to strike a rate? A budget is needed to strike a rate; it cannot be done in any other way. I don't know where we are going. Are the councils or the town clerks objecting to this clause because they would then have to bring down a budget to the council?

The Hon. F. J. Potter: The honourable member was not objecting to the budget; he was objecting to the items required to be set out in it.

The Hon. S. C. BEVAN: Don't you want those very things disclosed in a budget or are you asking to have something written in so that the true position will not be disclosed to the ratepayers? These things are creating much dissension in local government today. If they continue, it will shake the faith of ratepayers in local government and, once that happens, local government is out. If this amendment is accepted and written into the regulations, that will happen.

The Hon. Sir ARTHUR RYMILL: I first drafted this amendment yesterday afternoon. In my original drafting I included paragraphs (*a*3) and (*a*4) as well as (*a*1) and (*a*2). However, I then felt that the amendment went further than was necessary for my purposes, so I deleted (*a*3) and (*a*4). I have had some experience of local government, as the Hon. Mr. Hill has, because I was a member of the Adelaide City Council for a while and at one stage was also Chairman of the Finance Committee, so I know that the Adelaide City Council adopts precisely what is mentioned in paragraphs (*a*3) and (*a*4): it has an annual budget, quarterly statements of expenditure, and so on. What the Hon. Mr. Hill is objecting to is not that: it is the manner in which and the extent to which the items are set out.

The Hon. F. J. Potter: The form of the budget.

The Hon. Sir ARTHUR RYMILL: Yes. I should not have thought it mattered very much, but I must pay heed to the authority of the Hon. Mr. Hill and the other well-known and estimable person he has mentioned. I should not have thought it mattered which way these items of expenditure or revenue were laid out in the budget, but I see there is some force in the idea that it could be misleading to ratepayers if items were specified to be set out in certain ways.

My main objection to the clause was that methods could be prescribed that would involve heavy expenditure by councils. I am grateful to those honourable members who have pointed out that machines could also be involved and accounting methods could be prescribed that would be expensive. Honourable members will remember that we are talking about disallowance and nothing else at this stage. I would have thought it would not be necessary for the regulation to come into effect because Parliament would within a reasonable time have an opportunity of seeing it and the councils concerned would not be placed in the position of being committed to expenditure under this—

The Hon. F. J. Potter: There would not be any expense in this.

The Hon. Sir ARTHUR RYMILL: That is my point. No additional expense would be involved and, if Parliament thought a regulation under paragraph (a3) was not what it should be, it could disallow it. Because of that, I consider there would not be any great vice in the regulation coming into effect immediately and then being disallowed within 14 days if necessary.

The Hon. C. M. HILL: I accept the explanation given by the Hon. Sir Arthur Rymill and therefore will not press the point. First, although I thought I made myself clear to the Minister, apparently I did not do so. I am not objecting to the production of budgets in the general sense. Apparently, he thought I was. What surprises me is that the Minister, from his last comment, is not showing particularly high regard for some sections of local government. I am referring now to the efficient and dedicated officers running the larger metropolitan councils.

Such people need protection just as much as ratepayers, and if they do not get decent protection from their Minister, from whom will they get it? From his comments a moment ago, such people are the last to whom the Minister would give any consideration.

I want to press this point a little further and ask the Minister to bear in mind that some municipalities need protection. It is cheap to say, "Why can't they disclose everything? This is what should be done." We know this is the general principle but, as I said, municipalities are of vastly different proportions and sizes in South Australia and I am speaking of the larger councils, and I make no apology for bringing them into the debate.

The problem of municipalities and mischievous ratepayers goes back 100 years and I would like to read a paragraph from the judgment I mentioned dealing with a case in Victoria. Their Honours were referring to a case in 1865 on this point. It dealt not only with reserves but with estimates; the need to give a council reasonable elasticity in preparing estimates, because, of course, estimates within a budget are in fact only estimates and if local government is tied down too much it is unfair. The judgment reads:

The reasons given by Their Lordships for closing the door upon captious ratepayers are certainly no less strong today than they were in 1865, and there would therefore seem good reason for demanding no more from councils in the preparation of estimates than a substantial or reasonable compliance with section 267, if the view be correct as we think it is that a sufficient estimate under the sections is a condition precedent to making a valid rate. After all to invalidate a rate is a serious matter, involving serious consequences to councils, to ratepayers and to others such as those from whom they have borrowed moneys. If a rate is to be upset for trivial reasons, because of minor inaccuracies or insufficiencies in what after all is only an estimate, local government would frequently be seriously hampered by officious or disgruntled ratepayers with no corresponding benefit to anybody.

Therefore, there is more to it than just thinking of the ratepayer where there is the case of a cash book being the basis of accounting as was intended here, where receipts only were mentioned. It is a far bigger problem than that and I expect the Minister to look at the matter in the same proportion.

The Committee divided on the amendment:

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

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

Majority of 9 for the Ayes.

Amendment thus carried; clause as amended passed.

Title passed.

Bill recommitted.

Clause 6—"Power of Governor to make regulations"—reconsidered.

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

To strike out clause 6.

I have already stated the facts and I think honourable members know them. We have had a lengthy debate on the clause, which I think is not now effective and should be deleted. Perhaps the deletion of the clause will meet the desires of those honourable members who have said that it is premature. Let us see how sincere those honourable members were when they made those statements. Let us get the report of the committee before we provide any regulation-making powers. It will not be long before we get the report and we shall then see what is the answer regarding regulations. The aspect may be completely different when we see what the committee has found. I am giving to honourable members the opportunity to do what they have said ought to be done.

The Hon. Sir ARTHUR RYMILL: There is no question of sincerity arising. Certain honourable members have expressed their views on

the Bill and I have successfully moved an amendment that extracts the vice from the clause. In my opinion, and in the opinion of other honourable members, there is much value in this clause as long as it is properly applied. We, as members of a House of Parliament, have taken up our right to supervise the proper application of this clause regarding regulation-making powers. I consider that the clause ought to stand. I am surprised that the Minister should have said that the clause is now valueless.

The Hon. S. C. Bevan: So it is.

The Hon. Sir ARTHUR RYMILL: I cannot understand the Minister's attitude, because his clause is intact. The only difference is that a regulation, instead of coming into force immediately, has to lay on the table for 14 sitting days. I urge honourable members to retain their attitude to the clause and allow the clause, as amended, to stand.

The Hon. S. C. BEVAN: I consider that, because of this amendment, I have been relieved of the assurances that I have given. I do not now have to do anything at all regarding these regulations. I ask honourable members not to forget that I do not have to submit to anybody a regulation brought down in the amended form.

The Hon. F. J. Potter: You don't have to, but you could.

The Hon. S. C. BEVAN: No, the honourable member is not getting it both ways. This amendment will have the very effect that honourable members desire to avoid. It will have the effect to which the Hon. Mr. Rowe has referred, that a regulation may be promulgated in March and come into operation on July 1. If a regulation is not objected to during the 14 sitting days it is before the Council, it is adopted and becomes operative.

We were attempting to avoid that position. The clause should come out so that we can consider the committee's report. Honourable members have been anxious to see the report, but now they are not so anxious. If they were anxious, they should support my amendment to delete the clause.

The Hon. F. J. Potter: You can wait until the committee makes its report.

The Hon. S. C. BEVAN: Earlier I said that, if the amendment were carried, I would move for the deletion of the clause and that, if I were unsuccessful, the clause would come out in another place. That is my intention, and that shows how sincere I am.

The CHAIRMAN: I do not think the Minister should make threats.

The Hon. A. J. Shard: One or two others have been made during this debate.

The Hon. S. C. BEVAN: I bow to your suggestion, Mr. Chairman, but, as it was suggested that I was not sincere, I wanted to make this point clear. We should wait until the committee's report has been studied by members and see what they think then.

The Hon. Sir ARTHUR RYMILL: I said before that I was surprised at the Minister's attitude but now I am extremely surprised. Yesterday, the Minister gave an assurance that he would do certain things: there were no "ifs" or "buts". Because an amendment has been made to the clause, he now says that this relieves him from carrying out those assurances.

The Hon. S. C. Bevan: You would not accept them.

The Hon. Sir ARTHUR RYMILL: This shows the value of assurances.

The Hon. S. C. Bevan: You rejected the assurances when you carried the amendment.

The Hon. Sir ARTHUR RYMILL: We did not. This shows the Minister's point of view, and it clearly shows the value of assurances. The Minister thinks that, because a certain thing has happened since, he is relieved of his assurances. I do not think so, but he does. That shows the value of assurances, which is the point I was making.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): The reason why this amendment was moved was that members opposite said, "We accept the Minister's assurance, but he may not be there, so this must be put in to cover the assurance so that we will be sure that it will be carried out."

The Hon. Sir Norman Jude: It is the Minister who has withdrawn the assurances.

The Hon. A. F. KNEEBONE: It was said that the amendment was moved because the assurances could not be accepted.

The Hon. S. C. BEVAN: I gave assurances, which I said would be inserted in *Hansard*, on what would be done if clause 6 was carried. Sir Arthur Rymill rejected the assurances and he said so in relation to the amendment As the Minister of Labour and Industry said, Sir Arthur said that he would accept the assurances today but that I might not be the Minister later. So, the assurances I gave were rejected by members. Sir Arthur is not having 20c each way, either: he rejected the assurances, and so did every other member opposite. Therefore, there are no assurances, and I am not bound to do anything in relation to them.

The Hon. C. D. Rowe: But you gave the assurances to somebody outside the Chamber.

Amendment negatived; clause as previously amended passed.

Bill read a third time and passed.

SUCCESSION DUTIES ACT AMENDMENT BILL.

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

The Hon. A. J. SHARD (Chief Secretary): The Bill came from another place only a short time ago, and I must apologize to honourable members for not having copies of the Bill available. I feel unable to read the second reading explanation but, so that honourable members will have it before them to study, the Minister of Labour and Industry will read it.

The Hon. A. F. Kneebone (for the Hon. A. J. SHARD): I move:

That this Bill be now read a second time.

The principal amendments contained in this Bill are fivefold. First, in accordance with the election undertaking, it raises the basic exemption for widows and for children under 21 from $9,000 to $12,000, and for widowers, ancestors and descendants from $4,000 to $6,000. Secondly, it provides an entirely new and additional exemption of up to $2,500 for insurance kept up for a widow, widower, descendant or ancestor. Thirdly, 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 $12,000 in a particular estate is entirely freed from duty, and so that larger estates receive substantial concessions in addition to the basic exemptions that are provided. Fourthly, it provides for exemptions and rebates where the matrimonial home passes to a surviving partner so that the aggregate exemption may be increased to $18,000 to a widow and $8,000 to a widower, and it allows such exemptions whether the home may have been held in joint names or wholly in the name of the deceased. I point out in connection with exemptions that the rebate will be allowed at the average rate of duty chargeable on the whole of the property taken. Fifthly, 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 $12,000 involves a duty of $450, 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 $46,500, and beyond that figure will be higher than at present. The new provisions mean that a widow succeeding to a primary producing property with a net value of $24,000 will pay no duty, whereas at present she would pay $1,575 and she will pay less than at present if succeeding to primary producing property with a net value below about $54,000. A son succeeding to primary producing property with a net value of $18,000 will, under the new proposals, pay no duty instead of $1,225 at present, and he will pay less than at present if succeeding to primary producing property with a net value below about $39,000. The effective additional rebate which will be available to a widow succeeding to primary producing property as compared with the standard rebate available to widows generally will vary from $1,850, if the succession is worth $24,000 and includes at least $12,000 of primary producing property, up to $3,300 if the succession is worth $220,000 or more.

In comparison with these proposals the present provisions give a special rebate of $337.50 to a widow succeeding to $24,000 of which $12,000 is primary producing land. The proposed special rebates to widows in respect of primary producing property remain more favourable than those provided at present up to successions of about $58,000 of such property. 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 the Bill relating to rebates in respect of insurances kept up by the deceased for the beneficiary. In point of fact, the new provisions will mean that a widow succeeding to property including the matrimonial home and an insurance policy kept up for her by her husband could be entirely free of tax up to an aggregate succession of $20,500. At the same time, a widow or child under 21 could succeed to primary producing property together with insurances kept up by the deceased aggregating $26,500 without tax.

For the year 1965-1966 the succession duties raised in this State amounted to $6,134,000, or about $5.77 a head of population. For the other States the comparable revenues a head were: New South Wales about $9.45, Victoria about $9.87, Queensland about $6.39, Western Australia about $4.83 and Tasmania about $5.39. The five other States together raised about $8.59 a head, or nearly 50 per cent more than South Australia at $5.77. This arose partly 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 1963-1964, the latest published, shows the percentages of State probate or succession duties allowed as deductions for Commonwealth duty purposes according to size of estates. I ask leave for this table to be incorporated in *Hansard* without my reading it.

Leave granted.

ESTATE DUTY.

	South Australia. Per cent.	All other States. Per cent.
$20,000 and under $30,000	7.6	7.2
$30,000 and under $40,000	8.1	8.5
$40,000 and under $50,000	9.8	9.6
$50,000 and under $60,000	10.3	10.4
$60,000 and under $80,000	10.9	11.8
$80,000 and under $100,000	10.9	13.9
$100,000 and under $120,000	9.9	15.9
$120,000 and under $140,000	13.5	18.0
$140,000 and under $200,000	13.6	21.3
$200,000 and over	18.4	23.9

The Hon. A. F. KNEEBONE: The table shows that on estates up to $60,000 the present South Australian rates are broadly comparable with the average in the other States, but on estates of greater value than $60,000 they bear much less heavily than those of other States. The rates and provisions now proposed will narrow those differences.

Owing to 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 1966-1967. It will possibly be less than 4 per cent of the present yield, or about $250,000. For a full year, however, it is hoped that the net revenue will be of the order of a 15 per cent increase, or something like $1,000,000. Even so, the yield a head would still be below $6.75, whereas the other States combined last year raised $8.59 a head, approximately.

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 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 which 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 (1a) of section 8 (inserted by clause 8 (*d*)) will give extra-territorial application to all property mentioned in that section. At present the principal Act applies extraterritorially 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 subsection (2) of section 8. 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 section 11 (2), 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 of 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 trusts. 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 seems 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 effect of the repealed sections is 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, and 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 consequentially 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 died 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 $10,000 to $20,000. New section 55b (4) (inserted by clause 26 (*d*)) enables this remission of duty (namely, the exemption of $20,000) to be granted in the case of a person dying on active service in any such area if the death occurs 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). Clause 29 of the Bill repeals the whole of Part IVB of the principal Act (which deals with rebates in respect of land used for primary production) and substitutes a new part which covers all rebates to widows, widowers, ancestors and descendants. The new part consists of 10 sections (55e to 55n inclusive). New section 55e re-enacts existing section 55e in substance (except that land used for forestry is now included as land used for primary production and not, as before, excluded, and the period for which land must have been used for primary production is reduced to three years). New section 55f provides for rebates to be calculated at the average rate of duty applicable to the value of any succession. New sections 55g to 55j provide for the amounts of the rebates. In all cases a rebate for insurance kept up for a widow, widower, ancestor or descendant, to an amount of $2,500 is provided for.

In addition, there are rebates in respect of matrimonial homes. The effect will be to enable a widow to succeed to an interest in a dwellinghouse valued at up to $9,000 together with other property of the value of up to $9,000 without payment of any duty. In these circumstances she would have a clear exemption of up to $18,000, so that she will continue to receive as extensive an exemption as is now received when a jointly owned house is treated separately from a testamentary disposition. Likewise a widower will be able to succeed to a dwellinghouse valued at up to $4,000 together with other property to the value of $4,000 without paying duty. The rebate will apply to direct testamentary dispositions and tenancies in common as well as joint tenancies; at present the provision for a succession is available only in the case of joint tenancies. The rebates in excess of the basic amounts will be reduced as the total amount left to the widow or widower increases beyond $40,000 in the case of a widow and $20,000 in the case of a widower.

In the case of land used for primary production, additional rebates upon amounts up to $12,000 will be allowed to widows, widowers, descendants and ancestors. A widow or child under 21 will be entitled to a rebate of up to $12,000 in addition to the basic exemption of $12,000; and a widower, descendant over 21, or ancestor to a rebate of up to $12,000 in addition to the basic exemption of $6,000. Section 55k reproduces, with appropriate amendments, existing section 55h of the present Act which is of an administrative nature. Likewise new section 55n (1) reproduces existing section 55g. New section 55l and 55m set out the rules for determining the value of land used for primary production and dwellinghouses. They provide that the amount of any charges or encumbrances on the land are to be deducted and, in the case of rural land, for an abatement of the rebate where the beneficiary derives a portion only of the land.

Clause 30 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 possible vesting that may be possible under any will, settlement or deed of gift. This section is amended to extend its application to all property which is subject to duty and to any possible aggregation of property with any other property that a person derives from the deceased person. Clause 31 inserts a new section in the principal Act to provide for duty at the rate for a legally adopted child to be paid in the case of a child who, although not legally adopted, has in fact occupied the position of an adopted child. The matter is in the discretion of the Minister and the provision is designed to cover cases of hardship.

Clause 32 (*a*) repeals section 58 (1) which provides against double duty being payable and which is no longer necessary in view of the new scheme of section 8 (1). Clause 32 (*b*) makes a minor drafting amendment to subsection (2). Clause 33 amends section 63 of the principal Act consequentially upon the new scheme of section 8 (1) Clause 34 (*a*), (*b*) and (*c*) extend 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 34 (*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 upon the larger successions, although the basic exemptions are increased under the provisions of new Part IVB with which I have dealt.

Clause 37 also amends the provisions in the schedule providing for lower rates in connection with property passing for the purpose of the advancement of religion, science or education by limiting the provision to cases where the sole or predominant purpose is one of those mentioned. Another amendment will provide for complete exemption for gifts to any university in the State; at present the exemption is limited to the University of Adelaide and, as honourable members know, we now have another university and the amendment provides for all universities, both existing and future.

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

UNDERGROUND WATERS PRESERVATION ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

CROWN LANDS ACT AMENDMENT BILL.

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

FLINDERS UNIVERSITY OF SOUTH AUSTRALIA ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 13. Page 2275.)

The Hon. JESSIE COOPER (Central No. 2): I have pleasure in supporting this Bill. Honourable members will recall that, in terms of the Flinders University of South Australia Act passed last year, Parliament decided that eight members of the University Council were to be elected by the Senate of the University of Adelaide until such time as Convocation came into being.

This arrangement imposed on the Senate of the University of Adelaide both a duty and a privilege that have proved to be unworkable and cumbersome. The requirement that the Senate of the University of Adelaide should select these members of the Council of the Flinders University was, in its intention, nullified by the fact that the University of Adelaide had not kept a full record of its graduates.

Honourable members heard the Minister state in his explanation that the Vice-Chancellor of the University of Adelaide had brought to the notice of the Council of the Flinders University the impracticability of and considerable financial costs involved in giving effect to section 12 of the Act. In point of fact, the costs of this arrangement proved very high and had to be met by the Flinders University.

Therefore, if further elections have to be held in 1967, 1968, 1969 and 1970 (that is, until the Convocation of Flinders University comes into existence), much unnecessary expenditure is going to be incurred at a time when every dollar spent in tertiary education must be spent wisely. The Bill is quite simple and noncontroversial. I point out to honourable members that the modifications recommended in this Bill come with the blessings of the councils of both our universities.

The Hon. H. K. KEMP (Southern): I wish to speak briefly in support of this Bill. I think we have all watched the progress made at the Flinders University with great interest and appreciation of the hard work it has as its background. This Bill is designed to make that a little easier and to save the costs that were not anticipated when the requirement of election by the Adelaide University Senate was passed. On the other hand, I think that the safeguards that were in mind there are fairly adequately preserved, and they certainly can only have the blessing of this Council, as they facilitate the work.

I think we are all fairly sympathetic to the Flinders University Council for the delay that is frustrating its work. This is in no way its fault, of course, and I think it is a great pity that this has affected the out-turn of graduate students from this university. I do not think the delay will be very serious in this early stage, but it must be serious indeed in three or four years, when inevitably there must be restrictions on the intake. That is possible in any one of the faculties, and whether it would be possible to expand the medical faculty, particularly in the way we so urgently need, is, I think, problematical to everyone associated with either university.

I do not think we can do more than express our sympathy to the council for the very tight financial position that faces it not through its own fault, and wish it the best of success in its new establishment. I support the second reading.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): I do not want to delay the passage of the Bill: I merely want to say that I appreciate the way in which honourable members who have spoken on this Bill have treated it.

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

ADJOURNMENT.

At 5.43 p.m. the Council adjourned until Tuesday, October 25, at 2.15 p.m.