# LEGISLATIVE COUNCIL

Thursday, October 27, 1966.

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

## QUESTIONS

### LAKE BONNEY.

The Hon. Sir LYELL McEWIN: I ask leave to make a statement prior to asking a question of the Minister of Local Government, representing the Minister of Lands.

Leave granted.

The Hon. Sir LYELL McEWIN: During September a deputation waited on the Minister of Lands in connection with clearing the inlet to Lake Bonney. From information I have received, the inlet has been restricted because of the deposits lodged during the construction of Nappers bridge. Tenders have been received by the local council for clearing the inlet to a depth of 7ft, and the tender of about $400, provided that the work is done while the plant and equipment is in the vicinity, appears to be reasonable. I understand that the local council is anxious to have the work done. Will the Minister ask his colleague whether it is correct that the department concerned has refused the request to carry out the work and, if it is, will the Minister of Lands reconsider his decision?

The Hon. S. C. BEVAN: I will refer the matter to my colleague and obtain a report as soon as possible.

### HOUSING FINANCE.

The Hon. C. M. HILL: Has the Chief Secretary a reply to my question of October 25 concerning temporary finance?

The Hon. A. J. SHARD: Yes. The Treasurer reports:

The State Bank is expected to advance this year for privately constructed new houses out of the Home Builders' Account from new funds and recoveries approximately $12,250,000, and about $800,000 under the Advances for Homes Act out of new State loan funds and balances in hand. Of the latter amount, $200,000 will be in respect of older houses and the remainder for private purchase of Housing Trust houses mainly in country areas. As indicated when the Budget was before the House, these provisions are in excess of the provisions in earlier years, and moreover the Government provision toward housing loans in South Australia is far greater on a population basis than in other States. Funds are not available at present to extend these provisions still further. The present wait for loans from the State Bank is about 18 months.

The Savings Bank of South Australia is likewise proposing to provide for housing loans rather more in 1966-67 than in the previous year, though of necessity this will depend in some measure upon the extent of its increase in deposits during the rest of this year. The Savings Bank makes its advances in three main groups. First, it makes advances to its own depositors who have maintained significant balances over a period, and these are dealt with on a preferential basis for which the waiting period is understood at present to be about eight months. Secondly, it makes advances to others who do not qualify for the preferential basis, and for these the waiting period is understood to be about two years. Thirdly, the Savings Bank makes advances to the extent of a specified amount agreed between the Treasurer and the bank for financing nominees of the Housing Trust for purchase of homes. These are in substance loans which otherwise the bank may have made directly to the trust but which it is convenient to the trust, the Treasury and the purchasers themselves to make in this way. The Housing Trust nominees often do not have to wait after nomination as long as some applicants who go directly to the bank, but in most cases these will have had their applications with the trust for considerable periods before actually being nominated.

### MELROSE POLICE.

The Hon. G. J. GILFILLAN: I ask leave to make a statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. G. J. GILFILLAN: On June 21 the Hon. Mr. Geddes asked a question of the Chief Secretary about the manning of the Melrose police station, and on June 28 the Minister indicated that after investigation it was considered that there was sufficient coverage for the area by the police stationed at Wilmington, Booleroo Centre and Wirrabara when compared with the rest of the State. However, since that time residents of the area have suffered much inconvenience, because the Police Force is not only responsible for administering the law: much paper work and revenue collecting is done by the police officers in the district, and the fact that there is one empty police station in that area means that, if police from other towns are visiting the town, the offices there are not manned. Also, with a group of three stations such as this, the police are sometimes on leave, sometimes sick, and sometimes occupied elsewhere on their duties and, as many people attend these police stations to do the things required of them by law (obtaining licences and other matters), this has led to a wastage of time and great inconvenience for the residents of these districts.

In these circumstances, will the Chief Secretary further consider appointing an additional officer to that area, stationed at Melrose?

The Hon. A. J. SHARD: I think that in the main all the points now submitted by the honourable member were considered when the decision on this matter was taken by the Commissioner of Police. However, as there has been a lapse of some three or four months since that decision, I am prepared to discuss the matter again with the Commissioner to see whether anything can be done along the lines suggested by the honourable member.

## SEED CERTIFICATION.

The Hon. R. C. DeGARIS: On Tuesday and Thursday of last week I asked the Minister of Local Government, representing the Minister of Agriculture in this Chamber, questions concerning seed certification. Has he a reply?

The Hon. S. C. BEVAN: The Minister of Agriculture advises that a deputation from the South Australian Seed Producers Association waited on him this morning, and that he has advised the deputation that, with regard to weeds inspection, this will be the same as last year for this season. With regard to late applications for seed certification, this will be reviewed with the co-operation of the department and the South Australian Seed Producers Association.

## MIDDLETON ACCIDENT.

The Hon. Sir NORMAN JUDE: Has the Minister of Transport a reply to my question of October 11 regarding the accident at Middleton railway crossing?

The Hon. A. F. KNEEBONE: Yes. The South Australian Railways Department is deeply concerned at the incidence of level crossing accidents, not only from the point of view of injury to the road user but also because of the psychological effect on the railways staff directly involved. However, the Railways Commissioner is obliged, under the South Australian Railways Commissioner's Act, to fence specified lines and to maintain those fences in good and effective condition at all times. Legislative action would be necessary to remove this obligation, but this might not necessarily relieve the Railways Commissioner of his existing liabilities at common law.

A great many unpublicized accidents occur when a motorist loses effective control of his vehicle approaching a level crossing and crashes into the wing fence. Were the fence of less robust construction, the motor vehicle, after crashing through it, conceivably would come to rest on the railway line, thus introducing a hazard to both the motorist himself and to the train passenger. At the same time, these wing fences do act as a guide to the motorist who might wander from the road pavement.

It is apparent that the essence of the matter is the steel post which is adjacent to the railway track and to which the wing fence is attached. It is pointed out, however, that any strainer post, whatever its composition, must of necessity be strong, and I am unable to envisage any appreciable difference in the secondary damage that would ensue after the initial collision between the vehicle and the train if this post were constructed of different material. There is also the matter of obstructions at low level, such as the roadway itself and the cattle pit or grid. These themselves contribute substantially towards the injuries sustained, but for the very reason of their existence are not looked upon with such suspicion as are the posts. While not wishing to anticipate the coroner's inquiries into the recent accident at Middleton, Railways Department observations suggest that the car sustained catastrophic damage long before it reached the cattle pit.

## STANDARDIZATION SURVEY.

The Hon. Sir LYELL McEWIN: I ask leaave to make a statement prior to asking a question of the Minister of Roads.

Leave granted.

The Hon. Sir LYELL McEWIN: On October 12 the Minister gave me a reply to a question I had previously asked relating to the effect of a survey for the standard railway from Broken Hill to Port Pirie, and reference was made to certain towns. Apparently, the question was not clear and the Minister was referring to the other line, which runs to Burra. I was concerned about the effect that the survey might have on roads going through Jamestown, Gladstone, Caltowie and other towns in that area. Has the Minister the reply that he promised to obtain?

The Hon. S. C. BEVAN: I have two replies. Apparently, the information given to the Hon. Sir Lyell was not as requested in the question originally asked. In connection with the Port Pirie to Cockburn line, the answer given on October 12 applied to all northern towns, whether on the Burra to Peterborough line or the Port Pirie to Cockburn line. There has been frequent consultation between the Railways Department and the Highways Department about the relocation of the railway line and its effect on the main road system, and all points, including the servicing of the towns,

catering for through traffic and the location of level crossings, will be resolved.

I also referred to the department for report information that was given to me privately by Sir Lyell. I now have the following reply:

The lengthening of goods yards in some towns could require relocation of level crossings and re-routeing of main roads. Officers of the South Australian Railways have discussed preliminary planning schemes of towns so affected and it appears that the Jamestown main road system, as one example, may need modification. However, nothing has been finalized and this department is now awaiting further proposals from the South Australian Railways in this regard.

## GERMANTOWN HILL.

The Hon. Sir NORMAN JUDE: Has the Minister of Roads a reply to my question of last week about fencing at Germantown Hill?

The Hon. S. C. BEVAN: Yes. Arrangements have been made for the early removal of the old fence.

## SITTINGS.

The Hon. Sir LYELL McEWIN: A recent announcement has been made about the prorogation of Parliament on November 17. Can the Chief Secretary indicate to the Council the Government's desires about sittings, what legislation is likely to come forward and what is required of honourable members, bearing in mind various commitments that may have been entered into?

The Hon. A. J. SHARD: Yes. The Government intends to prorogue Parliament on the evening of November 17 (I hope) or in the early hours of the morning of November 18. I take this opportunity to thank all honourable members for their ready assistance in trying to cope with immediately forthcoming legislation. Next week there will be no need for evening sittings. Because of another engagement, we shall not be able to sit next Wednesday evening, and I do not think it will be necessary to sit next Tuesday evening. However, I ask honourable members to be prepared to sit in the evenings in the last two weeks. I do not think that any honourable member would like us to get ourselves into the position that we were in last year when we were trying to deal with 15, 16 or 17 items in the last few sitting days.

## GOVERNMENT INSURANCE OFFICE.

The Hon. L. R. HART: I seek leave to make a short statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. L. R. HART: At the opening of this session of Parliament on June 21, paragraph 28 of the Governor's Speech dealt with the question of the Government's setting up a State insurance office. The reason for that was stated to be that complaints had been received by the Government about the trading operations of certain companies. On that day the Hon. Mr. Story asked the Government whether it would be prepared to state the nature of these irregularities and to name the companies involved, and the Chief Secretary stated that he was not in a position to do so but that he would obtain a report from the department involved. On August 3 he was again asked whether he was prepared to enlarge on that statement and inform the Council of his investigations, and he said "No". Is the Chief Secretary now in a position to inform this Council of the nature of the irregular trading operations of these companies and, in the interests of the people of this State, is he prepared to name the companies? Also, does the Government intend to proceed with the setting up of a State insurance office? If so, what stage have the negotiations reached?

The Hon. A. J. SHARD: The answer to the first two questions is "No" and to the third question "Yes". However, as to the stage at present reached, the Premier in another place said that he was not prepared to telegraph his punches. I endorse those remarks and have nothing further to say.

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## NATIONAL PARKS BILL.

Second reading.

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

*That this Bill be now read a second time.*

By this Bill it is proposed to provide for the establishment, development and maintenance of National Parks for public recreation, and to provide for the conservation and protection of animals, plants and land in their natural state. The National Park Act was first enacted in 1891 to provide for the establishment of the State's first national park at Belair, and for many years this was the only area so set aside. However, several areas were over the years dedicated as flora and fauna reserves under the Crown Lands Act, and these areas were administered by the Flora and Fauna Advisory Committee, which had no statutory powers. In 1959 the National Park Act, 1891 (as it was then), was amended to

incorporate, within the jurisdiction of the Commissioners of the National Park, the flora and fauna reserves, the new title of the Act being changed to the National Park and Wild Life Reserves Act, 1891-1959, and the title of the Commissioners of the National Park being altered to include wild life reserves. Since the transfer of these reserves to the control of the commissioners, many new areas have been added either by setting aside of suitable Crown lands or by purchase, and at this stage areas set aside as national parks and reserves comprise about 550,000 acres.

In the past six years a number of new areas has been added comprising about 120,000 acres, which includes 67,000 acres of Crown lands and 53,000 acres of land that has been repurchased. Successive Governments have provided $723,000 for the purchase of suitable lands during this period. The stage has now been reached in the expansion and development of these areas, some of which have become known as national parks and others as wild life reserves, when I believe that consideration must be given to replanning the legislation which has been in existence for 75 years and which basically relates to the requirements of the State's first National Park at Belair, to enable more adequate and appropriate provision for the expansion, development and management of national parks and reserves. By this Bill it is proposed to repeal the present National Park and Wild Life Reserves Act, 1891-1960, and to establish a commission to be known as The National Parks Commission to be responsible for the care, control and management of national parks.

The commission, which will consist of 15 members appointed by the Governor, will replace the body presently known as The Commissioners of the National Park and Wild Life Reserves of 13 members. The present governing body includes five members appointed by the Governor and eight members who hold office by virtue of these offices or the bodies they represent. It is considered that the expansion of activity which has already taken place and that which will inevitably follow in the years ahead make necessary a review of the constitution of the commissioners and the manner of appointment, which, in cases of *ex officio* appointees, does not permit of desirable continuity of appointment. The Government is deeply appreciative of the work of the present commissioners, who have been consulted in the drafting of this Bill, and hopes that most, if not all, will continue to serve on the expanded National Parks Commission.

Powers of the commission have been expanded under the Bill, and it is intended that plans will be prepared for the management of each national park that will enable suitable portions to be set aside as wilderness areas to be retained in their natural state to preserve all the natural landscape, flora and fauna, both for scientific purposes and for the benefit of the community. Other suitable areas will be developed for public recreation and for tourism, and provision is made in the Bill to enable the commission, either itself or by arrangement with other interests, to provide, under lease or other rights of facilitating, temporary accommodation and other amenities that will facilitate public enjoyment of national parks.

An important feature of the Bill is the protection that is given to tenure. As presently constituted, the lands can be resumed by proclamation, and it is proposed that any land declared as a national park can be resumed only pursuant to a resolution of each House of Parliament. It is further provided that the Mining Act, 1930-1962, and the Mining (Petroleum) Act shall not apply to any land comprised in a national park, unless the Governor by proclamation so declares. Provision is also made for the establishment of national parks to be declared a public purpose for the purposes of the Lands for Public Purposes Acquisition Act, 1914-1935. This action is taken to clarify the position in relation to the establishment of national parks.

I will now deal with the Bill in detail. Clauses 1 to 5 are the usual clauses dealing with the short title, date of operation, arrangement of Parts, and definitions. Clauses 6 to 9 provide for the establishment of "The National Parks Commission" and the appointment of members. The proposed name is considered a more appropriate and acceptable one than the present "The Commissioners of National Park and Wild Life Reserves". Members will be appointed because of their qualifications and/or interest in these matters instead of by virtue of the offices they hold. Clause 10 abolishes the present body and the offices of Commissioners. Clause 11 is consequential upon that abolition. The land referred to in subsection (3), which is included in the schedules mentioned in clause 19, is the only land for which certificates of title are held by the present commissioners: all other lands under their

control have been dedicated for that purpose. To obtain the protection provided by clause 24, it is desirable that all national parks should be Crown lands declared as national parks under this Bill. Clauses 12 and 13 deal with the meetings and business of the commission. Clause 14 allows payment of allowances and expenses to members of the commission.

Clause 15 outlines the powers of the commission. Subsection (1) (*b*) covers all of the provisions of section 5 of the existing Act. Paragraph (*c*) allows the commission (subject to the approval of the Minister) to grant occupation of land for the purpose of erecting kiosks and buildings for the accommodation of the public. This is necessary to facilitate development of national parks and is similar to legislation proposed in New South Wales. Development on these lines will be permitted only in those areas that are suitable for the purpose and have a tourist potential. Paragraph (*d*) is similar to section 15a of the present Act. Paragraph (*e*) enables public servants to be seconded for duty with the commission or to act in an advisory capacity if and when necessary. Paragraph (*f*) is a normal power of delegation. Obviously the commission cannot do everything itself and it must delegate some administrative functions to certain members or its executive officers. Paragraphs (*g*) and (*h*) empower the commission to deal with land that is not suitable for declaration as a national park. Subsections (2) and (3) amplify the powers of delegation.

Clause 16 is similar to section 13a of the present Act and enables the commission to accept grants of land and gifts of personal property. Clause 17 enables the commission to make by-laws, and is substantially the same as section 7 of the present Act. Clause 18 gives definitions needed in this Part. Clause 19 (1) declares all the land at present under the control of the commissioners to be national parks, and subsection (2) provides for the naming of those parks. The lands are described in the Second and Third Schedules. Subsection (3) revokes all existing dedications and declarations. In the past it has been necessary to dedicate land under the Crown Lands Act and also declare the land a wild life reserve under the National Park and Wild Life Reserves Act. In future under this Bill only one declaration will be necessary. Clause 20 provides for the declaration of land required in future for national parks. Clause 21 vests the management of national parks in the commission.

Clauses 22 to 25 are very important parts of this Bill. Except for continuing the present procedures for dealing with land for roads, land which has been declared a national park under this Bill cannot cease to be such without the consent of both Houses of Parliament. The land cannot be resumed or disposed of under the Crown Lands Act or any other Act, and mining operations cannot be conducted thereon unless the Governor otherwise declares by proclamation. Under existing legislation, land in national parks and wild life reserves can be resumed by proclamation and used for other purposes. This Bill therefore tightens control over the land.

Clause 26 continues the provisions of sections 13a and 14 of the present Act, exempting the commission from taxes. Clause 27 is a normal provision for audit of accounts by the Auditor-General and the submission of an annual report to Parliament. Clause 28 is substantially the same as the present Act (section 8). It requires the commission to exhibit copies of its by-laws or summaries to be exhibited in national parks. Clause 29 gives effect to clause 20. Clause 30 deals with offences against the by-laws. Clause 31 repeats the provisions of section 7a of the present Act (which were inserted by amendment in 1960). Clause 32 is a financial provision. The commission's source of funds is Government grants and revenue derived from hire of park facilities, etc. Clause 33 makes the establishment of national parks a public purpose for the purposes of the Lands for Public Purposes Acquisition Act. I have already referred to this matter. I submit the Bill to honourable members for their consideration.

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

## STATUTES AMENDMENT (HOUSING IMPROVEMENT AND EXCESSIVE RENTS) BILL.

Second reading.

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

*That this Bill be now read a second time.*

The purpose of this Bill to amend the Housing Improvement Act, 1940-1965, and the Excessive Rents Act, 1962-1966, is fourfold, namely:

(*a*) to extend the definition of "rent" and "rental" under the Housing Improvement Act so as to include the supply of domestic services and the supply of electricity, gas, water, fuel or other domestic commodity in connection with substandard houses;

(*b*) to make it clear that the owner of a substandard house or of a house which is going to be declared to be substandard may not require the tenant, as well as the occupier to do certain works to ensure that the house will comply with standards prescribed by regulations made under section 85 of the Housing Improvement Act;

(*c*) to extend the period of limitation for bringing proceedings under the Housing Improvement Act to two years or with the consent of the Minister to a further period; and

(*d*) to provide that where a person (called "the owner") has, pursuant to an agreement, become registered or entitled to become registered as a proprietor in fee simple of any land or has become registered or entitled to become registered as the proprietor in fee simple of an undivided share in any land upon which there is situated a house declared to be substandard pursuant to Part VII of the Housing Improvement Act, 1940-1965, but the person from whom he acquired such land (called "the former owner") has reserved the right to determine the occupation of that owner whether pursuant to a mortgage, agreement to lease, or other agreement, the owner, or the South Australian Housing Trust on his behalf, may apply to the local court for an order under this provision. The local court, if it is satisfied that the mortgage, agreement to lease, or other agreement is harsh and unconscionable, may set aside such mortgage, agreement to lease, or other agreement on such terms and conditions as it thinks fit. Once a court makes an order, then the owner and former owner may be regarded as if they were a purchaser and owner under section 15a of this Act, that is to say, as landlord and tenant.

Clause 3 amends section 50 of the Housing Improvement Act to extend the definition of "rent" and "rental" in the manner indicated in paragraph (*a*) above. It has been found that owners of substandard houses where there are a number of tenants, such as old age pensioners, are imposing excessive charges on these tenants for the supply of simple domestic services, for example, the cleaning of passages common to tenants, and also imposing excessive charges for electricity allegedly consumed by the tenants. Clause 4 is really nothing more than a drafting amendment to section 70a of the principal Act. The provisions of this section are intended to apply to persons who may be tenants or occupiers, but this is not clearly stated throughout the whole of the section. It is necessary to put the matter beyond doubt, particularly in view of the amendment proposed in clause 8 of the Bill.

Clause 5 has the effect of bringing the penalty provision in paragraph (*g*) of section 87 of the Act in line with section 73 of the Act as amended in Act No. 30 of 1965. With regard to the amendment proposed in clause 6, the position, as the law now stands, is that proceedings for an offence under the Housing Improvement Act must be brought within six months from the time that the offence was committed. This is laid down by section 52 of the Justices Act which states:

Where no time is specially limited for making the complaint by any statute or law relating to the particular case, the complaint shall be made within six months from the time when the matter of the complaint arose.

Since no period of limitation has been specifically prescribed in the Housing Improvement Act, the provisions of section 52 of the Justices Act must apply thereto. This period of limitation of six months is insufficient for the purposes of the Housing Improvement Act, and it is considered that a more appropriate period, having regard to the particular problems under these Acts of investigating offences and bringing offenders to court, should be two years. Clause 6 provides accordingly and inserts a new section 89a in the Act.

Clause 8 contains the principal amendment in the Bill. It is designed, like the existing section 15a of the Excessive Rents Act, to deter or prevent the exploitation of poorer members of the community by unscrupulous speculators in substandard houses. Honourable members will recall my remarks when introducing the Excessive Rents Act Amendment Bill in 1965. Those remarks are as appropriate to the amendment proposed by this clause as they were to the amendments which have been made to the Excessive Rents Act in the last session. Both the Housing Improvement Act and the Excessive Rents Act are designed to provide for a scheme of rent control, and we have seen how unscrupulous owners of substandard houses have been evading both these Acts by the device of sale and purchase agreements.

I use the word "device" advisedly because the owner knows full well that the sale and purchase agreement that he has persuaded the purchaser to enter into is not a genuine sale and purchase agreement at all but a colourable fiction to extract higher periodic payments from the purchaser than he would be entitled to receive in rent if he had entered into a letting agreement to which the Acts applied. Since the passing of the Excessive Rents Act Amendment Act, 1965-1966, many more of these "sale and purchase transactions" of substandard houses have come to our notice, and many more cases of real hardships have arisen owing to the failure of the so-called purchasers to meet the onerous contractual obligations which they have often, in ignorance, entered into. Some persons have as a result lost all their savings and others are saddled with debts which they are finding impossible to meet. Illiterate migrants with large families anxious to get any kind of accommodation, particularly in the inner metropolitan area, even at inflated "rentals", provide easy prey for these speculators.

In introducing section 15a of the Excessive Rents Act, the Government hoped that adequate protection and relief would be given to would-be purchasers of substandard houses but experience has shown that the people who trade in these substandard houses are still evading the Acts by resorting to even more ingenious and complicated devices than were contemplated at the time this section was drafted. Section 15a has, however, gone some way to remedy the mischief but it is clear that it has not gone far enough.

The present clause is designed to prevent further evasion of these Acts and I make no apology for the fact that the clause has been drafted in wide terms. This is necessary because, if the clause was drafted to deal with one particular method of evasion, the ingenuity of certain speculators in substandard houses would soon find another method of evasion. I shall, for the benefit of honourable members, describe one of the methods of evasion (and there are no doubt others), which this proposed amendment is designed to cover.

The speculator purchases a plot of land on which there are, for example, four substandard cottages. The speculator, probably pursuant to a sale and purchase agreement—though this has not been definitely established, since the purchasers have not understood what agreements they have signed and in any event a copy of the agreement is never left with them—persuades four persons to agree to purchase the land on which these substandard houses are situated. Then, the whole plot of land is transferred to the four persons, who become the registered proprietors in fee simple of one-quarter undivided share in the land and houses thereon. The purchasers imagine that they have agreed to buy the substandard house they occupy but legally, according to the agreements, they have agreed to buy one-quarter undivided share in the whole of the land on which the four houses are situated.

The four purchasers, or joint proprietors in fee simple as they have now become, thereupon enter into lease arrangements whereby all of them join in leasing to each of them the part of the land (and house) which they occupy for a term of 99 years at a peppercorn rent and each lease contains onerous provisions that have the effect of obliging the lessee to maintain these substandard houses in a sanitary and habitable state. Then the proprietors in fee simple of the undivided share enter into a mortgage arrangement whereby they mortgage their leasehold interest and, maybe, also their fee simple interest in the land to the speculator in consideration of a loan to each of them of a substantial sum of money—in the instances under investigation the amounts were in excess of $2,000.

As far as can be ascertained, no actual moneys have been lent but the sums mentioned in the mortgages probably represent the balance owing by the fee simple proprietors and lessees from the agreed purchase prices. The periodic payments mentioned in the mortgages are made towards payment of the principal and interest thereon (of between 7 per cent and 8 per cent) and are in actual effect and intent (though this does not appear on the agreements) mere rental payments that are far in excess of the rentals fixed by law for these houses. This clause is intended to give a remedy to owners of substandard houses acquired in the circumstances I have mentioned by enabling them to apply to the local court for the agreements, whether they are mortgages, agreements to lease or any other agreements, to be set aside on the grounds that the terms and conditions thereof are harsh and unconscionable.

Once a court makes an order, as applied for, the owners may be treated by the court as "tenants" (which in fact is what they are) in the same way as a "purchaser" under section 15a may be treated as a tenant. *Bona fide* sellers of substandard houses will, I can assure honourable members, have nothing to fear from this provision so long as the agree-

ments for sale and purchase and any mortgage affecting these houses are genuine and not illusory transactions.

Clause 8, therefore, inserts a new section 15c in the Excessive Rents Act. It is, in short, as honourable members will appreciate, in essence an extension of the provisions of section 15a of the Excessive Rents Act. This section has been made retrospective to March 17, 1966, which is the date on which the Excessive Rents Act Amendment Act, 1965-1966 was assented to. The Government considers that this retrospective provision is necessary to provide relief to persons who have already entered into the onerous contractual arrangements I have described.

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

## SUCCESSION DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 2474.)

The Hon. R. C. DeGARIS (Southern): If there is any lesson to be learnt from this Bill, it is the lesson of the value of the Legislative Council. That is because, but for the action of this Council last year, the people of South Australia would have had foisted upon them a measure that was one of the most vicious pieces of legislation ever to appear on our Statute Book. I hesitate to use the phrase I used to describe the last measure. However, there are still in this Bill and associated with it certain inaccuracies and misleading publicity designed to have the people of South Australia believe that the vast majority will be better off.

This Bill still pursues the main objections that members of this Chamber had to the previous legislation. It pursues the policy of aggregation of all benefits into one succession. However, the measure before us contains some increased rebate that ameliorates the burden that would have applied under the Bill rejected last session. I propose to cite some of the publicity that has been given to the Bill and to draw attention to some of the tables that have appeared in the daily press.

One press statement dealt with the succession to widows in three separate tables. The tables showed the duty under the present Act, the duty proposed in the Bill rejected last session and the duty proposed to be payable under the Bill now being considered. The first of the tables dealt with cases where there was no part of the succession under section 32 of the present Act, the second dealt with cases where there was a joint tenancy or insurance policy involved, and the third dealt with cases where primary-producing land was involved. All tables gave the position in relation to the widow as far as a beneficiary was concerned.

Table A showed that, where there was a straight-out succession of a value of $25,000, the duty payable under the present Act was $2,025, that payable under the Bill rejected last year was $1,637 and that proposed in this Bill was $697. As one goes through the table, one sees that, in practically every category, this Bill imposes a much lower succession duty than was proposed in the Bill that was rejected last year. Right up to successions of $80,000, the provisions in this Bill are much lower than those of last year's Bill—in many cases, only half as great. Last year we claimed that there was a nigger in the woodpile. Somewhere we found the flaws and exposed them. In the publicity given to the Bill last year the Government said it would raise $1,500,000 from the increased rate. From the publicity given to this Bill, it can be seen that the incidence of succession duty is nowhere near as high as it was in last year's Bill; yet the Government is to raise an extra $1,000,000 by this Bill. This obviously proves two things: first, that this Council was absolutely correct last year in rejecting the Bill that came before it; and, secondly, that it was correct in its assessment of the Government's publicity about the Bill being inaccurate. We must search again in this Bill for the nigger in the woodpile—whence this $1,000,000 is to come—because all the publicity so far associated with this measure indicates that people are under the impression that most of them will receive some benefit. We cannot raise an extra $1,000,000 a year with the great majority of people receiving some benefit.

Also mentioned in the daily press has been the fact that the Attorney-General has taken a survey of the last 50 estates handled by the Public Trustee. This, too, makes an interesting comparison with the publicity given to the tables published. Of those 50 estates the largest was $24,690. Under the present Act the succession duty collected was $17,052. Applying the provisions of this Bill to those 50 estates, we find that the succession duty collected would be $17,689—and remember that the largest of that block of 50 estates is $24,690; yet there is an increase in the succession duty collected.

The Hon. C. D. Rowe: You are comparing the provisions of this Bill with those of the present Act?

The Hon. R. C. DeGARIS: Yes, and I emphasize that the largest estate in the block of 50 was $24,690.

The Hon. Sir Lyell McEwin: That is a straight-out comparison?

The Hon. R. C. DeGARIS: Yes.

The Hon. C. D. Rowe: Those are the Attorney-General's figures?

The Hon. R. C. DeGARIS: Yes.

The Hon. Sir Arthur Rymill: Without aggregation?

The Hon. R. C. DeGARIS: Yes. I am comparing the duty payable under the two sets of provisions: the present Act and the proposals before us. Once again, there is a nigger in the woodpile in this Bill. Claims are made that everyone will be better off, yet in this block of estates there was an increase in the collection of succession duty when the largest estate was $24,000. This Chamber has never sought to be obstructive to the Government.

The Hon. S. C. Bevan: When do we laugh?

The Hon. R. C. DeGARIS: One has only to refer to the history of this Chamber, to the times when the Labor Party has been in office in another place and when a Government of a different colour has been in occupation of the Treasury benches there, to observe a similar pattern in both cases. This Chamber has never sought to be obstructive to any Government, but it rightly rejected out of hand the Bill that came before it last session.

The Hon. Sir Arthur Rymill: The Government has admitted that.

The Hon. R. C. DeGARIS: I am coming to that. I believe the Government has admitted it in this very Bill now before us. The reasons why this Chamber rejected the previous Bill were: first, because of the immense amount of false publicity that went out to the people of South Australia; secondly, because the second reading explanation introducing the measure was misleading and inaccurate; and, thirdly, because in no way did last year's Bill measure up to the election promises made by the Government. It took some time for the truth to emerge. We recall that the previous Bill was held over the Christmas break and it took some time for the people of South Australia to fully understand what was going on. It was purely because of the application of honourable members in this Council that the public understood the measure. When the people understood what was proposed in the previous Bill, they appreciated the cavalier way in which they were being treated. Had it not been for this Council, that Bill would be on our Statute Book today. Now we have a new Bill. It is an admission by the Government that this Council rightly rejected last year's Bill.

Although I have some strong criticism of this Bill, I have not the same implacable attitude of opposition to it that I had to the previous measure but, unless certain alterations are made and the Government is prepared to amend certain provisions, I cannot give it my complete support. I qualify that by saying that I deem it wrong that a pattern or format of succession duty that has been established since 1893 has to be changed, that the whole basis of succession duty as we have known it in our Statutes for over 70 years has to be altered.

The Hon. Sir Arthur Rymill: And without any reference to the electors.

The Hon. R. C. DeGARIS: Yes. I think we have proved that in the debate on the Bill last session, that these provisions moved right away from any election promises. This has been the pattern of succession duty since 1893, through both Labor and Liberal Administrations since then. In other words, this has become an accepted principle of succession duty in South Australia. Associated with this proposed change since this Government has been in office there has been much emotional publicity (associated with other measures, too) that the present Act contains several loopholes that help only the big estates. If one refers to the debates of last session, one can appreciate that that was completely refuted. Much publicity was given to the matter, and it was said that this legislation would close up loopholes. They are not loopholes, but have been accepted principles of succession duties in South Australia since 1893. Such principles have served this State very well. One or two honourable members last year informed the Government when they voted against this Bill that they realized that, with the promises the Government had made, it would inevitably have to increase taxation in South Australia and that if the Government wanted to increase returns to the Treasury from succession duties they would not object to an increase in rates as long as the principle that had been established for 70 years was preserved.

What are the problems associated with this change of course in the accepted principle of succession duties? I could deal with this at some length, because so many people have arranged their affairs to meet the accepted principles in existence since 1893. Under this Bill, this approach is changed, and every person

who has given prudent thought to his affairs and to the future must recast his or her ideas. As I have said, some members of this Chamber said that they would not object to an increase in rates as long as no change occurred in the general principles. There may be many people who have prudently arranged their affairs but who would not be in a position to alter their course of action. That is a distinct possibility. Most members who do not object to a rise in succession duty rates as long as accepted principles are retained work on the theory that the people of South Australia must learn that under a Labor Administration they must put up with increased taxation; they must learn that there is no magic in promised Government handouts. Why, then, is the Government continuing to press for a change in the principles accepted by both Labor and Liberal Administrations since 1893? Perhaps the Chief Secretary will reply to that question in closing the debate. Why is it necessary to have this change in direction?

In his second reading explanation the Minister said that this Bill was to raise an extra $1,000,000. If all the Government requires is increased revenue of $1,000,000 from succession duties, that can be done by a simple raising of the rates. Instead, we have a complete alteration of course which will raise the $1,000,000 but which will throw a heavy burden on every taxpayer in South Australia and force him to readjust his affairs. Also in the second reading explanation, the Minister said that the proposed amendments in the Bill were fivefold. He said:

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.

Last year the same scheme was presented in the Bill then before us, and it was clearly demonstrated in this Chamber that this was not so. In last year's Bill the effect of aggregation was that there was no increased exemption at all and many of the smaller estates had to bear a higher incidence of succession duties. There is nothing remarkable in increasing exemptions to widows and descendants; this has been done by previous Administrations on several occasions. As money values have deteriorated the basic exemption has been increased: therefore, an increase in exemption is nothing new to this State.

The Hon. D. H. L. Banfield: When was the date of the last exemption?

The Hon. R. C. DeGARIS: It was in 1964.

The Hon. D. H. L. Banfield: And the one before that?

The Hon. R. C. DeGARIS: I was not in the Chamber at that time, but the last increase in exemption was to $9,000 in 1964. The point about exemptions at that time was that they applied in more than one category; that is the important aspect to remember.

The Hon. L. R. Hart: There has been a new assessment since then.

The Hon. R. C. DeGARIS: All the sums I have done on this Bill show that some concession is given to successions up to about $30,000 in the case of widows. In the previous Bill, although the Government claimed this, it was not so. It appears that there is a slight increase in benefits up to about $30,000 for widows, but the decreases in rates to be paid are not as great as one would expect with the rise in the basic exemption from $9,000 to $12,000. To illustrate this, I again turn to the second reading explanation of the Minister. He said:

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.

I presume that by "ordinary succession" the Minister means no part coming under section 32. I point out (and this is an important point) that, for people building houses, over 90 per cent of finance is for joint tenancies. Therefore, an ordinary succession today would include a joint tenancy house, and, if one refers to the illustration given in the second reading speech of a widow inheriting $12,000 and incurring duty of $450, that is an extraordinary and not an ordinary succession. The Government has purposely taken the worst case possible in order to make a comparison. The Minister goes on to say:

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.

This can also be demonstrated as being not exactly the true position. As I have pointed out, 90 per cent of house building being financed today is joint tenancy, so in considering an ordinary succession one must consider the rebates available under the present Act for joint tenancies. If one examines how an estate of $46,500 may break up, the position may be: $8,000 in joint tenancy, $10,000 in insurance and $28,500 in personalty. An estate such as that would pay $4,275 under the present Act and $4,608 under this amending Bill. Therefore, once again we see that the

information presented in the second reading explanation is not exactly the true position.

I have done some homework on this, and I find that the turning point of increased duty is not $46,500 but a much lower figure. I am not able to do the complete calculation that I did last time, but I assume that the point of "break-even" is about $30,000. This adds to the case put forward by the Hon. Sir Lyell McEwin that this extra $1,000,000 will come largely from the middle-income group, that is, those who leave estates of between $30,000 and $60,000. In the case of an estate of $60,000 passing to a widow, one finds that under the present Act the duty payable is $6,600 and, under this Bill, $7,884. As I pointed out, as far as I can see those estates to widows below $30,000 are slightly better off under the proposed legislation, but once we go above that the position deteriorates.

I have here an example of an estate of $30,000 where a joint tenancy house is involved. Under the present Act the duty payable is $1,800, and under this amending Bill it is $1,600. Then we move to a new case (also an estate of $30,000) in which there is $9,000 of assigned assurance and $21,000 personalty. The position there alters very rapidly. In this case no matrimonial home is involved, and the succession duty payable under the present Act is $1,800 and under this amending Bill $2,375. There is a case of a widow inheriting an estate of $30,000 where there is a very big increase in the succession duty that will be payable.

One can see from that example that where no matrimonial home is involved the position is nowhere near as rosy as the second reading explanation indicates. The removal of a joint tenancy from a separate succession means that certain sections of the community will be very drastically affected. I refer to people such as bank clerks, managers, railway station-masters, schoolteachers, stock and station agents, and salesmen; in fact, all people who in their normal course move from place to place. At the present time under the existing Act a joint tenancy may be set up as a savings account. Let us take the case of a railway stationmaster and his wife at about the age of 50; those people may decide that they have 10 years to go before the husband retires and they start saving to buy a house. They have a certain amount of money in a joint savings account to build their matrimonial home. If that man dies his widow is hit very heavily under this Bill because their joint savings account does not qualify for a separate succession. However, if those people can retire and build a matrimonial home they would get a very great concession. I consider that this group of people, under this legislation, where the rebate is given to a matrimonial home, are very gravely and adversely affected.

I have a further example to give on this most important question. In an estate where there is a joint tenancy savings account of $8,000, insurance of $8,000, and personalty of $9,000, under the present Act succession duty amounts to $950. However, under the proposed Bill before us the duty would be $1,632. I consider that this is a very grave anomaly. I have given examples of people who will be adversely affected in this legislation, where a separate succession of a joint tenancy is completely removed.

In last year's Bill the rebate allowed for primary-producing land was demonstrated as being completely unsatisfactory. I think at that stage the Hon. Mr. Banfield and I had some difference of opinion on whether the rebate was to the whole of the estate or to the individual succession. However, it was quite clearly on the whole estate. The total rebate available to any estate, irrespective of how many successions there were, was $10,000, and the more children a person had the less rebate he got. Evidently the Government has learned from the defeat of its Bill last year that it was wrong in this matter, and the rebate in this present Bill is applicable to each succession. I congratulate the Government on at least doing that; I think we have convinced the Government it was wrong last year, and that is a step forward.

In respect of succession duty on primary-producing land, this Bill does not in any way measure up to the magnificent election promise given 18 months ago. There has been from time to time much discussion and argument in this House as to what constitutes a living area. I know this is a very difficult thing to finally pin down, but I think it can be accepted by most people who have any rural knowledge that today, taking the whole of the State's primary industry, a living area would be a property worth not less than $60,000. That would constitute a genuine living area. Under the present Act a primary-producing property of $30,000 (which is about half a living area) passing to a son would involve duty of $2,450. However, under the Bill before us the duty payable would be $2,844. This represents an

increase of 17 per cent. We must not forget that we are dealing here with an area that is one-half of an accepted living area. I emphasize that the increase in succession duty on that piece of land passing to a son is 17 per cent. An estate of $40,000, which is still less than a living area—

The Hon. C. D. Rowe: Whether it is a dairy farm or an agriculture farm.

The Hon. R. C. DeGARIS: I think that would be right, although it is difficult to assess what is a living area because of the variety of agricultural, horticultural and pastoral pursuits. However, I think we can accept that, over the whole State, a general living area is valued at $60,000. The estate worth $40,000 is less than the average, and the duty payable at present is $3,258. Under this Bill, the duty will be $4,550, or an increase of 41 per cent. I ask honourable members not to forget the Government's promise at the last election that a person would be able to inherit a living area without paying duty. An estate valued at $50,000, which I shall say is a living area, attracts a duty under the present Act of $4,932, whereas the duty under this Bill is to be $6,460, an increase of 31 per cent.

An estate valued at $60,000 at present attracts a duty of $6,248 and the duty proposed is $8,400, or an increase of 33 per cent. The proposed duty on a primary-producing property valued at $80,000 (which would be a generous living area) is $12,750, or an increase of 41 per cent on the present duty of $9,000. Those figures enable us to unearth the nigger in the woodpile. It is obvious that the increase in succession duties will come largely from primary-producing areas.

The Hon. C. D. Rowe: Small primary-producing areas.

The Hon. R. C. DeGARIS: Yes. Most primary-producing properties pass to the descendants. Sometimes a life interest is left to a widow and sometimes properties are left to the widows. However, as a general rule, a property passes to the son or sons. Whilst there is a small decrease in the succession duties payable by widows on estates up to a certain value, there is a marked increase in the duty payable on properties passing to children or descendants. It will also be noticed that all the publicity that has been given to this Bill so far concerns the widow. No publicity has been given to the effect when properties pass to descendants, and it is in those instances that the increase in duty is to be found. The marked increase is evident in relation to property other than primary-producing property passing to the descendants.

In respect of estates valued at up to $30,000, the widow is better off under this Bill, but descendents and strangers in blood are hit hard by the proposed duties. I should like the Chief Secretary to say how the Government can justify an increase in succession duties on a living area passing to a descendant (a son) and an increase on an area less than a living area, when the Government's election policy speech contained a promise that a descendant would be able to inherit a living area without paying any succession duties. The Government is not honouring that promise. Far from doing that, it is increasing the duty on those whom it set out to relieve completely.

This Bill lifts the succession duty on inheritors, who have the greatest commitments. During the debate on the Land Tax Act Amendment Bill this year, I pointed out that a person on a living area paid, in straight-out capital taxation, excluding all the other taxes, the unimproved value of that property every 15 years. Capital taxation is reaching saturation stage. An increase in succession duty on areas smaller than living areas will create further hardship for a much harassed section of the community. The Minister included in his second reading explanation a table that gave a comparison of estate duties collected by the Commonwealth. He said:

However, a table derived from Commonwealth statistics of estate duty levied through State offices for 1963-64, the latest published, shows the percentages of State probate or succession duties allowed as deductions for Commonwealth duty purposes according to size of estates. I ask leave for this table to be incorporated in *Hansard* without my reading it.

The table was incorporated to show that estate duties in South Australia were less on the higher estates than was the case in the other States. However, the table can be rejected as having no bearing at all. We in this State have a Succession Duties Act, and it is completely impossible to make a comparison with States where estate duty is payable. It seems that the table was included to show that the previous Administration in South Australia had dealt leniently with large estates. However, the rates in the Succession Duties Act show that a comparison is impossible. It is also impossible because larger estates in South Australia usually have many more inheritors.

I have a list from which that can be seen and, in one case, there were 13 inheritors and

numerous legacies and charities in respect of a total estate of $572,000. This shows quite clearly that in the large estates there are usually more inheritors and successions, because charities are brought into it. Therefore, the table shown by the Minister is quite incorrect. It is impossible to make any comparison between succession duties and estate duties, for there is no basis for comparison.

I now turn to the Bill itself, clause 8 (*c*) of which provides:

. . . (*e*) property given or accruing to any person under any settlement, such property being deemed to be derived upon the death of the settlor or other person upon or after whose death the trusts or dispositions took effect;

The Commonwealth Estate Duty Act includes property comprised in a settlement made by the deceased in which the deceased had any interest of any kind as part of the notional estate. This is probably not unreasonable, as the settlement comprises the property of the deceased and the latter has retained an interest in the property, usually for his life. If the deceased has any interest in a settlement executed by another person, then the property is not deemed part of his notional estate, unless he has disposed of his interest within three years of death, and then the amount included is only the value of the interest surrendered (in the events that happened).

The conditions precedent in the estate duty legislation to aggregation of settlements are that the property to be aggregated must have been property settled by the deceased in which he retained an interest or the beneficial interest of the deceased in a settlement created by another but only to the extent that he surrenders it within three years. A careful consideration of the implications of the current amendments will show that it is contemplated taking this principle of aggregation infinitely further, to the extent of aggregating property which never was the deceased's and in which he never had at any time a beneficial interest.

As far as I can see, that is exactly what this clause does. It does aggregate into the estate of a deceased person that which the deceased person at no time had any beneficial interest in whatsoever. I know that in the Bill before us last year, rejected by this Council, the Hon. Mr. Potter raised this question. He was completely right. It is unjustified to aggregate into the succession something that the deceased at no time had any beneficial interest in.

The Hon. F. J. Potter: That may be all right if the person is using Form "U".

The Hon. R. C. DeGARIS: That is true. It is the aggregation of this into the stream of succession. I now turn to clause 29, which enacts new Part IVB. New section 55e, which is the interpretation section, provides:

"land used for primary production" means land which the commissioner is satisfied has been during the whole period of three years immediately preceding the death of a deceased person used by that person or the wife or husband or any descendant or ancestor of that person exclusively for the business of primary production, but does not include—

(*a*) land given or accruing to an uncertain person or on an uncertain event;
(*b*) land devised for a term of years (other than an interest for the life of the beneficiary);
(*c*) an annuity or bequest secured by or charged upon land; or
(*d*) any interest in land derived from a deceased person which was held by that person as a shareholder in a company or as a joint tenant or tenant in common or as a member of a partnership.

That appears to need some explanation. Under this provision, no rebate can be applied and no land can be defined as being used for primary production if any interest in that land is derived from a deceased person as a tenant in common or as a joint tenant.

In the Victorian Act there is a blanket provision of a 30 per cent rebate on whatever duty is referable to the land. For land held by the partnership or through shares in "primary producers company", for purposes of rebate the part of the company-owned land which is regarded as forming a part of the estate of the deceased is calculated in this way:

(*a*) In the case of an interest in a partnership which forms or is deemed to form part of the estate of the deceased an amount which is the same percentage of the deceased interest in the partnership as the gross value of the land used by the partnership for primary production bears to the gross value of the total assets of the partnership and/or
(*b*) in the case of shares in a primary producers company which form or are deemed to form part of the estate of the deceased an amount which is the same percentage of the "value of the shares held by the deceased" as the company's total "land used for primary production is of the company's total assets".

So, in the Victorian concept, this is well and truly covered: the rebate applies to land held

by a partnership, as a tenant in common or as a shareholder in a company. I am not worried about the shareholder in a company, but I cannot see the reason for excluding land held by a tenant in common from receiving a rebate under "lands used for primary production". In my own district, a significant part of our land is held by tenants in common. It has happened that a son at the age of 25 may be shearing or working around the farm and he accumulates $10,000 or $12,000. He says to his father, "I want to buy a farm but I have not enough money." The father will purchase the farm with him as tenants in common and the son will manage it. On the death of his father that farm does not qualify for rebate as land used for primary production. I do not see why the subclause should be here. I should like some explanation from the Chief Secretary on this matter. The position appears to me to be completely wrong, that any land held under joint tenancy or by a tenant in common or by a member of a partnership cannot be passed on to any other person and qualify for rebate as land used for primary production. It appears to be completely unwarranted.

I turn now to new section 55g, inserted by clause 29. I am sure that the best service to be rendered to those people who have estates of something over $20,000 and who will be hit by this present Bill will be to attempt to have the Government agree to free the proceeds of certain policies of life assurance almost entirely from succession duty. Every prudent person should be given the opportunity of being able to so order his affairs that he does not place his descendants and his widow in the position of having to sell property to meet the demands of probate and succession duty. One point that is always overlooked by people who speak of succession duties and merely see the rates is that this is only one tax levelled on an estate. However, it must be remembered that the Commonwealth Government also has a finger in the pie. If the Government intends to increase duties on the estate upon the death of a person, this must be accepted but that person should have the right and ability to cater for such a tax. However, the proceeds of a policy on the life of the deceased effected by him, paid for by him and expressly taken out for the benefit of the spouse and/or the children (where the deceased held no interest, whether vested or contingent, in such policy) should be free of duty as, indeed, it is in Victoria except with regard to the premiums paid prior to death, and they are brought back into the succession as a gift.

The Hon. D. H. L. Banfield: Is that the only State where it happens?

The Hon. R. C. DeGARIS: I don't know, because I have not had the time to examine the position in other States. It is difficult to make a proper comparison with the measures of other States. I believe that when an accepted principle is departed from (as is now being done under this Bill in connection with the aggregation in succession) provision must surely be made to enable people to provide for their wives and children so that they are not financially embarrassed and forced to sell part of the estate on the death of a person. I believe that should be an accepted principle.

Many people today are primary producers with farms worth $40,000, and in most cases the return to such people is roughly the basic wage. They have to meet all the problems of management of the property as well as cater for thousands of dollars in succession duty. This Bill increases succession duty on such persons. The only possibility the families of these persons will have to reduce the duties will be to take out insurance policies if this aggregation clause is passed. I am certain that such an attitude should be accepted by the Government. In Victoria, where such a policy is assigned absolutely more than one year before death and the deceased held no interest whatsoever in the policy for that year before death, the duty will relate to that portion of the proceeds of the premiums paid before death. Perhaps I may give some illustration of what I mean.

If a person for 20 years prior to his death makes a donation to his wife (or children) of $200 each year, the only part dutiable would be the $200 given during the last year. If the $200 is paid as a premium on an insurance policy, it is aggregated into the person's estate. It is not the total of all gifts plus the accumulated interest. That cannot be denied by anybody. Why, then, should the proceeds of a policy be dutiable when the widow or children have chosen to maintain a policy by such a series of gifts? That is the position. I think this has a great relevance to small or medium estates, because the wealthy family has usually made arrangements to split the income between husband and wife and also made provision in various other ways so that the widow, having paid the premiums on assurance from her own income, is guaranteed the freedom of the proceeds of a policy from duty.

If the Government's intention, as stated, is to tax the wealthy and relieve the smaller estates (it has stated that such is its policy) it must accept some amendments as suggested along these lines in order to help the small farmer and businessman. If the Government is not prepared to do this, I believe it must have an ulterior motive in bringing down this Bill, and that motive can only be to force the family of the deceased whose assets were moderate to sell the business or farm. Surely this must be a short-sighted policy, as these small businesses or farms will be swallowed up by the very wealthy against whom the Government is legislating. As I have said, I do not oppose this Bill as vigorously as I opposed last year's Bill but certain items in this Bill will need to be amended before I can give it my complete support.

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

*Later*:

## PERSONAL EXPLANATION: SUCCESSION DUTIES.

The Hon. R. C. DeGARIS (Southern): Mr. President, I seek leave to make a personal explanation.

Leave granted.

The Hon. R. C. DeGARIS: Mr. President, it has been brought to my notice that certain figures I quoted in my speech on the Succession Duties Act Amendment Bill are inaccurate, particularly in relation to the question of duty payable on primary-producing estates. I realize this, Sir. Although the general contention in my remarks is not altered, the tables I quoted are not quite accurate, and I should like to point that out.

## STAMP DUTIES ACT AMENDMENT BILL.

In Committee.

(Continued from October 26. Page 2543.)

Clause 8—"Amendment of Second Schedule to principal Act."

The Hon. F. J. POTTER: Yesterday I suggested a possible way to overcome the grave hardship that might be imposed on finance companies, in particular, as a result of the increase in duty: it was that if a contract was not stamped within a certain time complete freedom from stamping should be allowed. I have given further thought to the matter, and I shall move a suggested amendment to this clause. I hope this will go a long way towards solving the problem that arises from the increase in duty on hire-purchase agreements. I believe it will not deprive the Government of any substantial amount of legitimate revenue to which it is entitled under this provision. I listened with interest to what the Chief Secretary said yesterday in his reply to the objections raised by several honourable members concerning this duty, particularly the effect of the increase. He said that the rate of interest the hire-purchase companies charge, which is a flat rate, was designed to take care of all these particular charges, but I cannot accept that. The rates of interest those companies are now charging are exactly the same as they were charging 10, 15 and 20 years ago; in fact, they are a fraction lower. However, this duty has been imposed only since 1959.

Taking costs generally into account, the rates of interest today are no higher than they were many years ago. Therefore, I suggest that the Chief Secretary's argument is not correct. I think honourable members were perfectly correct when they said that if this increased duty was imposed it would mean that within a short period of time interest rates would have to be raised, with rather disastrous consequences further down the line. I think the amendment I have suggested would go a long way towards relieving the immediate problem that honourable members mentioned. I move a suggested amendment to insert the following words at the end of paragraph (*d*):

Exemption. In the case of any hire-purchase agreement which is for a period in excess of six calendar months from the commencing of the hiring until the time provided for the payment of the last instalment, and under which agreement the final payment has been made within a period of six calendar months from the date on which it has first been duly stamped, a rebate of one-half of the total stamp duty so paid thereon.

In the Stamp Duties Act various classes of instruments are set out in capital letters, and underneath many of them are exemptions. For instance, this is the position under "Mortgage" and under "Power of Attorney". Therefore, in effect my amendment is following the format of the existing Act. Of course, "Hire-Purchase Agreement" is a new heading being inserted by this Bill. The form of this amendment, in my opinion, is perfectly satisfactory. It means that all hire-purchase agreements will have to be stamped in the usual way, so the Government will not immediately lose any revenue. I think the question of stamping was the difficulty involved in the suggestion I made rather quickly and haphazardly yesterday. Agreements will still have to be stamped, and they will still have to be stamped at the increased

rate of duty. However, if an agreement which is to go for a term longer than six months (and certainly many of them would) is paid off within a period of six months, then a rebate of duty of 50 per cent will be available.

Administrative provisions exist under the regulations for an application to be made to the Commissioner for refunds of duty, so as far as I can see there is no difficulty from an administrative point of view. I have often made the usual statutory application for a refund of duty in cases where it is allowed.

The Hon. S. C. Bevan: Are you going to give refunds to the hirers?

The Hon. F. J. POTTER: The hirer does not pay this.

The Hon. S. C. Bevan: Not much he doesn't!

The Hon. F. J. POTTER: They do not pay this at all. The Minister is trying to put up a smokescreen by suggesting that the hirer really pays because of the rate of interest that is being charged. The facts placed before this Council have not really been denied. These companies cannot go on absorbing such increases indefinitely.

The Hon. D. H. L. Banfield: If interest rates go up, what happens to this rebate; who gets that?

The Hon. F. J. POTTER: This rebate goes to the person who paid it initially (the hire-purchase company). That is the organization that should be considered in these circumstances. I have not had much opportunity to discuss this amendment with honourable members. However, I think it contains the germ of an idea, and that it would assist in solving this problem.

The Hon. A. J. SHARD (Chief Secretary): The Government is not prepared to accept the amendment. I remind honourable members of what I said in my reply yesterday, and I stick to what I said. This is a matter that can be handled only by amendments to the Hire-Purchase Agreements Act and the Money-Lenders Act, which are not before honourable members. This measure deals only with adjustment of rates. I had not seen the Hon. Mr. Potter's amendment until this afternoon. I do not want this matter to be delayed. The matter has been examined by our officers and by the Parliamentary Draftsman. The stamp duty is paid on the original agreement, and that is the end of the matter. The Government cannot be asked to rebate duty in circumstances that arise later. In any case, it would not be a rebate: it would be a refund and, therefore, not an exemption. Stamp duty has to be paid when the document is executed.

The proper place for granting relief is in the Hire-Purchase Agreements Act, as I said yesterday. That Act deals with the position as between owner and hirer. When an agreement is terminated earlier than the full period, that is not the concern of the Government. This would involve much administrative work and loss of revenue. According to the Parliamentary Draftsman, the amendment is completely unworkable, and I am not pitting myself against the legal fraternity on this matter. The Government desires this Bill passed. The amendment is not acceptable, and I ask the Committee to reject it.

The Hon. Sir ARTHUR RYMILL: I do not find the Chief Secretary's argument about administrative work and loss of revenue very convincing, because I do not think this would entail much administrative work, and, regarding loss of revenue, if an agreement was prematurely terminated, I do not think the Government would be entitled to receive the revenue applying to the whole term.

The Hon. C. M. Hill: The Government gets another stamp duty when the money is lent out again.

The Hon. Sir ARTHUR RYMILL: Yes. The Government may receive extra revenue rather than suffer a loss of revenue. However, I consider that there is substance in the technical point raised by the Chief Secretary. I make perfectly clear that I agree with the intention of the amendment and would support the substance of it. However, it refers to an exemption and then goes on to exempt a rebate, as I understand it. The Chief Secretary has said that it is not a rebate but a refund. This is a matter of words but I do not understand how a rebate or refund can be an exemption. It is not something exempted but something repaid.

I do not know that there is any necessity to pass this Bill today, nor do I know the Chief Secretary's intention. However, in view of his challenge to the form of the amendment, I should like an opportunity to examine it further. I suggest that the Chief Secretary report progress so that we can, perhaps, deal with the matter on the next day of sitting.

The Hon. A. J. SHARD: I am the last one to try to force amendments through, but we have to look at this matter in a reasonable way. This is what we have experienced with revenue Bills during the last session and during this session. The Government's intention

was that this Bill should operate from November 1. Obviously, that could not be arranged. The Government desires to consider a request that has been made by an honourable member and, the longer we take to deal with the Bill in this Council, the greater will be the effect on the matter that the honourable member has raised.

Honourable members cannot have it both ways. They cannot expect to delay revenue Bills and have it the other way as well. If I report progress and the Government is defeated on this matter when the amendment is put on Tuesday, where will we finish? I desire to submit to Cabinet a request that one honourable member has made. This Bill has been before the Council for seven sitting days and, if we get into trouble next week, honourable members will not be able to have it both ways by saying that we brought the legislation into operation too quickly.

The Hon. Sir Lyell McEwin: What is the other way?

The Hon. A. J. SHARD: Honourable members cannot have an adjournment and then have the proclamation date extended for another month.

The Hon. Sir ARTHUR RYMILL: In view of what the Chief Secretary says, I suggest that, if he follows his original idea through, it may take longer to get the Bill through than will be the case if he accepts my suggestion.

The Hon. A. J. SHARD: I always like to get on with my friends as much as I can, and I ask that progress be reported.

Progress reported; Committee to sit again.

## BRANDING OF PIGS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 26. Page 2545.)

The Hon. C. R. STORY (Midland): I took the adjournment yesterday because I thought there would be discussion of this matter in the Committee stage. The branding of pigs is as old as politics. Since I have been in this Chamber the branding of pigs has always been a rabid topic. We passed a Bill in 1964 that most of us thought ended the matter. However, that legislation has never been proclaimed. Consequently, we have it back here with these amendments. There have been one or two speeches on it, but perhaps the position is not completely understood by everyone, including myself. The original entreaty by pig breeders was to get some form of marking so that they could cope with the various problems of pig disease. The difficulty experienced by the Government in bringing this measure into operation has been two-fold. First, it ran into difficulties trying to make regulations under the existing Act because of its inability to define clearly the type of brand or mark to be used, and it was necessary for this matter to be clarified so that regulations could be drafted. Secondly, the matter contained in clause 5 has been causing some consternation. Subclause (*b*) provides:

(4) Notwithstanding subsection (1) of this section, a person may sell or offer for sale a pig which is not branded in accordance with that subsection if such pig is under the age of six weeks and is sold or offered for sale with a sow which it is at the time of the sale or offer still suckling.

It is difficult to decide, when a sow with piglets is taken to a sale and sold, whether there is any danger, if those piglets become separated from their mother two or three days later, of rhinitis or any of the other pig complaints being spread through the State. By this provision, it will be necessary for a mark to be put on to these pigs, if they are for sale, at the age of six weeks, and it will also be the duty of the person selling to mark the sow, if she is being sold, with her own mark. The unfortunate sow of the future will look something like the old-time gold watch where, if one opened up the back of it, one could see from the marks inside how many jewellers had had a go at repairing its "innards". The sows of the future will be highly decorated on some portions of them because, every time they are sold, they will bear a new marking. Their bodies will be like the tattooed lady at the show. However, the industry wants this and has wanted it for a long time.

The Hon. M. B. Dawkins: I do not know, though, whether it wants this amendment.

The Hon. C. R. STORY: No, but I understand from at least one section of it that it will put up with anything, including clause 5, to get this legislation proclaimed, because it is important that it should be. There has been much discussion about whether the time should be four weeks or six weeks, whether the pig should be branded in any case, and so on. At present there is much disease prevalent in the pig industry and, in order to find out where it is coming from, it is essential now that we have this Act proclaimed. I do not intend to oppose this measure. I have a few thoughts about clause 5 but, after all, if we cannot take that clause out of the Bill it is better to have it in than have no Bill at all and to get the

industry on to safer ground, so protecting our compensation fund which we have built up over the years and which we hope is still intact. I support the second reading.

The Hon. S. C. BEVAN (Minister of Local Government): Apparently, the main contention about this Bill centres around clause 5, to which every honourable member who has spoken has referred. It has been said that this amendment could defeat the purpose of the original Act in the branding of pigs in order to be able to trace the area of origin of a disease. We agree that we should be able to do that in order to prevent diseases spreading and eradicate them when they appear. Clause 5, which deals with branding, will not have the material effect that some honourable members think it will. The principal Act provides that, where a pig is sold, it must be branded at least seven days before sale, so the argument that the origin of the pig could not be traced is surely hypothetical. After all, the owner of the pig would know just where the sow originally came from; he would have a record and would have to brand the pig before he sold it; so the danger is not as great as some people imagine.

This Bill applies only to piglets under six weeks old that are suckling the sow, which would certainly be branded. The Hon. Mr. Geddes said that the piglets could pick up a disease and that, after sale, the disease would show itself and therefore there would be no chance of tracing the area of origin of the disease. The area of origin of the sow could be some district far removed from where the sale took place. Therefore, it would be difficult to trace where a sow or other pigs that were being sold had contracted a disease. The same difficulty would apply. It could be ascertained that there was no disease where the pig originally came from, so it must have been picked up somewhere else. There would be just as much difficulty in tracing it, as the honourable member suggests, and after the piglets were six weeks old they could contract disease and its origin could not be traced, but I suggest that it could be traced through the sow because of the records that the owner would hold. After six weeks the piglets would have to be branded and therefore they could be traced. The owner would have a record of where the sow and the young piglets that she was suckling came from. It is considered undesirable to brand pigs younger than six weeks, as there would be some discomfort.



The Hon. R. C. DeGaris: Not as much as with older pigs.

The Hon. S. C. BEVAN: If the Council rejects clause 5, once a litter became seven days old it would have to be branded. I think that is stretching it too far. I do not wholeheartedly subscribe to the opinions given by honourable members about tracing disease. I believe diseases could be easily traced if they occurred in either the sow or the piglets. Therefore I suggest that this Bill should be passed and regulations made, and, if some difficulty arose in relation to tracing diseases, it would not be difficult to further examine the question. This Bill should be passed and given a trial and, if it fails, an amending Bill can be introduced. It may be argued that disease could spread in the meantime, but I do not visualize that happening.

Bill read a second time.

In Committee.

Clauses 1 to 4 passed.

Clause 5—"Duty to brand pigs for sale."

The Hon. L. R. HART: This Bill was passed some time ago but has not become operative: the Hon. Mr. Story explained why. The tattooing of pigs, particularly small pigs, may be an onerous job, and there are always people who seek to evade responsibility under the law. However, the Minister stated that it was not practicable to brand pigs less than six weeks of age, but the Act provides that they are not required to be branded if they are sold with the sow suckling them at the time of sale. However, if the piglets are sold without the suckling mother, I assume it would be necessary to tattoo them provided they were under six weeks old.

The Hon. S. C. Bevan: That is in accordance with the Act.

The Hon. L. R. HART: It is not uncommon for migrants to visit properties and buy pigs under six weeks old, take them away and immediately slaughter and dress them. The Minister has said that it is not practicable to brand pigs of that age. Will the Minister explain that point? There must be a reason for it, if that is not practicable. Does it bruise the body? If so, it would be undesirable that it should be done if such young pigs were taken away, killed and immediately dressed.

The Hon. S. C. BEVAN: Not being a pig breeder, I would not know the finer points of the matter. As I understand the Bill, and from information received, I think it would only be on rare occasions that a young pig under six weeks of age would be sold apart

from the sow. They are not weaned prior to six weeks. The Hon. Mr. Hart has said that young pigs under six weeks are sold and dressed. I think that would be a case of "poor little piggy", and I could not imagine that there would be much meat on a pig of that size. However, such a piglet would come within the Act: unless the young pigs are sold with the suckling sow, they have to be branded. I consider that it would be inhumane to brand pigs younger than six weeks. I do not think the instance quoted by the Hon. Mr. Hart would occur very often.

The Hon. M. B. DAWKINS: I have endeavoured to get some reaction from various pig breeders to clause 5 (*b*). I said in my speech on the second reading that pig breeders in South Australia are very well organized in that they have both stud and commercial sections, and it is possible for a Government to get with a considerable degree of accuracy the reaction or the desires of the breeders. I have not been able to ascertain from anything that has been said in this debate whether the Government sought the desires or the opinion of the pig societies on this amendment. I think it would have been a good move if the Government had sought the desires of the pig breeders, especially as that information would not have been difficult to obtain.

If that information has not been sought, will the Minister consider reporting progress in order to find out the actual desire of pig breeders in this regard? I understand that the pig societies are having a meeting soon. In the meantime, could they not be given an opportunity to contact members in order to get individual reactions? It is not possible to get the reaction of a society from just a round robin of individuals. Can the Minister say whether the Government has sought the opinion of the pig societies? If it has not, will it consider doing so?

The Hon. S. C. BEVAN: I do not know whether the Agriculture Department has sought opinions from pig societies. I have here a rather voluminous docket dealing with this matter. I know that at least some of the breeders were consulted, although I do not know how many. I know that consultations went on, although they were not with pig societies.

The Hon. M. B. Dawkins: What I wanted to know was whether this was introduced at the specific request of the pig societies.

The Hon. S. C. BEVAN: I understand that the breeders are anxious for this legislation to become operative as soon as possible. Difficulties have arisen in relation to this matter, and that is why the Bill is now before us. There has been no opposition to this measure from the pig breeders or the pig societies. They are well aware of the circumstances of the Bill, and they desire the legislation to be put into operation.

I consider that there will be no harm in passing and giving effect to this legislation. If any difficulty arose in relation to this clause it would be easy to remedy it. I think we should pass this legislation so that the breeders can secure any benefits that may accrue from it. It could be amended later if this was found necessary.

The Hon. H. K. KEMP: In this case I must back the Minister. I am sure that the effective pig breeders have been consulted in this matter. This measure, which is designed primarily for the control of swine tuberculosis, is really fairly urgently required. Several members have referred to other diseases that could be traced as a result of this measure, but I do not think those are nearly as important as swine tuberculosis, which undoubtedly can be eradicated with the assistance of the measure as it has been put before us.

With swine tuberculosis there is not the very rapid spread that takes place with things like swine dysentery and rhinitis. These are terribly infectious diseases and they entail a larger degree of quarantine in their control. With tuberculosis, so long as the origin of infected pigs and their contacts can be traced back fairly reliably, there is no doubt whatever that the disease can be eradicated, in the same way as bovine tuberculosis has been effectually eradicated.

The Hon. Mr. Geddes raised the question of infection in the course of contact within sale yards. This is not the way swine tuberculosis is spread: it is more a matter of long continued contact. There is no doubt that it is quite impracticable to think, as a standard measure, of branding piglets below the age of six weeks. At that age they are very awkward things to handle, a fact that will be well known to some honourable members, and below that age it is just hopeless to think of putting any brand on the ear at all. I understand the intention is to modify branding and to simplify the brand in order to make it easier still for a pig to be branded. I suggest that we do not ask the Minister to defer this matter.

Clause passed.

Clause 6 and title passed.

Bill read a third time and passed.

## BIRTHS, DEATHS, AND MARRIAGES REGISTRATION BILL.

Adjourned debate on second reading.

(Continued from October 25. Page 2477.)

The Hon. F. J. POTTER (Central No. 2): This Bill is really a Committee Bill, because it deals with several matters that are related to each other only because they come under the administration of the one Government department. The Bill seems to have been carefully drawn, and many of the provisions repeat the provisions of the present Act. Much of the Bill is taken up by forms and schedules designed for registration purposes. I do not think we need be very concerned about the two matters that the Hon. Mr. Rowe has raised. In any case, I understand the Chief Secretary has a reply on those matters.

Regarding the changing of the name of a child who has been given to the custody of a person after a divorce action, I know that some people are hypersensitive about these matters. I have had complaints by fathers that the mothers have, without the knowledge and consent of the fathers, changed the surnames to those of their new husbands. I have some sympathy for a father in those circumstances, but I do not think this Bill changes the present position. Although the father may be cross about the matter, it seems strange to have the children going to school known as Smith while their mother is Mrs. Brown.

The change of name notification is now to be filed with the registrar, whereas previously it was to be filed in the general registry office. I do not know whether I am correct in assuming that the instruments will no longer have to be filed in a general registry office, but I think that it is more satisfactory to deposit them with the principal registrar, because he has to take the necessary action on them. The provisions regarding changes of names seem to be satisfactory. I support the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 13 passed.

Clause 14—"Duty of occupier of premises to notify birth."

The Hon. C. D. ROWE: During the second reading I asked whether this clause placed too much responsibility on the occupier of premises and said that the occupier might not always have knowledge of the birth of children in the premises. I understand that the Chief Secretary may have a report on the matter.

The Hon. A. J. SHARD (Chief Secretary): I am advised that it is not considered that clause 14 will have the effect of placing an undue burden upon occupiers generally of premises. It should be borne in mind that over 99 per cent of births occur in hospitals. It is only the isolated birth that occurs in premises where subclause (1) of this clause will be affected. It is the duty of the occupier, under this clause, to furnish to the principal registrar notice of the birth.

It is the duty of parents to furnish particulars of registration of birth, as provided in clause 15. It may also be mentioned that, regarding notification of death, section 28 of the Act and clause 29 of the Bill require an occupier to furnish particulars for the registration of the death. That is a heavier burden than that placed upon the occupier by this clause.

Clause passed.

Clauses 15 to 23 passed.

Clause 24—"Change of surname."

The Hon. C. D. ROWE: During the second reading I asked whether it was desirable to enable the mother of a child to change the surname of a child from that of the father to that of her new husband, and the Chief Secretary promised to obtain information on this matter.

The Hon. A. J. SHARD: The provisions of this clause dealing with the situation that the honourable member has mentioned are designed to meet numerous requests by parents to have surnames changed where the mothers are married to persons who are not the fathers of the children. Considerable embarrassment is caused to parents and a child who, for example, when attending school has a name different from the person to whom the mother is married. This situation arises not only where the mother has been divorced and remarries but also where the child is illegitimate and the mother marries someone other than the father of the child, and also where the mother is widowed and remarries. No provision exists at present under the Act to change the surname on the birth registration to meet the wishes of the mother of the child. The practice at present is for the mother to deposit with the Registrar-General of Deeds a declaration of the change of surname by which the child is, after such declaration, to be known. This clause gives the statutory authority for a change in surname in the circumstances I have mentioned.

I should remind honourable members that, although the clause provides for a change of

surname of the child, the name of the father of the child is still recorded on the birth registration, and there is no intention that this procedure should be changed. It should also be borne in mind that there is nothing to prevent a child under 16 years of age, whose name has been changed without his consent, from changing his name to any name he chooses when he attains the age of 21 years. I assure the honourable member that the law of adoption has not been changed by this Bill. However, notice has been given in another place of the introduction of an Adoption of Children Bill. The proposals in that Bill are based on the uniform proposals adopted at conferences of Attorneys-General and Ministers responsible for adoptions in the States of the Commonwealth. That Bill will change the law of adoption in many important respects but, as honourable members will appreciate, I am not at liberty to disclose now in what respects the law is proposed to be changed.

Clause passed.

Clauses 25 to 80 passed.

First to Seventeenth Schedules passed.

Eighteenth Schedule.

The Hon. C. R. STORY: I refer to Form No. 2. Why do we still use such terms as "Esquire" and "Special Magistrate"? While we are dealing with these things, why do we not bring them up to date? These titles seem to be redundant. Many such things have been deleted from our legislation in the last few years.

The Hon. A. J. SHARD: We still have special magistrates. I understand that this is the usual form.

Schedule passed.

Remaining schedule and title passed.

Bill reported without amendment; Committee's report adopted.

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

That Standing Orders be so far suspended as to enable me to move the third reading of this Bill without delay.

Motion carried.

The Hon. A. J. SHARD moved:

*That this Bill be now read a third time.*

The Hon. Sir LYELL McEWIN (Leader of the Opposition): I do not oppose the third reading; the Bill has been debated and has passed through Committee, no amendment having been made to it, and it has not yet been considered in another place. However, with many of the Bills that we have recently considered, it has become the standard practice that as soon as a Bill has passed through Committee, the Minister has moved for the suspension of Standing Orders to enable its third reading without delay. In that case, we may as well dispense with Standing Orders, as they apply to the third reading of a Bill. I hope that this will not become a practice except perhaps in urgent cases.

The Hon. A. J. SHARD: The point is noted, Mr. President.

Bill read a third time and passed.

## PROHIBITION OF DISCRIMINATION BILL.

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

## ADELAIDE WORKMEN'S HOMES INCORPORATED ACT AMENDMENT BILL.

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

## ADJOURNMENT.

At 5.27 p.m. the Council adjourned until Tuesday, November 1, at 2.15 p.m.