LEGISLATIVE COUNCIL

Tuesday, November 1, 1966.

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

QUESTIONS

YORKE PENINSULA WATER.

The Hon. M. B. DAWKINS: I ask leave to make a statement prior to asking a question of the Minister of Mines.

Leave granted.

The Hon. M. B. DAWKINS: For some considerable period I have been concerned about the further extensions of water supply at the bottom end of Yorke Peninsula. This question, possibly, could be directed to the Minister representing the Minister of Works, or to the Minister of Mines, but I think in this case it should be directed to the latter Minister. About three months ago a reply was given to me by the Minister of Labour and Industry, and it concluded:

As soon as a report is received from the Mines Department an investigation will be made and a scheme prepared for the development of the Carribie Basin.

Of course, the extension of supply in that area depends upon the development of that basin. Many local residents are anxious to know of any further developments that may have occurred in the last three months and whether the report that the Minister referred to is yet available from the Mines Department. Can the Minister of Mines say whether the report with reference to this area is available?

The Hon. S. C. BEVAN: I shall inquire of the department whether the investigations have been completed and the report is available and, if it is, I shall bring it down as soon as possible.

PORT PIRIE TRAIN.

The Hon. R. A. GEDDES: Has the Minister of Transport a reply to my question of October 25 concerning the train from Port Pirie to Adelaide?

The Hon. A. F. KNEEBONE: Yes. A considerable amount of work in connection with the standardization of the Port Pirie station yard has to be done in stages, and Sunday is the only day on which this work may be done satisfactorily. On Sunday, October 23, 1966, some such work was being undertaken near Port Pirie Junction and unfortunately it was not possible to complete this work in the scheduled time. As a result, the department was unable, at short notice, to inform the public that the train would be late departing from Port Pirie Junction. It is standard practice to advertise known alterations to train departures. The inconvenience caused is regretted.

BALHANNAH MINE.

The Hon. H. K. KEMP: My question relates to the Balhannah mine, which rumour has it in the district is to be shortly re-opened. Can the Minister of Mines make a statement on this mine?

The Hon. S. C. BEVAN: I shall obtain the information requested and bring down a report as soon as possible.

LAND ALLOTMENT.

The Hon. D. H. L. BANFIELD: Can the Chief Secretary, who represents the Treasurer in this Chamber, say how many applications for assistance, supported by the Land Settlement Committee, have been approved over the last 12 months; what was the average value of the land involved in these approvals; what was the average price paid for the property purchased; what was the highest price paid; what was the average value of purchasers' equity in the land; what was the average value of purchasers' resources; what was the highest value of purchasers' resources; and whether in each case a certificate was given that the property purchased was a living area?

The Hon. A. J. SHARD: Obviously, I cannot answer the questions now, but I shall be pleased to refer them to the Treasurer to see whether the information is available, and to bring down a report in due course.

ALL PROOF TIMBERS LIMITED.

The Hon. R. A. GEDDES: Has the Chief Secretary a reply to my question of October 26 about All Proof Timbers Pty. Ltd.?

The Hon. A. J. SHARD: I have been supplied, through the Premier, with the following report from a departmental officer:

As All Proof Timbers Pty. Ltd. of Wirrabara is owned by Wadlow Pty. Ltd. of Jamestown and Port Adelaide, I had a discussion with the Managing Director of the company (Mr. Keith Wadlow) about their operations at Wirrabara. He advises me that his company purchased All Proof Timbers from the Heaslip family a few years ago who found they were unable to operate it profitably on their own. As Wadlows were operating timber cutting contracts in the district, this activity fitted in with their general line of business. It has been operating under a manager with the assistance of two youths, and results have shown that this arrangement was not a profitable one either. Consequently, it has been

decided to transfer the activities to the Jamestown mill of Wadlows under the administration existing there. The plant will be dismantled by Wadlows and re-erected at Jamestown. This arrangement will result in a reduction in the overhead of operating this timber treatment operation, which they then expect to become profitable. Mr. Wadlow made the observation that youth labour is very difficult to obtain in the Wirrabara area as, being a farming community, the work demand is of a seasonal nature, whereas they expect to have a more regular supply at Jamestown.

PORT AUGUSTA HOSPITAL.

The PRESIDENT laid on the table the report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence, on Port Augusta Hospital.

PERSONAL EXPLANATION: SUCCESSION DUTIES.

The Hon. R. C. DeGARIS (Southern): I ask leave to make a personal explanation.

Leave granted.

The Hon. R. C. DeGARIS: Last Thursday I said that some of the figures that I had given in my second reading speech on the Succession Duties Act Amendment Bill were inaccurate. I now have a table containing the correct figures and have given a copy of it to the Chief Secretary. I ask leave to have the table incorporated in *Hansard* without my reading it.

The Hon. A. J. Shard: I have no objection.

Leave granted.

DUTY ON PRIMARY PRODUCING LAND.

Value of property	Proposed duty.	Present duty.	Variation.
$30,000	$1,900	$2,450	(decrease $550 = 23%)
$40,000	$3,575	$3,500	(increase $75 = 2%)
$50,000	$5,440	$4,860	(increase $580 = 12%)
$60,000	$7,350	$6,233	(increase $1,117 = 18%)
$80,000	$11,625	$9,000	(increase $2,675 = 30%)

PROHIBITION OF DISCRIMINATION BILL.

Second reading.

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

That this Bill be now read a second time.

Its purpose is to give effect to the Government's intimation to the Commonwealth Government that the Government of South Australia believes that the whole of the United Nations Draft Convention on Racial Discrimination should be ratified by the Commonwealth of Australia. One of the provisions of that convention, as I shall explain shortly, is that legislative provision should be made to prohibit practices of racial discrimination within the subject State. In South Australia, fortunately, we do not have very many practices of racial discrimination. Some occur but, when compared with what happens elsewhere, they are not very serious. However, they could develop into unpleasant incidents if they were allowed to continue.

The Government has been grateful for the co-operation of bodies concerned with the rights of racial minorities in this State in that they have not taken public and direct action of the kind that has happened elsewhere in Australia because it was indicated to them clearly that the Government intended to take this important step and that, rather than that direct action should be taken by groups of citizens, it was better that the community as a whole should express its disapproval of practices of discrimination on the grounds of race, colour, or country of origin. If this measure had not been proposed we might have seen in South Australia some of the direct action that has been taken in other States because those States did not see fit to enact legislation of this kind. In South Australia, happily, we have a community that clearly disapproves of discrimination against persons by reason of their race, colour of skin, or country of origin. That disapproval stems from the general attitude of this community that all citizens should be given equal rights before the law, and should be treated as human beings and not differentiated against because of minority discernible characteristics.

I believe that here in South Australia, in this matter again, we can give a lead within the Commonwealth, and that we can enact here in the circumstances existing in South Australia a measure similar to one passed in the United Kingdom in 1965. The Bill is a simple one; it prohibits certain practices in South Australia of discrimination by reason only of the race, country of origin, or colour of skin of the person discriminated against, and it penalizes, and in some cases makes void or inoperative, measures taken in furtherance of that particular discrimination. The definition clauses

of the Bill are modelled on definition sections contained in legislation already existing in South Australia. Clause 2 defines various terms generally along the lines of existing legislation. For example, "place of public entertainment" and "shop" are based upon the definitions in the relevant Statutes.

Clauses 3 to 8 inclusive prohibit discrimination in various respects on the grounds of a person's race, country of origin, or the colour of his skin, under a maximum penalty of $200. Clause 9 provides for summary procedure for offences, proceedings for which can be taken only with the consent of the Attorney-General. This last provision supplies what is considered to be a safeguard against unnecessary proceedings where the circumstances may not warrant action being taken.

Clause 3 prohibits refusal of admission to licensed premises, places of public entertainment, shops and public places; clause 4 prohibits refusal or failure to supply services; clause 5 prohibits the refusal of food, drink or accommodation; and clause 6 prohibits the refusal of the letting of premises. Clause 7 prohibits the dismissal of an employee, and clause 8 prohibits the making of agreements or instruments containing restrictive covenants in connection with the disposal of or dealing with land. This last clause provides, in addition to a penalty, that any restrictive covenant is to be void or inoperative.

When the Government originally prepared the Bill it did not include the provision contained in clause 8, but the Bill was subsequently discussed with several academics in Australia who had had experience of investigating discriminatory practices in other parts of the world, particularly in the United States of America. They strongly represented to us that, whereas at the moment there were no known discriminatory practices in South Australia of the kind prohibited in clause 8, nevertheless this was the most objected to and the most regularly used discriminatory practice in the United States, and it had become increasingly used in the United Kingdom (that is, the provision of restrictive covenants upon disposal of or dealings with land to exclude these people of certain different racial characteristics from certain areas in the community). Therefore the Government thought that it should include this particular clause.

Such are briefly the provisions of the Bill. It is, I think, unnecessary for me to say much in justification of its provisions. Honourable members are well aware of the need for social legislation of this kind. Indeed, the need for such legislation has received recognition by the United Nations, which recently adopted a convention on the elimination of racial discrimination. The preamble to the convention refers to one of the purposes of the Charter of the United Nations as the promotion and encouragement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction; to the Universal Declaration of Human Rights proclaiming that everyone is entitled to rights and freedoms without distinction, in particular as to race, colour or national origin; and to the necessity of eliminating racial discrimination throughout the world with a view to the establishment of peaceful relations among nations and the harmony of persons living side by side in the same State.

The principal operative clauses of the convention provide that racial discrimination shall not be practised, defended or supported and that, to this end, legislation where necessary shall be enacted; that States shall guarantee equality in the enjoyment of civil rights, including the right to freedom of residence, the right to work under just and favourable conditions, the right to housing, and the right of access to any place or service intended for use by the public, such as transport, hotels, restaurants, cafes, theatres and parks.

Fortunately, we do not have what may be called a racial or colour problem in Australia, but I think it will be agreed that, apart from the convention to which I have referred, everything possible should be done to ensure that such a problem does not occur. As is known, the Government's policy is to protect and advance the interests and wellbeing of the Aboriginal population. It is in relation to this particular section of the population that certain minor but known discriminatory practices exist in South Australia, and it is our intention to see that these cannot continue. You, Mr. President, will be aware of certain practices that exist in some northern parts of the State. While it is against the Aboriginal population of this State that known discriminatory practices exist, the Bill does not differentiate between Aboriginal people and other minorities that have discernibly different characteristics of country of origin, colour of skin, or race. We believe this should refer not merely to the Aboriginal population in South Australia but to all people who may have discernibly different characteristics of this kind. It is particularly important for Australia that this should be so, in view of the close relations which exist and

which should be developed between us and our near Asian neighbours.

The Hon. Sir Lyell McEwin: What are those practices in the northern areas of the State to which you refer?

The Hon. A. J. SHARD: I commend the Bill for the consideration of the Council.

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

ADELAIDE WORKMEN'S HOMES INCORPORATED ACT AMENDMENT BILL.

Second reading.

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

That this Bill be now read a second time.

Its purpose is to enable the Adelaide Workmen's Homes Incorporated to provide suitable dwellings at reasonable rentals for pensioners and aged persons. At present the institution, which was established many years ago, is authorized only to provide dwellings for workmen. Changing circumstances and modern conditions have rendered it desirable to broaden the scope of the institution's activities and the Government has willingly adopted this Bill to assist in bringing up to date the activities of the institution. The Bill also extends the power of the institution in a number of minor matters where limitations have hampered the continuance of the valuable social work of the institution.

The institution was established under the will of Sir Thomas Elder by a legacy of $25,000, which he requested be settled on the lines of the Peabody Donation Fund in England. Sir Thomas Elder died in 1897 and his trustees in accordance with the will executed a trust deed dated September 30, 1898, establishing the Adelaide Workmen's Homes. The Peabody Donation Fund referred to in the will was apparently the fund (later in England in 1900 incorporated by Royal Charter) established by George Peabody, an American philanthropist. George Peabody descended from an old family from Hertfordshire in England and, after successfully engaging in business in America, established himself in London as a merchant. He later gave £500,000 for the erection of dwelling houses for the working people in London.

Adelaide Workmen's Homes was incorporated under the Associations Incorporation Act, 1858, and the trust deed of September 30, 1898, was amended by private Act of the South Australian Parliament in 1933 by adding clause 8a (relating to remuneration of the trustees) and imposing on the trustees certain obligations as to annual accounts. The trust deed provides that there should be a rigid exclusion from the management of the institution of any influence calculated to impart to it a character either sectarian as regards religion or exclusive in relation to local or Party politics.

The institution now owns 127 houses, of which 27 are in the vicinity of Angas and Wakefield Streets, Adelaide, 24 are at Mile End, and 76 are at Hilton. The houses are of various sizes, the largest having six rooms and the smallest three rooms with enclosed back. The average rental of the houses at December 31, 1965, was 55/1d. and the average rental per room 11/11d. At the present time the tenants of 51 of the 127 houses are pensioners, some of them being widows of former workmen tenants. Under the trust deed as amended by the private Act of 1933, the institution is limited to providing homes for workmen, which expression honourable members will be interested to note is specifically defined to include workwomen. In the circumstances, it is the wish of the institution that in addition to providing homes for workmen the institution should be enabled to provide homes for pensioners and aged persons.

Honourable members will find the trust deed as amended set out in full in the private Act of 1933 and the objects in clause 12 thereof. They will also find in clause 11 how the funds are to be laid out and spent. Recently the Corporation of the City of Adelaide gave notice to the institution that portion of the land between Wakefield Street and Angas Street belonging to the institution was required for an extension of Frome Street and as the result of negotiations between the corporation and the institution it was agreed that the corporation should acquire from the institution the whole of the city houses for the sum of $360,000. In pursuance of this agreement the corporation has already acquired 21 of these houses, leaving 27 to be acquired by 1968. The corporation will require possession of the 21 houses by December 31, 1966, and of the remaining 27 houses by August 31, 1968.

The institution is at present building 13 flats at Hilton at a cost of approximately $120,000 and as these are due for completion before December 31, 1966, it will be possible to re-accommodate in these flats or in other houses belonging to the institution those tenants who will have to vacate the city houses by December 31, 1966, and who wish the institution to provide other accommodation. Some of the tenants of the institution's city properties desiring accommodation have been

tenants for many years and, although workmen when they originally became tenants, are now pensioners.

Some of the tenants are pensioner widows of men who were workmen when they originally became tenants. These pensioners and pensioner widows have been permitted to remain in occupation, but the trustees are advised that they have not the power without amending legislation to re-accommodate them in other houses or flats since they are not now workmen or workwomen. The institution also believes it desirable that authority be given to provide accommodation for aged persons. Apart from the land on which the additional 13 flats are at present being built, the institution owns a vacant block of land at Hilton comprising approximately 4 acres. The institution wishes to be able to erect on this land units for the accommodation of aged persons.

Subject to the Adelaide Workmen's Homes Incorporated Act being amended in accordance with the present Bill and subject to the institution's complying with the requirements of the Aged Persons Homes Act, 1954-1957, of the Commonwealth, the Social Services Department has intimated that the institution will qualify as an organization eligible for assistance under the Aged Persons Homes Act. In such case, with the money to be received from the city council ($360,000) and the Commonwealth Government subsidy of 2 for 1, the institution would have available for such a scheme an amount of over $1,000,000. At this stage the institution has not, of course, been able to make any final decisions, but preliminary plans prepared by the institution's architects show that approximately 80 units could be erected on four acres of land and the amount of money to become available would be more than sufficient for their erection.

Clause 5 extends the object of the institution to benefit pensioners and aged persons who have been workmen or dependants of workmen, in addition to workmen. Clause 4 (*a*) extends the area within which land may be purchased from the present limit of 10 miles from the General Post Office at Adelaide to 100 miles. The 10-mile limit is in clause 11A of the deed. Clause 4 (*b*) adds to the types of buildings which may be built such buildings as home units, flats, hospitals and shops. At present the type of building is limited as in clause 11B. Clause 4 (*c*) gives the trustees power to sell any land or buildings that have become unsuitable for the purposes of the institutions, such power being at present limited to the sale of land or buildings which have become unsuitable for workmen's homes. The Bill, being of a hybrid nature, was referred to a Select Committee by another place in accordance with Joint Standing Orders. The committee recommended passage of the Bill in its present form.

The Hon. JESSIE COOPER secured the adjournment of the debate.

ROWLAND FLAT WAR MEMORIAL HALL INCORPORATED BILL.

The Hon. A. J. SHARD (Chief Secretary) brought up the report of the Select Committee, together with minutes of proceedings and evidence, and moved:

That the Bill be recommitted to a Committee of the whole Council on the next day of sitting.

Motion carried.

MOTOR VEHICLES ACT AMENDMENT BILL.

The House of Assembly intimated that it had agreed to the Legislative Council's amendments Nos. 1, 2 and 5 to 8 but had disagreed to amendments Nos. 3 and 4.

POLICE REGULATION ACT AMENDMENT BILL.

Returned from the House of Assembly without amendment.

STAMP DUTIES ACT AMENDMENT BILL.

In Committee.

(*Continued from October 27. Page 2608.*)

Clause 8—"Amendment of Second Schedule to principal Act"—to which the Hon. F. J. Potter had moved a suggested amendment by inserting 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.

The Hon. A. J. SHARD (Chief Secretary): I ask the Committee to reject this amendment. It would be unworkable in its present form. Any rebate of stamp duty is not an exemption and, in any event, when a hire-purchase agreement is made the stamp duty is a once-for-all payment levied on the amount, irrespective of the period of the agreement, whether it be for three months or five years. There can be no question of allowing a rebate of duty if the agreement does not run its allotted period,

for if the agreement had been for a shorter period the duty would have been the same. The allowance of rebates would give rise to serious administrative difficulties and the procedure would leave open the possibility of tax avoidance. For example, agreements could be written for long periods with an understanding for earlier repayment, thereby reducing the net duty. However, the Government recognizes that there is substance in the claim that when hirers terminate their agreements after a very short period the lender may suffer a serious reduction in profit, or in extreme cases may make no profit at all because he bears the whole of the stamp duty.

The provision for a statutory rebate in the Hire-Purchase Agreements Act (now included in the Money-Lenders Bill before the Council) was recommended by a conference of State Ministers after consultation with interested parties, and it would be normal to have any amendments relating to stamp duty on a uniform basis. Despite this, however, the Government has decided to give a measure of relief, and in due course I shall move amendments to the Money-Lenders Bill to allow a deduction of a proportion of stamp duty from the amount of interest that the lender is required to rebate to the borrower. If these amendments are accepted, the Government will introduce as soon as is practicable similar amendments to the Hire-Purchase Agreements Act to bring both Acts into line. The South Australian Divisional Chairman of the Australian Finance Conference has agreed that the proposed amendments would adequately meet the position arising out of early completion of contracts and agreements. The suggested amendments to the Money-Lenders Act Amendment Bill are prepared and will be proceeded with. In view of the undertaking I have given, I hope the Committee will reject the amendment.

The Hon. Sir ARTHUR RYMILL: I thank the Minister for his indication, which I think is very reasonable. It makes very good hearing to me because I think it is just that such a thing should be done. The position with many of these contracts is that much cost to the lender goes into the processing of the transaction and the examination appertaining to it when the transaction is about to be entered into. If the lender has to refund an absolute proportion of the interest paid after a very short period, in many cases (not just in extreme cases) the lender would make a loss. This Bill and the Money-Lenders Act Amendment Bill overlap quite a little and it is hard to debate one without debating the other. I shall be speaking later today on the Money-Lenders Act Amendment Bill, and I do not want to deal with it at this stage, so I shall content myself by saying that I welcome the Minister's suggestion and that I am sure that it will afford some worthwhile relief to lenders.

The Hon. F. J. POTTER: I, too, welcome the statement made by the Chief Secretary. It seems that the Government has taken advantage of the opportunity since we were last in Committee to consider this measure further. When I moved the amendment I realized that it was not wholly adequate. Indeed, it was difficult to move an amendment to meet the case adequately. I did my best but, in view of the intimation of the Chief Secretary, I now feel it is not necessary to proceed with my suggested amendment. Therefore, I ask leave to withdraw it.

Leave granted; amendment withdrawn.

Clause passed.

Clause 9 and title passed.

Bill reported without amendment. Committee's report adopted.

SUCCESSION DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 27. Page 2606.)

The Hon. C. D. ROWE (Midland): This is the second session in which we have had a Bill of this nature before us. Although some effort has been made by the Government to meet some of the criticisms made about the Bill last year, I am still of the opinion that it contains many obnoxious clauses, and in its present form I am not prepared to support it. Before I deal with the specific clauses, I should say something about the Government's general financial situation, because in its policy speech it made certain promises about how it would finance its proposals. It said that it proposed to increase succession duties on the larger estates but it did not mention that it proposed to upset the whole basis of succession duty and also to aggregate different successions to the same person. Also, it said in so many words that it would enable a primary producer to inherit a living area without payment of any duty.

This Bill does not exempt such a primary producer entirely from succession duty; also, it has clauses on the aggregation of successions, about which nothing was said in the policy speech. Consequently, I cannot agree

with the opening statements in the speech of the Minister that this Bill is in accordance with an election promise, undertaking, threat, or whatever it was; but it is important that we see what the Government said about its financial proposals. Since this is a taxation measure designed to raise money, it is competent for me to make some reference to the financial proposals of the Government. It said this:

Labor's policy therefore is:

(*a*) to strengthen the State banking system by amalgamating the State Bank and the Savings Bank so that Trading Bank and Savings Bank facilities with Savings Bank cheque accounts will be available throughout the State;

(*b*) to provide that all Government and semi-Government institutions bank with the State banking institutions . . .

(*c*) that as Commonwealth and interstate loan investments fall due for reconversion, they shall be re-invested in our own Government guaranteed State undertakings.

Additional funds will also be available on account of the normal growth in Government revenue and loan funds. The current trend of growth in Government expenditure and receipts is 7 per cent per annum and there is no indication that this trend is likely to alter . . . Some part of the receipts I have mentioned will automatically be absorbed by wage adjustments and expanded services, but a very conservative Labor estimate shows that at least $51,000,000 will be available towards the cost of improved educational, health, and other essential social services.

The point about that is that if this financial policy that the Government put to the people in its last election speech had been implemented and if it had worked out as we were told it would, it would have had an additional $34,000,000 a year to finance its proposals. So, why have not these proposals been implemented? If they have not been implemented, has the Government found, as everybody knew at the time, that the proposals were completely impracticable and would not stand up to practical tests? Because the proposals it put to the people have fallen to the ground and it has not been possible to implement them, it has had to seek other means of producing money to enable it to balance its Budget. The net result is that we have had increases in water rates and Harbors Board dues, an attempted increase in succession duties, an almost unconscionable increase in land tax, and increases in stamp duties, bus fares and in many other directions, none of them having been mentioned in the policy speech.

I suggest that if, instead of telling the electors what it would do about its proposals to finance the affairs of the State, it had told them what, in point of fact, it has done—that there would be extravagant increases in almost every means by which it could tax people—this present Government would not have reached the Treasury benches. I think it is fair to say that the proposal that it put to the people by which it would finance its undertakings has not seen the light of day and has proved completely ineffective, in addition to which many increases and aggregations have been imposed that were not mentioned in the Budget.

The Hon. C. R. Story: Do you think the Government might change its financial advisers?

The Hon. C. D. ROWE: I presume there are people on the Government benches with some knowledge of economics, though the extent of their knowledge is not apparent.

The Hon. M. B. Dawkins: Theoretical knowledge.

The Hon. C. D. ROWE: I think the Government would be well advised to change its financial advisers in the interests not only of the Labor Party but also of the State as a whole. We are asked to approve of a Bill that, we are told, is in accordance with election promises but, in point of fact, it is not; and we are asked to approve these additional taxation measures because other measures have proved unworkable. The Government cannot say it has a mandate to introduce this type of legislation. It may have thought it had this mandate 18 months ago but, after Saturday, I think even the Government is doubtful whether it has a mandate, because a 30 per cent vote is no mandate to implement a policy.

I come to the Bill and refer to one or two aspects of it. I have already mentioned that it is not in accordance with the policy speech, which had this to say about succession duties:

Our policy on succession duties provides an exemption of £6,000 for the estates inherited by widows and children. It also provides that a primary producer will be able to inherit a living area without the payment of any succession duties, but a much greater tax will be imposed on the very large estates. This will be more in keeping with those in operation in other States.

That says nothing about the proposed aggregation in the Bill but it does say that a primary producer will be able to inherit a living area without the payment of any succession duties. What the present Bill does is not to exempt the living area, but in the case of a primary producer's property worth $40,000 it increases

succession duty by 2 per cent. A certain question was asked this afternoon in this Chamber, and I will be interested to hear the reply regarding the values of properties where assistance has been given. However, I shall be surprised if the average value is under $40,000.

The Hon. A. J. Shard: Then the honourable member will be surprised.

The Hon. C. D. ROWE: I am not upset about being surprised about anything this Government says or does. If the value is much less than $40,000 I doubt whether the people concerned will find themselves on a living area. They would have the job in front of them. This Bill, instead of exempting people so that they may obtain a living area without payment of succession duties, actually increases the duty by 2 per cent. Therefore, it cannot be said that the Bill is in accordance with election promises. Consider a property valued at $60,000 (and in my experience, for a primary producing property, particularly in a barley or wheat growing area or in the mixed grazing areas, that amount would not be an excessive value for a living area). However, on a property of that value, the duty would be increased by about 18 per cent, which is a heavy increase. On examining this Bill we can find where the additional $1,000,000 is to be raised: it will come mainly from primary producers who own certainly not more than a living area; secondly, it will come from the medium-size estates and not the larger ones.

Certain extensive alterations will have to be made to the Bill before I give it my support. First, I would insist that the election promises be honoured, and that the Bill be amended so as to make certain that a primary producer can inherit a living area without payment of succession duties. In my opinion, that would mean instead of exempting primary producers up to an amount of $12,000 the exemption should be more in the vicinity of $30,000. If the Government is prepared to do that and honours its election promise, then I will be prepared to examine the Bill as far as that aspect is concerned. Secondly, I mentioned that this Bill provides for aggregation of gifts to one person which was certainly not mentioned in the policy speech, but if that comes about I think we must also examine the extent to which primary-producing land will be exempt.

At the present time if a man or woman owns the land in his or her own right and name, the exemption would be applicable, but there is no rebate or concession to a primary producer if the land is held as a shareholder in a company, a joint tenant, a tenant-in-common, or as a member of a partnership. If we are to have these aggregation provisions and if the Government is not to honour its promises completely to exempt a living area, then at least we are entitled to ask that if land is held in any of the four categories mentioned the exemption should apply. I cannot see the logic of arguing that because a man holds land as a joint tenant or tenant-in-common it is different from the case where he holds it in his own name and, therefore, I feel the exemption should be extended to cover the cases I have mentioned.

Under new section 59 (*ga*) there is an exemption provided in the case of a widow who inherits an insurance policy up to an amount of $2,500. In the terms of modern-day finance and money values I believe that such a figure is completely unrealistic, because that amount does not represent anything more than a reasonable deposit on a house property. I consider that the figure should be increased to at least $5,000.

The other objection I raise to this Bill is in connection with the aggregation clauses, which will upset arrangements made by people over many years in the organization of their affairs. If these aggregation provisions are introduced it will be almost impossible for many people to calculate exactly what their liability is likely to be with succession duties. I have examined the previous amendments made to the Act when the scheme has been altered and I have found that when subsections (*g*) (*h*) and (*i*) of section 55 were previously amended on October 26, 1893, provision was made that the new law would only apply to arrangements made after that date, and the same principle applied when amendments were made in November, 1919.

I think that if the whole basis of the levying of succession duty is to be altered, then at least it is reasonable to ask that these new provisions should only apply to joint tenancies, insurance policies and settlements that are created after the date of passing of the Bill. In other words, it will not upset the arrangements of affairs made by people in years that have gone.

I have not had a great deal of time to examine thoroughly all the ramifications of the Bill. In every additional half hour I spend on the Bill I find further difficulties that were not apparent on the surface. Because of that, I have not been able to treat the matter as adequately as the importance of the subject deserves. I am aware that the Hon. Mr. DeGaris, when speaking on the Bill, found it difficult to calculate what, in fact, was the

amount of succession duty payable in a particular case. I do not blame him at all for making a small error in his calculations because it is a complicated task and needs the attention of someone completely in touch with the Act in order to calculate the amounts accurately. Because of those additional complications and because the public do not understand the ramifications of the Bill (more particularly when those of us with the opportunity of examining it still are not satisfied that we know all about it), unless it is amended to bring it into line with election statements I do not think this Council should be asked to support it.

I realize that the original proposals put forward by the Government to finance its affairs have completely broken down, and I realize that the Government has been completely unable to implement the methods of finance it proposed. That was obvious to any sensible person at the time the policy speech was delivered. But the government of the country must go on and, consequently, other methods of finance have been sought. The Government has chosen these avenues to try to balance the Budget. However, that still does not authorize it to attempt to do what is proposed in this Bill. It will have ramifications that must be disastrous to the State.

I know there is a difference between the policies on this matter and that the Labor Party believes that it can achieve something by making excessive inroads into the estates of private persons. I heard an example the other day, when a Conservative and a Socialist were asked what they would do if each of them were given $1,000,000. The Conservative said, "I suppose that, if I had $1,000,000, I would look around and try to find a worthwhile investment, invest the money, develop a new industry, create more jobs for more people and expand the economy until everybody benefited." The Socialist said, "I suppose I would just go on spending it in the same way as I am spending at present until it was all gone."

Those are the two different philosophies. I do not believe we will develop a sound economy or encourage people to develop land and leave an inheritance for those who are to succeed them if the people know that the fruits of their efforts will be taken from them by an impecunious Government. For those reasons, I am not prepared to support the Bill at it stands.

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

MONEY-LENDERS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 26. Page 2544.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): I support the second reading. The Bill is really in two parts and, although it is short, the two parts are quite important. Clause 3 widens the definition of the word "loan". Apparently, this has been done to plug up certain chinks that have been found to exist in relation to the drafting of the previous Bill, whereby it is alleged that some money-lenders are getting around the requirements for stamp duty purposes. If this is so, I suppose there is no quarrel about what is proposed.

In fact, it seems to me that the Government and the draftsman have been at some pains to see that, in correcting the matters that they think need correction, they do not go too far, because the widening of the definition of "loan" to include the sale of goods on terms carefully mentions that this applies only to persons (which includes companies) whose principal business is that of lending money. In other words, the definition does not apply to a genuine seller of goods, but merely to a sort of middle-man money-lender who comes between the two elements of the contractual transaction.

The other part of the Bill relates to what happens when contracts are terminated in the early stages, and draws attention to the fact that two Acts are related to this matter, the Money-Lenders Act itself and the Hire-Purchase Agreements Act. It was pointed out in the second reading explanation that, under the Hire-Purchase Agreements Act, there was a slightly more favourable method of apportioning interest on contracts terminated early than under the Money-Lenders Act so far as the lender is concerned. Apparently, this Bill has been introduced to give the benefit of that, in pursuance of an arrangement made between the States some time ago, to the money-lender.

The second reading explanation also said that the previous Government had had representations from the Australian Finance Corporation about the recovery of stamp duty paid on contracts that are terminated earlier than their full time, and the explanation sets out that the Bill, as drawn, will not fully meet the situation but that it will give some measure of relief to money-lenders. As I pointed out a short time ago in relation to the Stamp

Duties Act, when the Chief Secretary made what I regarded as a welcome announcement, much of the cost of lending money is involved in the original part of the transaction; that is, in investigating the transaction itself and the credit-worthiness of the borrower.

After that, the lender gets his interest factor from the transaction and that recoups, over the period, what he has had to lay out in processing the transaction and in paying stamp duty for which the loans are liable under these Acts, which is a reversal of the principle usually applying to transactions of this nature. As the lender can recoup these expenses only out of the interest, and an exact proportion of the total is refundable if contracts are terminated at an early date, it becomes fairly clear that the lender is not going to do very well out of the transaction.

The Chief Secretary pointed out, in relation to the Stamp Duties Act, that in extreme cases he would not make any money at all. I would say that, in the case of these contracts that are terminated earlier than the due date, it does not need to be an extreme case before the lender finds himself in that position, because the cost of collecting the money and the instalments of interest as they fall due is, in my opinion, nowhere near the costs of the original processing and of what is associated with entering into the transactions. Although this is a rather technical matter, apparently there is some slight advantage to the lender in the rebate of interest under the Hire-Purchase Agreements Act, as compared with the method previously adopted under the Money-Lenders Act. I have studied the wording of the two Acts but am afraid that it is a little beyond me to distinguish the difference, or to be completely clear about how these calculations work in practice.

It seems from the second reading explanation, which I am prepared to accept, that there is some small advantage to lenders, and I think they are entitled to some recompense in these cases. That is why I am prepared to support the second reading. The Chief Secretary intends to move an amendment.

The Hon. A. J. Shard: It will be on the files tomorrow.

The Hon. Sir ARTHUR RYMILL: He explained that it related, in effect, to a refund of stamp duty. I thought I understood him quite clearly. I think this is rather an ingenious scheme, if I understand it properly. It seems it is an expensive matter to the Government and to the department concerned to make rebates of stamp duty in many cases. Also, the Chief Secretary tells us that it would be onerous, so instead of the Government's making a rebate of stamp duty I understood him to say that the lender would be entitled to deduct from the interest he had to repay to the borrower a proportion of stamp duty so that the lender would not be out of pocket on account of the borrower's electing to terminate his contract.

The Hon. F. J. Potter: I think that is what he said.

The Hon. C. M. Hill: And that is what we said earlier in the debate on stamp duties.

The Hon. Sir ARTHUR RYMILL: Yes, and that is a very good arrangement, because the borrower has entered into a contract for a period and he is the one who terminates it early. In the circumstances, I think it is only fair and just that he should have to bear the full expenses of the earlier termination. There is no penalty: he is recouping the lender only the portion of the duty which the lender is required by Statute to pay himself and which he cannot recover from the borrower except by this method. He is not altering the contract in any way: it is the borrower who has changed his mind, so it seems to me to be eminently fair that this should be done. The Chief Secretary has given me a copy of his proposed amendment, and one of the important features is that from the refund is deducted that portion of the amount of stamp duty lawfully paid on the contract that the total amount of interest so attributable bears to the total interest charged under the contract. This is quite fair; it is not unjust to anyone; and it will recoup lenders amounts which, if they have many of these transactions, must aggregate a substantial sum over a period. I will study the amendment further, but in the meantime I intend to support the second reading.

The Hon. C. M. HILL (Central No. 2): I, too, support the Bill, which I have examined closely. As the Minister said in his second reading explanation, it tightens up one or two little avenues which, apparently, lenders have been using and in which lenders have been escaping the payment of taxes. But, perhaps more important than anything else, it provides this Council with the opportunity to have a look at the principal Act, about which there is much criticism in business circles today.

That criticism revolves around the point that people who have been lending solely on mortgage—people whose main business is not money-lending but who, as a form of investment, choose to lend their money on mortgage

—have been running a risk in that possibly they can be classed as money-lenders.

That, of course, entails much expense, and there is a severe provision in this Bill that a money-lender may not be able to recover his principal as well as his interest under certain conditions. I do not think there is any reason why a person who simply has a small sum of money that he decides to lend on mortgage should have to take out a licence as a money-lender and become a money-lender under the definition in this Act.

I will touch on some points that occurred to me as I examined the Bill. Clause 3 brings in another form of lending. It is a strange clause, as apparently in some way it deals with a person whose principal business is that of money-lending and who obtains title to certain goods and sells those goods on a terms arrangement. The balance owing to the money-lender by the buyer will now come within the interpretation of "loan".

I had a talk with a leading accountant in a Rundle Street store about this matter, and he did not know of circumstances where money-lenders whose principal business was that of money-lending were obtaining goods and selling them on terms in this way. Nevertheless, the Government has introduced this point, and apparently this type of operation has been going on, so I am prepared to accept the Government's statement that there is a need for a wider definition of the term "loan".

Clause 4 deals with money-lenders who are involved in court proceedings for any reason. Previously the provision related only to money-lenders who were involved in court proceedings regarding the enforceability of a contract, but this provision has been cut out by clause 4 (*a*) and, as I have said, a money-lender involved in court proceedings for any reason at all in regard to the Act is to be guilty of an offence and subject to a penalty of $200.

This is another point that leads me to pursue the original matter I raised—that people not licensed as money-lenders, yet who, as the Act stands, may be considered by a court to be money-lenders can be treated very harshly by this clause, because it contains a penalty of $200. I refer to section 22 of the principal Act which provides:

No money-lender shall be entitled to recover in any court any money lent by him after the twentieth day of November, nineteen hundred and twenty-four, or any interest in respect thereof, or to enforce any contract made or security taken in respect of any loan made by him after the said date, unless he satisfies the court by the production of his licence or otherwise that at the date of the loan or the making of the contract or the taking of the security (as the case may be) he was the holder of a licence under this Act or was registered as a money-lender under the Money-Lenders Act, 1924.

So, if it could be held that a person was indeed a money-lender under the definition of "money-lender" in this Act and he did not have a licence because he did not think it was necessary to take out or apply for a licence, it might be that he could not recover even his principal, let alone his interest; so, obviously, there is a need for the definition of "money-lender" to be clarified, or for an amendment to be added within that definition so that this type of lender can be excluded from the Act.

I was pleased, therefore, to see that the Hon. Mr. Potter had on the file an amendment that would do this very thing. I had in mind amending the paragraph that is in doubt on this matter in the definition of "money-lender" within the Act. There are several exemptions from those who lend money, and one of them (paragraph (*e*)) is the questionable one—the one it is difficult to define; but, rather than alter that, the Hon. Mr. Potter had added a further exemption, and by his amendment we would exempt people from having to obtain a money-lender's licence who lent money solely on mortgage; and the rate of interest was specified as not exceeding a certain amount, which is the same as the main clauses within the definition as it stands at present.

People who have lent money in this way and who should not be included as money-lenders, in my view, are those who invest their savings in mortgage investments; they prefer this kind of investment to other kinds, such as buying shares or investing in debenture stock where there is a fixed form of interest, as there is, of course, on mortgage. There are many people in the country who invest money in this way. They invest it privately or through their local solicitors, estate agents or stock and station agents.

As their agents lend this money on first mortgage, they are people who undoubtedly need some protection. Much of this kind of investment is going on at present to help young people secure their houses. People lend money on first mortgage on a short term and it is borrowed by people awaiting bank loans.

The Hon. C. R. Story: Bridging finance.

The Hon. C. M. HILL: Bridging or temporary finance, yes. There is much investment of this kind, and these people in the true sense are not money-lenders: they are simply mortgagees. They have their rights and all the

protection they need (as do borrowers under the Real Property Act) under the actual mortgage agreement entered into. All the protection required is involved under that Act and under the actual mortgage agreement. There is no need for them to be involved in the Money-Lenders Act.

An alarming example of the problems that this has given rise to came to my notice recently where an administrator, a trustee or a liquidator (I am not quite sure of his correct title) of a bankrupt estate, in which a large building operation was involved, discussed the problem with people who had lent money to the building company by way of private mortage. They had lent money to the builder of the houses, which apparently had been completed but had not been sold.

I believe the interest rate they charged was about 8 or 9 per cent, which, with this form of lending on today's market, is not unreasonable; but, when the interests of the borrower passed over into the liquidator's hands, the liquidator took the view that those people who lent the money should have been licensed as money-lenders within the definitions as he interpreted them in this particular Act. He, in fact, regarded the lenders of this mortgage money in such a way that, if he challenged this point and if it was proved that they should have been licensed, they stood to lose not only their interest but also their principal under this section 22. He gave them the option of objecting to his challenge along these lines, or of taking a lower interest rate, equivalent to a savings bank rate or a figure of that kind.

This was entirely unfair, because the people who had lent their money in good faith had no idea, as people who in private life were farmers, etc., that they should have been registered or licensed as money-lenders. They would not risk the loss of principal as well as interest, so they were forced to alter the agreement they had entered into and accept a lower interest rate.

The Hon. C. D. Rowe: This was under the South Australian Act?

The Hon. C. M. HILL: Yes.

The Hon. C. D. Rowe: I have heard of it under the Victorian Act.

The Hon. C. M. HILL: I believe the other Acts have been clarified and are in better order at present than the South Australian Act. Our Act has not been altered and, as I see it, this is the way in which it can be by the amendments on the file.

I turn to clause 5, which the last speaker mentioned. He said that he welcomed the mention by the Chief Secretary earlier that the formula would be altered as soon as practicable under the Hire-Purchase Agreements Act. That was welcome news to me, too, and I look forward to the amendment on this. In clause 5 there would, of course, be a need only for the amendment to cover agreements dealing with hire-purchase. Many money-lenders such as finance companies, lend on a flat rate mortgage on both first and second mortgage.

In these instances, of course, the borrowers themselves pay the stamp duty, so there is no need in the case of early repayment of a flat rate interest mortgage for any alteration, as I see it, to be made to the formula previously agreed upon Australia-wide by the hire-purchase companies. So it would need to be stipulated that it would apply only in regard to hire-purchase agreements, in which instances the company is bound by law to pay the stamp duties. I support the Bill.

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill and welcome the fact that we have an opportunity now to look again at the provisions of the whole Act, and not necessarily confine ourselves to the provisions of this amending Bill. It seems regrettable that the opportunity has not been taken by the Government to examine closely the whole of the Act, because if ever an Act needed thorough revision it is this one. One has only to examine the provisions of similar legislation in other States and in England to realize that the terms of our Act are vastly different in many respects. In particular, I believe the Minister or the Parliamentary Draftsman has only to look at the Victorian Act to see many circumstances covered by that Act and not covered in this Bill. However, the whole of the Act is not before us, and I hope the Government will take the opportunity of further examining it.

I refer particularly to the point made by the Hon. Mr. Hill because it is an important one and concerns one of the major defects in the existing Act. A number of definitions are set out in section 5 of the Money-Lenders Act, and included in them are definitions of the words "interest", "loan" and, most important, "money-lender", which is defined as follows:

> 'Money-lender' includes every person whose business is that of money-lending or who advertises or announces himself or holds himself out in any way as carrying on that business, but the term does not include . . .

It then sets out a series of circumstances where people are not to be considered money-lenders, and this is different from the situation existing in Victoria, where the matter is set out in

positive form, namely, people who are deemed to be money-lenders. This makes the definition easier to follow. Included in the exceptions of our present Act is the one mentioned by the Hon. Mr. Hill, namely, that a person is not a money-lender if he is "any person or a company *bona fide* carrying on any business not having for any of its principal objects the lending of money, in the course of which and for the purposes whereof he or it lends money at a rate of interest not exceeding twelve pounds per centum per annum".

It has been widely misunderstood among the general public of this State that if a person lends money at 12 per cent or less then that person is not a money-lender and would not come within the provisions of this Act. That is not what the exclusion states, and it is perfectly clear, if one reads it, that even if money is lent at less than 12 per cent, if it is part of a person's business so to do, or the principal object of the business is to lend money, then that business may be that of a money-lender and required to have a licence under the Act.

It is well known that hundreds of people in this State have money to invest, many of them having received a legacy or an inheritance from a will. Many people have sold properties, especially people from the country, and have a large sum of money from which they want an income. One must not forget that, under the terms of the Trustee Act, the No. 1 trust security is a first mortgage on real estate. Consequently, we have a situation in this State where we have agents, solicitors and accountants who have undertaken (perhaps for a fee, perhaps without fee) to invest mortgage moneys for clients on first mortgage on real estate. In some cases it is possible that interest and principal repayments are collected. My experience has been that this is done principally, as the Hon. Mr. Hill said, to provide money for temporary finance while a person may be awaita long-term loan from a bank or superannuation fund. The average rate on which such moneys are advanced, in my experience, I having seen many such transactions, would be about 8 per cent. I have seen the rate as high as 9 per cent, but nothing higher that that. I have seen hundreds of such transactions and have been involved in many of them.

It is obvious that those people are not real money-lenders as envisaged in this Act. This matter has created much interest in the legal fraternity, and I would like to quote from a textbook written by Clifford L. Pannam entitled "The Law of Money-Lenders in Australia and New Zealand". I do not wish to quote at great length from the book, but in the chapter entitled "Who is a money-lender" he states, under the heading, "Loans at reasonable rates of interest on mortgages of real property":

It seems clear that the fact that loans are made at a reasonable rate of interest will not prevent a person coming within the definition of a money-lender. This was explained by Farwell J. in Litchfield v. Dreyfus as follows: "This particular Act (i.e. English Moneylenders Act, 1900) was supposed to be required to save the foolish from the extortion of a certain class of the community who are called money-lenders as an offensive term. Moneylending is a perfectly respectable form of business. Nobody says that bankers are rascals because they lend money. It is part of their everyday business . . . But the legislature in casting its net has cast it very wide; and if a man is carrying on the business of a moneylender he is within the Act, although he may be free from all blame morally." The question was considered by Harvey J. in Bull v. Simpson (*supra*) where he had before him the following situation. A Mrs. Neale had been left close to £500,000 by her husband. She employed a manager to look after the investment of this money for her.

Newspaper advertisements were made in which applications for loans were invited. Interest was to be only 4 per cent, which was the normal bank rate, but there had to be good security. The fund was administered from an office which was known as "Neale's Estate". It was proved that the only security Mrs. Neale ever took was real property mortgages. In this case the defence that Mrs. Neale was a money-lender was taken by a defaulting mortgagor in an action brought against him by the person who became entitled to the mortgage under Mrs. Neale's will. It was argued on behalf of the mortgagee that the legislation was not intended to apply to people who lent on the security of a real property mortgage at reasonable rates. Such people as trustees, solicitors and others with large sums to invest were, it was argued, not moneylenders.

Harvey J. rejected the argument in the following language: 'I must confess I have struggled hard to see whether I could not limit the expression money-lending in this Act within a narrower compass than the expression "lending money", and to hold that Parliament has really been dealing only with that class of person to whom one is accustomed to apply the term "money-lender" as a term of abuse. But looking at the judicial interpretation which has been put on the Act and the statements of various judges of the English courts, I do not think that I am justified in holding that the Act has not drawn within its net every person who carried on the business of lending out money at interest, irrespective of whether the interest is high or low, and irrespective of whether the security on which the money is lent is personal or real.

I do not see where I can draw the line between the different classes of persons lending money at interest . . . I cannot hold that because Mrs. Neale never charged unreasonable interest she was not a money-lender . . . the establishment of an office, the advertising in the newspapers, the continuity of system and operations are so typical that I do not see any escape from the conclusion that it was a business she was carrying on, although in fact it was investing her own property.'

The reference to carrying on the business is important, because that is mentioned in our Act. The learned author also refers to the following statement by our own Chief Justice, Sir Mellis Napier, in 1929:

As the rain falls alike upon the just and unjust, so the Statute prescribes that all money-lenders must register.

The author goes on:

If a person in fact carries on the business of lending money he cannot relieve himself of the consequences by describing his activities as ''investment''. The legislation draws no distinction between classes of loans: it is concerned with the business of lending. . . But when investment becomes a business then the legislation applies. Similarly in the operation of that business it is irrelevant that the interest charged is reasonable or otherwise in determining whether in fact a business is being carried on.

The Victorian legislation makes two important changes to the law relating to the reasonability of interest and the nature of the security set out above. First of all, a person does not come within the statutory definition of a money-lender unless money is lent at a rate of interest exceeding 10 per centum per annum.

I have mentioned an interest rate of 12 per cent in my amendment in order to keep the same figures as have been mentioned in the Act previously, and I personally would not object if the rate were made the same as that applying in Victoria, namely, 10 per cent. Victoria also prescribes that loans that are either on an amount in excess of $10,000 or made in pursuance of an agreement to finance the erection of buildings worth more than $10,000 are excluded from the operation of the legislation if such loans are *bona fide* secured on any interest in land whether the loan is secured in any other way or not.

This is extremely important. If a person who has money to invest tells his accountant, solicitor or agent to invest it at 8 per cent on first mortgage on real estate and if this investment is made and there is a continuity of the transactions (in other words, as one mortgage is discharged, another one is taken) and if the person derives his sole income from this, as many people do, it is quite clear, on statements by judges in the cases to which I have referred, that the person is, in fact, carrying on the business of lending money. Although the person may not be lending at a rate in excess of 12 per cent, he is within the definition.

As the Hon. Mr. Hill has said, the important thing is that, if the person is challenged and a defaulting mortgagor says, ''You are carrying on the business of money-lending. I have looked into this and you have turned this money over twenty times this year. You are a money-lender and I am going to take that point against you,'' then, under section 22, the person is not entitled to enforce that contract or to enforce the security. Thousands of dollars can be lost in this way. This seems to me to be quite wrong and it is only by good fortune that we in this State have not had a major disaster in this connection, because the practice is common. Too much amending would be required to twist the definition of ''money-lender'' right around so as to have a positive definition, although I would move such an amendment if I had the opportunity.

All I have attempted to do is to use the definition already in the Act and to add a further provision so that the term ''money-lender'' shall not include a person or company lending money solely on mortgage on land where the rate of interest in respect of that loan does not exceed $12 per centum per annum. As I have said, I should be happy if the rate of interest were $10 per centum per annum, because that would cover 99 per cent of cases. However, I am not so much concerned about that as I am about ensuring that hard-earned money will not be in jeopardy.

The Hon. C. D. Rowe: Do you think ''solely'' used in your amendment is the correct word, or do you think ''principal'' would be better? A man may lend a large amount of money on the mortgage of land and may make a few isolated investments in other forms of security.

The Hon. F. J. POTTER: That may be so. I have not been able to compare this amendment with any other provision.

The Hon. C. D. Rowe: I am only making a suggestion.

The Hon. F. J. POTTER: Yes, and I think the honourable member may very well be correct. This is one of the reasons why I welcome the opportunity of examining this particular difficulty. The remainder of the Bill has been dealt with by previous speakers and I can see nothing wrong with it. I welcomed the Chief Secretary's intimation that he would be moving an amendment to provide

for this rather vexed question of rebates of stamp duty and I shall examine the amendment carefully. If it is along the lines that have been suggested, it will have my wholehearted support. I support the second reading and hope that we shall look at these matters more carefully in the Committee stage.

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

NATIONAL PARKS BILL.

Adjourned debate on second reading.

(Continued from October 27. Page 2596.)

The Hon. R. C. DeGARIS (Southern): I support this Bill almost in its entirety, although I believe it could be improved in one or two minor ways. I believe it is correct, as has been stated in the second reading explanation, that the stage has been reached in the expansion and development of areas set aside as wild life reserves and national parks when the legislation needs replanning, it having been in existence for over 75 years.

The Bill establishes a commission of 15 members to be appointed by the Governor on the recommendation of the Minister: this is set out in clause 7. In this State there are many organizations deeply interested in open spaces, and I think the commissioners to be appointed under this Bill will be drawn from these organizations and people interested in conservation. The commissioners will have very large areas scattered all over the State to administer. It appears to me that further areas will be added to wild life and other reserves, and the commissioners will be responsible for still larger areas.

The commissioners may be of one mind, and this may not be in the best interests of all concerned. I am sure that this commission should be very broadly based. The major part of these areas is in rural areas and adjoining rural property. I know that very many rural people are keenly interested in conservation, and it may be to the benefit of the commission to have representation from people in rural areas, particularly primary producers. I am certain that these people, if appointed, would have a practical knowledge of management and be of benefit to the commission, and I think such representation is needed.

In the last six or seven years we have moved swiftly in relation to national parks and reserves and I believe we have acquired about 120,000 acres for this purpose. The previous Minister of Lands (Mr. Quirke) added considerably to these reserves and took a great interest not only in having adequate reserves but in conserving our fauna and flora. This State has a Fauna Conservation Act, which I believe is a far-sighted piece of legislation. This Council can take much credit for the fact that this legislation is, not only in my opinion but in the opinion of many people throughout Australia, amongst the most far-sighted legislation of its type in Australia.

While it is important that we should have sufficient reserves to be able to conserve and preserve native flora and fauna (and it is of some satisfaction to me that we have moved along these lines) I believe that the most effective way to bring about conservation is to encourage by education and example the landholders to take an interest in this matter. It is to the credit of the State that so many private landholders have shown an interest and that many people are interested in conserving fauna and flora on their properties. Government departments, including the Highways Department and the Woods and Forests Department, have shown a keen interest in this matter. Although I favour the State's taking a greater interest, I think a far more effective method of conservation is assisting and encouraging the private landholder to do his own little bit in this way. In this, South Australia is in the forefront.

By reason of our geography and topography, we have been criticized for not having more of these reserves, but we have no Andean Chain, no Rocky Mountains, no Snowy Mountains and no Swiss Alps, so it is reasonable to assume that we would not have such vast areas of national parks as other countries have. Over 90 per cent of South Australia is outside the 10in. rainfall line, so it is reasonable to asume that there would not be vast areas reserved for this purpose. This is a further argument why we should do all in our power to encourge private landholders to take a keen and active interest in conservation.

The commissioners will be appointed for three years, and one-third of them will retire each year. I presume this is to ensure continuity of management. I think that one of each group of five should be a *bona fide* primary producer. I think it is necessary to have a primary producer representative. As the Bill now stands, there is no guarantee that any rural person will be a member of the commission, and I think that in the interests of the commission there should be this representation.

I hope I am not being unworthy in saying that I can visualize a clash of ideas and ideals

on the commission. The Bill covers a multitude of activities from the conservation of fauna to the tourist trade. There may be a clash between the ideas of a dyed-in-the-wool conservationist and those of a person interested in developing the tourist trade. Conservationists, of course, in many cases desire as little disturbance of the area as possible, while those interested in attracting tourists usually take an opposite view.

I should like to pay a tribute to the present commissioners, particularly Sir John Cleland, who, I believe, must rank as one of South Australia's most remarkable men. I have had the privilege of knowing Sir John for a good many years, and his contribution to the preservation of fauna and flora in South Australia and his knowledge of and his contribution to the question of Aboriginal affairs deserve the heartfelt thanks of all South Australians. I have been closely associated with the declaration of the coastal reserve in the South-East stretching from Grey to Lake Bonney, an area of some 22,000 to 23,000 acres. The interest that Sir John took in this reserve and the encouragement he gave were appreciated by all. I have mentioned the point that concerns me—an assurance that there is some representation on the commission from the *bona fide* primary producer. I do not quite know yet how this should be done but we should make sure of this representation. My second point arises in the last part of the Bill, in the Fourth Schedule, which says:

Amendment of the Lands for Public Purposes Acquisition Act, 1914-1935. Section 4 is amended by inserting therein after paragraph I thereof the following paragraph: Ia. the establishment of national parks:.

Section 4 of the Lands for Public Purposes Acquisition Act states:

The Governor may by proclamation declare any of the following purposes to be a public purpose namely—

I. the providing of offices and other buildings and premises for carrying on the Government of the said State or any Department or Departments of the Government of the said State:

Then follows paragraph Ia:

the establishment of national parks:

Section 6 deals with the power to acquire lands required for a public purpose. It reads:

When the Governor has, by proclamation, declared any purpose to be a public purpose, the promoter of the undertaking may take and acquire, either by agreement or compulsorily, any land which is required for the said purpose:

I am a little concerned about these compulsory acquisition clauses at the end of the Bill. I realize it may be necessary compulsorily to acquire certain lands where there is need for preservation, supposing there is only one area left in the State containing certain fauna or flora or some other geological phenomena needing preservation. Then I can see a need for compulsory acquisition to make sure of the preservation or conservation of those things. But, as I read the Bill, I realize that it takes into consideration the tourist trade and many other factors. If this blanket compulsory acquisition clause stood without any proviso, the commissioners could compulsorily acquire any land for any purpose whatsoever.

I believe that any blanket compulsory acquisition clause needs close attention by this Chamber. Indeed, any Act containing any such clause needs the closest scrutiny. In this Bill this blanket power of compulsory acquisition in the hands of the commissioners causes me some concern. I have not studied the Bill in detail and I reserve the right to deal with the matter in Committee, but I support the second reading.

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

STATUTES AMENDMENT (HOUSING IMPROVEMENT AND EXCESSIVE RENTS) BILL.

Adjourned debate on second reading.

(Continued from October 27. Page 2599.)

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, although I do not go all the way with the ideas set out therein. I made this position reasonably clear last session when we were dealing with amendments to the Housing Improvement and Excessive Rents measure, which were along similar lines to the amendments now before us. I suppose the Council, having gone the first mile last session, can hardly reverse its attitudes and refuse to go the second mile, as this Bill requires us to do.

I make it clear that I am not opposed to any legislation that will assist people who have been (to use a good Australian expression) "taken down". I think the Government genuinely wants to help people who have been put into the position where they have purchased, or have agreed to purchase, a substandard house on certain terms and conditions that make the transaction particularly onerous for them and involve them, in effect, in committing themselves to a contract that will take many years to bring to fruition and, indeed, may never be carried out completely. This seems to

be wrong. I made the point last year that the remedies provided for in the Bill should be applied only where, in fact, we were dealing with a house that was substandard at the time of the agreement.

That was a principal point I made last year. As a result of my amendments and of a conference we had on this matter, we achieved our point: that this was to apply to that kind of situation. I am not so sure that has been provided for in the further additions contained in this Bill, because new section 15c provides:

Where—

(*a*) a person . . . has, pursuant to an agreement, become registered or entitled to be registered, as a proprietor in fee simple of any land . . . whether pursuant to a lease or otherwise, the right to occupation of a particular portion of that land and upon such land there is situated a house declared to be substandard pursuant to a declaration under . . . the Housing Improvement Act.

It does not seem to me to indicate there exactly when a house was declared to be substandard. We should look again at that position so that, if we are dealing with a house which was substandard at the time of the agreement, well and good. In general, the amendments proposed to the Housing Improvement Act, which take up the first six clauses of the Bill, are unobjectionable. I think it is necessary that we should extend the definition of the words "rent" and "rental" as provided in clause 3 because all rental is along these lines. It should provide for the amounts payable to a landlord in respect of domestic services, gas, water, fuel, etc.

As far as the amendment to the Excessive Rents Act is concerned, it follows substantially the lines of last session's amendment and is an endeavour to cover other loopholes apparently still existing following the passing of that Act last year. Again, it gives power to a court to set aside an agreement, mortgage or lease and provide a statutory tenancy on "such terms and conditions as it thinks fit." Whether this is the ideal way of doing it or whether further powers should be given to the court to vary such agreements I do not know, but at least this is the procedure set up under the Act passed in the last Parliamentary session, and I suppose it should be followed now.

The Act is wide in its application and, to some extent, I think we have to accept the word of the Minister that it will not be applied to people who are genuine sellers of houses and who have throughout the transaction had clean hands. In this difficult field I think we can perhaps do nothing more than merely trust the Government that it will not apply these provisions to such cases because the wording of the Bill is such that if it was indiscriminately applied to all classes of transactions involving all persons who sold substandard or potentially substandard houses there would be hardship imposed on certain people.

Interference would also arise in cases where arrangements were made after all due investigation had been carried out, and that would be undesirable. If we have the undertaking of the Minister that this will not be done, then I think we shall have to abide by that undertaking in legislation of this nature if it cures the evil it intends to cure. For this to be done the net must be cast wide, with tight meshes. I therefore support the second reading of the Bill, but I should like to consider clauses 3 and 8 in the Committee stage. I think it might be necessary to insert some minor amendments to both clauses.

The Hon. C. M. HILL (Central No. 2): I, too, in general terms support the measure on the understanding that the administration of the Bill will be carefully and scrupulously carried out. In the second reading speech of the Minister I noted his comments regarding *bona fide* people having nothing to fear from this legislation. I shall quote what he said:

Bona fide sellers of substandard houses will, I can assure honourable members, have nothing to fear from this provision so long as the agreement for sale and purchase and any mortgage affecting those houses are genuine and not illusory transactions.

That is a strong undertaking given by the Minister and I hope that his Government translates the import of that to the South Australian Housing Trust because I think many of the responsibilities of exercising extreme care in carrying out the provisions of the Bill before us will be in the hands of the trust.

Members will have noticed in the Bill not only that an owner may apply to the court to have a contract set aside but also that the South Australian Housing Trust may, on behalf of that owner, do likewise. Many owners would not take such a matter to court and of course any expense would be saved them merely by asking the Housing Trust to deal with the matter. I hope the trust will act with extreme caution in such matters because there is a possibility that a tenant may be an unscrupulous person and that a genuine or *bona fide* seller or landlord may be given a raw deal as a result of the legislation.

Words have been added in clause 3 because obviously the Government has found that some

unscrupulous landlords have been claiming a higher than reasonable sum for services such as electricity, domestic services, cleaning, water, fuel and items of that nature. Apparently the Government has found that people have been adding unreasonable charges to the fixed rent on those houses which, of course, are controlled under the Housing Improvement Act. Quite properly, the Government is adding to this Act a clause that the amount payable by the tenant for such services must not, in fact, be added to the rent.

I think it should be made more clear that the extra amount involved must be paid by the tenant to the landlord in respect of the house, and the words "to the landlord" should be added. I propose to move such an amendment at a later stage because the tenant has to pay for electricity and water to outside service departments. It may be somewhat confusing if that question becomes involved. A tenant must pay for excess water and some other items, such as gas, in addition to the fixed rent.

Clause 4 simply adds further words to make the principal Act more definite and clause 5 considerably increases, particularly on a percentage basis, penalties for offences under the Act. Clause 6 deals with retrospectivity and it is provided that offences that occurred two years earlier can be involved.

The Minister said in his second reading explanation that the Bill extended the period of limitation for bringing proceedings under the Housing Improvement Act to two years, and it is obvious that that is done by the inclusion of this provision in clause 6. However, the Minister also added, "or, with the consent of the Minister, to a further period". I cannot see anything in the Bill dealing with that point. Perhaps the Minister will say whether the Bill or the principal Act gives the right to the Minister in relation to a further period than two years.

Part III deals with the Excessive Rents Act. As the Hon. Mr. Potter has mentioned, there must be many loopholes in the legislation. I have not yet been a member of this Council for 12 months, but this is the second time the Act has been amended since I have been here. I consider the amendment made by clause 8 to be extremely important because of its wide repercussions. Undoubtedly, in some cases (very few, in my opinion, although I may be wrong) unscrupulous landlords have, as the last speaker has said, taken down people in the manner that the Minister mentioned in his second reading explanation. People so treated deserve the protection that we can give them.

However, when legislation simply sets aside contracts of purchase and mortgage agreements, gives the court the right to say what will happen to money already paid under agreements rather than allow the money to remain in the landlord's hands, and leaves the purchaser in possession of the property as a tenant at a fairly low fixed rental, then such legislation must be looked at carefully. In regard to property, the few landlords involved are not the only unscrupulous people.

It is possible to find unscrupulous purchasers and tenants and we do not want to get into the position where an unscrupulous person wishing to rent accommodation at a low rental can scheme to such a degree that he can purchase a property that has been declared substandard and then apply to the court to have the contract annulled, be protected by the court and allowed to remain in occupation as a tenant.

At present, I would prefer that the court had the right to vary the terms and conditions in agreements rather that to set them aside. If the case that the Minister mentioned applied and a person was paying, under his contract, a far greater amount than was normal or reasonable for rental, then I would agree to the court's having the right to reduce that amount to an amount that the purchaser could afford and which would be comparable with the rental sum.

If the contract of sale and purchase contained unreasonable terms, with the landlord stipulating that the tenant had to improve the property to bring it up to the standard required so that the notice regarding the house being substandard could be removed or the conditions met, I would not object to the court's having the right to take this condition out of the contract.

However, the right to vary a contract so as to provide more reasonable conditions is a different kettle of fish from the right to put aside a contract altogether, and this legislation deals with putting aside. I became cautious about this matter when the Minister cited at length the circumstances in which four purchasers had secured jointly four attached cottages, with the title in the names of the four as tenants in common and the four leasing back to each particular occupier for a long term. It has been known for a long time that that is not a particularly good method of ownership.

I remember that the Hon. Mr. Rowe, when he was Attorney-General, sent circulars to people who dealt in property and warned them about the problems associated with that type of ownership, because it could be held to be a means of circumventing the provisions of the Town Planning Act. Nevertheless, hundreds of home units in Adelaide are owned on that basis today and some such owners and home unit developers prefer that system of ownership to what is called the company form of ownership.

When I was talking to real estate people in Queensland some time ago they told me that, in that State, that method of ownership was preferred to the strata title method, because the existing owners had strong control about incoming buyers of the units, whereas under the strata title system and also under the company method the possibility of selecting new purchasers of units within a block was far more difficult.

So, that principle of ownership does not mean much when we raise an example in order to object to what has been going on. I think the difference was that we were dealing with substandard property and the examples that I was dealing with were cases in which new or modern property was involved. Clause 8 raises many aspects of this matter. I think we should have a very close look at the whole thing. I support the Hon. Mr. Potter's contention that at least the property should be declared substandard prior to the date of agreement.

As this reads to me now, it seems that there is a possibility that a discontented purchaser will take the first step, after buying the property and possibly ruining it by his own occupancy for 12 months, of reporting it to the Housing Trust and obtaining a "substandard" order on it. I will support the Hon. Mr. Potter very strongly in his contention that these circumstances must be avoided: that the house must be declared substandard before the date of the agreement.

There is nothing wrong with people selling substandard houses as items of stock provided that they disclose all the information concerning the "substandard" order and the work the Housing Trust requires to be done. I look forward to hearing further debate on this Bill. I think that, of all its clauses, clause 8 needs very close scrutiny.

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

DOG-RACING CONTROL BILL.

Adjourned debate on second reading.

(Continued from October 26. Page 2531.)

The Hon. M. B. DAWKINS (Midland): I rise to speak about what I consider to be a relatively unimportant Bill. I believe the Government probably agrees with me on this, because evidently it did not think it sufficiently important to be worthy of sponsoring, although I must admit that it gave it some measure of blessing in this place by reason of the fact that the Chief Secretary introduced it here. I thought the Hon. Mr. Banfield might have been able to work off some of his commendable enthusiasm by introducing it in this place as a private member, but the Chief Secretary did the job for him. The Bill was introduced in another place by a private member, and either the Government did not think it sufficiently important to introduce or it did not wish to introduce it.

I think this is the seventh time when some effort has been made to introduce this type of activity, which is sometimes called tin-hare racing. That being so, I looked around for the demand for it. I thought that, had there been any great demand for it, it could scarcely have been brought up in this place six times previously without having come to fruition. However, I was unable to find, in my view, any real or great demand for it. I have been approached by one or two people, and latterly I have had sent to me a long screed in support of this legislation, but I have not been able to ascertain any very sustained demand for it by the public in general.

Other legislation has been brought forward in this Parliament for Totalizator Agency Board betting on the one hand and lotteries on the other. In my opinion, from the point of view of value to the State, that legislation was of doubtful value, but nobody could deny that there was a demand for it, whether we regard it as wise or not. It cannot be denied that there was a demand for those facilities, and one must take due note of that fact. However, I do not think there is a very real demand for this type of activity by the public of South Australia in general. I would not exclude people interested in dog-racing, who I think have a keen desire to carry out this activity and who certainly have been persistent triers, as is shown by the fact that this legislation has now come forward seven times. The Royal Society for the Prevention of Cruelty to Animals and other organizations have in various pamphlets provided plenty of evidence

against greyhound tin hare racing but, as I have said, I have not had much evidence in favour of it.

I listened to an excellent speech made by the Hon. Mrs. Cooper, who was dedicated and enthusiastic in her opposition to this type of activity. The honourable member gave us details of her knowledge of this sport in other States. As honourable members know, Mrs. Cooper lived for many years in other States and was able to make personal observations of the effects of dog-racing there. Even if we discounted, because of her enthusiasm, her comments in opposition to this activity by 50 per cent (and I would not for one moment do so) we would still have to look at the Bill very carefully because of them. Also, I have been informed that only very few of the large number of States in the United States of America that used to have tin hare racing now have this type of activity. The information supplied by the Hon. Mrs. Cooper and the details supplied by the R.S.P.C.A. and others would at the very least seem to merit much further inquiry. The R.S.P.C.A. in this State has made the following comment:

The policy of the R.S.P.C.A. is that it is opposed to mechanical lure (''tin hare'') greyhound racing because it believes that this will inevitably lead to an extension in the use of small live animals (such as rabbits, cats and opossums) being used to ''blood'' greyhounds in training. That such ''blooding'' does occur in this State now is apparently quite well known.

I, and no doubt other members, could quote similar comments made by the R.S.P.C.A. in Victoria, New South Wales and Queensland. I do not intend to weary the Council with these further comments, but I think that, if it is true that cats have had their claws clipped or pulled out so that they cannot defend themselves against the dogs, we must look at this legislation very carefully, and I would be unable to support it. On the other hand, to be quite fair, those who are keenly interested in the sport would have us believe that all these reports are grossly exaggerated and that there is nothing basically wrong with what they desire to do. I have listened to these representations also and know they have been made in all sincerity.

However, in view of all this and of the considerable differences of opinion that have been expressed, I strongly support the view expressed first in private conversation by the Hon. Mr. Kemp: if this Bill passes the second reading stage (and I make it clear that I have no intention of helping it to pass that stage) a Select Committee should go into the matter thoroughly. Also, I agree with the comments of the Hon. Mr. Hart, who said that this Bill was another instance of taking two bites at the cherry. The Bill has attracted some support in other quarters and in another place because, in the first instance, no gambling will be associated with it, at least legally; but it is freely admitted that, once this Bill to promote dog-racing with a mechanical lure becomes law, pressure will be brought to bear straightaway for gambling facilities; there is no doubt about that.

If this is to be the case, why was it not included in this Bill? Why did not the Government itself introduce it with this provision included? It is because some of its members would have been unhappy about supporting it in such circumstances. If greyhound-racing is to succeed, the next move will be to include gambling. It would further increase gambling in South Australia, which I do not think would be in the interests of the whole State.

The Hon. Sir Lyell McEwin: Would it be included under the totalizator agency board legislation?

The Hon. M. B. DAWKINS: That is possible; I have not gone into that side of it. I am not sure whether the Government wants it included with T.A.B. or whether it would want a totalizator on the site of this activity. The Hon. Mr. Hart also questioned clause 5 (1), which gives all the power to the Minister. This is true to form. The present Government loves to bring all the power under the Minister, so this is in keeping with its policy, tending to overload Ministers who already bear considerable responsibility. I doubt whether it is wise to bring all this directly under the Minister. I am not prepared to support the Bill at this stage. However, should it pass the second reading, I shall support any move for the appointment of a Select Committee, as I indicated earlier, to investigate the matter thoroughly and report back to this Council.

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

LONG SERVICE LEAVE BILL.

In Committee.

(Continued from October 26. Page 2536.)

Clause 12 passed.

Clause 13—''Failure to grant leave.''

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): I move:

After ''President'' to strike out '','' and insert ''or''.

This remedies a drafting error.

Amendment carried.

The Hon. A. F. KNEEBONE moved:

To strike out "or" last occurring and insert "of".

Amendment carried; clause as amended passed.

Clause 14—"Employment during leave."

The Hon. A. F. KNEEBONE moved:

In subclause (1) to strike out "employee" and insert "worker".

This amendment is similar to the next two amendments that I shall move.

The Hon. M. B. DAWKINS: Will the Minister say why it is necessary to alter "employee" to "worker"? What are the Government's reasons for doing this?

The Hon. A. F. KNEEBONE: It has been done throughout the Bill; it is consistent with the rest of the Bill.

Amendment carried.

The Hon. A. F. KNEEBONE moved:

In subclause (2) to strike out "employee" (twice occurring) and insert "worker".

Amendment carried; clause as amended passed.

Clause 15—"Offences and proceedings."

The Hon. A. F. KNEEBONE: I move:

To strike out "as if such proceedings were proceedings under the Industrial Code, 1920-1966" and insert "in respect of any proceedings in respect of such failure: Provided that proceedings in respect of any such failure may be taken at any time not later than twelve months after the failure occurred".

The first part of the amendment is a drafting amendment to make the intention clear. The proviso is to enable proceedings to be commenced within 12 months of the offence (and not within six months as in the Industrial Code). It has been found that investigations under the present Long Service Leave Act have been much more difficult and protracted than those involved in normal breaches of awards and the time of 12 months now provided in the Long Service Leave Act should not be shortened.

The Hon. F. J. POTTER: I do not oppose the amendment and accept the statements of the Minister on this matter. However, I point out that if we accept the amendment we are departing from normal practice, which provides a period of six months for launching prosecutions under the Industrial Code. A further difficulty is involved inasmuch as I believe that a failure to grant the leave is something that can be interpreted to mean a failure from day to day. It would be difficult to know where a period of six or 12 months commenced.

Amendment carried; clause as amended passed.

New clauses 16 and 17.

The Hon. A. F. KNEEBONE: I move to insert the following new clauses:

16. An inspector appointed under the Industrial Code, 1920-1966, shall for the purposes of this Act, have and may exercise all the powers and functions conferred upon such inspector under Part VI of the said Code.

17. The Governor may make any regulations not inconsistent with this Act which may be necessary or convenient for carrying this Act into effect or for facilitating the operation or administration of this Act and without in any way limiting or restricting the generality of the foregoing may make regulations—

(*a*) with respect to the keeping of records concerning long service leave by employers;
and

(*b*) prescribing penalties recoverable summarily and not exceeding one hundred dollars for a breach of any regulation.

Although clause 10 (2) applies to inspectors, no provision has been included in the Bill to enable inspections to be made. The proposed new clause 16 provides that, for the purposes of this Act, an inspector appointed under the Industrial Code will have the same powers as under Part VI of the Code. New clause 17 will provide power to make regulations.

New clauses 16 and 17 inserted.

Title passed.

Bill reported with amendments.

Bill recommitted.

Clause 5—"What constitutes service"—reconsidered.

The Hon. A. F. KNEEBONE: I move:

After paragraph (*a*1) to insert the following new paragraph: "(*a*2) is due to the absence of the worker from work on account of illness or injury, or".

When considering this clause earlier I proposed at a certain point to insert two new paragraphs. During the discussion on one of them, the Hon. Mr. Potter decided to move an amendment and because of some disagreement on where that amendment should be inserted we deferred consideration of the matter. We have now resolved our thoughts on where Mr. Potter's proposed amendment should be placed.

The Hon. F. J. POTTER: I confirm what the Minister has said. I think the amendment is necessary, but I propose to limit its operation by moving a subsequent amendment to insert a new subclause after subclause (1).

New paragraph inserted.

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

In subclause (1) after "service" second occurring to strike out the full stop and insert ", and shall not by reason only of paragraph (*a*2) of this subsection be taken into account to the extent of more than three weeks in any one year".

My amendment limits the period of sick leave or leave because of injury to be taken into account. I think this is essential and in line with existing agreements. I think the 15 days mentioned in the principal Act refers to 15 working days, and a period of three weeks is equivalent.

The Hon. A. F. KNEEBONE: I oppose the amendment because, as I have said earlier in the debate, at least in regard to workmen's compensation, there is a strong reason for not providing such a limitation. The amendment does not lengthen the period, because the 15 days mentioned in the 1957 Act covers three weeks. The New South Wales provision is similar to the provision in the Bill as it was before the insertion of my new paragraph. There was doubt about the Bill and amendments and awards in line with the Bill before the new paragraph was inserted.

Apparently, much depends upon the interpretation regarding the period for which the worker has served his employer in a continuous contract of employment, and whether an employee, while on sick leave, is serving his employer. That is why the new subsection was inserted.

In Victoria and Western Australia the period is limited and in Queensland and Tasmania it is unlimited. In New South Wales and in agreements in South Australia the position is not clear and there is doubt about whether an employee who is away because of sickness, even for one day, maintains continuous employment. I am not pioneering here, because the period is unlimited in two States and limited in two other States. I oppose the amendment.

The Hon. F. J. POTTER: I am rather surprised that the Minister opposes the amendment, because, although at first sight it appears that I am trying to do something for the employer in that he will have to allow only three weeks, the amendment will have indirect benefits for the employee. If an employer knows that he has only this limited period to be concerned about, he will not resort to the device of which he is entitled to take advantage, namely, the termination of the services of the employee who was away because of sickness or injury.

An employer may say to a man who is away because of sickness for a week, "All right, you finish." If that is done, the long service leave and everything else is lost. On the other hand, if the employer has to carry an employee on for only a limited period, he is likely to let that period go and not terminate the employee's service. I ask the Committee to accept the amendment.

The Hon. A. F. Kneebone: Subclause 1 (*a*) deals with the case of an employer who terminates employment with the intention of avoiding any obligation under the Act.

The Hon. F. J. POTTER: An employer who terminates the services of an employee does not necessarily do so in order to avoid his obligations under the Act. The employer may not be able to afford to have a man away, or an employee may be absent on workmen's compensation. There is no restriction on the rights of an employer and there are many reasons for which he may dismiss an employee without being caught by that provision.

The Hon. R. A. GEDDES: If an employee was absent for a longer period than three weeks and was not dismissed from his employment, what would be the position regarding his period of service for long service leave purposes?

The Hon. F. J. Potter: He makes up the time.

The Committee divided on the amendment:

Ayes (10).—The Hons. Jessie Cooper, M. B. Dawkins, R. A. Geddes, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, F. J. Potter (teller), and Sir Arthur Rymill.

Noes (7).—The Hons. D. H. L. Banfield, S. C. Bevan, R. C. DeGaris, A. F. Kneebone (teller), C. D. Rowe, A. J. Shard, and C. R. Story.

Majority of 3 for the Ayes.

Amendment thus carried; clause as further amended passed.

Clause 11—"Exemptions"—reconsidered.

The Hon. A. F. KNEEBONE: I move:

In subclause (1) (*a*) to strike out "hereof" and insert "of this Act".

This is a drafting amendment.

Amendment carried; clause as further amended passed.

Bill reported with further amendments. Committee's reports adopted.

ADJOURNMENT.

At 5.38 p.m. the Council adjourned until Wednesday, November 2, at 2.15 p.m.