LEGISLATIVE COUNCIL

Wednesday, November 16, 1966.

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

QUESTIONS

PINE POSTS.

The Hon. R. A. GEDDES: I direct my question to the Minister representing the Minister of Agriculture. Will the Minister consider making it compulsory for the manufacturers of multi-salt-treated and creosote-treated *pinus radiata* fencing posts to brand their products with a mark to indicate who processed the posts?

The Hon. S. C. BEVAN: I will convey the question to the Minister of Agriculture and bring back a reply as soon as possible.

CITRUS INDUSTRY.

The Hon. Sir LYELL McEWIN: Has the Minister representing the Minister of Agriculture a reply to my question of November 8 regarding comments by a learned judge in criticizing the Citrus Industry Organization Act?

The Hon. S. C. BEVAN: I have conferred with the Minister of Agriculture and he informs me that he is considering amendments to the Citrus Industry Organization Act, which he will in due course refer to Cabinet and introduce.

SCHOOL TRAVEL CONCESSIONS.

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

Leave granted.

The Hon. G. J. GILFILLAN: My question follows one that I asked earlier this session regarding concessions to schoolchildren travelling other than to their own homes during weekends. On July 19 the Minister replied, and in the latter part of it he said:

It is proposed to extend a similar concession to schoolchildren over the age of 15 years on *exeat* and long weekends. A regulation to give effect to this will be prepared in due course.

In view of the steep rise in fares brought about by regulations since then, can the Minister indicate when the promised regulation will be introduced?

The Hon. A. F. KNEEBONE: I do not agree with the statement that there has been a steep increase.

The Hon. G. J. Gilfillan: I withdraw the word "steep".

The Hon. A. F. KNEEBONE: I am prepared to co-operate and obtain a report from my colleague, the Minister of Education.

HOSPITAL FEES.

The Hon. Sir LYELL McEWIN: The Chief Secretary promised yesterday that he would obtain information relating to the treatment of indigent and itinerant Aborigines in Government-subsidized hospitals. Has he a reply?

The Hon. A. J. SHARD: The maintenance committee on subsidized hospitals, which considers this matter each year and makes recommendations regarding the amount of maintenance money that particular hospitals should have, takes into account the hospitals that treat indigent cases (as the hospitals are obliged to do). There has been no alteration of policy.

EDUCATION COSTS.

The Hon. R. A. GEDDES: Has the Minister of Labour and Industry, representing the Minister of Education, an answer to my question of November 8, regarding the cost of educating a child at school?

The Hon. A. F. KNEEBONE: Yes. The reply that I have received from the Minister of Education states that costs for each pupil in each individual grade are not available. However, the cost for each pupil in average attendance in primary and secondary schools for 1965 is available, being $172 and $332 respectively. On this basis, the cost of educating a child for seven years in a primary school would be $1,204 and for five years (first year to matriculation) in a secondary school would be $1,660. These figures include costs for maintenance of buildings, but not for the provision of new buildings. The capital cost for each pupil in regard to building or extending primary and secondary schools during 1964 has been calculated as approximately $520 for primary and $1,000 for secondary schools.

ROAD SIGNS.

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

Leave granted.

The Hon. M. B. DAWKINS: Recently my attention has been drawn to a matter that has probably been noted by other members also. I refer to the matter of indecision at "give-way" signs at intersections, the reason for the indecision being that a motorist travelling

on a "through" road is not aware that the "give-way" signs are on the intersecting road and therefore tends to give way to the vehicle on the right. The result is that the two vehicles stop. In one instance recently, a person on the "through" road giving way to the vehicle on the right refused to proceed, and the person who had to give way eventually continued on his way. If this sort of thing occurs and both vehicles move at the same time accidents can happen. I have seen this confusion and have also heard about the situation from other people. Will the Minister consider the provision of some indication on the main or "through" road that there are "give-way" signs at the intersections, and so avoid any indecision?

The Hon. S. C. BEVAN: Some consideration has been given to the question raised by the honourable member, but I point out that there is an obligation on the motorist to understand what a "give-way" sign really means. Where such a sign is on the road it means "give way", and nothing else. The motorist must give way: the other motorist has the right of way. I suggest that every motorist should know that. He should not be on the road if he does not know what a "give-way" sign means. There is an indication by means of a notice that "give-way" signs are ahead. The honourable member suggests that the motorist with the right of way does not assert it because he sees a motorist on his right. I will take up the question to see what can be done to more fully inform motorists in this regard.

WILMINGTON TO HAWKER ROAD.

The Hon. Sir LYELL McEWIN: Has the Minister of Roads an answer to the question I asked yesterday regarding the sealing of the road north of Wilmington through to Hawker?

The Hon. S. C. BEVAN: I made immediate inquiries regarding the honourable member's question, so that he could have an answer before Parliament adjourned. The reply is as follows:

The road has been surveyed, there are five major creek crossings to be bridged. These bridges will be constructed in the 1968-69 financial year. In the meantime, the department will proceed with land acquisitions in connection with the construction. The actual construction of the road is not programmed in the present five-year plan.

UNLEY BY-LAW: STREET TRADER'S LICENCE.

Order of the Day: Private Business, No. 1:

The Hon. F. J. Potter to move:

That By-law No. 46 of the Corporation of the City of Unley, in respect of Street Trader's Licence, made on November 15, 1965, and laid on the table of this Council on November 4, 1966, be disallowed.

The Hon. F. J. POTTER (Central No. 2) moved:

That this Order of the Day be discharged.

Order of the Day discharged.

BULK MILK COLLECTION REGULATIONS.

Order of the Day: Private Business, No. 2:

The Hon. F. J. Potter to move:

That the regulations amending the Metropolitan Milk Supply (Bulk Collection) Regulations, 1962, made under the Metropolitan Milk Supply Act on September 15, 1966, and laid on the table of this Council on September 20, 1966, be disallowed.

The Hon. F. J. POTTER (Central No. 2): I move:

That this Order of the Day be discharged.

In doing so I should like to tell the Council that the Subordinate Legislation Committee has given long and anxious consideration to the effect of this regulation before finally coming to the conclusion that no action should be taken for its disallowance.

The regulation requires that all bulk milk, prior to collection from a farmer's premises for processing, shall be kept in a refrigerated farm milk tank complying with agreed standards, but that any producer using an unrefrigerated type of farm milk tank installed by him prior to the date on which regulations come into force may continue to use that unrefrigerated tank on his premises until the same requires replacement. The evidence taken by the committee disclosed the fact that the regulations impose this requirement only on a certain section of licensed producers, namely, those producers supplying the factory of the Jervois Co-operative Dairying Society Ltd. which, although not named in the regulations, is the only milk factory within the area controlled by the Metropolitan Milk Board, which collects milk from unrefrigerated farm milk tanks.

The committee considers that it is somewhat unfortunate for the producers in this lower Murray region to be the first people faced with the obligations imposed by the regulations, because the area takes delivery of milk twice daily from September to April or thereabouts in each year and, because of this fact, quality

standards of the milk have always been maintained to the satisfaction of the board, and it is claimed that greater economies result from the twice daily pick-up system. The committee took evidence from dairymen, from the Secretary and Director of the Jervois Co-operative Dairying Society Ltd., from the Secretary of the South Australian Dairymen's Association Inc. and from the Chairman of the Metropolitan Milk Board.

It appeared that the board's ultimate objective was to have all milk from licensed producers stored under refrigeration while awaiting pick-up, and the necessity for this to be done, particularly in the area immediately adjacent to the metropolitan area, is acknowledged by everybody. The committee is satisfied that the use of refrigerated tanks generally would offer greater possibilities for economy in collection and provide maximum protection for milk quality during the hot weather. The evidence suggests that the Metropolitan Milk Board considers it should take early steps to introduce refrigeration storage for those producers who are now supplying milk in cans. The committee considers that it is somewhat ironical that the section of producers affected by this regulation is the very section that is at present working economically and satisfactorily within its area.

However, the committee is influenced by the fact that the regulations do not impose any immediate burden on such producers, as they are specifically allowed to continue using unrefrigerated tanks until replacement is required for one reason or another. The committee supports the overall scheme that the Metropolitan Milk Board is endeavouring to introduce and realizes that a start must be made somewhere. However, it considers that it may have been better for the board to have started acquiring refrigerated storage in the areas where the need for it is greater and not in the one area where the need is minimal.

Order of the Day discharged.

DOG-RACING CONTROL BILL.

Adjourned debate on second reading.

(Continued from November 9. Page 2859.)

The Hon. C. R. STORY (Midland): This Bill, which was before another place and duly passed, has been before this Chamber for some time. I have made some study of what happened in 1927, when the practice of dog-racing behind a mechanical lure was prohibited. Having compared what was said in 1927 with what has been said during this debate, I find that people have not changed very much, as much the same arguments have been used in this debate as were used in 1927. I draw the inference from this that it might be a very good thing if we devoted much more of our time at school to the study of history because, after all, people do not change very much and, although people today think that people in 1927 were a little out of date, the tenor of the debate in both Chambers has been along much the same lines as in 1927.

The main purpose of the Bill is to permit dog-racing in pursuit of a mechanical lure which, as I have said, was outlawed by the Coursing Restriction Act, 1927. I am not well acquainted with dog-racing. I lived next door to a gentleman who had a very nice string of greyhounds that he had bred and with which he was very successful at Mildura, where I believe he won many prizes. Apparently he had a good stud of greyhounds. Except that I am not fond of the greyhound as an animal, I did not see anything that worried me unduly in the way this man conducted his kennels, and I never saw him plucking out whiskers or claws from furry animals to blood the greyhounds. Knowing him very well, I do not think he was the type who would do that sort of thing.

If we get down to realities, we shall find in all walks of life people who will abuse and find a way around any law. We do not have to go to the lowest bracket of society to find this: it can be found in the highest bracket. There are always smart people, but I did have some experience of how these dogs were trained by this gentleman I have mentioned. He did not consider it necessary to blood his animals and he was a successful operator at Mildura, where the sport went on for a considerable time.

I am not fully in possession of all the facts regarding dog-racing. Honourable members have spoken from personal experience of things they say happened in other parts. In this Bill we have to make penalties sufficiently high to deal with offenders, because I have no doubt there will be offenders no matter what sort of law we make. Therefore, it is rather difficult to pass laws where we oppress a large percentage of the community because a few people transgress them. When we increase the penalties and make it easy for inspectors to be present at these events, we endeavour not to penalize the decent people in our community. I cannot believe that all people who own greyhounds for the purpose of racing go around pulling the claws out of cats, opossums and

animals of that kind, but I am still convinced that there are people who would get into any sport and are capable of taking this to the limit, whatever the nefarious practice may be. So I propose that we look carefully at the penalties and, if this Bill is passed, ensure that this sport is conducted in a clean and proper manner. That is one facet of the matter.

Another facet to be considered is gambling. I do not think that any of us believes that there is no gambling associated or likely to be associated with any sport involving competition of this type, but I find it difficult to draw a line between horses that race and greyhounds that race, because gambling was made legal many years ago in certain types of sport. A person is rather putting his head in the sand if he advocates the prohibition of gambling, because gambling will go on whatever happens. I have said in this Chamber before, and I reiterate it, that I would far rather see gambling legalized and out in the open, properly policed and controlled, than have people going down to play two-up in the pug holes of Bowden and Brompton. It is a better and cleaner way of doing what the public wants to do.

The Hon. Sir Norman Jude: What's wrong with two-up, anyhow?

The Hon. C. R. STORY: There is nothing wrong with it.

The Hon. Sir Norman Jude: You must be consistent.

The Hon. C. R. STORY: I used to play two-up in my Army days. There is no fairer means of gambling, provided you have a good ringer to look after it all. There is nothing wrong with two-up as a game, any more than there is with a game of bridge.

The Hon. S. C. Bevan: Don't you know it is illegal?

The Hon. C. R. STORY: Yes. When I played it I do not know that we were at all inhibited about it. I would far rather it be in the open where it could be policed. Recently a referendum was held on gaming in the form of a lottery; I think the result should be indicative to all legislators of the requirements of the people and how they want to spend their leisure time and money. I do not think we should be so restrictive in our outlook that we should say what any section of the community can or cannot do, provided that such activity is properly policed.

Reference has been made to the appointment of a Select Committee. I was elected to this Council with full responsibility and, unless matters of major importance arise, such as the Aboriginal Lands Trust Bill, that can have an effect on the well-being of all people in this State, I believe we should deal with legislation without going to great expense, on the one hand, or taking up a lot of members' time in taking evidence on the other hand, in finding out something which eventually turns out to be the equivalent of saying "water is wet". All the evidence in connection with dog-racing is available to those who wish to see it. Various commissions and select committees have been appointed in other States to examine similar legislation, and I do not think the people of Victoria or New South Wales are any different from those in South Australia.

The Hon. C. D. ROWE (Midland): I rise to speak because I think this is a matter on which I should not record a silent vote. I oppose the Bill. I do so not because it is my desire to impinge on the rights of other people or dictate what they should do but rather because of the evidence submitted to me. Cogent in that evidence were statements by the Hon. Mrs. Cooper regarding conduct in connection with dog-racing, none of which has been refuted. I would think that if there was anything wrong with those statements we would have heard from people interested pointing out that the honourable member's statements were incorrect. However, none has come forward although there has been ample time for that to happen. Consequently, I think we are in the position where what has been said must be regarded as fact.

A second matter that influences me is that I understand for some time people conducting dog-racing have been using an oval at Thebarton. I believe that the Thebarton council has had occasion to watch the procedure and the general behaviour of the people associated with the sport. This has given the council the opportunity of observing any nuisance caused as well as observing its effect on people living in the vicinity of the oval. Obviously it has not been possible for me to get all the details regarding this area but I have been informed that the lease of the oval expired on November 12 this year. Application was made by the people concerned for an extension of the lease but, because of certain unsatisfactory features associated with dog-racing and because of the annoyance caused to surrounding people by the noise from the dogs, the council decided not to renew it. Those facts are apparently incontrovertible and relate to a period when the people concerned were asking that this Bill be sponsored. The Bill at the time was before

either this Chamber or another place and therefore one would have thought that those people would be rather circumspect in their behaviour.

If that is the situation (and I take it that the Thebarton council would be regarded as a responsible body and made its decision on proper evidence) and the council is dissatisfied with the way matters have been conducted at the oval, I think it is probable that we shall find similar dissatisfaction in other areas. Having listened to all the speeches that have been made, and in the absence of any refutation of the rather serious allegations made by the Hon. Mrs. Cooper and because of the evidence concerning the dog-racing club that I have mentioned, I have no alternative but to oppose the Bill.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for the attention they have given to this Bill. Despite what has been said, I believe it has been dealt with as a private member's Bill. It appears to me that the main objection may be on the ground of cruelty to dogs and other animals. Let me say that if that was the only bone of contention I believe it would be the unanimous decision of this Council that nobody would tolerate such cruelty. I say this because of the minute minority who may (and I emphasize the word "may" because I have had correspondence on this subject and have noticed certain letters in the newspapers) have made allegations of cruelty, but no positive proof has been forthcoming from those people regarding such allegations.

I do not wish to speak further on that matter because I have faith in the ability of people who work for the prevention of cruelty to dumb animals and in our Police Force to control any abuses of that nature. I am not in a position to disagree with the remarks of the Hon. Mr. Rowe because I know nothing about that matter, but perhaps the operation was not remunerative from the Thebarton council's point of view.

The Hon. C. D. Rowe: It was not a question of it being remunerative and its objection was not on the grounds of cruelty.

The Hon. A. J. SHARD: It may be that the council did not want the racing to go on because of the lack of profit, and I would not be surprised if that was the case. If they were the only two points causing opposition to the Bill I do not think we have much to worry about. I agree with the Hon. Mr. Story that people should be able to enjoy themselves, within reason, provided they do not disturb other people.

The Council divided on the second reading:

Ayes (14).—The Hons. D. H. L. Banfield, S. C. Bevan, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, A. F. Kneebone, Sir Lyell McEwin, F. J. Potter, A. J. Shard (teller), C. R. Story, and A. M. Whyte.

Noes (4).—The Hons. Jessie Cooper (teller), M. B. Dawkins, H. K. Kemp, and C. D. Rowe.

Majority of 10 for the Ayes.

Second reading thus carried.

The Hon. H. K. KEMP (Southern) moved: That this Bill be referred to a Select Committee.

The Hon. A. J. SHARD (Chief Secretary): I oppose the motion, because I do not think the Bill is of a sufficiently serious nature, or affects a sufficient number of people, to warrant reference to a Select Committee. The main bone of contention, I think, is based on cruelty, and I know what evidence would be given against the Bill. I do not think I need to go into the matter more deeply. A Select Committee is costly to the Government, but that might be a minor point. In addition, the activities of a committee are time consuming. I ask the Council not to accept the motion.

The Hon. Sir NORMAN JUDE (Southern): I support the attitude of the Hon. Mr. Shard. I cannot see what help a Select Committee could give to the Council. It is obvious that those associated with dog racing in four other States, which is most of the Commonwealth, would send experts to explain that everything operated satisfactorily in other States and that Governments have not had occasion to take action. I understand that objection has not been raised in the other States regarding the cruelty ground, except in the same way as cruelty occurs in relation to cattle, or to sheep, with which I am associated. The dog racing people are requesting only that which is in operation in other States be introduced here.

The Hon. Sir LYELL McEWIN (Leader of the Opposition): I, as one who did not speak in the second reading debate, support the reference to a Select Committee, for one reason only. Representations have been made from both sides and all I am interested in doing is getting the answer to the cruelty problem and to the accusations regarding blooding. We have no evidence from local people who are opposed to this matter. Although it is said that no objection is taken in other States, many things that are done in the other States are not done

here, and we have to make a responsible decision for ourselves. I could not ascertain anything from organizations such as the Royal Society for the Prevention of Cruelty to Animals. Surely these people would have been able to express themselves if the problem was as great as has been stated.

I am not saying that it is or that it is not, nor am I a killjoy who wants to prevent the introduction of this sport. At least, I want to be able to say that I have decided on the matter after proper inquiry and with proper information, which is not available at present. It may be said that a reference to a Select Committee is a sign of weakness. However, everything is important, particularly if a wrong step is taken. I hope that the committee appointed by this Council (as I am sure it will be) will hear evidence and come along with an unbiased report. We do not want opinions to be conceived before the evidence is heard, as can sometimes happen. I hope that this will not happen in this case.

Regarding the cost of a Select Committee, there are so many commissions dealing with social matters at present that, apparently, the Government has not been able to make up its mind. Many people may consider that cruelty to animals is a social problem. There is much sentiment in the world today and we should let expression be given to it. We have had to listen to much debate on legislation this session, but I am not averse to listening to more debate.

The Hon. M. B. DAWKINS (Midland): I, too, support the move for the appointment of a Select Committee. As I said in the second reading speech, we have had some conflicting evidence on this matter, no doubt put forward in good faith by both sides, but there is much difference in the evidence presented. As the Hon. Sir Lyell McEwin has just said, we have no direct access here to this sort of activity. The matter should go to a Select Committee so that we will have an unbiased report as to whether this Bill is desirable. That is what we always look for in a Select Committee but perhaps we do not always get it, although that does not stop us from seeking it.

The Hon. L. R. HART (Midland): In my second reading speech I said that I considered that possibly this Bill should go to a Select Committee. The reason at that stage was that I believed we were not sufficiently informed on all matters pertaining to the Bill. There were certain provisions in the Bill that I was not entirely happy with at that stage. Since then, I have made further investigations, and I have an amendment on honourable members' files, which, I consider, if this Bill should be passed, will place the sport in the hands of a responsible body. As I have an amendment on the files I do not now wish to press for the Bill to be referred to a Select Committee.

The Council divided on the motion:

Ayes (9).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, G. J. Gilfillan, C. M. Hill, H. K. Kemp (teller), Sir Lyell McEwin, F. J. Potter, and C. D. Rowe.

Noes (9).—The Hons. D. H. L. Banfield, S. C. Bevan, R. A. Geddes, L. R. Hart, Sir Norman Jude, A. F. Kneebone, A. J. Shard (teller), C. R. Story, and A. M. Whyte.

The PRESIDENT: There are nine "Ayes" and nine "Noes" and as many Bills this session have been referred to Select Committees, I vote with the "Ayes".

Motion thus carried.

Bill referred to a Select Committee consisting of the Hons. A. J. Shard, Jessie Cooper, L. R. Hart, D. H. L. Banfield and H. K. Kemp; the committee to have power to send for persons, papers and records and to adjourn from place to place; the committee to report on March 14.

SUCCESSION DUTIES ACT AMENDMENT BILL.

In Committee.

(Continued from November 15. Page 2987.)

Clause 8—"Property subject to duty"—to which the Hon. F. J. Potter had moved a suggested amendment to strike out all words after "settlement" in new paragraph (*e*) inserted by paragraph (*c*) and insert "made by the deceased in which the deceased had any interest of any kind".

The Hon. F. J. POTTER: Since the Committee last met, I compared the wording of my suggested amendment with the wording in the Commonwealth estate duty legislation, from which it was taken, and I found a slight difference. As a result, I ask leave to amend my suggested amendment by striking out "in" after "deceased" and inserting "under".

Leave granted; suggested amendment amended.

The Hon. A. J. SHARD (Chief Secretary): The Government opposes this suggested amendment. Under the present Act settlement is a disposition other than a will containing trusts to take effect upon or after the death of the settlor or any other person. The Bill does not

alter the definition of "settlement", but provides for aggregation of the settled funds with the estate of the settlor or with the estate of the person on whose death the trusts are to take effect. The amendment would restrict the application of the definition of "settlement". It would place liability for duty only on settlements in which the deceased settlor had retained some interest for himself, such as income for his life. If these interests were in the hands of someone else, the settlement would be outside the Act. It would then be a simple matter for the settlor to make a settlement in which the income was in the hands of some other person (say, a life tenant); the property would be tied up until the life tenant's death. The settlor would have divested himself of the property so that it would not be taxable as property passing under his will. There would be no need for the life tenant to make a will at all. The amendment would make it easy for settlors to make portions of their estates free from duty even though the funds were tied up for some time after their deaths. In effect, tax-free successions would take effect by absolute vesting some time after the settlor's death under an arrangement made by the settlor. Under the Bill a settlor can still make a deed of gift and, if the property is given absolutely, it is dutiable only if the donor dies within a year after the date of the deed. I ask the Committee to reject the suggested amendment.

The Hon. R. C. DeGARIS: What the Chief Secretary has said is true, but it is impossible to reach any point of balance between the present system and the proposed aggregation. This Bill attempts to marry two systems and still maintain the same approach as in a disaggregated succession duty provision. These matters are not taken into the estate in estate duty legislation of the Commonwealth or the States that have such legislation. It is impossible to marry the two systems. The Bill includes property in which the deceased person may have no beneficial interest during his lifetime, and the amendment excludes such property. These things should be treated as separate successions. If the Government in future introduces a Bill to bring these things into a separate succession, I will support it. It is almost impossible for us to draft any amendment along these lines, for several reasons, one of which is that a new Fourth Schedule would be needed, and it would be almost impossible for members to draft that. It is completely wrong that these things should be aggregated, and I support the suggested amendment.

The Hon. F. J. POTTER: I do not deny the truth of the Chief Secretary's statement, but he did not deal with the very important point upon which my suggested amendment was based—that although each other new paragraph is fair in an aggregation system, new paragraph (*e*) is not. I could have moved to delete the new paragraph, but instead I moved a suggested amendment to bring it into line with the Commonwealth estate duty legislation, which seemed to be fair. If some settlements that now attract duty escape duty in future, a special clause could be introduced with an additional schedule to tax them separately. I have been in practice for some years but have only once come up against any assessment of duty under the existing Act involving a settlement under paragraph (*e*). The amount of duty now separately assessed that the Government derives from succession impositions on that kind of settlement must be fairly small *in toto* in any one year but the inclusion of this in the aggregation provision will convert a small percentage of duty into a large one for the Government, and the method would be completely unfair, and is not found in any aggregation system elsewhere.

If there is a precedent for this I will go quietly, but I challenge the Minister to show where that kind of thing appears in any other aggregation system. My amendment is necessary. It does not cut out the paragraph altogether. If the Government feels it will lose some revenue and it still wants to tax this kind of settlement, let it suggest an amendment to deal with that.

The Committee divided on the amendment as amended:

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

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

Majority of 10 for the Ayes.

Amendment thus carried.

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

In paragraph (i) after "any" second occurring to insert "person or" and after "jointly" to insert "with the deceased person".

This is principally a drafting amendment but I think it improves the sense of this paragraph.

The Hon. A. J. SHARD: I accept that amendment.

Amendment carried.

The Hon. F. J. POTTER: I had proposed to move fairly long amendments to paragraphs (*j*) and (*k*), but I shall not now move them in view of the amendments placed on the file by the Hon. Sir Lyell McEwin. It appears that his amendments are more or less along the same lines as mine, although perhaps they do not go quite so far. As I indicated that I would be supporting his amendments, I do not now move mine.

The Hon. Sir LYELL McEWIN: I move the following suggested amendment:

At the end of paragraph (*j*) to insert:

"; provided that where the policy has been effected by the deceased person or by his spouse and expressed to be for the benefit of his spouse or of his children or of his spouse or children or any of them and no interest whether vested or contingent was held or retained in such policy by the deceased no amount shall be subject to duty but the total amount of any premiums paid or provided by the deceased in respect of that policy during the year immediately preceding his death shall be subject to duty".

In speaking on the second reading I drew attention to the fact that there was no provision, as in the case of Victoria, for anybody to provide against succession duty by the medium of a policy of assurance. I quoted an instance where, if assurance was taken out, it would increase the cost of succession duties that had to be paid. That seemed quite unreasonable, particularly in view of the Public Service superannuation scheme and similar funds (under which a person is not assessable for succession duties) where the individual pays only a small percentage of the contributions because the employer pays 70 per cent of the premiums. The money under that scheme is free of succession duty. This seems an injustice to people who have to pay death duties when they are not granted similar privileges for taking out assurance policies. Because aggregation increases succession duty, there should be some opportunity for an individual to provide by assurance for the payment of succession duties so as to protect his widow and those that come after him. We should give equal treatment to everybody.

The Hon. A. J. SHARD: The Government cannot accept the amendment proposed on the grounds that it would seriously affect revenue. The Government considers the provisions relating to assurance are generous ones, and I ask honourable members not to accept the amendment.

The Hon. R. C. DeGARIS: I support the amendment. I am well aware that in the existing Act rebate is allowed on an insurance policy up to an amount of $2,500, but this is inadequate in allowing anybody to make provision for his wife and children and to ensure that they will not be adversely affected by the incidence of probate and succession duties. I point out that under the Victorian Act a similar provision to the amendment already applies. I am speaking as a primary producer because that has been my occupation most of my life, and it is difficult for a primary producer with a property valued at, say, $80,000 (which, in my opinion, is not much above a living area) to ensure that his wife and family are not placed in the position of having to sell the property to meet probate and succession duty.

The comparison with superannuation is an important one. Under superannuation the amount passing to the widow would be free of duty. The Chief Secretary said that the provisions regarding insurance are fair; but is it fair in comparison with the Government scheme of superannuation, which is free of succession duty? The self-employed person has to provide for himself without Government assistance. I ask the Chief Secretary to reconsider his attitude. I said on the second reading that we did not altogether object to the increase in succession duties on the higher estates provided the Government allowed the insurance provisions that we proposed.

The Hon. F. J. POTTER: I support the amendment. As honourable members know, I drew an amendment along somewhat similar lines. In fact, it followed more closely the provisions in Victoria, which are more generous than the combined effect of this amendment and the proposed amendment to the next clause. If that State can do it, there is no reason why we cannot. Protection must be given to self-employed people. They are not able to avail themselves of the benefits of superannuation. This amendment relates only to a policy in which the beneficial interest goes to either a spouse or any children of the deceased. It is fair and reasonable and such a provision is long overdue.

The Hon. G. J. GILFILLAN: I support the amendment, which I consider essential if people are to carry on under the measure, because of the aggregation. I do not think it can be stressed too much that this is a means by which the self-employed person can provide for the future of his family.

The Hon. F. J. Potter: Not only the self-employed person.

The Hon. G. J. GILFILLAN: No, but it gives that person some equality with those who enjoy the benefits of superannuation. Many

people are facing a serious problem because of the increased values of property and land. The amendment, far from depriving the Government of revenue, enables these policies as a means of saving to be used for the payment of succession duties.

The Hon. C. R. STORY: I support the amendment and compliment the mover. I and many other people have realized that we shall not be able to make sufficient provision for our families in the event of our dying prematurely. There is nothing snide (although that has been suggested in another place and publicly) about people looking after their future in this logical way. A person pays as he goes and pays what he can afford. Many people have kept themselves poor in order to maintain insurance as a safeguard for the future. The aggregation of this insurance with other matters is wrong so far as thrifty people are concerned.

The Hon. Sir LYELL McEWIN: I am disappointed with the Minister's reply. He did not face the justice or reasonableness of the provision, but merely referred to revenue. Apparently, the Government is prepared to go to any limits to get money, regardless of the effect on the people. That is an unreasonable attitude and it almost seems that the Government is determined not to have the Bill otherwise it would seriously consider the implications of the legislation. It has been announced that the Government will not accept any amendment. If that is the attitude, we are wasting a lot of time discussing the Bill.

The Hon. C. D. ROWE: I hoped the Government would accept this reasonable amendment. I am disappointed that we have not been able to get an accurate statement of the amount of revenue involved in this measure. The Hon. Mr. Banfield, in his second reading speech, said that the Council, by rejecting the Succession Duties Act Amendment Bill last year, deprived the Government of this State of taxation amounting to $1,000,000. I interrupted and said that I did not agree with that figure. The following appears in the second reading explanation of the Bill introduced last year, as reported at page 3,102 of *Hansard*:

Because of the time taken in assessment and the time allowed for payment of duty, the net yield in revenue by virtue of these amendments is not expected to be very great in 1965-66. It will possibly be less than 5 per cent of the present yield, or about $150,000.

The Hon. Mr. Banfield said in his second reading speech, as reported at page 2,861 of *Hansard*:

Its action has also prevented the State from collecting about $1,000,000, but I am letting honourable members down lightly.

The Hon. D. H. L. Banfield: That wasn't only succession duties. Read it again. It refers to the action of the Council. Be fair about it.

The Hon. C. D. ROWE: I stand open to correction. In any event, I should like to know what other Bills we rejected last year.

The Hon. D. H. L. Banfield: What about the Bill dealing with road and rail transport and the amendment to the Stamp Duties Act?

The Hon. C. D. ROWE: We did not turn down the stamp duties measure. It was altered at a conference, and the Premier agreed to the amendments. I thought the honourable member referred to succession duty when he mentioned $1,000,000.

The Hon. D. H. L. Banfield: I referred to the actions of the Council.

The Hon. C. D. ROWE: We have not any accurate statement of what this Bill will bring in. I do not think it is possible for anyone to estimate what will be received, because of the aggregation provisions. I have had a look at one or two individual estates and I think it is impossible to work out what a person's liability will be. I spoke to the Parliamentry Draftsman and asked him if it would be possible to draft an amendment that would provide that there would be no aggregation as regards moneys which were obtained by a beneficiary under the will, compared with moneys obtained in another way. In other words, I was happy to go along with moneys acquired by way of gift, under a joint tenancy or under a deed of settlement. I was prepared to go to the extent of having aggregation, but not that as suggested in the Bill.

People have organized their affairs over the last 30 or 40 years believing that would be the way in which the duty would be assessed. I also suggested that the executors and administrators would be placed in an impossible position if they had to include assets over which they had no control. An administrator or executor has no control or financial interest where there has been a joint tenancy or a gift made within 12 months of death. If we have this aggregation provision, the position will be intolerable for administrators. Whenever we have altered the basis previously we have said that the duty was to apply only in the case of joint tenancies and tenancies in common created after the date of operation of the Act, which was logical.

When I suggested a draft along these lines to the Parliamentary Draftsman, he was cordial and carefully looked at the position. We had conferences and he said it was impossible to draft an amendment along these lines unless we recast the whole Bill. That means that the wrapping up of matters into an aggregation is so entangled in this Bill that it cannot be unentangled.

In the circumstances, I had to vote against this Bill. I go along with the Hon. Sir Lyell McEwin. I do not think I misunderstood him, and I think in the course of his remarks he said that if we had a Bill saying that the Government wanted more money and the duties had to be increased we could look at it, and it could conceivably have come within the mandate the Government had 18 months ago. I doubt that it has a mandate today. I support the expression by the Chief Secretary. Because I was unable to get an amendment drafted regarding non-aggregation, I had to vote against the second reading.

The Hon. R. C. DeGARIS: Several questions have been raised, and I had hoped that the Chief Secretary would have replied to them. I refer to the matters raised by the Hons. Sir Lyell McEwin and Mr. Rowe. I should like to know the objections the Chief Secretary has in regard to superannuation. I cannot see any reason why, if an amount of superannuation goes to a widow at the death of her husband, this is completely excluded from succession duty, but a self-employed person cannot be in the same position. This is what the amendment does. We have the position where a person can make a gift to his wife or children of $200 a year and say, "Here, you pay the premium on my life. This is your policy". This policy is excluded from succession duties and yet, if he pays the premium, the policy is caught up in the assessment of succession duties.

We know what goes on. We know that some people do these things and that money is handed under the lap to a spouse or child to pay the premiums. Other people are not prepared to do it. I should like the Chief Secretary to give some information on this matter of superannuation, and also in regard to money being passed to the children and the spouse to pay the insurance premiums.

The Hon. C. D. ROWE: Earlier the Hon. Mr. Banfield said that when he used "$1,000,000" he was referring not only to this Bill but to other Bills. Since then, I have had an opportunity to peruse *Hansard* and I discovered that he said:

However, the fact remains that when honourable members threw out the Bill they deprived the State of $1,000,000 in the last financial year.

So, he was not referring to Bills generally but to this Bill. Either he or the Government is wrong, but I am disappointed that the Hon. Mr. Banfield tried to misconstrue what he actually said. There is a tremendous discrepancy between the figure set out by the Government and that given by Mr. Banfield. My view is that he has let the cat out of the bag for the Government.

The Committee divided on the suggested amendment:

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

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

Majority of 10 for the Ayes.

Suggested amendment thus carried.

The Hon. Sir LYELL McEWIN: I move the following suggested amendment:

At the end of new paragraph (*k*) inserted by paragraph (*c*) to insert:

> ":provided that where the policy has been effected by the spouse of the deceased person and expressed to be for the benefit of the spouse or children of the deceased person or of his spouse and children or any of them and no interest whether vested or contingent was held or retained in such policy by the deceased person no proportion shall be subject to duty but the total amount of any premiums paid or provided by the deceased in respect of that policy during the year immediately preceding his death shall be subject to duty".

This is similar in every way to the previous suggested amendment, except that it applies to cases where the policy has been effected by the spouse of the deceased person.

Suggested amendment carried.

The Hon. F. J. POTTER: I move the following suggested amendment:

In new paragraph (*o*) inserted by paragraph (*c*) to strike out "thereafter" and insert "during the period of one year immediately before his death".

The Government made it perfectly clear that it would not catch for duty any gifts unless they were made during the 12 months preceding the date of death. I said this was the one good feature of the Bill, as it was an attempt to remove something that had been unfair and subject to considerable comment by legal men

and others dealing with succession duties. However, the new paragraph does not do that: it uses the same expression as is used in the principal Act.

The Hon. A. J. SHARD: I have no objection to the amendment.

Suggested amendment carried; clause 8, with suggested amendments, passed.

Clauses 9 to 22 passed.

Clause 23—"Additional power of administrator to recover duties in certain cases."

The Hon. F. J. POTTER: I stress the words "Additional power" in the marginal note. The administrator requires additional power because at present he is not obligated to pay the duty on a property dealt with outside the terms of a will. A property at present assessed on Form U is assessed to the beneficiary, who is the person liable to file that Form U. Now that we have gone in for aggregation the administrator must pay the duty, under this Bill, on the total estate. Therefore, he is given additional power to recover that duty, where appropriate, from the donee. All he is given under this clause is a right of action to recover the amount of the duty. This seems to place an intolerable burden upon an administrator who may not have sufficient assets in his hands, under the terms of a will that he is administering, to meet the duty imposed because of a gift or settlement which accrued to some other person and which took place before the administrator came into the picture. Because of that, he may not be able to pay the money or, if he is in a position to pay it, he may be depriving the beneficiaries under the will of some immediate benefit from the property to which they are entitled.

If a settlement is made before the death of the deceased, the capital of which has been dissipated by the donee, how can an administrator be expected to be able to recover the amount of duty that the assessment has reached as a result of aggregation? There seems to be some justification for the actual responsibility of collecting duty on this kind of asset being placed fairly and squarely on the Commissioner and not on the administrator. It is difficult to frame an amendment to meet this position; it is an administrative problem. I should like to hear from the Chief Secretary how it is expected that the obligation placed upon the administrator is to be met in all circumstances and cases, and whether or not the Government has considered the possibility of the Commissioner himself being the one charged with the responsibility of collecting duty from beneficiaries inheriting property from settlements outside a will.

The Hon. R. C. DeGARIS: This raises an important matter and I hope the Chief Secretary will at least reply to these points. So far, I have been disappointed that he has not seen fit to reply to many points raised and give reasons for objecting to various suggestions. This provision places the administrator in an intolerable position. Under the present Act, in the case of beneficiaries under Form U, the payment of duty lies with the beneficiary: the administrator is not responsible. However, under the provision in the Bill one can conceive of circumstances in which the administrator may be placed in an impossible position. For instance, there may be $95,000 in a trust, the estate other than that being worth about $5,000. How does the administrator meet out of the estate the succession duty payable on such a succession? Then a gift may be made of $10,000, which is brought into a succession, and that gift is dissipated by the donee. The administrator has to find the succession duty on that amount of money, but he has no hope of collecting succession duty from the beneficiary. Can the Chief Secretary say whether the Government has considered this matter and what it proposes to do about it?

The Hon. Sir LYELL McEWIN: I referred to this matter during the second reading debate. It involves a grave injustice to an administrator. As the Hon. Mr. DeGaris has pointed out, a substantial part of an estate may be passed over to a beneficiary and within a prescribed period the testator may die. The estate has been dissipated and no money is left in it. The administrator is made responsible. I note that new section 46a (3) states:

> The provisions of this section shall be construed as in addition to and not in derogation from the provisions of section 46 of this Act.

I have studied that but it does not help in the type of case mentioned. I am sorry the Chief Secretary has taken the attitude that he will not answer any of these points. I appreciate that we are more or less beating the air. Therefore, I have no alternative but to vote against the clause if it cannot be amended satisfactorily. Apparently, this is another problem arising from aggregation. It is obvious that this Bill has been only half considered. The problems associated with its administration and what it does to people seem to have been completely neglected.

The only concern of the Government seems to be with its own welfare: somebody else can find the money and if it could not be obtained from the estate it would be obtained from the administrator. I cannot accept such a situation.

The Hon. F. J. POTTER: I, too, oppose the clause unless the Chief Secretary says how the Government intends to deal with this problem. There has not been any amendment on the file as regards this clause but the matter was discussed in the second reading debate and the problems were pointed out. The Minister should be able to say something to the Committee in connection with the very real problem that exists concerning the recovery of succession duties.

The Hon. A. J. SHARD: I can only reiterate what was said in the second reading explanation. I repeat:

New section 46a (inserted by clause 23) is complementary to section 46 which gives an administrator or trustee power to impose a charge on property for the purpose of adjusting duties as between persons beneficially entitled to property subject to duty. This power will no longer be sufficient in all cases because, in the case of property given away within three years before death, for example, the property may not be in existence or may have been disposed of by the donee at the time when the administrator is required to pay duty on it.

Such duty must be paid out of the estate and by virtue of the new section the administrator will be able to recover from the donee the due proportion of duty attributable to the property concerned. Subsection (2) of the new section provides that where duty is recoverable from a trustee there will be the same limitation on the trustee's liability as is provided for by new section 16a (2) and the trustee will have power of sale over the trust property in order to indemnify the administrator who has paid duty. Subsection (3) of the new section is a machinery provision.

I cannot go any further than that.

The Hon. F. J. POTTER: My only comment is that the Minister says that duty will be recoverable. If he had said "duty might be recoverable" he would have been more accurate. What would be the position if it were not recoverable?

The Hon. R. C. DeGARIS: That raises a problem. So far I have not opposed the Bill but the position has now been reached where apparently we all have to be given much satisfaction. The problem raised is a real one, and we have asked the Government its intention without receiving a reply. Because of that I cannot give any further support to the Bill, and I feel like voting against the third reading on the ground that we are not being given sufficient information by the Government.

The Committee divided on the clause:

Ayes (3).—The Hons. D. H. L. Banfield, S. C. Bevan, and A. J. Shard (teller).

Noes (15).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, F. J. Potter (teller), C. D. Rowe, Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Majority of 12 for the Noes.

Clause thus negatived.

Clauses 24 to 28 passed.

Clause 29—"Repeal and re-enactment of Part IVB of principal Act."

The Hon. C. D. ROWE: I move the following suggested amendment:

In new section 55e to strike out paragraph (*d*).

As the Bill stands, land used for primary production does not include any interest in land derived from a deceased person which was held by that person as a shareholder in a company or as a joint tenant or tenant-in-common or as a member of a partnership. My amendment will provide that, even though a person may hold land by any of those methods, he will still be entitled to the primary producers' concession. I admit that this provision was inserted in the principal Act by a former Government that, for the time being, has not been in power.

However, the Bill aggregates everything that a deceased person has, has had or is likely to have and it is fair to make the concession to primary producers a genuine concession regardless of how land is held. I am particularly interested in tenancy in common, because I think the exclusion of land held by that method works a hardship that the Government has not expected. If two brothers have held land as tenants in common and one brother, on his death, leaves his share of the tenancy in common to his wife or children, no concession would apply. I do not think the Government intended to exclude the concession in that case. I think it intended the exclusion to apply where a brother leaves his share to the other brother.

The Hon. R. C. DeGARIS: I have on file a suggested amendment to strike out all words in paragraph (*d*) after "company". I suggest to the Hon. Mr. Rowe that he ask leave to withdraw his suggested amendment and that he then move to delete all the words before

"company". Then, depending on the vote on that amendment, I can decide how to move my amendment.

The Hon. C. D. ROWE: I am prepared to consider that approach. Therefore, I ask leave to withdraw the suggested amendment I have moved with a view to moving the amendment as suggested by the Hon. Mr. DeGaris.

Leave granted; suggested amendment withdrawn.

The Hon. C. D. ROWE moved the following suggested amendment:

In new section 55e to strike out, "any interest in land derived from a deceased person which was held by that person as a shareholder in a company".

The Hon. A. J. SHARD: I shall deal with both suggested amendments. The Government opposes them. The reasons are that the provision in the new section removing land held jointly, in common or in partnership from the primary producer's concession reproduces what is already in the principal Act, as introduced by the previous Government. These particular cases were excluded from the benefit because it was a fair assessment that the land was held in such a manner so as to secure taxation advantages, and it was considered that no further benefit or advantage was appropriate. Members of the present Opposition supported this provision in 1959. The Government has not included these exclusions but has merely continued them.

The Hon. R. C. DeGARIS: I disagree that primary producing properties are held by persons as tenants in common in order to avoid succession and probate duties. My experience is that that is not so. I would instance the case, quite a common case as most people know who come from rural areas, of two brothers farming in partnership. They hold the land, which probably came from their predecessor, as tenants-in-common; they farm as a partnership unit that may have existed for many years.

One of the brothers dies and leaves his share of the property to his children. That does not rank for the rebate of primary-producing land. In the present Act this is the position, and I do not agree with it there either, although there are some grounds under the old Act where we had a disaggregation principle. There are some grounds for this rebate not applying completely. In the Victorian Act we find not only this joint tenancy of primary-producing land or tenants-in-common of primary-producing land but also shares in a company under the rebate section for primary-producing land.

I do not agree, and go along with the Government, that it is fair that shares in a primary-producing company should apply for a rebate of primary-producing land. I consider that shares are personalty and should be charged as such, but I do not agree that land held as a joint tenancy (and I know of very little primary-producing land held as joint tenancies, but I do know of a large number of people who hold their land as tenants-in-common) is being used as a means of avoiding taxation. It is a common practice in country areas to see two or three people, either as brothers or as father and son, farming in partnership, and each has a share of the property and holds it as a tenant-in-common.

The Hon. F. J. Potter: It is the company set-up that is designed to help with the taxation problem.

The Hon. R. C. DeGARIS: Yes. I agree on the company angle, and I will be voting against the amendment put forward by the Hon. Mr. Rowe, but I am quite insistent that owners of land who are joint tenants or tenants-in-common should not be able to apply for the rebate for primary-producing land.

Amendment negatived.

The Hon. R. C. DeGARIS moved:

To strike out all the words after "company" in new section 55e.

Amendment carried.

The Hon. L. R. HART: I should like to ask the Chief Secretary, who is in charge of this Bill and who seems to have disappeared, what is the meaning of paragraph (*a*), and why this particular class of land should be excluded from enjoying the benefits of exemptions under primary-producing land. As the Chief Secretary is not here, no doubt another Minister will be happy to answer my question.

The Hon. R. C. DeGARIS: I should like a ruling on this question. I think we have passed this particular matter. All the same, it is a matter that needs clarification, and I am sorry I did not ask for it before, but I do not know whether I am in order now, seeing that we have passed it.

The CHAIRMAN: You would not be in order at this stage.

The Hon. Sir LYELL McEWIN moved:

In new section 55g to strike out paragraph (*a*).

Amendment carried.

The Hon. C. D. ROWE: I move the following suggested amendment:

In new section 55g (*d*) to strike out "twelve" and insert "twenty".

This amendment has the same effect as the amendment I have placed on honourable members' files in relation to new section 55h (*d*) to strike out "six" and insert "thirty". The total exemption for primary-production land is $24,000, but to comply with the policy speech of the Premier it should be $20,000. Under my amendment it would be $32,000, which would be small for a primary-producing property inherited by a widow.

The Hon. A. J. SHARD: The exemption available to a widow when succeeding to a primary-producing property is up to $24,000; that is, the basic $12,000 (which may be any property, including primary-producing property) plus $12,000 of specifically primary-producing property. Such a widow may be exempt also in relation to $2,500 for insurance kept up for her benefit by her husband, so the total exemption may reach $26,500. If an additional $30,000 instead of $12,000 is granted to a widow in relation to primary-producing property, she could then succeed to $44,500 without paying any duty. I ask the Committee not to accept the amendment.

The Hon. C. D. ROWE: I used the figure of $30,000 in the amendment on the file, but in the amendment I moved I reduced it to $20,000.

The Hon. A. J. Shard: I am sorry. We were at cross purposes.

The Hon. C. D. ROWE: It is a misunderstanding. I seem to be softening. If a widow has insurance policies, she gets an exemption of $2,500. The Government's policy speech indicated that a person would be able to inherit a living area without paying any duty, and the exemption of $24,000 I am seeking is considerably less than the $30,000 mentioned by the Chief Secretary in reply to the Hon. Mr. Banfield.

The Committee divided on the suggested amendment:

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

Noes (6).—The Hons. D. H. L. Banfield, S. C. Bevan, R. A. Geddes, A. F. Kneebone, A. J. Shard (teller), and C. R. Story.

Majority of 7 for the Ayes.

Suggested amendment thus carried.

The Hon. Sir LYELL McEWIN: I move the following suggested amendment:

To strike out new section 55h (*a*) and "and" immediately following.

This again is a consequential amendment on earlier amendments relating to insurance.

Suggested amendment carried.

The Hon. C. D. ROWE: I move the following suggested amendment:

In new section 55h (*d*) to strike out "Twelve" and insert "Twenty".

This is the case where property is derived by a widower from a widow.

Suggested amendment carried.

The Hon. Sir LYELL McEWIN: I move the following suggested amendment:

To strike out new section 55i (*a*) and "and" immediately following.

This, too, is a consequential amendment on earlier amendments relating to insurance.

Suggested amendment carried.

The Hon. C. D. ROWE: I move the following suggested amendment:

In new section 55i (*c*) to strike out "Twelve" and insert "Twenty".

This is the case where property is derived by a child under the age of 21 of the deceased person. It is the same principle that I referred to just now with regard to increasing the amount on which rebate is calculated.

Suggested amendment carried.

The Hon. Sir LYELL McEWIN: I move the following suggested amendment:

To strike out new section 55j (*a*) and "and" immediately following.

Again, this is a consequential amendment on previous amendments.

Suggested amendment carried.

The Hon. C. D. ROWE: I move the following suggested amendment:

In new section 55j (*c*) to strike out "Twelve" and insert "Twenty".

This is the case where property is derived by any descendant other than a child under the age of 21 years. It is purely to increase the amount on which the rebate is calculated.

Suggested amendment carried.

The Hon. Sir LYELL McEWIN: I move the following suggested amendment:

In new section 55k (*l*) to strike out "or in respect of moneys received under a policy of assurance".

This, again, is consequential on previous amendments.

Suggested amendment carried; clause, with suggested amendments, passed.

Clause 30 passed.

New clause 30a.

The Hon. F. J. POTTER: I move as a suggested amendment:

To add new clause 30a as follows:

30a. Section 56a of the principal Act is amended by adding the following subsection after subsection (1) thereof:

(1a) Where the mother or the father of an illegitimate child derives any property—

(*a*) under the intestacy of the child: or

(*b*) under a disposition (whether testamentary or non-testamentary) made by the child,

the duty payable in respect of that property shall be at the same rate as if the child had been born legitimate.''

I explained this in the second reading debate; it is an amendment that was requested by the Law Society some time ago. It provides for property inherited from an illegitimate child to be taken into account at the ordinary rates.

The Hon. A. J. SHARD: To prove that the Government does come to the party sometimes, the Government is prepared to accept this amendment which introduces a new clause giving benefits to a mother or father on inheriting from an illegitimate child.

Suggested new clause inserted.

Clauses 31 to 33 passed.

Clause 34—''Prohibition of dealing with shares, etc.''

The Hon. F. J. POTTER: This clause appears to me to be inappropriate having regard to the amendments moved by Sir Lyell McEwin and passed by this Committee concerning insurance. It limits the amount of the immediate pay-out, whereas amendments carried earlier alter the position. I think this clause may have to be altered, but I cannot suggest an appropriate amendment at present.

The Hon. Sir LYELL McEWIN: I have discussed this clause with the Parliamentary Draftsman and he thinks it needs further examination. I suggest that progress be reported.

The Hon. A. J. SHARD: The suggested amendments to this Bill must go to another place. If this is the last query on the Bill I agree to progress being reported.

Progress reported; Committee to sit again.

Later:

The Hon. Sir LYELL McEWIN: I have discussed this clause further with the Parliamentary Draftsman, who considers that it should remain as drafted.

Clause passed.

Remaining clauses (35 to 38) and title passed.

Third reading.

The Hon. A. J. SHARD (Chief Secretary) moved:

That this Bill be now read a third time and passed.

The Hon. Sir NORMAN JUDE (Southern): I know it is unusual to speak on the third reading of a Bill but this Bill is important because it vitally affects what I may call the backbone of the State. When the Chief Secretary spoke in reply to the second reading debate, he indicated that he would oppose any major amendment of the principles underlying the Bill or anything affecting those provisions. Because I accepted it as a more or less routine Ministerial statement, I supported the second reading in the hope that the matters raised by my colleagues would receive consideration and that further information would be available. Even the Chief Secretary, whether or not he agrees with their views, will appreciate the vast amount of homework done by honourable members before making their speeches.

But what did we hear? We heard the odd one or two prepared answers in reply to various questions raised during the debate. Despite anything that was brought up in Committee, the Chief Secretary appeared to have his mind set on his original statement that he was not prepared to accept any major amendment. Quite rightly, he divided the Council to determine its temper. An hour or two ago the Hon. Mr. DeGaris pointedly asked a question about the impact of superannuation upon a certain clause in the Bill. The Chief Secretary is not usually discourteous, so let us say that he did not have the answer available. After all, he is not expected to have the answer to every technical question, but he could have reported progress and said that this was a matter of Government policy. However, no answer was given to the question asked by the Hon. Mr. DeGaris. I say to my colleagues who are basically opposed to this legislation, ''It is a pretty poor show when an honourable member cannot get an answer to a carefully considered question asked in a courteous manner.'' The Chief Secretary could at least have reported progress in order to allow him to get a considered answer. Let me now remind honourable members of what I said yesterday, in what was the briefest speech on this important matter because I did not believe in being redundant. I said:

Certain amendments have been suggested in order to remedy the more vicious provisions in the Bill for increased taxation, and I shall listen to the Government's opinion on these

amendments. In short, I shall let the second reading pass but unless the Government, not only my colleagues, admits argument for improvement of the Bill, I shall certainly vote against the third reading.

This I intend to do now. I sincerely trust my colleagues will be of the same opinion.

The Council divided on the third reading:

Ayes (10).—The Hons. D. H. L. Banfield, S. C. Bevan, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, A. F. Kneebone, Sir Lyell McEwin, F. J. Potter, and A. J. Shard (teller).

Noes (9).—The Hons. Jessie Cooper, M. B. Dawkins, C. M. Hill, Sir Norman Jude (teller), H. K. Kemp, C. D. Rowe, Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Majority of 1 for the Ayes.

Third reading thus carried.

Bill passed.

SUPREME COURT ACT AMENDMENT BILL.

Second reading.

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

That this Bill be now read a second time.

This Bill, which will commence on a date to be proclaimed, deals with four matters. The first relates to the salaries of Their Honours the Judges. At present the salary of the Chief Justice is $15,200 a year, and it is intended to raise this to $16,600. The salary of the puisne judges at the moment is $13,700, and this will be raised to $14,900. The salaries of the judges were last raised as from July 1, 1965. The Government has considered the matter of salaries payable to the judges in this State in comparison with those payable in other States, and has decided that the rises now proposed would bring this State reasonably into line with salaries payable elsewhere; that is, salaries payable in the smaller States. The salaries here are not in line with those payable to Commonwealth Supreme Court judges or to judges of the Supreme Court in New South Wales and in Victoria. Certain basic differences exist between the other States and those in the two larger eastern States, where earnings of the members of the Bar at the top of their profession are greater than they are elsewhere in Australia. This to some extent has affected the recommendation made to the Government on this matter. Clause 4 makes the necessary amendment.

Clause 5 deals with long service leave. The Supreme Court Act contains no provision on this matter, which in the past has been left at large. This is considered to be undesirable. Accordingly, new section 13h is being inserted in the principal Act specifically to enable the granting of long service leave of up to six months with a consequential provision for payment of cash in lieu. What tended to occur was that when a judge was about to retire he took leave of about six months in the six months immediately preceding his resignation taking effect, and in the meantime it was necessary to appoint an acting judge. This practice is considered generally undesirable and, as some of the judges consider that it is not the best way to deal with the matter, the Government agreed. It would be preferable if judges could get, if necessary, a cash payment on retirement in lieu of leave, as this would have an advantage over the past practice.

Clause 6 deals with entirely different matters. It introduces two new sections, 30a and 30b. Section 30a is designed to enable the court to direct that any amount of damages be paid directly to an infant who is empowered if the court so orders, to give a valid receipt. This provision will avoid the necessity of payments being made to the Public Trustee and attracting commission, thereby reducing the net amount. New section 30b is designed to enable the court to make interim assessments of damages pending final assessments. In cases of claims for damages for death or bodily injury, the system of awards of damages in respect of future economic loss is largely a matter of guess work based on actuarial evidence that is, in itself, only an average of statistical materials.

There occur many contingencies for which no statistics are available, and economic loss has to be assessed without any precise guide. In other words, where a final assessment of damages has to be made, the court is faced with having to speculate into the unknown future, with possible injury to one party or the other. The object of the new section is to enable the court to decide as to liability and make an interim assessment of the immediate and ascertainable damages, in due course assessing general damages in the light of such evidence as might be forthcoming.

Many cases are known to the legal profession where it is impossible to get a case of serious injury to trial because medical evidence cannot be provided on which one could base an effective assessment of claim for a final assessment of damages. It is estimated that about 200 cases are hanging

fire and have not been set down because it would be impossible, at this stage, although it is a considerable period after the damages were caused, to get sufficiently reliable evidence as to permanent disability to enable a claim to be formulated effectively. In the meantime, people who have claims often live on Commonwealth sickness benefits and face being pursued for medical expenses, for out-of-pocket expenses, and sometimes for hospital treatment when they do not have the money to pay. This means that some people who should be receiving damages are living in penury and under stress merely because their claims cannot be effectively formulated to a final stage. Interest is not paid retrospectively to the date of the claim.

This matter has exercised the minds of members of the legal profession in this and other States for a considerable time, but hitherto no action has been taken to remedy the defect. This proposal is simple; it was formulated by a Supreme Court judge and has been examined by members of the profession and by all the other judges. I am authorized by Their Honours to say that they all wholeheartedly commend this measure. It will make a significant reform that could greatly benefit people who at present suffer a disability and who may do so in the future.

I draw attention to subsection (7) of the new section. Under the Survival of Causes of Action Act, 1940, some heads of damages would be preserved under section 4, but some, such as claims for general damages, might abate in the event of the death of a plaintiff before a final assessment is made. Accordingly, it is provided that claims for damages will not abate upon the death of a plaintiff after liability has been determined but before final assessment, but that the court may include such amount of damages in its final assessment as it deems proper. This will give the court a discretion to award what it considers fit in all the circumstances of the case to cover general damages. Their Honours have commented upon the present unsatisfactory state of the law where they are required to make an immediate assessment of total damages, often without adequate or satisfactory evidence, and they have themselves suggested an amendment along the lines now proposed.

I should like to give an example of a case recently dealt with. A man had serious permanent injuries and complications, as a result of which the preponderance of medical evidence was that his life span had almost certainly been shortened. In assessing the general damages on future economic loss, the amount it would cost to keep him for his span of life had to be considered and assessed actuarily, and it was assessed for the shortened period. After the assessment had been made and damages paid, another case with similar complications came before the court and, as a result of recent medical discoveries, the doctors concluded that their original opinion given in the previous case had been wrong and that there would not be a shortening of the life span.

That meant that in the original case, because final and total assessment of damages had been made rather than waiting to see whether there was this shortening of the life span, the unfortunate man, who will now live for decidedly longer than was first thought, will not receive nearly the amount of damages that he should have received. This can occur when an assessment has to be made once and for all when provision has to be made for out-of-pocket and continuing payments before the doubtful position has been resolved, or when the final assessment cannot be postponed, or when final damages cannot be assessed at that stage. Following that, far more substantial and effective justice can be done.

I am grateful to Their Honours the judges for having formulated and advanced this proposal; I believe that in this matter, as a result of their doing so, South Australia will provide not only an effective remedy for the people in this State in obtaining swift and effective justice, but will also give a lead to other Commonwealth countries, because this is a complete innovation in this area in Commonwealth countries.

Clause 7 will enable an appeal from an interlocutory judgment given under new section 30a. At present, section 50 of the principal Act provides that no appeal without leave lies from any interlocutory order or judgment, except in six specified cases. It is considered desirable that the additional case that I have mentioned should be included in the list. The new clause is really of a consequential nature.

The Hon. C. D. ROWE (Midland): At this stage of the session, I intend to adopt a different procedure from the usual and to speak on the Bill immediately. I do that because, whilst I support the whole of the Bill in general terms, I think certain matters relating to the interim payment of damages need consideration. The first part of the Bill increases the salaries of the Chief Justice and Their Honours the puisne judges of the Supreme

Court. The salary of the Chief Justice is being increased from $15,200 to $16,000 and the salaries of the other judges are being increased from $13,700 to $14,900. The increases may seem large to some people, but I have no complaint about them.

I know that any person who occupies the important position of judge of the Supreme Court would earn at least that amount in private practice and that some of them, maybe all of them, would earn more. The truth is that the judges make sacrifices (fairly considerable sacrifies in some cases) when they accept appointment to the bench, and it is not fair to provide inadequate salaries for them. May I also take this opportunity of congratulating Justice Mitchell and Justice Walters on their appointments and elevation to the bench of the Supreme Court of South Australia. I wholeheartedly endorse their appointments and I wish them well in their future careers.

I have said on numerous appropriate occasions that I believe that the prestige and the standing of the Supreme Court of South Australia are not equalled anywhere in the Commonwealth or, perhaps, in any place outside of the Commonwealth, and I believe that that prestige and standing will be well maintained by these two latest appointments to the bench. The Chief Justice has an outstanding record of service to this State, and I think that everybody is conscious of that. I now come to deal with the next part of the Bill which relates to the judges' retirement. Clause 4 introduces a new clause 13 (*h*) after the existing clause 13 (*g*). It states:

> Subject to this section, the Governor may grant to any judge immediately prior to his retirement not more than six months' leave of absence on full salary.

The clause makes certain other provisions which write into the State a practice that has been a common practice for a great many years. I agree with what has been said in the second reading explanation that it is unsatisfactory to have this casual kind of arrangement; it is far better to have it set down in the legislation, so that the judges and the Government know what the position is.

Of course, when the Government has to appoint a temporary judge (perhaps for six months) it is sometimes not possible to indicate to him that it is intended to make a permanent appointment but, at the same time, it is unsatisfactory from the appointee's point of view. I think I can go along with the Bill in that respect, and I think this clause is quite wise. We then come to the other part of the Bill which is a completely unrelated matter and deals with the new principle of making interim payments for people involved in accidents.

Clause 6 establishes a completely new principle as a result of a recommendation made by one judge of the Supreme Court and, apparently, approved by the other judges of the court. It is an important principle, and I join the Chief Secretary in congratulating the judges on the work they have done in this matter. It is breaking entirely new ground and establishes a principle which was not known to the law either here or elsewhere before and, because of that, representations have been made to me that it may be advisable for us to adjourn the consideration of this aspect for a short time to enable us to make sure that honourable members have mastered all of the details concerning this proposal. That is why I gave notice this afternoon that this Bill should be split into two separate Bills—one on the salaries of the judges which could be dealt with expeditiously and finalized before we rose tomorrow night; the other part might be held over until we came back in February.

Representations have been made to me by people who have had dealings on this matter to give it some further consideration. I have spoken on this Bill straight away, so that we may have as much time as possible to consider this aspect. I have a document that has been prepared for me, and I think the quickest and easiest way to explain it is to read it to the Council. The document, which has been prepared by the Law Society of South Australia, states:

1. This Bill in clause 6 introduces important and radical changes to the existing law applicable to claims for damages.

2. Shortly before the Bill was introduced into the House of Assembly a draft of clause 6 was submitted for consideration by the Law Society of South Australia. The council of the society considered the amendments to the substantive law so far reaching that it immediately wrote to the Attorney-General asking that introduction of the Bill should be deferred, so that the Law Reform Committee of the Society could consider its ramifications. The Attorney-General, who had previously indicated his wish to have the assistance of the views of the society on important matters of legal reform, replied stating that the Bill could not be deferred, his main reason appearing to be that the Bill included provisions for increases in judges' salaries and this aspect of the Bill had to go through. It is still the wish of the society that time should be given for proper consideration of the alterations to be made. It is not that the society is opposed to the idea of giving the courts power to make

interim awards in damages cases—on the contrary, the society supports the proposal, but being such a fundamental change it is considered that time should be given to the method of achieving the change.

I want to make it clear that the Law Society is not opposed to any increase as far as judges' salaries are concerned, nor is it opposed to the general principles of this Bill. All the society asks is that honourable members do what they propose to do in a satisfactory manner. The document continues:

3. The attitude to the Bill of insurers and other interests, such as employers affected by the change, substantially accords with that of the law society. Some of the questions which arise on the proposal to give the court power to make interim awards are:

(*a*) What is to be the position where the plaintiff has been held partly responsible for the accident leading to his injury. Assume he has been held 50 per cent responsible—does the court apply this percentage to the interim award it makes? Is the percentage to be applied to the payment of, for example, a hospital account?

The Hon. A. J. Shard: I would hope so!

The Hon. C. D. ROWE: These are matters we ought to know a little more about. The document further continues:

(*b*) If the parties are dissatisfied with the apportionment of responsibility and wish to appeal, what happens to the interim award—is there a stay of proceedings on the award pending disposal of the appeal, or does the award stand pending appeal with adjustment to be made after the appeal court has given its decision?

(*c*) If the plaintiff is, for example, a passenger and sues two defendants, getting judgment against both with an apportionment of responsibility between the two defendants, what happens to the interim award if the defendants wish to appeal against the apportionment? Does it stand with adjustment between the defendants after the appeal court decision has been given, or is there to be a stay of proceedings pending appeal?

(*d*) Is there to be any limit on the amount the court can award in its interim judgment? Under the workmen's compensation legislation the weekly payment to an injured workman is limited to a maximum of $32.50.

Might not consideration be given to limiting to some extent the amount a court can award by way of an interim judgment for loss of wages?

4. The provisions of clause 6 (7) of the Bill constitute a far-reaching, important and unprecedented departure from the existing law.

The Hon. F. J. Potter: That is the Survival of Causes of Actions Act.

The Hon. C. D. ROWE: I am indebted to the honourable member. The document continues:

Heretofore the position has been that a person's cause of action, except in very limited circumstances, dies with him and it is expressly provided in section 3 of the Survival of Causes of Actions Act that damages cannot be awarded to the estate for pain and suffering and bodily harm suffered by the deceased before his death or for the curtailment of his expectation of life.

5. Under clause 6 (7) of the Bill the court is given power to award damages for these matters to a person who has, prior to his death, obtained an interlocutory judgment for damages to be assessed. Apart from being a very radical departure from the existing law, it is submitted that there is little merit in such a provision, such award as may be made being in the nature of a windfall to the estate. It is difficult to see how a court could assess and award to the estate damages for the pain and bodily harm suffered by the deceased before his death. He suffered the pain and harm—they didn't, and why should they get damages for what he suffered?

6. The power to award damages for curtailment of expectation of life is perhaps more important. Does this provision mean that a court can, for example, capitalize the wages the deceased would have earned over the balance of his working life and award the capitalized sum to the estate? If a man who has obtained an interlocutory judgment dies at the age of, say, 30 and had a balance of working life of, say, 35 years, does the court capitalize his expected earnings over that period of 35 years and award the capitalized sum to the estate? The position of dependants of a person negligently killed is covered by the Wrongs Act whereunder a court can award to his dependants damages representing the loss they have suffered by reason of the death of the breadwinner. Does the proposed amendment duplicate the power of the court to award damages in cases of this kind?

7. A very important point under clause 6 (7) is that the right to award damages to the estate of a deceased person for pain, bodily harm and loss of expectation of life is limited to the deceased who, prior to his death, obtained an interlocutory judgment. This seems quite illogical. Why should the estate of the person who for various reasons may not have reached the stage of obtaining an interlocutory judgment be unable to get damages for these matters whereas the estate of a person who has obtained such a judgment be able to get them? It is submitted that there is no justification for "windfall" awards to an estate in any circumstances but if "windfalls" are to be awarded why limit them to cases where interlocutory judgment has been obtained?

8. Insufficient time has been available for proper consideration of any of these matters by the Law Society or by other interested parties but, with such radical changes being contemplated by the provisions of clause 6 of the Bill, it is submitted that adequate time should be given for such consideration.

9. It is appreciated that clause 6 is included in a Bill increasing the judges' salaries. However, clause 6 deals with a subject matter completely unconnected with the other provisions and should, it is submitted, be considered under an entirely separate Bill. It seems quite unnecessary that a rule of law that has been applied for centuries should be altered in a hurry because the alteration happens to be included in a Bill increasing judges' salaries. If the alteration is worthwhile—and there appears to be a good deal of merit in its basic conception—let it be properly considered before it is put on the Statute Book.

I read this long document to the Council because I thought it was the best way to put the matter before members. I have spoken on this matter immediately to give the Chief Secretary an opportunity to obtain a reply to the report, and I shall be pleased to give him a copy of the document if he desires it.

I, and I think all my colleagues, support the proposals for an increase in salaries for Their Honours, and I will do everything possible to expedite the passage of that portion of the Bill. However, the portion dealing with interim payments is a major change in the law. We do not object to it in principle, as we think it is a good alteration, but it is such a major matter that adequate time should be given for it to be considered adequately. For that reason, I ask that this Bill be dealt with as two separate measures—one that can be expedited and the other that can be considered to ensure that it covers all the multifarious aspects. I support the second reading.

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

[*Sitting suspended from* 5.57 *to* 7.45 *p.m.*]

MOTOR VEHICLES ACT AMENDMENT BILL (TOW-TRUCKS).

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

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

That this Bill be now read a second time.

It amends the Motor Vehicles Act, 1959-1966, and provides for the licensing and control of tow-truck operators. There has to date been a complete lack of control over the activities of such persons and this lack of control has given rise to numerous suspect and reprehensible practices by these operators, particularly at the scene of accidents. The police and certain bodies such as the Royal Automobile Association and the South Australian Automobile Chamber of Commerce have received many complaints from members of the public in regard to the activities of these persons. The proposals contained in this Bill are therefore primarily designed to give a measure of protection to members of the public who, owing to involvement in a road accident, have to make use of the services of these towing organizations. Experience in the operation of this proposed legislation will show whether the ambit thereof is sufficiently wide or whether it should be extended to cover the licensing of owners of towing services and perhaps their premises. However, it will be observed in clause 6 that the scope of this proposed legislation has been geographically restricted to an area that lies within a radius of 20 miles from the General Post Office, Adelaide.

The reason for this is that the practices complained of occur almost exclusively within what may be loosely described as the outer and inner metropolitan area. By drawing an arc from Adelaide a 20 mile radius would take in Port Gawler, Mount Torrens, Nairne, Meadows and Noarlunga. This area of operation has been discussed with and agreed to by the police, the Registrar of Motor Vehicles, the R.A.A. and the S.A. Automobile Chamber of Commerce as being the area of operation most affected by the malpractices and irregularities that I have mentioned. This proposed legislation is restrictive in another sense also. Provisions affecting the lifting, carrying or towing of a vehicle and the repair of that vehicle apply only to a vehicle damaged in an accident. They do not extend to a vehicle suffering a mechanical breakdown. The Government considers that to so extend the provisions would impose unnecessarily burdensome restrictions on the motoring public.

The principal amendments proposed by this Bill provide for—

(*a*) a definition of "tow-truck";

(*b*) a prohibition against the use of trader's plates on tow-trucks except where allowed by section 68 of the principal Act;

(*c*) a prohibition on any person from driving and operating a tow-truck unless such person is in possession of a valid certificate issued by the Registrar authorizing him to drive and operate a tow-truck;

(*d*) a requirement that a driver of a tow-truck shall at all times carry with him the certificate issued by the Registrar authorizing him to drive and operate a tow-truck;

(*e*) a requirement that a driver of a tow-truck shall not by means of that tow-truck lift, carry or tow any motor vehicle on a road unless he is in possession of an authority in the prescribed form signed by the owner, driver or person in charge of that vehicle or, in certain circumstances in the absence of any such person, the authority of a police officer attending the scene of an accident in which that vehicle is involved;

(*f*) a requirement that any contract or authority for the repair of a vehicle damaged in an accident is unenforceable unless certain conditions are complied with;

(*g*) penalty provisions designed to deter and punish many of the suspect and reprehensible practices of persons engaged in the industry at the scene of an accident; and

(*h*) exemptions from the operation of the proposed legislation of certain persons and bodies within the area who lift, carry or tow their own vehicles damaged in an accident and most importantly a provision that exempts any person from the operation of this legislation who is not a driver of a tow-truck working for hire or reward from towing any vehicle by means of his vehicle.

Clause 3 defines a "tow-truck" as being a motor vehicle designed or intended to be used for the lifting, carrying or towing of motor vehicles damaged in an accident and includes any motor vehicle to which is attached, whether temporarily or otherwise, a device or trailer designed or intended to be used for the lifting, carrying or towing of motor vehicles damaged in an accident. The definition is drafted in fairly wide terms. The difficulty in reaching a satisfactory definition of a "tow-truck" is that if one pitches the definition too widely it includes in its ambit vehicles that it is not intended to control but if, on the other hand, the definition is pitched in too restrictive a manner an opportunity is given to tow-truck operators to evade the legislation by using a vehicle, for example a utility vehicle, in towing operations which is not a "tow-truck" within the definition.

The Australian Motor Vehicle Standing Committee has as a matter of interest included in the definition it has adopted the concept of a vehicle fitted with a crane or other similar lifting device. It is true that a tow-truck does in its ordinary meaning connote a vehicle fitted with such a crane or lifting device. However, it is felt that these words introduced a restriction in the definition which might enable tow-truck operators to evade the whole operation of this legislation. As a result this concept has been excluded from the definition. An attempt has therefore been made to restrict the definition of "tow-truck" to apply to a motor vehicle designed or intended to be used for the lifting, carrying or towing of motor vehicles "damaged in an accident", etc. This definition is in accord with the Government's intention that the legislation should apply only to vehicles damaged in an accident and not to vehicles suffering from a mechanical breakdown.

Clause 4 which inserts a new section 69a in the principal Act prohibits a person from driving or operating on a road a tow-truck bearing trader's plates. The police have experienced considerable difficulty in tracing tow-trucks that have been concerned in the towing, etc., of a damaged vehicle away from the scene of an accident. In many cases this difficulty has been brought about by the use by tow-truck operators of trader's plates on their tow-trucks and the switching of such plates from one tow-truck to another. It was never the intention of the parts of the Motor Vehicles Act dealing with trader's plates that trader's plates should be used on vehicles which were employed solely in the business of towing services. The intention of this legislation dealing with trader's plates was primarily to facilitate the movement of unregistered vehicles by firms and persons concerned in the business of manufacturing, repairing or dealing in motor vehicles.

Some owners of towing services are able to acquire trader's plates by virtue of the fact that they carry on the business of repairing motor vehicles. This clause will have the effect of preventing the use of tow-trucks bearing trader's plates. A penalty of $100 is provided. Tow-trucks will, it may be remarked, in future be required to be fully registered under the Act. It will be noted, however, that tow-trucks will still be able to carry trader's plates for the purposes described in subsection (1) of section 68 of the principal Act, other than for the purpose described in paragraph (*j*) thereof.

Clause 5 amends section 72 of the principal Act and is designed to make it clear that the holder of a class A or B licence is not

entitled merely by reason of holding such a licence to drive and operate a tow-truck. Clause 6 inserts a new section 74a in the principal Act and provides that a person shall not drive or operate a tow-truck on a road within the area unless he is in possession of a certificate in the prescribed form issued by the Registrar authorizing him to drive and operate a tow-truck. A penalty of $100 is provided. Reference has already been made to what is meant by the term "the area" defined in subsection (1) of this new section.

Subsection (3) of this new section provides that the Registrar may, upon written application by the holder of a valid driver's licence, issue upon payment of such fee as may be prescribed a certificate authorizing such holder to drive and operate a tow-truck, if the Registrar is satisfied that such holder is over twenty-one years of age, of good character, proficient in driving and operating a tow-truck and has not been convicted of an offence that would in the Registrar's opinion render him unfit to be issued with a licence.

Subsection (4) enables the Registrar to require an applicant to undergo such tests to test the proficiency of an applicant in driving and operating a tow-truck. Subsection (5) provides that the Registrar may at any time cancel the certificate authorizing a person to drive and operate a tow-truck if he is satisfied that such person has been convicted of an offence or guilty of such conduct that in the Registrar's opinion renders him unfit to hold that certificate. It is considered by the Government reasonable to insist that tow-truck drivers should be required to meet the qualifications mentioned in subsection (2) of this section as to age, character and proficiency in the driving of a tow-truck, if only because a special responsibility is placed on such a driver in the discharge of his duties; for example, the duty to take proper care of another person's vehicle and any valuables that may be left in a damaged vehicle.

It must also be borne in mind that tow-truck operators need to be mature persons since apart from anything else they will by virtue of the "authority to repair" provisions be entering into legal relationships with owners, etc., of damaged vehicles. In this connection also it may be remarked that there are numerous persons at present engaged in the towing service business who, to say the least, have not particularly reputable characters. This has become apparent in certain prosecutions that have taken place recently in the local court. It is with this consideration in mind that power has been conferred upon the Registrar to cancel a certificate where he is satisfied that a person has been convicted of an offence or guilty of such conduct that would make him unfit to hold such certificate. This is not a new or an unusual power conferred upon the Registrar. He has a similar power under section 98a of the principal Act with regard to motor driving instructors' licences.

The new section 74b appearing in this clause provides that a person while driving or operating a tow-truck on a road within the area shall at all times carry with him the certificate referred to in subsection (3) of section 74a and upon being requested by a member of the Police Force to produce this certificate he shall forthwith comply with that request. Upon failure so to do he is liable to a penalty not exceeding $100.

The new section 74c is designed to discourage the driver of a tow-truck who is the holder of a certificate as is referred to in subsection (3) of section 74a from making illegal use of radio to intercept calls made to the R.A.A., the police and St. John Ambulance when an accident has occurred. The effect of this section is that the Registrar may cancel the certificate where such person has been convicted of an offence under the Wireless Telegraphy Act of the Commonwealth. Illegal use of radio is a very common practice among towing service organizations and the police would like to see much more stringent provision in this regard but since this is a field that is covered exclusively by Commonwealth legislation this State cannot under the Constitution legislate in respect thereof.

New section 74d provides that, where the driver's licence of any person to whom a certificate has been issued by the Registrar is cancelled or suspended under or by virtue of any Act or such person for any other reason ceases to hold a driver's licence, the certificate shall automatically be cancelled. Clause 7 amends section 83 of the principal Act and provides for an appeal against a refusal to issue a certificate or the cancellation of a certificate.

Clause 8 inserts a new section 83a in the principal Act and provides that a driver of a tow-truck shall not by means of that tow-truck lift, carry or tow any motor vehicle damaged in an accident from the scene of the accident within the area unless he is in possession of an authority in the prescribed form signed by the owner, driver, etc., of that motor vehicle and has

handed a duplicate of that authority to the signatory thereof. A penalty of $100 is provided.

Subsection (2) of this new section lays down the particulars that are to be included in an authority under this section. Subsection (3) of this new section enables a police officer present at the scene of an accident to direct that even though an authority has been signed by the owner or driver of the damaged vehicle it shall not be taken away if he is satisfied that all the particulars referred to in subsection (2) of this section have not been correctly entered on such authority or have been obtained in contravention of the provisions of this Act. Any person who disobeys the directions of a police officer in this regard is liable to a penalty of $100.

Subsection (4) provides for the situation where, owing to the absence or incapacity of the owner, driver or person in charge of the motor vehicle, authority to remove that vehicle cannot be obtained. The police officer present at the scene of the accident may himself sign the authority in lieu of the owner, driver or person in charge of the vehicle involved in an accident but only for the express purpose therein described. The police officer will then deliver the duplicate of such authority to the person on whose behalf he has signed it. No liability for the signing of such authority shall attach to the police officer concerned or to the Police Department.

Subsection (5) provides that every driver of a tow-truck shall, when requested by a member of the Police Force, forthwith produce his authority referred to in subsection (1) of this section to the member of the Police Force who made the request. A penalty of $50 is provided. New section 83b is designed to provide relief to owners of motor vehicles damaged in an accident who often by means of unfair tactics are persuaded by persons employed in the towing business to sign an authority to repair their damaged vehicle.

In many cases owners, etc., are suffering from shock as a result of an accident and are in no fit state to be entering into legal relationships. They subsequently find that, as a result of the authority that they have given, they are often faced with exorbitant repair charges imposed by crash repairers. These repairers frequently work hand in glove with tow-truck operators who get a commission for the repair work that they supply to repairers. This is one of the reasons that leads to intense competition among these operators at the scene of an accident to obtain towing work. Unless owners agree to pay these exorbitant charges they are unable to recover their vehicles from repairers.

This new section accordingly provides that any contract or authority for the repair of a damaged vehicle that is entered into before or within 24 hours after the carrying or towing of that vehicle commences between the owner, driver, etc., of that vehicle with the person who is to repair that vehicle shall be unenforceable against that owner unless—

(*a*) the contract or authority is in writing and signed by both parties or their agents;

(*b*) that a notice is clearly printed on the contract or authority with words to the effect that the contract or authority is unenforceable unless the owner notifies the repairer within a certain period of time that he confirms that contract or authority;

(*c*) that the repairer or his agent has given a copy of the contract or authority to the owner, etc., at the time of signing thereof; and

(*d*) that the owner in not less than six hours nor more than 14 days after the signing of the contract or authority has notified the repairer that he confirms the contract or authority.

Subsection (2) provides that, if the owner decides not to confirm the contract within 14 days of the signing thereof, the repairer shall forthwith upon the request of the owner deliver up the damaged vehicle and all articles of value therein to the owner upon payment of charges for the carrying, towing and storage of that vehicle. The charges would be in accordance with a scale of charges laid down by the S.A. Automobile Chamber of Commerce Inc. Subsection (3) provides a penalty not exceeding $100 if the repairer refuses or neglects to hand over the vehicle. New section 83c is the general penalty provision and makes it an offence for a person to cause or induce by trick, pretence, etc., any person to sign an authority to remove any vehicle, or to use any intimidation against the driver of a tow-truck to remove any vehicle in contravention of this Act or, not being a certificated driver, to solicit or to attempt to solicit an owner, etc., of a damaged vehicle to obtain an authority to lift, carry or tow that vehicle from the scene of an accident by means of a tow-truck.

The penalty provisions in paragraphs (*a*) and (*b*) are designed to deter or prevent the

type of harassing and unfair tactics commonly used by some tow-truck drivers and others in the towing industry to obtain permission from owners, etc., to tow a damaged vehicle away and to compete with other tow-truck drivers at the scene of an accident to get work. Further, in paragraph (*c*) the intention is to clear or prevent the practice of persons in "scout" cars preceding tow-trucks to the scene of an accident and soliciting owners, etc., of damaged vehicles to get towing business. These reprehensible practices have, as I have earlier remarked, led to many complaints to the police and the R.A.A. about the activities of persons engaged in the towing industry.

New section 83d provides for some necessary exemptions from the operation of the proposed legislation with regard to certain persons and bodies when using a tow-truck or other vehicle in the course of certain towing operations. Because of the geographical restriction written into the proposed legislation, exemptions from the operation of the legislation have been inserted to permit vehicles damaged in an accident outside the area to be towed into the area for purposes of repair, storage or safe custody, and also to permit a tow-truck driver whose place of business is outside the area to drive his tow-truck into the area, so long as he does not use the tow-truck for the towing of a vehicle damaged in an accident within the area. These latter exemptions are consistent with the general intention of this legislation, which is to control towing operations within the defined area.

Clause 9 amends section 141 of the principal Act and enables the Registrar, for evidential purposes, to issue a certificate stating that a person on a specified day was not the holder of a certificate authorizing him to drive or operate a tow-truck. The proposals contained in this Bill have, I may add, been widely canvassed and discussed with the Registrar of Motor Vehicles, the police, the Road Traffic Board, the R.A.A. and the S.A. Automobile Chamber of Commerce and they have each made useful comments and suggestions, many of which have been incorporated in this Bill. They all welcome and are in general agreement with the proposals contained in the Bill. I commend this Bill for the consideration of honourable members.

The Hon. Sir NORMAN JUDE secured the adjournment of the debate.

MOTOR VEHICLES ACT AMENDMENT BILL (REGISTRAR).

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

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

That this Bill be now read a second time.

It amends the Motor Vehicles Act, 1959-1966. The principal amendments proposed in this Bill are designed—

(*a*) to confer additional powers on the Registrar, an inspector, a police officer, etc., with regard to inspection of motor vehicles on an application to register or transfer the registration of a motor vehicle;

(*b*) to confer power upon the Registrar to refuse to register a motor vehicle pending investigation as to the correctness of the particulars in the application for registration, and for the Registrar to issue a permit permitting the applicant for registration to drive his vehicle on the road without a registration label, pending the results of his investigation into the particulars disclosed on the application;

(*c*) to extend the period of limitation in which prosecutions may be brought under the principal Act to two years.

The amendments proposed in paragraphs (*a*) and (*b*) above are intended to give the Registrar wider administrative powers to deter or prevent the registration of stolen vehicles in this State. The absence of such powers to date have resulted in criticisms that the law in regard to registration of motor vehicles in South Australia is unsatisfactory, since it permits vehicles stolen in this State and other States of the Commonwealth to be registered here with comparative ease. Car thieves operating in other States have become aware of the defects in our existing law and have been taking advantage of them to register here vehicles stolen in other States, particularly in Victoria and New South Wales.

When the Registrar has statutory authority for these additional powers, he would put the following administrative precedure into effect with regard to secondhand vehicles. When a person applies for registration of a secondhand vehicle, he is required, under the existing law, to state the previous registered number and the previous owner's name. The Registrar would check these details with his records before

granting registration of the vehicle. If they agree with each other, registration would be effected forthwith. If they do not agree or if the applicant is unable to quote details of the previous registration, he will be required to produce the vehicle for inspection. A check will then be made against the list of stolen vehicles before registration is granted. All vehicles coming from other States would automatically be inspected.

So much for the registration of secondhand vehicles. With regard to registration of new vehicles, the following procedures will be adopted to prevent or deter the registration of fictitious new vehicles. Any new vehicle stated by a person representing himself as the owner thereof to have been purchased interstate, or the origin of which the Registrar is suspicious (for example, if stated to be purchased from an unknown firm), will be inspected. This will apply to metropolitan applications and applications made over the counter in his department. The detection of any stolen vehicle registered by means of a 14 day permit in the country will be a matter for the police who issued the permit. The Registrar will identify on the daily list of registrations supplied to the police each new vehicle which is not registered by a firm on behalf of a client. If, from a survey to be conducted on a later date, this procedure is not fully effective, alternative means to close up any loopholes will be examined. This new procedure would, it is anticipated, provide a safeguard at least as effective as the proceedings followed in other States and at far less cost. The number of inspections required should be comparatively few in number and should not impose undue strain on the Motor Vehicles Department or the police. The adoption of these proposals will, I may mention, in no way affect the introduction of the *alpha numero* registration system which, I have advised honourable members, it is Government's intention to introduce as soon as practicable.

Clause 3 amends section 24 of the principal Act and enables the Registrar to refuse to register a motor vehicle pending investigation by him as to the correctness of the particulars of the application for registration of the motor vehicle. The purpose of this clause is apparent from my earlier remarks on the new procedure for inspection of motor vehicles.

Clause 4 inserts a new section 49a in the principal Act and enables the Registrar to issue a permit permitting a vehicle to be driven on roads, instead of a registration label, to any applicant for registration whose application for registration has been refused under subsection (2) of section 24a of the Act, pending investigation by the Registrar as to the correctness of the particulars disclosed in the application. This provision would ensure that an applicant for registration of a motor vehicle would not by reason of the refusal of the Registrar to register the vehicle be prevented from driving his vehicle on the road. Subsection (2) of this new section provides that a permit will remain in operation until the expiration of the date shown thereon, and also provides that such permit shall not be of any force unless it is placed in the position that a registration label should be placed.

Clause 5 amends section 135 of the principal Act by striking out subsection (4) thereof. The provisions contained in this subsection will now be covered by the general limitation provision contained in clause 7 of the Bill. Clause 6 amends section 139 of the principal Act and confers upon the Registrar or an inspector or member of the Police Force additional powers of inspection for the purpose of verifying particulars disclosed on an application to register or to transfer the registration of any motor vehicle, and also to require any person to produce a motor vehicle for inspection at a specified place and time for any of the purposes mentioned in this section.

With regard to the amendment proposed in clause 7, the position as the law now stands is that proceedings for an offence under the Motor Vehicles Act must be brought within six months from the time that the offence was committed. This period of limitation is laid down by section 52 of the Justices Act, and experience has shown that this period is insufficient for the purposes of the Motor Vehicles Act. It is considered that a more appropriate period of limitation would be one year. With the introduction of the new inspection procedures proposed in this Bill, it is expected that many changes of engine numbers and changes in weight, particularly in some commercial vehicles, will be revealed. If these changes occurred more than six months ago, no prosecution could be laid under the existing provision with regard to limitation of action. The increased period of limitation proposed in the clause would enable prosecutions for offences that have occurred within the last 12 months to be brought. It should also be mentioned that where the weight of vehicles is increased and the Registrar is not advised, the Government loses revenue on the registration fees that are payable. I commend

the Bill for the consideration of honourable members.

The Hon. Sir NORMAN JUDE secured the adjournment of the debate.

POLICE PENSIONS ACT AMENDMENT BILL.

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

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

That this Bill be now read a second time.

As honourable members know, Parliament recently enacted amendments to the Superannuation Act which provided the following principal variations:

(1) The statutory Government subsidy was raised to a 70:30 basis.

(2) Widows' pensions were raised to 65 per cent of members' pensions.

(3) Children's rates were raised to a standard rate of $208 a year.

(4) Opportunity was provided for age 60 retirement of men, and age 55 retirement of women, at full rather than reduced pension rates.

(5) Pensions were converted from bi-monthly to fortnightly payments.

It is appropriate that the Police Pensions Act, which provides for pensions at age 60 because of the compulsory retirement by policemen at that age, should be brought into line with these improvements. This Bill is designed to bring its provisions into line with them.

To bring current contribution rates to a 70:30 subsidy basis, if members' pension entitlements were to be left unaltered, reductions of the order of 23 per cent to 25 per cent would be appropriate. However, the Police Association advised that its members desired that, instead of being granted the full benefit of such reductions, their basic pension entitlements should be increased in line with salary increases since the basic pension was reviewed in 1964, with some allowance for prospective increases in salaries which may arise from a log of claims now being considered. On these grounds an increase of about 9 per cent in basic pension entitlement seems appropriate, and if this is allowed then reductions in contributions of the order of 16 per cent to 18 per cent are proper.

Whilst a basic pension rate is provided in the Act for police officers below the rank of sergeant, loadings for both contribution rates and pension entitlements are provided for sergeants and commissioned officers. However, these loadings are at present not adequate to give such officers retiring benefits, including their lump sum payments, as high as the equivalent of 50 per cent of retiring salary. This possibly was not unreasonable when other public employees could retire at 60 only at reduced pension rates below 50 per cent of retiring salary. However, now that other public employees can subscribe for full pensions at age 60 retirement it is reasonable to raise the loadings for higher paid police officers so that all can receive comparable benefits. The association representing these officers has expressed their desire to contribute for these increased benefits rather than to receive reductions in contributions arising from the increased Government subsidy. Appropriate heavier loadings are extended in the Bill to include also the Commissioner and Deputy Commissioner, who are entitled to retire at age 60 although not obliged to retire until 65.

Because those police officers of the rank of sergeant and above who have already retired on pension did not have the opportunity to subscribe for benefits as high as the equivalent of 50 per cent of the retiring salaries, provision is made for the loadings to their basic pensions to be increased by one-half. This will give them loadings generally consistent with the increased loadings for which present higher paid officers will be permitted to contribute. In the 1964 amendments, provision was made for contributions to commence compulsorily from age 21, but no provision was made for an option to commence earlier. As an occasional junior officer is married and may desire the opportunity to contribute before age 21, provision is proposed to allow this on an optional basis.

I would remind members that when dealing with the South Australian Superannuation Fund amendments I indicated that the Government proposed to examine existing pension rates, and particularly those of long standing, to ascertain whether it would be appropriate and practicable to grant relief in cases of hardship arising from progressive depreciation of the value of the pension. Increases in existing pensions from the Superannuation Fund were restricted in the recent amendments to those arising from bringing the Government subsidy up to the standard of 70:30 basis and from bringing widows' pensions up to 65 per cent of members' pension rates. The same general approach is proposed at present with police pensions. Moreover, the same re-examination is being made of long-standing police pensions to ascertain the extent to which

it would be appropriate and practicable to increase them in cases of hardship arising from depreciation in their value.

The overwhelming difficulty in this is the problem that over a considerable range an increase in such a pension does not bring any benefit to the pensioner for, if he is entitled to some Commonwealth supplement through old age or widows' pension, he simply loses the amount of State pension increase by a corresponding reduction in Commonwealth supplement. The Victorian Government has, I believe, made some effort to overcome this problem, and the methods adopted and their measure of success are being studied. The Government is also being hampered in this study by the fact that it is finding considerable difficulty in securing a new Public Actuary, and in having up-to-date valuations made of the superannuation funds. As soon as investigations can arrive at some adequate conclusions, the Government would propose appropriate action to deal with the matter of possible hardship arising in long-standing pensions.

I deal now shortly with the clauses of the Bill. Clause 5 provides for the new basis of Government subsidy of 70 per cent, to which I have referred. Clause 6 makes the necessary provision regarding the commencement of contributions, and gives an option for a member to commence before reaching the compulsory age of 21 years. Clause 7 gives effect to the reduction in contributions, and to the higher loadings for members of the rank of sergeant and above. Clauses 8, 9 and 10 give effect to the increases in basic pension benefits payable on retirement in the future. These are increased by approximately 9 per cent. Clause 11 is a machinery provision resulting from the adoption of decimal currency and the provision for fortnightly payment of pensions. Clause 12 increases the pensions and benefits payable to future widow pensioners and their children. The increase in pensions is about 18 per cent arising from an increase of about 9 per cent in the members' basic pension and a one-twelfth increase in the proportion of a widow's to a member's pension. All children's allowances are to be increased to eight dollars fortnightly. Clause 13 removes from the principal Act special provisions concerning the Commissioner and Deputy Commissioner now no longer appropriate in view of the new provisions raising their entitlement at age 60 to pensions and benefits broadly equivalent to half salary.

Clause 14 provides for the increases in entitlement for present members of the force of the rank of sergeant and above to approximately the equivalent of half salary. Clause 16 (1) provides for existing pensions of retired members to be converted to a fortnightly rate by dividing the present annual rate by 26. Clause 16 (2) likewise converts existing widows' pensions to fortnightly rates. By using a divisor of 24 this at the same time raises all existing widows' pensions from a present 60 per cent of members' rates to a future 65 per cent of members' rates. Clause 16 (3) applies to pensioners who at retirement held the rank of sergeant or higher, and provides for pension increases generally to them in accord with the increases in loadings now to be permitted to present contributors of the rank of sergeant and above. Clause 16 (4) raises existing children's allowances to eight dollars a fortnight. Clauses 17 and 19 relate to decimal currency. The former also increases the amount that may be paid without probate or letters of administration from $200 to $500. The remaining clauses of the Bill are of a formal or consequential nature.

The immediate amendments proposed in this Bill and the deferment until later of the matter of other long-standing pensions have the full concurrence of the Police Association and of the representatives of the commissioned officers, with whom full and frank discussions have been held. They have specifically requested that these proposed amendments be expedited. Accordingly, I would hope that honourable members on both sides will be prepared to give this Bill speedy and favourable consideration.

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

PHYLLOXERA ACT AMENDMENT BILL.

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

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

That this Bill be now read a second time.

Its purpose is to alter the boundaries of the districts as scheduled in the principal Act with a view to providing for the grape producing districts a more equitable representation on the Phylloxera Board. The vignerons for each district defined in the Second Schedule to the principal Act elect a member to represent that district on the Phylloxera Board. The present boundaries of each district were fixed in 1899 when there was virtually no horticulture along the Murray River. Now the irrigated

areas of the Murray River produce over 70 per cent of the grapes produced in this State. At present the Murray River district has only one representative on the Phylloxera Board. The proposed alteration divides the irrigated areas into three districts, giving this area a more equitable representation on the Phylloxera Board.

A further reason for the alteration of the boundaries is to eliminate the division of the Barossa Valley which is now divided between District No. 2 and District No. 3. Part of the Murray River area is also included in District No. 3 and the new boundaries have been chosen so that these unnatural divisions will be avoided. Statistics collected by the Phylloxera Board will thereby be made more meaningful to the Grape Industry Advisory Committee when it uses them as a basis for making recommendations on the extent and location of future plantings. As a result of the alteration of the boundaries of the districts it has been necessary to make transitional provisions providing in some cases for the members elected for the new districts to succeed the members elected for the former districts which will go out of existence, and in other cases for members elected for the former districts to continue in office representing new districts which are substantially the same as the former districts.

I shall now deal with the clauses individually. Clause 3 inserts a new section 10a into the principal Act. This section spells out the transitional provisions. It provides that the elective members of District No. 1, District No. 2, District No. 3 and District No. 4 at present in force shall remain in office until notice has been published in the *Gazette* declaring the names of the elective members elected at the 1967 election for District No. 1, District No. 2, District No. 4 and District No. 5 as defined in this Bill. It also provides that when this Bill becomes law the elective members of the board elected for District No. 5, District No. 6 and District No. 7 as defined in the principal Act shall continue in office for the unexpired portion of their terms, *i.e.*, until February, 1968, and shall be deemed to have been elected for and to represent the new District No. 3, District No. 6 and District No. 7 respectively.

Clause 4 repeals the Second Schedule in the principal Act and re-enacts a new Second Schedule defining the boundaries of the new districts. New District No. 1 roughly comprises the whole of District No. 1 and District No. 4 as scheduled in the principal Act. This new district includes the metropolitan area, Strathalbyn, Mount Barker, the South Coast area and Kangaroo Island. New District No. 2 includes the whole of the Barossa Valley and is larger than the present District No. 2 as it takes in those portions of the Barossa Valley which are at present situated in District No. 3. New District No. 3 is comprised of portion of the land which is at present in District No. 5. It takes in Waikerie and includes the land surrounding the Murray River as it flows from Waikerie to its mouth. New District No. 4 is also comprised of land at present included in District No. 5. It includes the North Murray District in which the towns of Renmark, Barmera, Berri, Monash and Paringa lie. New District No. 5 is comprised of the remainder of the land in the present District No. 5. It includes the land in the district council district of Loxton and land south of this area taking in the Murray Mallee district. New District No. 6 is practically identical to the present District No. 6 and takes in Yorke Peninsula, Eyre Peninsula, and all the land in this State north of the districts already specified. New District No. 7 is also practically unchanged from the present District No. 7 and includes all the Upper and Lower South-East.

The Hon. C. R. STORY (Midland): This Bill is not a surprise to me because it has been advocated by the industry for a considerable time; that is, that a more realistic approach to representation on the board be adopted. The Phylloxera Board was set up in 1899 and there has been little change in personnel since that time. Phylloxera has wiped out large areas of viticulture in Victoria, but this State has been saved from infestation because we have been vigilant. The Vine, Fruit, and Vegetable Protection Act has helped a good deal in the policing of the phylloxera pest, which is known all over the world.

Phylloxera has appeared in practically every vine growing area in the world. The work done in South Australia is to be commended. We have at present a quarantine area where new stock is being introduced in order to improve viticulture, and such stock has to be proved phylloxera-free. Extreme danger is always present and we are vulnerable because many of our producing areas are along the Murray River. If an outbreak of phylloxera should occur in New South Wales and Victoria it would only need a piece of bark to come down the river and be lodged in

the proper place for the pest to come to South Australia.

At present the Phylloxera Fund stands at $107,000. It has been accruing over many years. It has not been the policy of the industry to levy itself too greatly but merely to have a fund available immediately. If ever an outbreak of phylloxera occurred such a fund would not go very far. If the pest got out of control, it would make the fruit-fly menace insignificant.

The provisions in the Bill are satisfactory. I know that the industry has been consulted. The Bill provides for extra members on the board and a redistribution. It seems to me to be an easy way of getting redistribution and I wish it could be done more easily in other directions.

The Second Schedule sets out the new districts. I do not oppose the Bill because I know that it is necessary and that it will be welcomed by producers. I hope that the fund will be maintained and that the quarantine regulations will continue. I also hope that this State never experiences the difficulties that occurred at Rutherglen in Victoria where phylloxera wiped out one of the finest viticultural areas in Australia. I commend the Bill to honourable members.

The Hon. H. K. KEMP (Southern): I do not wish to speak at length on this Bill, which must have our wholehearted support, because it reflects the great changes occurring in the redistribution of grape growing in this State. The Hon. Mr. Story mentioned the increase in river plantings; it must also be remembered that large increases have occurred in the South-East, but that area is not represented on the present board, as is the river area.

I do not think it is appreciated just what a very present threat phylloxera can be to vine growing. If it came to South Australia we would need thousands of acres of vines planted for one purpose only: to raise phylloxera-resistant stock. Phylloxera is an aphis: it is a soft-bodied insect that affects both the tops and the roots of vines. It is devastating in its effect.

The Hon. Mr. Story mentioned the Rutherglen district where phylloxera destroyed large areas of vines. However, it must be remembered that a large number of plantings was lost in an area stretching along the western side of Port Phillip Bay.

Phylloxera is still to South Australia a very present menace and we could well ask what fortunate chance has preserved this State from the appearance of this pest. Nobody has found the answer. Much effort has gone into excluding it and we have, by Providence, been preserved from the introduction of something that no quarantine service could prevent. The redrafting of boundaries is more than justified. Huge acreages of vines planted in the river areas in recent years are probably not familiar to honourable members who do not travel in those districts, but the face of the country between Morgan and Waikerie has been completely altered since the Second World War.

The Hon. C. M. Hill: Has any of those areas got resistant stock?

The Hon. H. K. KEMP: There are no resistant plantings in South Australia. We are completely vulnerable to phylloxera and we cannot afford to put in resistant plants in advance. We can be sure that the presence of phylloxera can now be detected quickly because of the failure of the vineyard. That is why one of the important provisions in the principal Act is that the neglect of vines is not permitted in any of the important districts. There are neglected vines where some suburban development is now taking place on the sites of old vineyards. I give my complete backing to the Bill and commend the Government for having introduced it.

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

NATIONAL PARKS BILL.

In Committee.

(Continued from November 15. Page 3013.)

Clause 21—"Management, etc., of national parks", which the Hon. H. K. Kemp had moved to amend as follows:

After "21" to insert "(1)"; after "commission" to insert the following new subclause:

(2) The commission shall as far as practicable—

(*a*) maintain and preserve the indigenous fauna and flora and the natural features of national parks for the use and enjoyment of the people of the State,

(*b*) take such measures upon national parks as may be deemed satisfactory—

(i) for the control of such noxious weeds and dangerous weeds as may from time to time be declared to be such pursuant to the Weeds Act, 1956-1963,

(ii) for the control of vermin within the meaning of the Vermin Act, 1931-1962,

(iii) for the control of insects and disease within the meaning of the Vine, Fruit, and Vegetable Protection Act, 1885-1959, and

(iv) for the limitation of bush fire hazards.

The Hon. H. K. KEMP: I ask leave to withdraw that amendment so that I may move another that has the approval of the Parliamentary Draftsman and the Minister of Lands.

Leave granted; amendment withdrawn.

The Hon. H. K. KEMP moved:

After "21" to insert "(1)"; after "commission" to insert the following new subclause:

"(2)" The commission shall, as far as practicable—

(*a*) maintain and preserve the indigenous fauna and flora in and the natural features of national parks for the use and enjoyment of the people of the State;

(*b*) take measures in respect of national parks—

(i) for the control of such noxious weeds and dangerous weeds as may, from time to time, be declared to be such pursuant to the Weeds Act, 1956-1963;

(ii) for the control of vermin within the meaning of the Vermin Act, 1931-1962;

(iii) for the control of insects and disease within the meaning of the Vine, Fruit, and Vegetable Protection Act, 1885-1959; and

(iv) to reduce the hazards of bushfire.

Amendment carried; clause as amended passed.

Clauses 22 to 24 passed.

Clause 25—"Mining Act not to apply to national parks."

The Hon. L. R. HART: If I understood the Minister correctly when he replied to the second reading debate, I think he said that if the commission took over Crown lands for the purposes of a national park or if an area was proclaimed a national park any mining rights existing on that land would be cancelled. I appreciate that in certain circumstances a body or an individual may have certain capital assets involved in mining a particular area, and the cancellation of mining rights could cause him some loss.

Clause 20 provides that the Governor may declare as a national park any Crown lands or any land owned in fee simple by the commission that is not subject to any encumbrance, that is, mortgage or charge; and I believe the Minister also used the word "impediment" in relation to a mining right. Can the Minister say whether any Crown land that has this impediment of a mining right is likely to be proclaimed a national park, and, if it was proclaimed a national park and a mining right was cancelled, whether provision would be made for the payment of compensation to the people holding the mining right?

The Hon. S. C. BEVAN (Minister of Local Government): The Minister of Lands, the Director of Lands, the Director of Mines and I conferred on these matters with the idea of protecting any leaseholder of Crown lands. Such a lease could cover oil or natural gas exploration. We are sure that the interests of any people involved would be safeguarded by subclause (2). The Governor can always revoke a proclamation. First, the Minister would have to report to Cabinet and then Cabinet would have to refer the matter to the Governor. The honourable member referred to the payment of compensation. I am sure that if it were necessary to meet compensation claims those claims would be met.

The Hon. L. R. HART: I thank the Minister for his reply, which is quite satisfactory. I know of certain land which in my opinion should be declared a national park and on which mining rights are at present held. I think the local government body concerned in that area would be quite happy if the commission took this land over as a national park and cancelled the mining rights on the land, because indiscriminate mining is going on and is gradually ruining the area as a prospective national park.

I believe that the commission in this case would have powers that the local government body does not have. The problem is that the council is unable to prevent this indiscriminate mining, and possibly the commission could do so. I am prepared to nominate this area privately to the Minister so that the commission can investigate the possibility of taking the area over and cancelling the mining rights held on it.

Clause passed.

Clauses 26 to 32 passed.

Clause 33—"Amendment of the Lands for Public Purposes Acquisition Act, 1914-1935."

The Hon. R. A. GEDDES: When I referred in the second reading debate to compulsory acquisition the Minister, by interjection, implied that no problem would occur because of the presence of this provision. However, as the Bill clearly states that the commissioners have the right to acquire land compulsorily if they consider it wise to do so, I should like the Minister to explain the matter. Regarding a Bill to come before this Council, it has been clearly stated that the present Harbors Board

on occasions can instruct the Minister what should be done, and this is one of the complaints the Government has about the board. Will the commission in this case tell the Minister what should be done, or will the Minister instruct the commission?

The Hon. S. C. BEVAN: I thought I adequately explained this matter earlier. The clause does not give power to anybody to compulsorily acquire: all it does is amend the Lands for Public Purposes Acquisition Act. In those circumstances, the commission has not the power under this Bill to acquire compulsorily. I have already emphasized this several times. The power to acquire compulsorily will be vested in and remain with the Minister. He will go through the usual procedures when using that power. The matter of the compulsory acquisition of an area of land for a national park would come before Cabinet, and its approval would have to be obtained before the Minister could set in motion the machinery for compulsory acquisition. This clause does not give the power to the commissioners: it rests with the Minister.

The Hon. G. J. GILFILLAN: I support the Hon. Mr. Geddes in his concern about this clause. This clause provides for the acquisition of land for the purposes of a national park. I am against too much compulsory acquisition, because people need security. We already have compulsory acquisition for many purposes, most of which are clearly defined. The Minister has said that so far this power has not been required, that it has been possible to purchase land without invoking the power of compulsory acquisition. That is the correct way to acquire land. But, if an occasion should arise where compulsory acquisition is needed, it should be subject to some special provision or measure. There are several areas in the north of the State and on Eyre Peninsula which are beauty spots but which, if acquired, would completely ruin the holdings concerned: without them the holdings would be practically useless. I view with some concern the inclusion of this provision when it has been stated by the Minister that this power has never been required previously. For that reason, I oppose the clause.

The Hon. S. C. BEVAN: The power of compulsory acquisition has not been required previously because there has been no power in the Act to provide for compulsory acquisition for national parks.

The Hon. G. J. Gilfillan: That is the point.

The Hon. S. C. BEVAN: Very well. I am trying to explain that in the future it may be necessary to acquire land compulsorily for the purpose of establishing a national park. Instead of amending the Public Purposes Acquisition Act by an amending Bill, we can achieve the same result by this Bill, which would amend that Act. The Fourth Schedule writes into the Public Purposes Acquisition Act the words "the establishment of national parks". That introduces into the Public Purposes Acquisition Act that, if at some time in the future it is required to acquire land compulsorily for national park purposes, the power is there under the Public Purposes Acquisition Act. That is all it means: it does not mean that the commission has power to acquire compulsorily.

The Hon. C. M. HILL: We all know what it means—that Cabinet can acquire land for national parks. There is no denying that. We want an acknowledgment from the Minister that he agrees with that but, more importantly, we need an assurance from him that if this machinery is ever put in train the Government will be extremely careful about it, because no-one wants land compulsorily acquired unless the need in the State's interest is great.

In other cases, land to be acquired can easily be assessed by basing valuations on comparable sales but, if Cabinet decides to acquire land that has some specific scenic beauty or a special attribute making it desirable as a national park, it will be difficult to value it fairly and assess its value to the dispossessed owner. In the country, its value will no doubt be based upon nearby comparable sales, based upon the productivity of the land; but land of scenic beauty has a particular value to the dispossessed owner that it is difficult to assess, because there are no comparable sales of that type of land.

Compulsory acquisition of this type of land involves many difficulties. For these reasons, it may be wise and in the State's interest to delete this clause from the Bill.

The Hon. C. R. STORY: I find myself in a most peculiar position now because I support the Minister! I think it is desirable that he have the necessary powers because there are some wonderful safeguards. First, it is necessary to obtain money, and that must come from Parliament. At present I do not think the Government has the kind of money visualized and necessary to acquire agricultural land; in any case, I do not think that is

the object of national parks. The Government might be interested in buying some small areas of land containing particular trees or shrubs of interest to the State. If such areas have not been cleared by landholders at this stage, then they have not been regarded as very valuable by the people of South Australia, otherwise they would have been cleared earlier.

I have one criticism. The Fourth Schedule is in tiny 6-point print as against 10-point print in the rest of the Bill. Members know that some people employ questionable tactics and use small print in documents to further their own purposes. I am sure one of the reasons for members becoming suspicious has been the presence of this tiny print. Clause 33 contains the words that matter.

The Hon. H. K. KEMP: I add my support to this provision and I know that the purpose is to acquire a valuable tract of land that is now unique. The present landholders have indicated that they would be willing to have that land divided for park purposes. However, the assessment of the value of the land will require attention under the Acquisition of Land Act. This park is one that is worthwhile and it would be a pity if the opportunity to acquire it was lost.

The Hon. C. M. Hill: They should be able to negotiate privately for it.

The Hon. H. K. KEMP: Yes, but there are one or two difficulties to be overcome. Another tract of land exists on the South Coast of Kangaroo Island, but it would be necessary to spend a large sum of money in providing access roads to permit it to become one of the tourist playgrounds of South Australia. I do not think there is any possibility of adding such assets to our national parks unless the power conferred in this Bill is approved.

Clause passed.

First, Second, and Third Schedules passed.

The Committee divided on the Fourth Schedule:

Ayes (15).—The Hons. D. H. L. Banfield, S. C. Bevan (teller), Jessie Cooper, M. B. Dawkins, R. C. DeGaris, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, A. F. Kneebone, Sir Lyell McEwin, F. J. Potter, C. D. Rowe, A. J. Shard, and C. R. Story.

Noes (4).—The Hons. R. A. Geddes (teller), G. J. Gilfillan, Sir Arthur Rymill, and A. M. Whyte.

Majority of 11 for the Ayes.

Fourth Schedule thus passed.

Title passed.

Bill read a third time and passed.

T8

COTTAGE FLATS BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 2865.)

The Hon. C. R. STORY (Midland): I support the second reading. The Bill authorizes the Treasurer to pay to the South Australian Housing Trust, for the purposes of providing houses for persons in necessitous circumstances, certain moneys out of the Home Purchase Guarantee Fund under the Homes Act, 1941-1962. The trust will be able to expend $50,000 a year for five years for the erection of cottage flats, and I think most of us realize the need in all parts of the State for this type of building.

The procedure proposed in the measure is similar to that adopted by the Playford Government in 1958 when it set up, with money from the same fund, a similar scheme, but it was specifically for country areas. That was done after the Treasurer had realized the extreme need for this type of housing and had found that there was a surplus in this fund. So, the legislation in relation to the country was passed in 1961 and $200,000 was allocated from the fund for the building of cottages in country districts. Perhaps the main difference between this Bill and the previous measure is that the rental was specifically prescribed in the latter case. It was $2 a week for a widow and, for couples who had a son or daughter living with them and earning money, the rental was one-sixth of the combined family income.

Most of us who live in country districts are familiar with this type of housing. They are attractive four-room houses, and sometimes an additional portable room is erected. These houses were built at a cost of about $5,000 originally and, in the main, were constructed of Mount Gambier stone or of some other suitable type of solid construction. These houses have been a boon in country districts to widows who are left, in tragic circumstances, with young children and to people in receipt of wages who have difficulty in meeting the rental charged by a private landlord or charged by the trust for an ordinary trust house.

This measure leaves to the trust the decisions as to siting of the houses, the fixing of rentals and the number of houses to be erected in the various localities. I know the record of the trust and have had much experience with it in the years that I have been a member of the Council. Because of that, I have sufficient confidence in the trust that it will be fair in the allocation of houses

in the various areas. In recent times the trust has not been able to keep up with the demand for houses. In some parts of the Midland District there is a waiting time of from six months to 12 months and the period is even longer in some towns where the demand for housing is greater.

This Bill will help the position, because if the trust builds houses of this type it will be able to make available many other houses that are at present occupied by, perhaps, one person, who in many cases is the widow of the first occupant of the house. This is not economic. At present many of these people are still paying the original rental, so the trust is virtually subsidizing rents. In many instances the houses are too big for their occupiers, and if some suitable type of housing could be built for these widows or widowers it would free many houses for younger people with families, who could make full use of the houses and pay an up-to-date rent.

The Auditor-General's Report for the year ended June 30 last (pages 45 and 46) sets out the overall position of housing provided by the Housing Trust and of the various funds that operate under the Homes Act. The money that will be made available under this Bill will be provided under the Homes Act, although it will actually come out of the Home Purchase Guarantee Fund. That fund at present has the very good credit of $296,923, and in fact it has had only three claims on it since it was established. One of those was a claim for $954, which the Government had to meet as a guarantee; the Country Housing Act in 1958 received $200,000 from this fund; and the Housing Loans Redemption Fund received $100,000 from the fund in 1962. Therefore, $300,954 has been used out of the fund, leaving a balance of $296,923.

The Housing Loans Redemption Fund, as we know, was also set up by the previous Government, and this was probably one of the finest pieces of legislation to assist the bread-winner that any State has enacted, because it made it possible for people up to 36 years of age to have some security, as when they undertake to purchase a house they also have an insurance. Under that scheme, if the bread-winner dies his widow and children have the security of a home, which can become theirs perhaps for only a small outlay. This is one of the things that I suppose every right-thinking man wants to provide for his family. Out of this Housing Loans Redemption Fund up to the present time $11,791 has been actually used, and the fund stands at $109,427. Therefore, the run on the fund has not been great.

I was interested when doing some research on this matter to see that everybody has not always been happy about this type of legislation, whereby we take money out of a fund and re-invest it, so to speak, in more housing. Quite misguidedly, in 1958 the Treasurer of the day thought that this was not a good thing. However, he, too, has learnt a very useful lesson, I think. It is necessary to employ funds in the best possible way in this matter of housing. Nobody can deny that the previous Treasurer, in collaboration with the Housing Trust, did a splendid job in getting for South Australia the maximum amount of money, and possibly a little more than some people would have thought at the time to be proper, to ensure that we got ahead with our housing; and this to a very large degree was the forerunner of our wonderful record as a migrant-receiving State.

I am delighted that the Government has decided to go on with this type of building and to provide for people who often through no fault of their own are not in a position to participate in schemes such as the fine one run by various church organizations in Adelaide and in country areas. One of the finest of the country ones is at Tanunda, and another good one is at Loxton. The Roman Catholics have done a good job at Berri. These places were established with a two-for-one subsidy in collaboration with the Commonwealth Government.

The Hon. C. M. Hill: I don't think there is very much at Elizabeth, is there?

The Hon. C. R. STORY: Not nearly enough at present. Out of the 1,248 cottage flats that have been established, I think Elizabeth has received only about 120. That is not nearly enough, because the Salisbury-Elizabeth area is where we have the migrant problem. Families come out here and then the mothers come along, and a trust house is not nearly big enough for the average man and his mother-in-law. I think it proper, in the interests of all the family, that some other form of housing should be provided for the mother-in-law or the father-in-law.

The Commonwealth Government, of course, copied from us, for we had the original idea here. When the previous Prime Minister (Sir Robert Menzies) came over here to open a scheme run by the Methodist Church, he saw how successfully the scheme was working and he decided that this was something worthy of assistance. Instead of the one-for-one subsidy

which this State was providing, Sir Robert Menzies instituted a two-for-one subsidy, and the State very largely bowed out of this field, except that, if my memory serves me correctly, we still provide a subsidy on a dollar-for-dollar basis for the furnishing of these institutions.

The next point that we should look at is that the Housing Trust as an institution cannot take advantage of this subsidy, whereas the churches and the various country community centres that run these schemes (and, in some cases, the district councils) can initiate them where, depending upon the ability of the person to pay, a deposit (usually fixed) can be made towards the purchase of a life interest in a nice little cottage. Many people, however, cannot raise the necessary money as a deposit with the churches. So far, the Commonwealth Government has not seen its way clear to advance this money directly to the Housing Trust in this type of scheme; but it is interesting to note that Mr. Harold Holt, the Prime Minister, has given an undertaking that, if his Government is re-elected, money will be made available to councils. If that comes to pass, it will mean that councils will have money available. They will, no doubt, in many cases, use the Housing Trust as the building authority for the erection of these cottages. I have no hard feelings about this but, from reading the Bill, one would think this was a State-wide benefit.

The Hon. A. J. Shard: Definitely, it can be State-wide, according to the Bill.

The Hon. C. R. STORY: Yes; I see the Minister's point; but it has been reported to me—and, if Standing Orders would allow it, I would be able to quote what the Premier in another place said, but I know that would be wrong of me—

The PRESIDENT: That would certainly be wrong.

The Hon. M. B. Dawkins: Perhaps you saw it in the paper?

The Hon. C. R. STORY: No; but it has come to my notice that there is a man called Mr. Quirke who asked a question of another gentleman because Mr. Quirke was curious about where these houses would be built. The other gentleman said they would be built in the metropolitan area—and that other gentleman was the Premier of the State. I cannot make it any clearer than that without contravening Standing Orders.

The PRESIDENT: If the honourable member is not careful he will have to withdraw.

The Hon. C. R. STORY: I would, of course, withdraw if you asked me to, Sir. I think honourable members are in possession of the facts now. Whilst, at first blush, this Bill appears to be a State-wide venture, it is not specifically laid down where any of this money will be spent.

The Hon. A. J. Shard: And it never has been specifically laid down; you are treading on dangerous ground.

The Hon. C. R. STORY: No; I am not treading on dangerous ground, because the position is that the money cannot be spent in many country areas because another section of the Act does not make provision for the type of housing that one would want in country areas. It would be stupid in many places to erect a set of cottage flats where only one specific house was needed.

The Hon. A. F. Kneebone: Or one flat.

The Hon. C. R. STORY: Yes, that is so; it would be quite improper to do so. However, I have an amendment on the file and it is fair enough that honourable members should consider it, because there are certain areas where a block of flats would be desirable. About $2,000,000 has been spent out of the fund. The metropolitan area has had a good go in the cottage type of house built over the last few years. We should make some division so that we can specifically say that a proportion of this money will go to country areas. My amendment would provide for a quarter of this money to be spent in country areas. I have not stipulated where it is to be spent: it is left to the Housing Trust, in exactly the same way as is the rest of the Bill. I am not breaching any trust if I say that I have discussed this matter, as I would want to before I moved anything foolish, fully with the Housing Trust. I think it will agree with what I am moving. There was a move to make it 50 per cent but that would be disproportionate; 25 per cent is fair enough. Many country towns in South Australia have claims when it comes to the erection of this type of flat. I have had several inquiries from people paying rentals far in excess of what their pension allows. Many country towns have expanding housing areas and many of the older type houses are too expensive for the occupants to maintain. Several towns come to mind when dealing with this subject, and I mention especially such places as Gawler, Mount Gambier, Port Pirie, Wallaroo, Moonta, Kadina, Port Lincoln, Kapunda, and Peterborough. The last named town would be the logical retiring place for many railway employees at present

living in settlements along the line. When the time comes for them to retire, they prefer to go to Peterborough. Other towns that come to mind are Loxton, Waikerie, Renmark, Berri and Barmera.

The Hon. D. H. L. Banfield: Are there any towns the honourable member would omit?

The Hon. C. R. STORY: I am speaking of the principal country towns. Others concerned would be Murray Bridge, Naracoorte, Tanunda and Nuriootpa. The country housing fund is $34,000 in credit at present. That money is derived annually from a rental of $2 a week.

The Hon. C. M. Hill: According to the report it is a loss of $2 a week.

The Hon. C. R. STORY: Yes. There is a need to revitalize country towns, and when the Bill is dealt with in Committee I shall move towards something being done to give some stimulus to country areas. I commend the Bill, except for the way in which the money is to be spent. I want one quarter for the country, although nothing has been written into the Bill to that effect.

The Hon. C. M. HILL (Central No. 2): I support the measure and agree with the last speaker. I point out that $50,000 is to be appropriated for the fund and that the South Australian Housing Trust will add a similar amount. This will make $100,000. Despite the fact that small flats will be built I cannot see how any flat will cost less than $4,000. Therefore, it will mean a programme of 25 flats in all; it will be difficult to take a quarter of this number to be spread over the towns mentioned by the Hon. Mr. Story. There will be no noticeable benefit. In comparison with the 25 flats to be erected under this Bill, the trust is averaging 3,250 houses and flats a year. However, every extra flat that can be built is a help, and it is pleasing to see that this programme has been arranged.

I query one point on general principle; institutions that have contributed and built up this fund may ask (and I think they would be entitled to do so) that some relief be given them from contributing to the fund. The institutions concerned are the State Bank, the Savings Bank of South Australia and the South Australian Superannuation Fund. I believe the same results would be accomplished if, instead of a grant being made from the fund, money was lent at a low interest rate to the trust for this purpose. Then the institutions would not have to continue contributing at the present rate to the Home Purchase Guarantee Fund, because that fund would be, in some respects, self-supporting.

A measure of this kind is a partial liquidation of the fund. The sum of $50,000 is to be given for housing, which would be owned by the trust. If the houses could be built by this more orthodox method, and if the institutions did not have to contribute so much in future to the fund, relief could be passed on to the clients of the institutions concerned. They are mainly young people borrowing money for house mortgage purposes. However, precedents have already been established by the former Government and in the annual report two cases were mentioned where grants have been made from the fund.

It is pleasing to see that there will be a spread of housing of this kind, and I support the comments of the Hon. Mr. Story that areas near Gawler could be assisted by the method mentioned. I would like to see similar assistance given to Elizabeth because of the considerable social problems existing here. The city has existed for some years and has elderly people living there, many of them brought out from England by their families. It is not satisfactory for elderly people to live with their children, and accommodation of the type mentioned would give some relief to the social problem existing there.

The Hon. R. C. DeGARIS (Southern): I rise to speak briefly to this Bill. The Hon. Mr. Story put in a claim for the erection of six flats in his district and I think I should make some comment about the need in Southern District. However, I do not want to be accused of tackling this measure on a country *versus* city basis. The Housing Trust, in its annual report, does not dissect the figures but I understand that it has built 1,248 cottage flats, of which 160 are in the country areas. I also understand that the demand is on a 75 city and 25 country basis. Because of that, the Hon. Mr. Story's amendment covers the demand almost exactly. I should like the Chief Secretary to explain why the money is being paid over a period of five years. I may be wrong, but I understand that this is the first time payment has been extended over that period. Secondly, I should like to know whether Elizabeth is regarded by the trust as being in the metropolitan area. I support the Bill and the amendment that the Hon. Mr. Story proposes to move.

The Hon. M. B. DAWKINS (Midland): I support the Bill and the amendment foreshadowed by the Hon. Mr. Story. I think all honourable members are aware of the need for cottage flats, and I commend the Government for having brought the Bill down. The proposed amendment meets what the Hon. Mr. DeGaris has said is the relationship between city and country, namely, 75 per cent and 25 per cent. We all have confidence in the trust, which has done a good job over the years, and we also know that there is a waiting list in both city and country areas. Representations have been made to me by people with limited income who are not able to purchase houses for themselves and who desire the type of accommodation dealt with in the Bill. These representations have come from various areas in the Midland District, from the Upper Murray, the Lower North, Gawler, and Kapunda. I also know that a need exists in the Northern and Southern Districts. I commend the amendment, which would improve the Bill.

The Hon. A. J. SHARD (Chief Secretary): I thank honourable members for their consideration of the Bill and shall try to reply to some of the matters that have been raised. I just do not know why the Under-Treasurer arrived at a period of five years, but I think he could foresee that the money could be made available for that time.

The Hon. C. R. Story: It wouldn't run the fund down too quickly.

The Hon. R. C. DeGaris: I am wondering whether the fund will be as productive in future as it has been in the past.

The Hon. A. J. SHARD: I understand that the second reading explanation contained a statement that it would. I would say that the trust regards Elizabeth as being in the country. On page 8 of its *Quarterly Notes* for July, 1966, it sets out the rents of flats in the two-storey and three-storey group, then the rents in the metropolitan area, and then the rents of flats in two-storey and three-storey groups in Elizabeth. Elizabeth is dealt with separately from the metropolitan area, and I think it can be taken from that that Elizabeth is regarded as being in the country. In addition, the Industrial Code regards it as being in the country. The Hon. Mr. DeGaris has mentioned flats, and I have the following information:

The building of cottage flats was begun during the financial year 1954-55 and at June 30, 1966, a total of 785 had been completed under the trust's own scheme. In addition, 463 had been completed for and at the expense of charitable organizations. At June 30, 1966, 56 were under construction in the metropolitan area at Hillcrest Gardens, Mansfield Park, Osborne, Taperoo and Glenelg.

It seems that the trust has 785 flats and that another 56 are under construction. I shall not deal with the proposed amendment at this stage, but would ask that it be dealt with in parts, not as a whole.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Application of moneys paid to trust."

The Hon. C. R. STORY: I move:

After "4" to insert "(1)".

I move this amendment to enable me to move others afterwards.

The Hon. A. J. SHARD (Chief Secretary): It would be foolish to allow this to go through, for I oppose the entire amendments foreshadowed. I do not think any member of Parliament has ever criticized the work the trust has done. In my long association with the trust, I have never had occasion to query anything it has done, and I have always found it fair and reasonable. There is nothing in the Bill to prevent the trust from building cottage flats in any part of the State; it would merely have to put a case to the Government on why it should do that.

The difficulty I see in the amendment is that whether or not the trust wanted to build flats in the country, whether the need was there, or whether it was an economic proposition, it would be obliged to spend 25 per cent of the money each year in the country. I should like to read a letter sent to the Chairman of the Housing Trust on November 13, 1963, as follows:

I have provided on the 1963-64 Estimates, with the approval of Parliament, for the appropriation of portion of recent revenue surpluses "to provide for expenditures upon housing for persons in necessitous circumstances."

That is exactly the same as is provided in this Bill. The letter went on to say:

I would propose to make available £50,000 to the trust for provision of houses and cottage flats upon the same general plan as funds were provided under the Country Housing Act, 1958-1960, but without the necessary restriction of such accommodation to areas outside the metropolitan area.

Apparently in 1958 to 1960 the money had to go to country housing, but that was altered.

The letter went on to say:

This I would do on the understanding that the trust appropriates from its current or recent profits a matching £50,000 to be utilized in the same manner.

Those are exactly the same conditions as contained in the present Bill. It went on to say:

I should be pleased to know whether the trust would concur in such arrangements. If the trust concurs I shall pay the £50,000 into a deposit account at the Treasury.

That was signed by Sir Thomas Playford. That policy was considered sound in 1963, and there has never been any criticism of it. I think it would be wrong to tie the trust down to having to spend 25 per cent of the money in the country when it may not be a sound economic proposition for it to do so. I appeal most sincerely to the Committee not to put this restriction on the trust, because to my mind that would be directing it unnecessarily.

We all know that the trust has a real picture of the needs of housing in this State as a whole. In my opinion, if it was ever necessary to build some cottage flats in any part of the country, those flats would be built, irrespective of what somebody may have said to the contrary.

The Hon. C. R. STORY: I am impressed by the sincerity of the Chief Secretary's plea. He read a letter signed by the previous Treasurer in November, 1963, which stated that money would be made available to the trust to provide for expenditures upon housing for persons in necessitous circumstances.

The Hon. C. D. Rowe: That was from a revenue surplus, and we don't seem to have that these days.

The Hon. C. R. STORY: The amount provided then was applied by the trust for the construction of cottage flats for pensioners, so there is a subtle difference.

The Hon. A. J. Shard: He said, "in necessitous circumstances", which is exactly the same basis as contained in this Bill.

The Hon. C. R. STORY: I am in a difficult situation here in refuting what the Chief Secretary says.

The Hon. A. J. Shard: Do you want to read the letter?

The Hon. C. R. STORY: No. I ask the Chief Secretary not to accuse me of twisting words. He should read the *Hansard* report of proceedings in another place and the words used by the Treasurer there. I am not twisting words and I am not quoting from *Hansard*: I am quoting from information that I have.

The Hon. A. J. SHARD: Mr. Chairman, I rise on a point of order. I take exception to these remarks. I direct members' attention to my second reading explanation of this Bill, which clearly states the purpose of the Bill.

The Hon. Sir ARTHUR RYMILL: On a point of order, Mr. Chairman, this is not a point of order.

The CHAIRMAN: No, it is not a point of order.

The Hon. A. J. Shard: It is.

The CHAIRMAN: The Hon. Mr. Story.

The Hon. C. R. STORY: I did not want to become involved in an altercation with the Chief Secretary over a few words. What the Treasurer did in 1963 in making an *ex gratia* payment, so to speak, to the trust out of his surplus was an entirely different matter from what we are faced with at present. What the present Treasurer is doing is making money available and laying down the terms and conditions of a new scheme, with a five-year fixed term. The Treasurer in 1963 laid down what he wanted the money spent on.

The Hon. A. J. Shard: Exactly the same as in this Bill.

The Hon. C. R. STORY: This Bill is to appropriate $50,000 a year for a period of five years, which is a long time. If it were for only one year, I would not be wasting time now and keeping people out of their beds. There does not appear to be any provision at the moment for any of this money to be spent in country areas. The words I have already quoted (which I am not allowed to repeat) confirm my fears when it comes to the men in charge of the Bill. Therefore, I want some guarantee that one-quarter of this money each year will be allocated to country areas. The situations are not quite the same.

The Hon. C. M. HILL: One relevant point is that the circumstances today are different from those at the time of the former correspondence because at that time the trust was an independent body. Today it is not: it is now under the administration of a Minister of Housing. We as a Parliament have the right to dictate to the trust now to a greater extent than previously. As the trust is now a part of the Minister's department, we are justified in making a stipulation at this stage.

The Committee divided on the amendment:

Ayes (11).—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, H. K. Kemp, Sir Lyell McEwin, F. J. Potter, C. R. Story (teller), and A. M. Whyte.

Noes (8).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, Sir Norman Jude, A. F. Kneebone, C. D. Rowe, Sir Arthur Rymill, and A. J. Shard (teller).

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. C. R. STORY moved:

In subclause (1) after "expend" to insert "three-quarters of".

The Committee divided on the amendment:

Ayes (11).—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, H. K. Kemp, Sir Lyell McEwin, F. J. Potter, C. R. Story (teller), and A. M. Whyte.

Noes (8).—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, Sir Norman Jude, A. F. Kneebone, C. D. Rowe, Sir Arthur Rymill, and A. J. Shard (teller).

Majority of 3 for the Ayes.

Amendment thus carried.

The Hon. C. R. STORY moved:

To insert the following subsections:

(2) The trust shall expend the remaining quarter of the amount paid to it in each financial year in the building of houses in country areas which shall be let by the trust to persons of limited income.

(3) The provisions of the Country Housing Act, 1958-1960, shall apply to and in relation to any house built by the trust in pursuance of subsection (2) of this section.

Amendment carried; clause as amended passed.

Remaining clauses (5 and 6) and title passed.

Bill read a third time and passed.

HARBORS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 2972.)

The Hon. C. D. ROWE (Midland): The opening paragraph in the second reading explanation given by the Minister was as follows:

Its object is to provide for the abolition of the South Australian Harbors Board and its replacement by an ordinary department of the Public Service to be known as the Department of Marine and Harbors.

A little later in this speech the Minister said:

There appears to be no good reason why harbours could not with great advantage to the State and the public operate more efficiently through a department directly answerable to a Minister and always available to a Minister for counsel and judgment.

As far as I can see, the only reason for introducing this Bill is because (*a*) it is a matter of Government policy that it should be done and (*b*) the Minister states that it will lead to greater efficiency in the running and management of the board. With both of those matters I heartily disagree. In the first instance, I think that the Harbors Board under the existing control has been an extremely efficient organization. I have not heard any criticism from this Government regarding its operation; I have not heard, nor can I read in the second reading explanation, where it has failed as far as the Government is concerned, but on the contrary I think numerous people competent to speak on this matter have nothing but praise and admiration for the work of the board.

If we look at the facts we find that is so. The board has worked most efficiently in connection with the establishment of the refinery at Port Stanvac and it gave all the co-operation necessary there. In connection with the establishment of the gypsum industry and the installations at Thevenard and Kangaroo Island it co-operated willingly, and it played a major part in connection with the lime sand project at Coffin Bay. It has also worked extraordinarily well with the bulk handling authority in connection with the bulk handling facilities at our various outports.

The Hon. H. K. Kemp: It has not done anything about Point Giles.

The Hon. C. D. ROWE: That matter is under consideration at the moment and I do not wish to comment on it now. In the circumstances I fail to see the reason for attempting to remove control from the present board. Other matters mentioned in the second reading explanation were that the Government did not have sufficient control over the board and that it was thought this control should be brought under the Minister. I do not agree with that statement. I refer to sections 126 and 127 of the existing Harbors Act. Section 126 (1) states:

Regulations may be made from time to time by the Governor, on the recommendation of the board, fixing dues, charges, and rates (including, though without limiting the extent of the power hereby conferred, light, harbour, warehouse, tonnage, mooring, pilotage, and berthing dues and wharfage charges) which shall be charged and levied by the board. Dues, charges, and rates shall be payable and paid to the board in accordance with the regulations.

I do not propose to read the remainder of the section. Under section 127 regulations may also be made to provide for harbour improvement rates. As everyone knows, regulations come before the Government for consideration

and approval; consequently control does exist as far as the Harbors Board is concerned. More particularly, I refer to Division IX of the Act, which deals in greater detail with regulations that the Governor may make. It refers to section 144, which contains no less than 72 separate headings under which the Government may make regulations. They seem to cover everything connected with the operation of the Harbors Board. Those matters must be considered by Parliament, so Parliament has control in that sphere. Division VIII deals with finance and provides:

The Minister shall at the end of every financial year cause a schedule to be made of all works and improvements constructed, and all works in course of construction, by the board, and of all lands and property vested in or acquired by the board during that financial year.

Section 138 deals with the collection of dues, and section 139 covers accounts. Section 140 is important, and provides:

The moneys required for the purposes of this Part shall be provided by the Treasurer out of moneys from time to time provided by Parliament for such purposes.

The Harbors Board submits a programme and the money for the carrying out of that programme must be appropriated by Parliament. If Parliament does not approve of the programme, it need not appropriate the money. The provisions of Division VIII give the Government control over the operations of the board, which is in a similar position to all Government departments, in that the money required by it for Revenue and Loan purposes must be appropriated by Parliament in the usual way. The board itself can authorize only expenditure of a minor nature.

I cannot see the reason for the transfer to the control of a Minister. In Queensland, there is a Department of Harbours and Marine. In New South Wales, there is a Maritime Services Board. In Victoria, the Department of Ports and Harbours controls small fishing ports, and the Melbourne, Portland and Geelong harbours are controlled by separate trusts. In Western Australia, Albany, Bunbury and Fremantle are controlled by autonomous trusts. In the United Kingdom, London, Liverpool and Hull have separate authorities, and Holland, West Germany and Japan have separate instrumentalities. The Government is saying, "We are much more competent than the people in the other States and the authorities on the Continent and overseas, and we think we can do these things better ourselves."

That reason does not appeal to me. I think the position would be best left as it is. I am opposed to this type of undertaking being conducted directly under the control of a Minister. It is a business undertaking that should operate on business lines, and the further it is kept from political influence and pressure the better it will be. The Minister is asking that he have this control, but I am sure that before many years pass he will be happy to transfer it back to the board so that it will have the problems involved.

On all the evidence before us, this board has operated in a most efficient way. Originally, there were about 80 outports but, with the growth of road transport, many of those ports have become redundant. Consequently, there are now about five or six outports, which have up-to-date equipment, capable of meeting the requirements of ships. Our principal port, Port Adelaide, is equipped as well as any other port in the Commonwealth. I was interested to read a report in the *Advertiser* this morning of a statement by a prominent gentleman from overseas that Port Adelaide was better equipped to meet the proposed containerization proposals than any other port in the Commonwealth.

The Hon. S. C. Bevan: Why are oversea vessels by-passing Port Adelaide?

The Hon. C. D. ROWE: I do not know, but I do not think it is because of the port facilities. I think there are other reasons, such as faster schedules. However, I have not heard any major complaints and I do not think that is why the Government has introduced the Bill. The Government must agree that the facilities at Port Adelaide and Outer Harbour are modern. Unless the Government gives particulars of the difficulties it is experiencing in regard to the present board, I shall not feel justified in going along with the proposal.

Since this Government has come into office there has developed in the community a nervousness regarding the management of the affairs of the State. That nervousness is spreading not only to business circles but throughout the whole economy and it is causing people who would otherwise be prepared to bring new industries here to hesitate because they are not sure of the capacity of the Government to handle the problems. There has been an unprecedented increase in taxation and the Government has not been able to honour its promises.

The Hon. C. M. Hill: That is another reason why the ships are not coming here. We cannot do business any more.

The Hon. C. D. ROWE: Honourable members are able to get evidence of this uncertainty from people in the street. The Government announced recently that it intended to do something about a Government insurance office because it had heard certain criticisms. However, I suggest that the Government will get from people in the street far more criticism of itself than of insurance companies.

The Hon. S. C. Bevan: There was criticism of the former Government, too.

The Hon. A. F. Kneebone: That was why we won the last election.

The Hon. C. D. ROWE: I agree that there was criticism and I point out to the present Government that it is getting into trouble, and I think the result will be the same.

The Hon. A. F. Kneebone: You made a prophecy like that before.

The Hon. C. D. ROWE: I hope I shall not be wrong. I think that when we have a board, which is as efficient as the Harbors Board, about which there is no major criticism (I think it has done the job extraordinarily well, consistent with the finance that has been made available to it), we are only creating further nervousness, further dissatisfaction and further apprehension if we abolish it and put the department under the control of a Minister. The second reading explanation states:

The Minister of Transport is charged with the co-ordination of the transport system. While such matters as the future operation of containers have become important, these developments demand that the Government be in a position to act quickly to meet competition and secure the best results. In any event, in the eyes of the public it is the Government that is finally responsible, and it is considered undesirable that it be placed in the position of having to work through and seek the approval of a board.

I do not think that a Minister is capable of acting any more quickly than is a board. I think the position will be that there will still have to be executive officers, top-flight people, who will have to do all the hack work in connection with the management of this organization of harbours, and they will have to report to the Minister. In my opinion this will be just as cumbersome as it is at present, where we have a separate board. After all, the board is able to concentrate as much time as is necessary to give effect to implementing what it believes to be the correct policy, and it is not hampered with all the other work that comes into a Minister's office.

The Minister of Local Government interposed just now to say that certain ships were not calling at South Australia. If that is so, and if the facilities are not quite as good as they ought to be, I do not think that is the fault of the Harbors Board. It may be the fault of the previous Government because it was not able to find sufficient finance to meet all the requirements necessary in connection with the development of Port Adelaide, but that matter of being a little short of finance is not a peculiar prerogative of the previous Government, and if it existed in embryo at that point of time it has become rather a lusty child today, for we find in many avenues that the answer is that there is no finance.

I think that merely putting a Minister in control of the board is not going to answer our problem of providing adequate finance for the development of the Harbors Board, and I do not think the present Minister would say that that was so. I am not enamoured of Government control of these matters. I do not speak disrespectfully of the present Ministers, who give full-time attention to their jobs and who are dedicated, particularly, if I may say so, the Ministers in this Council. I am not speaking of them in any derogatory way. If such a move as this was made by a Government of my own political colour and by Ministers from my own Party, I would oppose it, because I am a great believer in private enterprise to meet situations and look after such situations as this.

I am also a firm believer in independent boards. Members need only look at our own Housing Trust and at the efficient job it has done as an independent entity in the past; they need only look at the Electricity Trust, which is run as a separate board and which is probably the most efficient organization of its kind in Australia. Similarly, they can look at other realms of transport. The Trans-Australia Airlines Commission, which is not under the control of a Minister but runs as a separate entity, is a very efficient organization indeed. The evidence is that these boards operate efficiently and satisfactorily, and that is all I am concerned about. I am not concerned about what the Government policy is, and I am not concerned about providing jobs for this man or that man: all I am concerned about is the efficient operation of this instrumentality, the efficient working of our harbours, and the efficient management of them in every respect.

I think that is the issue in this debate, and I do not think that we will be making any progress by taking the matter out of the hands of the board and putting it into the hands of a Minister. As far as I can tell, the members of

the present board are doing a good job. Certainly, I have not heard any undue criticism of their competency or ability or their application to duty. However, if it does happen at some time in the future that we get a board which is unresponsive to the demands made upon it and which has members on it that are incompetent, the answer is not to abolish the board but to put people on it who will do the job effectively and efficiently. I do not think that would be a difficult thing to do. I think I have made my views on the matter quite clear, and for those very sufficient reasons I must oppose the Bill.

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

PASTORAL ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 3001.)

The Hon. C. R. STORY (Midland): I support the Bill. I have studied the measure and I have had the benefit of looking at the map the Minister in charge of the Bill has in his file. The main point of this measure is to enable the Lands Department to make some changes in the way in which certain lands held throughout the State are treated regarding tenure. There is a large area of land, portion of which has been resumed by the Crown, near the proposed Chowilla dam, and if this Bill passes I hope that land will soon be reallotted to the original lessee. I refer to the Chowilla Pastoral Company, which has for many years been the lessee of this land.

It is interesting and relevant to say that this area of land has been in the possession of the Robertson family since the 1880's, and that those people have been extremely good land husbandmen. It is one of the few properties in South Australia which remain in the hands of the original family group, and that is one of the reasons why I think people would wish to see that succession duties do not dissipate this type of family holding, which has been well looked after. Incidentally, under the Chowilla dam scheme water from the Murray River will be diverted from those people, and in the future they will not have a river frontage but will have to draw lake water. The Government and the department are doing something real in trying to meet this position by adding to the existing lease, which has only 10 years or so to run, for they are giving back to the company the portion of the land they do not require for the dam. Under section 41 of the existing Act the pastoral lease must be given for 42 years. It is difficult for the Government to deal with small parcels of land not only in the Chowilla area but also in various other parts of the State.

The object of this amendment is to enable the Pastoral Board to deal with certain lands that at present would be dealt with under the Crown Lands Act: in other words, the large areas of land in the pastoral areas of the State under annual licence and miscellaneous lease that do not come under the provisions of the Pastoral Act and which I think the Government and the department have properly decided should come under the provisions of that Act. So this Bill makes a provision that the normal 42-year term can be varied in certain circumstances and that that will be subject to the discretion of the Pastoral Board, the members of which are known to be men of great integrity and ability—Mr. Jim Johnson (Chairman), Mr. G. A. Buchanan and Mr. W. S. Reid.

My point is that this land being vested in the Pastoral Board will be of real benefit to the State. I have taken the opportunity of consulting an eminent solicitor upon this matter, as much is at stake. I have been assured by him that this amendment is in order and is on all fours with what the landholders in the Chowilla area require. It will facilitate the settlement of claims made under the acquisition. By and large, this is a good measure. I see no reason why it should not pass expeditiously through this Council.

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

WORKMEN'S COMPENSATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 3000.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): There are really two parts to this Bill. The first relates to that part of the Bill passed during the last session covering persons with workmen's compensation between their place of abode and place of employment. The second part rectifies a technical defect in the amending Act passed in the last session. I shall deal with the second part first because, although I agree with the amendment, I do not agree with the reasons given in the second reading explanation, which states:

Last year a new section 28a was inserted in the principal Act, the intention of which was to provide for compensation to be paid at current rates.

So far, so good. It continues:

The new section was drafted at a managers' conference between both Houses.

That is correct. It continues:

The Government has been advised that it is ambiguous and, accordingly, clause 6 amends this section . . .

I should like to deny categorically that that is a correct interpretation of the matter, because I was on that conference and I clearly remember that the Government gave the conference an absolute undertaking that it would amend this section, because the conference knew perfectly well that it was defective. The Government gave an actual undertaking that the section would be amended. The reason why it could not be amended at the managers' conference was because of the Standing Orders of both Houses, whereby this matter had crossed the Rubicon, as the saying goes. I do not think the Government does iteself credit by putting this in the second reading explanation; it certainly does not do the managers' conference any credit, because it simply is not correct. However, the section in my opinion is perfectly satisfactory. It is not as it was in another place.

This may bear out what I say, because the sections set out to have a retrospective effect, which was removed in another place, and that is why the section is now satisfactory. It was removed because, by making it retrospective and sticking to the undertaking given, it thus put this amendment back to where it started from and where it would have been but for technical difficulties under the Standing Orders. Were it not for that, this retrospectivity would not have been included. The difficulty would have been that a number of cases would be settled in the interim that would have to be reopened and I therefore entirely agree with the removal of the retrospectivity of the clause and consider it entirely satisfactory. I support clause 6.

Clause 4 is in an entirely different category and, as I said in opening, this no doubt arises from the provision placed in the Bill last session for a person to be compensated for an accident occurring between the place of abode and the place of business. Apparently it has been discovered that that does not apply to people such as waterside workers who go from their places of abode to pick-up places, as they are customarily called. I am not happy with the wording of the clause but, unfortunately, although I have puzzled over it and consulted with two of the Parliamentary Draftsmen, I am unable to suggest an amendment that might clarify the clause or help the matter.

I do not think anybody would say that the clause is happily drawn. That is not the fault of the draftsmen because the clause has been copied from a section in both the New South Wales and Victorian legislation. I think that the draftsmen are not particularly happy with this clause either, although I cannot speak for them. The difficulty is that we are getting into an extremely artificial area with this legislation and it is difficult to cope with matters that arise out of it.

If I might attempt to paraphrase the clause, it reads:

Notwithstanding anything in this Act or in law, where any person is ordinarily engaged in any employment in connection with which this person customarily attends—

and I interpolate here "pick up place", and then going to the bottom of the clause—

the employer who last employed him in his customary employment shall be deemed to be that employer.

I have not read the whole clause but I have tried to paraphrase it so that it is comprehensible. The words "ordinarily engaged" and the qualification of those words "which persons customarily attend" are followed by "the employer who last employed him in his customary employment". This seems to me to be fairly confusing.

A practical difficulty arises from people engaging in more than one form of employment. Take, for example, the case of a waterside worker who decides to go fruit picking up the river; I believe that happens quite often. Such a person is customarily or ordinarily employed on the wharf. This person goes fruit picking for two or three months, and that may or may not be the work in which he is customarily or ordinarily employed. I would say he was ordinarily employed as a waterside worker.

The Hon. A. J. Shard: Would such a thing happen at Port Adelaide? I thought it was a more or less regular practice of reporting on the wharf.

The Hon. Sir ARTHUR RYMILL: I am taking this as an example because I believe the waterside worker is a person to whom this clause would mainly refer. In the wage of the watersidse worker is a component to compensate him for not getting annual leave. He would take a holiday whenever he could and might go up the river fruit picking.

The Hon. A. J. Shard: Now I follow you. Usually they report to the pick-up every morning.

The Hon. Sir ARTHUR RYMILL: That is so, and that is the normal practice. I am not concerned with the worker who is actually and continuously engaged in the pick-up because I think with such a man this clause is quite satisfactory. Nor am I concerned with the worker who takes his little holiday when he wants to or who goes on long service leave because I believe some provision is being made for that; when he comes back he is still ordinarily employed. The difficulty as I see it, and as others I have mentioned see it, is where the waterside worker (again, taking him as an example) takes time off to go fruit picking up the river, comes back, and has an accident between his place of abode and the pick-up place on the first day he is back. The clause states that the person liable for that is the employer who last employs him in his customary employment.

The Hon. A. J. Shard: I hope too many do not fall into that category!

The Hon. Sir ARTHUR RYMILL: I hope so, too. What one wonders is: who is the employer who last employed such a man in his customary employment? Is his customary employment (as I am inclined to think) that of a waterside worker? In that case, an employer who employed such a person three month before would suddenly find himself liable although that man had not been engaged on that type of job for three months. On the other hand, if it is not that man, then it is the fruitgrower up the river who must be the employer concerned, but why should he be liable for this man when he goes down to work on the wharf?

I think I have clearly posed the difficulty. I am not proposing to oppose the Bill and I am afraid I have not been able to find any satisfactory amendment to the clause without getting into a morass of words. I would like the Minister in reply, or during the Committee stage of the Bill, to explain who is supposed to be liable for this because it will be helpful to employers if they know who is expected to carry the liability. This will also assist insurance companies and enable them to determine settlement of such claims, which may be rare but which will of necessity arise sooner or later.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): I am interested in the case posed by the Hon. Sir Arthur Rymill regarding "customary employment". I think in the case mentioned customary employment would be that of a waterside worker, as Sir Arthur said. The matter of the previous employer is a difficult one in such circumstances where it can be three months prior to the event.

The Hon. S. C. Bevan: Do you think this provision would apply in those circumstances?

The Hon. A. F. KNEEBONE: It has to apply in the case of a man who is going to work. It is not difficult where a man is working in other industries, because he may have terminated employment with one employer at the end of one week and may be starting with another employer. When he changes his employment, the employer to whom he goes is the person who is covered. However, I am not fully conversant with the position regarding the wharves. I understand a number of stevedoring companies operate, and that is why the last-named employer was included. I cannot offer any more detailed explanation. This provision is the fairest that can be made in regard to this type of employment and I do not know of any way in which it can be altered for the better.

The Hon. A. J. SHARD (Chief Secretary): The position would arise more in relation to country ports than to the metropolitan area. The men working at Wallaroo, Port Augusta and Port Lincoln are not necessarily in full-time employment. My recollection is that, when I was Secretary of the Trades and Labor Council, about 1,800 men were registered at Port Adelaide, and their duty was to report each morning to the pick-up centre. If they did not report, their names were deleted from the list. The Hon. Sir Arthur Rymill has referred to the time when the men are on annual leave.

The Hon. Sir Arthur Rymill: I am not worried about that. I think it is fair that they should be covered.

The Hon. A. J. SHARD: I know that Sir Arthur has had a discussion with the Parliamentary Draftsman, and the members of the legal profession may be able to arrive at a solution. I do not think there is anything wrong with this provision. In the words of the old axiom, it gives greatest protection for the greatest number. However, we shall examine the matter closely and watch the situation. I would be happy to have discussions with the Waterside Workers Federation. I shall make inquiries with a view to ascertaining whether better phraseology can be used.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"'Meaning of 'workman'."

The Hon. Sir ARTHUR RYMILL: I was considering asking the Minister to report progress so that consideration could be given to this matter. However, in view of the Chief Secretary's undertaking that he will watch the situation, I do not propose to do that. I interpret what he has said to mean that, if anything of this nature arises, he will consider the introduction of legislation.

The Hon. A. J. SHARD: The Minister of Labour and Industry will watch the position.

Clause passed.

Remaining clauses (5 and 6) and title passed.

Bill read a third time and passed.

HIRE-PURCHASE AGREEMENTS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 2987.)

The Hon. Sir LYELL McEWIN (Leader of the Opposition): This Bill does not require a long speech. Reference was made during the debate on the Stamp Duties Act Amendment Bill to hire-purchase agreements that are terminated before the full period has expired. At that time it was stated that it was not possible to give any relief under that legislation but that the Government would consider giving relief by amending the Money-Lenders Act and the Hire-Purchase Agreements Act. The Money-Lenders Act has already been dealt with. The Minister, in his second reading explanation, said that this provision was satisfactory to the South Australian Division of the Australian Finance Conference, and I accept that statement. I support the Bill.

The Hon. R. C. DeGARIS (Southern): I support the Bill. As pointed out earlier, I think in the debate on the amendment to the Stamp Duties Act, there was a difficulty in relation to pre-paid contracts, and I think the Chief Secretary at that stage said the Government would look at this legislation to see what relief could be given. Then, in the amendment to the Money-Lenders Act we had a similar provision in which some relief was given to money-lenders in this connection. To round off the whole matter, which started with the debate on the Stamp Duties Act Amendment Bill, we now have this amendment to the Hire-Purchase Agreements Act.

This present amendment does in some way meet the difficulty that money-lenders and those engaged in hire-purchase contracts find when a contract is pre-paid early in its life, when there is a considerable loss in many of these contracts to the lender. This Bill makes some provision towards solving this problem; therefore, I support the second reading.

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

MARKETING OF EGGS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 3000.)

The Hon. L. R. HART (Midland): I support the Bill, and in doing so I should like to make one or two observations. I might say that if we do not soon dispose of this Bill we will have another batch of eggs to market. The subject matter of the Bill is related largely to the Council of Egg Marketing Authorities' plan. This organization operates under a Commonwealth Act. In fact, there are three Acts associated with the egg industry, and those Acts form one legislative scheme to give the Australian egg industry an opportunity to stabilize itself. The three Acts referred to are the Poultry Industry Levy Act, which imposes a levy on hens kept for commercial purposes; the Poultry Industry Levy Collection Act, which provides for the collection of the levy; and the Poultry Industry Assistance Act, which establishes the Poultry Industry Trust Fund into which are paid amounts equal to the amounts of levy collected. This latter Act also covers the distribution of the money from the fund for the assistance of the poultry industry.

The effect of the C.E.M.A. plan on the egg industry has been the weeding out of many of the uneconomic producers. Greater efficiency in the industry has brought about greater production, and that in turn has created marketing problems. The C.E.M.A. plan has not been popular with all producers. In fact, it was introduced against considerable opposition from both large and small poultry farmers. The implementation of the C.E.M.A. plan, however, has probably been one of the major advancements in the egg industry for many years. Prices have been more stable and have not fluctuated as in the past. States with a shortage of eggs draw from States with a surplus at the price operative at the time of sale. Previously, States with a surplus sold at whatever price they were able to get, sometimes very much to the detriment of the producer. The peculiar thing about egg production in South Australia is that we have the greatest number of poultry farms of any State, yet we produce only 7.6 per cent of

the total eggs produced in the Commonwealth. Yearly production (these figures were for the 1964-65 season) stands at 122,000,000 dozen.

It is often contended that under the C.E.M.A. plan the tendency is for large flocks to get larger and for small flocks to get smaller. This, however, is not borne out by figures that I have before me. It may be true that large flocks increase in size, but the number of large flocks is not increasing. On the other hand, there is a definite increase in the number of small flocks. I have a table here, Mr. President, which shows the relevant increase in the varying scale of flocks. At July 13, 1966, the number of flocks with less than 75 birds totalled 1,653, and at November 4, 1966, the number had increased to 1,793, which meant a net gain of 140 flocks. Mr. President, I seek leave to have this table incorporated in *Hansard* without being read.

Leave granted.

NUMBER OF FLOCKS.

Size.	July 13, 1966.	Nov. 4, 1966.	Increase or decrease.
Under 75 ..	1,653	1,793	+140
75-150	1,043	1,038	— 5
151-500 .. .	928	971	+ 43
501-1,000 .. .	169	159	— 10
1,001-2,000 ..	97	96	— 1
2,001-5,000 ..	55	40	— 15
5,001-10,000 .	10	9	— 1
10,000 and over	3	4	+ 1
	3,958	4,110	+152

The Hon. L. R. HART: To bear out my point that the large flocks are not increasing in number, in the scale of 2,001—5,000 birds there has been, in the five months under review, a decrease of 15 flocks. With the flocks of 5,001 to 10,000, there has been a decrease of one flock, and in the scale 10,000 and over there has been an increase of only one flock. During that period the total net increase in flocks was 152, but 183 of the increases were in the flocks which each had less than 500 birds.

About 2,000 birds are needed before a person can get a living out of egg production, and we find that there are only 50 to 60 flocks of this size in South Australia. If half a person's income came from eggs, there would be only just over 300 flocks in South Australia where a producer would get half his income in that way.

I come now to the Bill itself. Clause 3 deals with interpretation. "Producer" now has two interpretations. The first is a qualification entitling a producer to be a member of the Egg Board, and the same qualification is required for him to be able to vote at elections for members to the board. Previously, this qualification was 3,000 dozen eggs a year. The new interpretation is that the requisite number of birds shall be 250 hens. There has been an attempt in another place to reduce this number to 100. If we did that, we would increase considerably the number of people entitled to vote. At present the number of persons entitled to vote is about 600 but, by reducing the number of hens to 100, the number of people would be considerably increased. If this number was reduced, it could be said that this was a democratic right that these people should have. However, when we look at the voting figures at the last election of members to the board, we find that of those entitled to vote then only 60 per cent exercised their right to vote, so there does not appear to be any purpose in broadening the franchise if, in so doing, no more than 60 per cent of the people will exercise their right to vote.

The other interpretation of "producer" has been to the effect that previously the requirement was 20 adult fowls. At present there is what has come to be known as pullet farming where poultry-keepers by intensive methods bring their fowls into laying at an earlier age. There are many pullets laying today below the age of 6 months. Previously, the adult hen was a hen over six months. By this intensive method of pullet farming we have laying a number of birds below the age of six months, and those eggs are not subject to the marketing plan. So that the authority should have control over the eggs produced by these pullets, the definition now is:

. . . for the other purposes of this Act means a person who keeps twenty or more female fowls which have commenced laying eggs.

Clause 4 deals with the election of producer members to the board. The qualification here is that a producer must have 250 hens for a period of 13 levy days. A levy day occurs once every 14 days, so in a whole year there would be 26 levy days. With the system of pullet farming today, many producers keep a fowl for only 12 months. A pullet commences to lay just before it is six months old. Pullets are kept for a six months' laying period and then disposed of. These people are not in the poultry industry for the whole year: they are probably producing eggs for only six months of the year. This new provision entitles them to vote for their producer members of the board. This system of poultry farming means

that these people are producing eggs at the period of the year when they are in short supply, so they are not adding to the burdens of the market by contributing to over-production at a time of the year when eggs are hard to dispose of.

Another provision being altered is dealt with in clause 5 (*c*). At present there are three producer representatives on the board, representing three different zones or electoral districts, one member for each district. They are all elected and all retire at the same time. It is felt it would be desirable to stagger the terms of office of the producer members to achieve a continuity of experienced producer members on the board. In an endeavour to do this, it has been found necessary to extend the terms of office of two members of the board. Normally, they would all retire in March, 1967, but by this clause only one of them will retire in March, 1967; one will retire in March, 1968; and the third will have his term of office extended until March, 1969. There has also been a move here to have all these members contest an election this year, and from then on their terms of office will be staggered, this staggering to be decided by the drawing of lots. If it is necessary for the election of the producer members of the board to be staggered, possibly there would be some danger in all those members of the board facing the electors this year, because the situation could well arise where all three of them could be defeated in an election occurring in March, 1967. If that happened we would lose the advantage of having three (or, at least, more than one) experienced producer members on the board. Possibly it would be dangerous if those three members had to face the electors this coming March.

It is said that there is dissatisfaction with the members of the board. Possibly there is, but that does not mean that if there were three new members on the board there would not be equally as much, if not more, dissatisfaction with the board. Undoubtedly, there will be some dissatisfaction with the board in the near future, because recently the Commonwealth Government made an amendment to the Poultry Industry Levy Collection Act, providing for the appointment of inspectors for the purpose of counting flocks of fowls. Many producers (not the small producers with 75 or 100 hens but producers with, say, 1,000 or more hens) are evading the payment of the levy. In order to catch up with these people inspectors will be appointed, and I understand that a number of prosecutions are pending. This very action, which will not be the local board's responsibility, will no doubt be blamed on to that board. Therefore, by that alone, it would be dangerous to have the three members facing the electors at this time.

The South Australian Egg Board has a difficult task in carrying out its functions. I think it would be safe to say that the board has carried them out to the best of its ability and to the satisfaction of many producers in this State. I believe that in the interests of the industry the staggering of the terms of office is desirable and that it should be implemented in the manner laid down in the Bill. Levy days in each fortnight may not suit the convenience of many producers, but I understand that this system is necessary to fit in with the board's functions. The Council of Egg Marketing Authorities plan has been criticized by many, but I believe that if we endeavoured to deprive the industry of that plan there would be equally as much criticism of that action as the criticism of the plan itself. Whether the plan continues or not, there is no question that it will be a case of the survival of the fittest and the most efficient in the industry.

No doubt, the larger flocks will increase in number; this is the day of specialists in every industry who develop large units, displacing the small man in most industries. That applies also to the egg-producing industry. Large units are able to survive on a smaller margin of profit which, of course, can benefit the consumer. We may well reach the stage when eggs will have to be sold on quality whereas at present, provided an egg weighs 2oz. and is reasonably fresh, it fetches a certain price, irrespective of other qualities it may contain.

In addition, it does not matter whether an egg is produced by a person with 10, 20 or 50 fowls or by a person with 5,000 fowls: it is still worth the same price. I do not wish to delay the passage of the Bill; it is necessary that it be passed this week, as there is a need to prepare rolls for the election of producer members of the board. I have pleasure in supporting the Bill.

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

[*Midnight.*]

ABORIGINAL LANDS TRUST BILL.

Consideration in Committee of the House of Assembly's message disagreeing to the Legislative Council's amendments Nos. 6 to 9.

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

That the Council do not insist on its amendments.

The reason given by the House of Assembly for its disagreement with these amendments was that the removal of mineral rights would deny to Aborigines rights guaranteed to them at the founding of the Province and would destroy an essential provision of the Bill. Honourable members know my views on this matter. The Bill was debated in this place and referred to a Select Committee. The Council subsequently remained firm on the recommendations of the Committee.

The Hon. Sir LYELL McEWIN (Leader of the Opposition): I oppose the motion. The Council was almost unanimous in its decision to support the Select Committee's recommendations. In consequence of that, and from information that I have received from the Minister, I ask the Council to insist on the amendments.

The Hon. Sir ARTHUR RYMILL: I read in the press, I think this morning, that a certain person said that we ought to give the Aborigines these rights because they were available to the indigenous population in Canada, the United States and other places. What was not pointed out, however, was that in those places the mineral rights normally go with the fee simple titles to land, and that everyone gets the mineral rights over their land. That does not apply here. Certain mineral rights were granted up until, I think, 1881, after which no rights were granted to fee simple landholders. In 1941 all the oil and natural gas rights were taken from individual landholders for the benefit of the State as a whole. I do not know the reason for that, but earlier in tonight's proceedings a non-discrimination Bill was put immediately after this one.

Discrimination in that Bill, as I see it, works both ways. In effect, the Bill says, "You shall not discriminate against any person because of, among other things, the colour of his skin." In other words, a person must not discriminate against a European because his skin appears to be white, yet this Bill asks for superior rights for the Aboriginal population. Thus, I certainly oppose the motion. I feel strongly that we must insist on these amendments in the interest of proper non-discriminatory treatment of the people of South Australia.

The Committee divided on the motion:

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

Noes (15).—The Hons. Jessie Cooper, M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, C. M. Hill, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin (teller), F. J. Potter, C. D. Rowe, Sir Arthur Rymill, C. R. Story, and A. M. Whyte.

Majority of 11 for the Noes.

Motion thus negatived; amendments insisted upon.

POTATO MARKETING ACT AMENDMENT BILL.

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

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

That this Bill be now read a second time.

Its object is to enable the South Australian Potato Board to prohibit the purchase and taking delivery of potatoes otherwise from the board or its nominees. The Act now, by section 20, provides for the regulation of the sale and delivery of potatoes, but does not deal with the purchase and taking of delivery of potatoes. In this respect it is defective and the present Bill accordingly inserts by clause 3 a new paragraph in section 20 to cover this matter. It is obviously desirable that control should be exercised over not only sales, but also purchases, if the board is to operate satisfactorily. Clause 4 is a formal provision relating to decimal currency.

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

ADJOURNMENT.

At 12.14 a.m. the Council adjourned until Thursday, November 17, at 2.15 p.m.