LEGISLATIVE COUNCIL

Wednesday, September 20, 1967

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS

MILLICENT NORTH PRIMARY SCHOOL

The Hon. R. C. DeGARIS: I seek leave to make a brief statement prior to asking a question of the Minister representing the Minister of Education.

Leave granted.

The Hon. R. C. DeGARIS: At the present time there is under construction a new Samcontype school to be known as the Millicent North Primary School. Several requests have been made by that school's committee for certain modifications to be made to the original plan. Will the Minister ascertain from his colleague whether it has been possible for that request to be met?

The Hon. A. F. KNEEBONE: I will convey the honourable member's question to my colleague and bring back a report as soon as possible.

THE BLUFF

The Hon. R. A. GEDDES: I ask leave to make a brief statement prior to asking a question of the Minister representing the Minister of Tourism.

Leave granted.

The Hon. R. A. GEDDES: For some years now most of the district councils in the Port Pirie, Wirrabara and Jamestown area have been requesting Government assistance to allow the public access to a prominent hill feature called The Bluff, where the Australian Broadcasting Commission has a television tower, so that the public can get an uninterrupted view of a large area in the north of the State. Can the Minister of Tourism advise what action has been taken by the Government to allow the public access to this area?

The Hon. S. C. BEVAN: I understand the public at present has access to what is known as The Bluff. The road leading up there is under the jurisdiction of the Commonwealth Government. However, I believe the Commonwealth Government is prepared to hand over that road to the State provided it retains the right of access to its television transmission tower. This has been mentioned to me several times and the representation that has been made to me as Minister of Roads is that the Highways Department should construct a sealed road up to The Bluff and also contruct on top of it a sealed parking area so that visitors can drive to the top and enjoy the view. Much money would be involved in carrying out this work because the road would need to be completely reconstructed and some bends would have to be straightened. I doubt very much whether the amount of expenditure necessary to construct such a road is warranted at this stage, particularly when this matter is considered in the light of the need to seal other roads in the North as soon as possible. The provision of a tourist road must be considered in the light of available funds. At this stage it is not a matter for the Minister of Tourism; rather, it comes under my jurisdiction as Minister of Roads.

GAUGE STANDARDIZATION

The Hon. M. B. DAWKINS: Can the Minister of Transport say whether there has been any further progress in the negotiations concerning the standardization of the railway line from Port Pirie to Adelaide and the construction of a standard gauge line from Port Augusta to Whyalla?

The Hon. A. F. KNEEBONE: No; the Premier wrote to the Prime Minister concerning these matters but he has not yet received a reply.

DANGEROUS DRUG

The Hon. A. M. WHYTE: Has the Minister of Health a reply to the questions asked by the Hon. Mr. Geddes and me on September 12 regarding the control of the drug L.S.D.?

The Hon. A. J. SHARD: The drug L.S.D. for therapeutic use is not manufactured in Australia; all supplies for such use are imported. It is not considered that the drug could be made by the average chemistry student of matriculation or early university level. The drug could be made from substances, the sale of which is restricted to prescription by the poisons regulations, by students approaching graduation level in organic chemistry with access to certain laboratory chemicals used at that level in chemistry.

UNLICENSED BOOKMAKERS

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

Leave granted.

The Hon. L. R. HART: During the debate on the Licensing Bill the Chief Secretary said several times that we need have no fears that the legislation would be properly policed once it was passed. I understand that the Manager of the Totalizator Agency Board has said that unlicensed bookmakers are still operating in this State to a considerable extent. Can the Chief Secretary say whether the Police Force is experiencing some difficulty in policing the regulations under the Lottery and Gaming Act in relation to illegal betting?

The Hon. A. J. SHARD: Not to my knowledge.

SHEARING CLASSES

The Hon. R. A. GEDDES: My question is directed to the Minister of Labour and Industry, with possible reference to the Minister representing the Minister of Education. As there is a growing shortage of shearers throughout the State, will the Minister consider providing adult shearing classes at selected country areas in an attempt to assist in the replacement of shearers?

The Hon. A. F. KNEEBONE: Because I do not know the actual figures and the need for this type of education, I shall discuss the matter with the Department of Labour and Industry and the Minister of Education to see what is necessary in this regard.

LICENSING BILL

Third reading.

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

That Standing Order No. 314 be suspended to enable the Bill to be read a third time without the Chairman certifying the reprint of the Bill.

I understand that the Government Printer is having extreme difficulty in getting the reprint ready today. As the Bill in the form in which it came to this Chamber, together with the schedule of amendments made here, has to go to another place after the third reading in this Chamber, no difficulty will be involved in having the Bill read a third time before the reprinted Bill is ready.

Motion carried.

Bill read a third time and passed.

LAND TAX ACT AMENDMENT BILL

(Second reading debate adjourned on September 14. Page 1952.)

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

ROAD TRAFFIC ACT AMENDMENT BILL (NO. 2)

In Committee.

(Continued from September 13. Page 1890.)

Clause 6—"Enactment of subsections 47a-47h of principal Act."

The Hon. V. G. SPRINGETT: In the second reading debate I referred to back calculation in assessing the amount of alcohol present in the blood of a person at any particular time and drew attention to the fact that such calculation was a very uncertain and unreliable scientific procedure. Now, section 47b (2) states:

For the purposes of this section if it is established that there was present in the blood of a person . . . the prescribed concentration of alcohol . . . at any time within two hours after that offence is alleged to have been committed, it shall be presumed, unless the contrary is proved, that there was present in the blood of the person that prescribed concentration of alcohol at the time the offence is alleged to have been committed.

It seems to me that there are two assumptions here. I have to assume that the onus of the proof of innocence is placed upon the suspect, which is reasonable in certain circumstances. For instance, if I were walking down the street with certain surgical instruments in my pocket at 1 o'clock in the morning and entered someone's garden it might be presumed that those instruments were tools of burglary, because they can be similar in certain circumstances. However, this test is to be used only if other signs are present. If the level of blood alcohol concentration exceeds the prescribed figure, the suspect has to produce evidence in support of his innocence and sobriety. That is the first point.

The second point is that the interpretation of this clause is quite a trap for the unwary. This is really the basis of my second fear. People assume so readily that, because a breathalyser machine is used and an alcohol concentration test is taken as a scientific test, the whole structure as defined in this clause is equally scientifically accurate for the period of time laid down, namely, for as far back as two hours before the test is taken. However, this is not the case. The test is perfectly valid at the time it is taken. It is beyond dispute that, provided the test is properly taken (that means,

of course, leaving the appropriate period of time to clear the mouth of alcohol and other things), it is an accurate measure of the amount of alcohol present in the blood at that time. That is not in dispute.

However, when we project that result backwards or forwards nothing more occurs than the expression of an opinion. A difference, therefore, exists between the true effect at the time of the test and an assumed state of affairs (an opinion of what existed at an earlier time). I have been informed that at law a presumption is an assumed state of affairs. Presuming therefore, as this clause does, that there was present at any time, or at a set time, in the blood of a person a certain prescribed concentration of alcohol, then that same amount must have been present when the offence was committed.

I cannot emphasize too much that we must not consider that the test back calculated is a guarantee of scientifically proven facts. It is only an assumption. One might ask, therefore, why choose two hours? Why not choose one hour or four hours? Obviously, it would not be one hour because with some people concentration rises slowly and with others, when affected by alcohol, it rises quickly, and drops equally quickly or slowly. Again, there is no real correlation between any two people. I suppose the two-hour time stipulation has been chosen because it is used by most countries and States that employ a similar test. Fundamentally, I suppose it has had to be chosen because we are dealing with what may be called the philosophy of drinking and driving. The legislation cannot be divorced from that philosophy. We accept the inference of variables concerning the rate of absorption and excretion of alcohol. I suppose the balance between the absorption of alcohol and its excretion could be called a person's safe driving ability; someone who is able to absorb it quickly and excrete it quickly is a quick metabolizer of drink whereas a person who takes it in slowly and excretes it slowly is a slow metabolizer and becomes a more menacing person on the road.

Other factors that have been mentioned in the second reading debate concern the weight of a person who drinks, as well as height, general build and the degree of what is technically called subcutaneous fat. I refer to that nice, good layer that we all possess that keeps us warm in winter and cool in summer.

The Hon. Sir Arthur Rymill: Some have more than others!

The Hon. V. G. SPRINGETT: Yes, some do have more than others, but we all have a fair bit of it. Absorption of alcohol is associated with the amount of food we take in, when we take it, the type of food taken, our general health, and, of course, the speed at which we imbibe liquor. One drink taken slowly builds up to a certain maximum and is then excreted. Three drinks taken in fairly quick succession summate one upon the other, have a different effect, and even the temperature at the time of drinking can affect this matter. On a hot summer's day a person would sweat more (that is a respectable technical term, if I may use it)—

The Hon. S. C. Bevan: A person would then get rid of it a lot more quickly than in mid-winter.

The Hon. V. G. SPRINGETT: Yes, that is why I say that temperature has an effect. It could well be that a man who obtained a good result in summer would be disillusioned if the test were taken in the middle of winter. Referring again to the philosophy of drinking, we cannot get away from the fact that all the evidence proves that when the blood alcohol rises above a level of .08 then there is no doubt, except in the case of a very rare person for whom it is not possible to legislate, that a driver cannot retain that degree of alertness, quick reaction and good reflexes with sufficient concentration to act speedily in a dangerous situation. Below that concentration it adds up to what we all call a safe driver.

Since it is a fact that we have dangerous driving (and careless driving is the same thing) above that level, it is reasonable to assume that no-one should be encouraged to set in motion or drive a car when his level of blood alcohol is above .08 gram. That is all accepted but, since we are also advised that back calculations are unreliable, we are left in a quandary superficially in this clause. But it states quite clearly "unless the contrary is proved". Those words seem to me to be the only safeguard of the rights of a suspected person.

A query has been raised about the effect on a diabetic in this matter. Acetone, which is present in the blood of a diabetic, does not turn the solution or crystals from yellow to green in the way that ethyl alcohol does. However, if a person is an ether drinker (and there are not many of them about, I hope) that will give a false reading, but it will be so false and so absurd that it will obviously not be due to ethyl alcohol, which is the chemical constituent being tested in an alcoholic drink. So one

need not worry about the diabetic. If, however, as a result of having taken too much insulin or of missing his insulin he gets himself into a state of bewilderment, which is so easily mistaken for being under the influence of alcohol by the lay observer, this test will prove that he is a diabetic—or, at least, that he was not alcoholic at the time of the accident. So this test has no scientific validity other than at the time it is taken.

I have no brief for dangerous driving, or indeed for dangerous walking—least of all for people who become a danger to the public as a result of alcohol taken in excess, because it seems to me that when a person has lost control of his car he is an unsafe man in a vehicle which is more dangerous than a firearm. However, we do emphasize that it shall be presumed "unless the contrary is proved". That is in this legislation and it is only because the reading is only an opinion based on an assumption and that the suspect can produce evidence in rebuttal that I am prepared to say that this clause is worthy of being left as it stands.

I say this recognizing that the period of two hours has been accepted more or less throughout the world by most countries, and recognizing also that the Royal Commission recommended that this should be reviewed, possibly in some 12 to 18 months' time. By then we shall have had some experience of how the Act is working and, equally important, of how it is being interpreted.

The Hon. H. K. KEMP: I think subclause (2) can be accepted as allowing the police a reasonable time in which to carry out the breathalyser test in an awkward situation where there must be delay before the test can be taken. Nobody can be anything but sympathetic about that. However, what worries all of us is the many circumstances in which, quite legitimately over a period of two hours, more alcohol can be taken. That certainly worries me much more than the simple delay does.

This difficulty could be overcome simply by inserting an additional subclause, something along these lines: let subclause (2) stand as it is down to the word "committee" and then add "provided that the person suspected of a high blood alcohol content has been in the custody or presence of a police officer from the time of detection of the probable offence and that such officer certifies that no alcohol has been consumed between that time and the breathalyser test being taken". That would give every possible and necessary safeguard.

The Hon. S. C. Bevan: Those two hours are in favour of the driver.

The Hon. V. G. Springett: Not always. The time factor would be as often against him as in favour of him.

The Hon. H. K. KEMP: There are many circumstances in which alcohol can be taken legitimately after a man has been driving a car. As this clause stands at present, there is no check to conviction unless reasonable proof can be supplied. The onus of proof is on the individual concerned. I have always understood that the basis of British law is that a man is innocent until he is proved guilty. This gives him the chance of proof.

I should like to draft this proposed provision properly, perhaps with the help of the Parliamentary Draftsman. This point has been strongly made in debates in another place, and is worrying many of my colleagues. Perhaps the Minister could consider this idea.

The Hon. Sir ARTHUR RYMILL: I do not oppose this Bill but I am afraid I do not like it very much. We, the ordinary individuals and citizens, are getting more and more into the hands of the scientist and less and less in the hands of the humanist. Technicians can make mistakes. I saw the first breathalyser test made when the Police Department first obtained a breathalyser machine and I discovered that there were 59 different manual operations on this machine before a result was arrived at. The results of scientific tests are beyond the means of the ordinary person to refute.

I know the Government to some extent has built into this Bill all the safeguards that it can think of, but they are incomplete—as is only human: we are in the hands of the operators of the machine. Admittedly, one can have a voluntary blood test, but again one is in the hands of the man making the blood test. The Hon. Mr. Springett has pointed out the fallacy in relation to time and he interjected just now that the time factor would be as often against the motorist as in favour of him, and one can illustrate this by a simple example. A man might be tested soon after he had had several drinks; at that stage the alcohol content of his blood might not have caught up with him. However, if he were delayed for two hours and then tested, a build-up of alcohol might have occurred or its effect might have worn off. He might not have had any alcohol in his blood at the time of the accident and might have got home and then had a few drinks because he was upset.

The Hon. S. C. Bevan: He could prove it, surely.

The Hon. Sir ARTHUR RYMILL: The onus is on him to do so; I have had a good deal of experience in the courts and I point out that it is not easy to prove this sort of thing. The onus of proof is very important, as the Hon. Mr. Potter and the Hon. Mr. Rowe know.

The Hon. Sir Norman Jude: That is the reason for the Bill.

The Hon. Sir ARTHUR RYMILL: Yes. I am not against the principles of the Bill, but I am very worried about its practical application. Consequently, I should like to ask the Minister whether an opportunity will be given, even if for only a restricted period, for people to take a voluntary test so that they know where they stand.

The Hon. S. C. Bevan: They can take a voluntary test now, but they have to pay a charge.

The Hon. Sir ARTHUR RYMILL: I thank the Minister for that interjection. Of course they should pay a charge. I should like to ask the Minister how long this facility will remain available to persons reasonably asking for it. This legislation provides that .08 per cent or more of alcohol in the blood or the breath is an absolute offence. It is not a question of whether one is capable or incapable of driving: it is an offence in itself. People are entitled to know what .08 gram or .03 or any other level means to them. The person who drinks alcohol is expected to know how much he can take, and I think most people who drink alcohol do know this, though I realize that various factors are involved, which were referred to by the Hon. Mr. Springett. If people are to be guilty of an offence under this legislation, they are entitled to know what constitutes that offence. I feel very strongly about this.

The Hon. F. J. Potter: Does the honourable member think that many people will take such a voluntary test?

The Hon. Sir ARTHUR RYMILL: No, but I think they should be entitled to do so. The Minister has already given an undertaking for the present, but I ask him whether he would be prepared to say that any person, on payment of the proper costs, could be tested at any time.

I am pleased to see that this clause provides that there must be reasonable grounds of belief that a person is affected by alcohol before he can be tested. I would never support random tests, which have not been suggested by this Government but which are permitted elsewhere. I think they would be a complete invasion of the freedom of the individual and, what is worse, they would open the way to much abuse if they were in the hands of unscrupulous people.

The Hon. S. C. Bevan: A person tested at the roadside could have a mouthful of alcoholic fumes.

The Hon. Sir ARTHUR RYMILL: Yes. I have great respect for our Police Force, but occasionally one finds a black sheep, and this could happen during random tests where someone has a reason for trying to get a member of the public into trouble. I believe that random tests are unnecessary and that they would not be very revealing; indeed, they would be tremendously onerous and humiliating to the individual.

I turn now to the penalty for refusing a test. Undoubtedly there will be some people who will refuse a test on conscientious grounds. I have said before in this Council that I would not submit to a compulsory blood test. I do not know whether I would submit to a compulsory breathalyser test, but I would not like the idea. I suppose it is one thing to breathe into a balloon and another thing to have a needle stabbed into one's arm or leg. I do not like compulsory physical interference with people. It may be that other people are of the same opinion, or they may have even stronger ideas, and they may refuse a compulsory test on conscientious grounds even if they have had no alcoholic liquor at all. I am amazed to find that the penalty for refusing a test is 2½ times as great as that provided for a person who is guilty of the offence itself (I am speaking of a first offence). In other words, if a person is tested and his blood alcohol concentration is greater than .08 gram he can be fined a maximum of $100. However, if he refuses a test, for the first offence he can be fined a maximum of $250.

The same sort of proportion applies to the gaol penalty and to the suspension of licences. I realize that these are maximum penalties and that it is in the hands of the court to decide what the actual penalty shall be. However, I have had sufficient experience to know (indeed, one can hear magistrates and judges saying this every day) that in fixing a penalty less than the maximum the courts take into account what the maximum is and they assess the penalty accordingly. If the maximum penalty is $100 the court may say, "This case is only half as bad as the worst case", and fix the penalty at $50.

If the maximum is $250, on the same basis the penalty would be $125 instead of $50.

The Hon. Sir Norman Jude: How could there be any variation in penalty for refusing to take the test? You either take the test or you refuse.

The Hon. Sir ARTHUR RYMILL: I imagine there could be exonerating circumstances, such as those I have mentioned. If a man could persuade the court that he had conscientious beliefs against taking the test, he would probably be fined less than a person who would not take the test because he thought he might be over .08 per cent. There are all shades of variation in this and, like the Hon. Mr. Kemp, I would like time to consider an amendment to the clause. I thought it would be simple but I now realize that there is only a single penalty for this offence whereas there are three different penalties for first, second and third or subsequent offences for having an alcohol level of .08 per cent or over. I ask the Minister that, before this clause is dealt with, progress be reported to enable me to prepare an amendment.

The Hon. L. R. HART: I have a query regarding paragraph (*b*) of new subsection 47b, which states:

A person shall not . . . attempt to put a motor vehicle in motion while there is present in his blood the prescribed concentration of alcohol as defined in section 47a of this Act.

When is a person deemed to be attempting to put a motor vehicle into motion? This appears to be rather an ambiguous clause, and I should like the Minister to clarify it. I understand that in the past there have been convictions against persons attempting to drive a vehicle while under the influence of liquor merely by their sitting in the front seat of the vehicle. It could well be that a person might go to his vehicle and realize, possibly, that he could have more than the prescribed concentration of alcohol and decide that it might be a good idea to pause for a while, instead of attempting to drive the vehicle. He might well get into the front seat of the vehicle. In view of previous prosecutions, I believe that such a person could be prosecuted for attempting to put a motor vehicle into motion. I realize that we must be very firm regarding drinking drivers. Every country has this problem; in fact, in today's *News* appears an article headed "Stern United Kingdom road laws, Drinking driver to be blitzed." The article states:

London, Tuesday: British police will call "Time" on drinking drivers once and for all next month. From midnight on October 8 any man or woman who drinks more than 1½ pints of beer, or three small whiskies, drives at his or her peril. The penalty for exceeding this "drink limit" is automatic disqualification from driving for at least a year, a fine of $250, or four months' imprisonment, or both.

I realize that every country has severe penalties in relation to drunken drivers, but in this case I believe there should be some discretion used as to when a person is attempting to put a motor vehicle into motion. I should be pleased if the Minister could give an explanation of the meaning of this subclause.

The Hon. S. C. BEVAN (Minister of Roads): I consider that I could answer most of the comments on the Bill this afternoon, especially the one in relation to attempting to put a vehicle into motion, as this question was raised in the second reading debate. The Bill deals with a breathalyser test, and the reference to a person attempting to put a vehicle into motion is more or less self explanatory. He puts the key in the ignition lock, and if he turns the key, he comes under this provision of the Road Traffic Act, which this Bill does not alter. He could still be prosecuted under the provisions of the Road Traffic Act. This would not apply to any person merely sitting in a car, unless he were sitting in the driving seat of the car for the purpose of driving it, in which case the police could reasonably assume that, under the Road Traffic Act, he would be attempting to put the vehicle into motion.

As the Hon. Mr. Kemp has intimated that he would attempt to insert an amendment to clause 6 of the Bill, I consider that I would be obliging him and other honourable members, the same as they obliged me in the debate on this Bill, if the Committee were to report progress and ask leave to sit again.

Progress reported; Committee to sit again.

CONTROL OF WATERS ACT

Consideration of the following resolution received from the House of Assembly:

South Australia, *to wit*: *Proclamation by His Excellency the Governor of the State of South Australia.*

By virtue of the provisions of the Control of Waters Act, 1919-1925, and all other enabling powers, I, the said Governor, after the passing of a resolution of both Houses of Parliament of the said State approving of the making of this proclamation, and with the advice and consent of the Executive Council, do hereby declare that the provisions of the said Act shall apply to the watercourses specified in the schedule hereto.

THE SCHEDULE

(*a*) That portion of the River Murray which is situate between Mannum and the barrages at Goolwa, Mundoo, Boundary Creek, Ewe Island and Tauwitchere, including the waters of Lake Alexandrina and Lake Albert.

(*b*) That portion of Currency Creek extending upstream from the Goolwa or Lower Murray to the railway bridge adjacent to allotment 596 in the town of Currency Creek, hundred of Goolwa, county of Hindmarsh.

(c) That portion of the River Finniss extending upstream from the River Murray to the railway bridge adjacent to the south-eastern corner of section 2445, hundred of Nangkita, county of Hindmarsh.

(*d*) That portion of the River Angas extending upstream from Lake Alexandrina to Bagley bridge situate adjacent to section 8, hundred of Bremer, county of Hindmarsh.

(*e*) That portion of the River Bremer extending upstream from Lake Alexandrina to the north-eastern corner of section 2818, hundred of Bremer, county of Hindmarsh.

Given under my hand and the public seal of South Australia, at Adelaide this day of , 1967.

By command,

Chief Secretary.

GOD SAVE THE QUEEN!

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

That the resolution be agreed to.

The Control of Waters Act, 1919-1925, in force at present was originally assented to by State Parliament on December 17, 1919 (No. 1319 of 1919). It was modified by an amendment Act (No. 1693 of 1925) assented to on December 17, 1925. The purpose of the Act was "to provide for control by the Crown of the waters of the Murray River and other waters, and for other purposes". Section 3 (1) (*a*) applies to that portion of the Murray River (as defined) which is situated between Mannum and the eastern boundary of this State. Section 3 (2) indicates that the Act may be extended by proclamation. At present the Act does not apply downstream of Mannum.

Diversions along the river, both above and below Mannum, increased over the years to the point when, early in 1967, a sudden upsurge in private irrigation proposals made it quite clear that some limit to irrigation expansion would have to be imposed. Although diversions can be controlled above Mannum, any further uncontrolled development downstream will not only jeopardize existing plantings but will restrict future urban and industrial diversions. Diversions beyond a safe limit will lower the level of Lakes Alexandrina and Albert and seriously affect those divertees in the bottom reaches of the river. Additionally, in recent years there has also been considerable development of weekend shacks and the use of the river for recreational purposes, particularly downstream of Morgan and in those sections nearer to Adelaide. Pollution control is important, especially as regards proposed domestic diversions from Swan Reach, Mannum, Murray Bridge and Tailem Bend.

Section 12 of the present Act makes pollution of the river an offence upstream of Mannum. Any extension of the Act would automatically protect this aspect downstream. Effective control and utilization of South Australia's statutory entitlement of Murray River water cannot be achieved until the Control of Waters Act, 1919-1925, has been extended by proclamation to cover the full length of the river in this State. The proposed proclamation, which specifically deals with the Murray River, will not affect coverage of any other watercourse within any portion of the State under section 3 (2) of the Act, which can still be extended by proclamation relative to any such other watercourse.

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

PUBLIC ACCOUNTS COMMITTEE BILL

Adjourned debate on second reading.

(Continued from September 12. Page 1810.)

The Hon. R. C. DeGARIS (Leader of the Opposition): After a very close study of the need for a public accounts committee in South Australia and of the operation of such committees in the United Kingdom and elsewhere, I oppose the Bill. After having made that rather exhaustive study, I have reached the inescapable conclusion that such a committee would serve no useful purpose in this State.

In 1965, the honourable member whose name appears at the head of this Bill moved in another place that it was desirable that a public accounts committee be established in South Australia. After that motion was put on the Notice Paper, the Government introduced a Bill to establish such a committee on which the Legislative Council would have no representation and to which this Chamber would have no power to refer matters. When the Government introduced the Bill in the face of the motion already on the Notice Paper, the second reading was given but the Bill did not proceed any further, and this alone is something of which this Council should take note.

I do not think one need examine too closely the reasons why the Government did not proceed beyond that stage. The form of the Bill as introduced in 1965 and of the Bill now before us is, in my opinion, a further attempt to create a rift between the two Houses of Parliament in South Australia. This is a pattern that we have come to accept in the past two to three years as being normal. When this Council takes any action for which there are logical reasons, its action is always misrepresented to the public by certain Government spokesmen.

The Hon. C. R. Story: We have come to expect it, not to accept it.

The Hon. R. C. DeGARIS: That is quite true. I think we can also expect any attitude of this Council to be misrepresented. In 1959, the then Leader of the Opposition in the House of Assembly (Mr. O'Halloran) had the following motion before that House:

That in the opinion of this House it is desirable that a Public Accounts Committee be established to—

(*a*) examine the accounts of the receipts and expenditure of the State and each statement and report transmitted to the Houses of Parliament by the Auditor-General pursuant to the Audit Act, 1921-1957;

(*b*) report to both Houses of Parliament, with such comments as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the committee is of the opinion that the attention of the Parliament should be directed;

(*c*) report to both Houses of Parliament any alteration which the committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and

(*d*) inquire into any question in connection with the public accounts which is referred to it by either House of Parliament, and to report to that House upon that question.

I draw the attention of honourable members to the emphasis throughout that motion on the words "both House of Parliament", whereas the Bill now before us gives this Council no representation. Also, under the Bill the Council cannot refer any matter to the proposed committee.

Following the motion moved by Mr. O'Halloran at some length, the present Premier supported the motion wholeheartedly, making no mention of any need to exclude the Legislative Council.

The Hon. Sir Norman Jude: You are referring to Mr. Dunstan?

The Hon. R. C. DeGARIS: Yes. Mr. Dunstan in 1959 firmly supported the idea that both Houses of Parliament should be represented, that all reports should be made to both Houses, and that either House should be able to refer any matter to the committee. Why at this stage is it necessary to alter the original concept and completely exclude the Legislative Council, and why is it necessary to accentuate further this attempt to create a rift between the two Houses of Parliament?

This matter has been before one or other of the Houses of Parliament on not fewer than 16 occasions. It began in 1894 when consideration of the establishment of a public accounts committee was first before Parliament and it has been raised in one or other of the Houses of Parliament either as a Bill or as a motion. On some occasions a motion has succeeded but on no occasion has a Bill ever succeeded in both Houses of Parliament, although such Bills have been presented on several occasions.

The Hon. A. J. Shard: On the law of averages it ought to do so this time.

The Hon. R. C. DeGARIS: It is interesting to examine this subject because it cannot be attached to either Party. I make no point concerning politics, but on occasions motions have been passed in this Chamber recommending the establishment of a public accounts committee when there has been a Government of a different colour in office in another place. In those circumstances a Bill was not produced, so on both sides it appears to be what I might term an Opposition measure. No Government has ever produced a Bill when, in fact, it could have had an easy passage for such a Bill. As this matter has been before Parliament on so many occasions without succeeding, we should carefully examine the reasons why such a committee has never been appointed in South Australia.

If one follows the debates since 1894, one can see that one of the main reasons put forward for the establishment of such a committee in this State was that a similar committee operated in the House of Commons for over 100 years. This, one might say, was a fair precedent: that as such a committee had been operating in the United Kingdom for that time, it would be a good idea to establish a similar committee in South Australia. When the committee was appointed in the United Kingdom there was an intense desire to restrict

Government spending. The committee was formed to ensure that departments spent their allocations of money only as Parliament intended them to do. At that time appropriation accounts were not rendered by Government departments and accounting practices were not well organized. In such an atmosphere the committee soon established itself in a practical way in the United Kingdom. From 1836 until 1861, when the committee was formed, the Treasury recommended its appointment on many occasions so that it could assist the Treasury in its financial control.

My next point is more important: that at the stage I have mentioned there was no office of Auditor-General. In other words, the Committee at this stage assumed the role of the Auditor-General. In 1866 the office of Comptroller and Auditor-General was created, thus completing a circle of control through the committee and the Auditor-General. I believe that a most important point for this Council to consider when deliberating on the Bill is that the office of Auditor-General was created subsequent to the establishment of a public accounts committee. In Great Britain accounts are examined first by the Auditor-General's office and then the committee makes further inquiries on points raised by the Auditor-General. After that, a report is made to the House of Commons.

I think that at this stage we should examine the difference between the procedure in this State and that in the United Kingdom. Here we have an expert Auditor-General, who has power to call witnesses. Under the British system the Auditor-General has no such power and he has to use the Public Accounts Committee for that purpose. In other words, in Great Britain the Auditor-General could not function without the committee because the committee is clothed with the power that the Auditor-General has in this State.

The more one considers this matter in association with the growth and complexity of accounting procedures the more one wonders whether the United Kingdom Public Accounts Committee is still capable of doing its job, because it is composed of laymen. Matters have become so complex and specialized that interest in the committee is far less now than it was previously. At present the House of Commons committee consists of 15 members. Most of the work is done by the Chairman, with the help of possibly one or two members who attend meetings, and they work in conjunction with the Auditor-General. A study of this procedure will show that the Auditor-General is virtually the committee. In a book entitled "Control of Public Expenditure", published by Clarendon Press, Oxford, 1952, and written by a man called Chubb, the author said:

> There are, perhaps, two criteria—some relevant knowledge and experience, and service on the Committee—and it is certain that it takes two or three years before they can find their way about the intricate accounts.

One might be forgiven for wondering whether a system which regularizes the primitive accounts then prevailing is still capable of dealing effectively with highly complex and specialized accounting methods of 100 years later. Auditing techniques have advanced in step with accounting procedures but the Committee is still essentially composed of laymen. It is small wonder, then, in view of the complexity that interest in the work of the Committee is less than it was or that the main work is done by the Chairman and at most by one or two colleagues.

Chubb goes on to paint a very grim picture of falling attendances at the meetings despite increases in the size of the committee over the years. He notes a marked drop since 1945 when there was a record intake of 13 new members to that committee of 15. The falling interest since 1945 is interesting when one realizes that it coincides with a period of rapidly growing expenditure in Great Britain, not only on essential services but on such things as atomic development. Chubb also deals clearly with the role of the Auditor-General in that committee. He points out that the Auditor-General sitting in with the committee directs the questions and the proceedings before it. As I see the position, the United Kingdom Public Accounts Committee has the power to call and examine witnesses, but the Auditor-General frames the questions and guides the whole inquiry. K. C. Wheare in his book *Government by Committee* (Clarendon Press, 1955) also finds much difficulty in assessing the usefulness of that committee. Whilst much has been said over the years to the effect that the function of the committee is to ensure that the community gets 20s. worth for every £1 spent, Sir John Wardlaw-Milne told the Select Committee on Procedure:

> I do not think the Public Accounts Committee can, in any way, be said to examine expenditure from the point of view of getting value for money. The committee is mainly interested in the regularity of accounts, in assuring itself that money is spent as Parliament intended.

Surely, as things stand in this State, this role is already very well catered for by our office of Auditor-General? The Select Committee on

Procedure in the House of Commons virtually recommended that the roles of the Estimates Committee and the Public Accounts Committee be welded together. That means that they are coming to exactly the same system as we have operating in South Australia, where the Auditor-General is clothed with sufficient power to make his investigations and to report to Parliament. The concept of the Estimates Committee in the United Kingdom is that it should "criticize on the basis not of regularity but of economy and sound business principles". If we want to move into the field of another committee, surely the British Estimates Committee is the more appropriate committee to which we should be moving rather than that we should establish a committee the work of which is already being done effectively by the Auditor-General and in any case could not be done until after the Auditor-General had reported to Parliament, and the report of which to Parliament could not be made until 18 months or more after the actual expenditures had been made. Anyone viewing this question dispassionately must realize that a public accounts committee in our position in South Australia would not serve any useful purpose. The Select Committee on Procedure in Great Britain in 1946 concluded that "the functions of the Public Accounts Committee and the Estimates Committee would be better performed by a single committee".

As we have already an Auditor-General fully furnished with the powers of the Public Accounts Committee and the Auditor-General of the United Kingdom, surely this means that before we consider a public accounts committee we should examine the case for an Estimates committee ahead of the case for a public accounts committee, which would look at financial matters and report *post facto?* In any case, how shall we impose some sort of lay control over the intricate work of the Auditor-General? Further, the Auditor-General is an officer responsible to both (and I emphasize "both") Houses of Parliament. After he has extracted the information that he requires, it is published in the Auditor-General's report and any information that any member of Parliament requires can be had from that report.

I intend to leave the consideration of the United Kingdom system there. It has been in operation for over 100 years but, if we study it, we can see the great difference between its development in Britain and the system we have in South Australia; that there is at the moment a lack of interest in the United Kingdom Public Accounts Committee, and the future possibility that it will become part of the Estimates Committee, the work of the Public Accounts Committee being done completely by the Auditor-General.

Turning from a comparison with the United Kingdom system, I think that probably one of the saddest commentaries one can make on the value of such committees, working as they are *post facto,* is that the Commonwealth established such a committee in 1913. With a much bigger Parliament and much higher expenditure spread over the whole of Australia, there may be some case for the establishment of a public accounts committee, although I am doubtful even there. But in 1932 the Scullin Government, as an economy measure to save £3,000 a year, abolished the Public Accounts Committee. If that is not a sad commentary on the value of such a committee, I do not know what is. At a time when Australia was in the depths of a depression one would think that any saving that could be made would be valuable, yet a committee that was supposed to see that we got 20 shillings' worth for every pound spent was abolished by the Scullin Government in 1932 as an economy measure to save £3,000 out of a total expenditure of £70,000,000. Also the Commonwealth Public Accounts Committee has always included Senate representation. Apart from those factors, what is the physical ability in a small House of 39 members to achieve anything effective by operating a public accounts committee? I ask honourable members to bear this in mind when they consider this matter. There are 39 members in the House of Assembly, including six Ministers, one Speaker, one Leader of the Opposition, two Whips, one Deputy Leader, one Chairman of Committees and one Deputy Chairman.

The Hon. S. C. Bevan: Don't you think one Leader of the Opposition is enough?

The Hon. R. C. DeGARIS: There are not two, are there? There are also members serving on various committees.

The Hon. S. C. Bevan: Who initiated this?

The Hon. R. C. DeGARIS: It was initiated in a Bill prepared by Mr. W. F. Nankivell, M.P., subject to some amendments with which I intend to deal. First, I oppose the establishment of a public accounts committee irrespective of where it comes from. It would not serve any useful purpose in South Australia. Secondly, I am totally opposed to what I believe this Bill contains. Its purpose at this stage is to cause a rift between the two Houses of Parliament by the complete exclusion of

this Council from representation on the committee and our not being allowed to refer any matter to that committee for consideration.

The Hon. S. C. Bevan: Now we are getting to the kernel of the opposition.

The Hon. R. C. DeGARIS: It is not that. I am opposing the Bill on two grounds: first, that it serves no useful purpose and, secondly, that it is an insult to this Council as at present drafted.

The Hon. Sir Arthur Rymill: And deliberately so.

The Hon. R. C. DeGARIS: Yes. I turn now to the question whether the proposed committee is practicable. Practically all members of the House of Assembly are already involved in important duties in relation to the House and to important established committees. A public accounts committee would only make less effective the work of committees already established.

In a small House there is every opportunity for members to ask questions, to cross-question, and to speak on any matters that might be raised during meetings of this committee, if it were established. There are the avenues of the Address in Reply, the Estimates, the Budget and Question Time. The Auditor-General's Report, which I do not think could be improved upon (even by a public accounts committee) is usually tabled in the House by September, and the Government can be questioned on it. As I pointed out earlier, a public accounts committee could not start work until the Auditor-General's Report had been tabled, and possibly there would be no debate until nine months after that time.

All the information that could come from such a committee is available at present. What more could it accomplish? Clause 10 provides power for it to summon witnesses and to compel the attendance of witness and the production of documents. A very eminent gentleman, Mr. Harold Wilson, the Prime Minister of Great Britain, has said:

The Public Accounts Committee of the United Kingdom is the only blood sport now permitted in the United Kingdom.

I remember talking to a prominent person who said that he was more than embarrassed by the questioning of top public servants during Public Accounts Committee sessions; he told me that he thoroughly agreed with the view I have just quoted. Any person who casts his mind back and considers what can happen in respect of such a committee cannot help agreeing with this view.

I turn now to the question that was raised by interjection by the Minister of Roads. I make no bones about it: if the Bill provided that the Legislative Council should have representation on the committee and that this Council could refer matters to the committee, I would still oppose it, because I do not believe it would serve any useful purpose in South Australia. However, the Bill comes to this Council with any mention of the Legislative Council deliberately removed from it. I believe that this is specifically designed to embarrass and discredit the Council; such attempts have been made over the last two years as stepping stones toward the abolition of the Council and toward absolute power in South Australia. I am certain that this Bill is part of such a design.

This Council's attitude has been misrepresented to the people of South Australia on several occasions. In my opinion, irrespective of what the Council does with this Bill, its attitude will be misrepresented in the publicity that follows. In an article in the Messenger press, the Premier recently said:

Since the present Government was elected to office in 1965 with 58 per cent of the total vote throughout the State, the Legislative Council has:

Thrown out the Government's proposals for electoral reform designed to end the rigging of electoral boundaries—the main policy on which we were elected in 1965.

Refused to pass the Restrictive Trade Practices legislation asked for by their fellow Liberals in Canberra and designed to promote fair trading.

Rejected proposals (for which the Government had a mandate) to lift the burden of succession duties off the ordinary widow and place it on the wealthy.

Thrown out the Family Inheritance Bill which had been recommended unanimously by the Judges and supported by the Law Society.

Attempted to block the Government's legislation for proper town planning in South Australia until public opinion forced them into accepting it.

Delayed the granting of land rights to Australia's indigenous people—the Aborigines.

Continually denied the Government its financial measures and then accused it of financial mismanagement.

I have no hesitation in saying that this is not the truth. This Council has been constantly charged with being obstructive to the will of the people, yet all this Council has ever done in the last two or three years has been to try to restrain the Government in its attempts to go beyond what is the will of the people.

I should like to deal with one of the measures referred to in this article, namely, succession duties. Does anyone believe that this Council

rejected the proposals for succession duties because it did not wish concessions to be given to widows and children, and because it did not want a rise in succession duties for wealthy people? I can quote cases where, under the succession duties legislation, the duties on very small successions were increased by over 200 per cent, and the duties on some very large successions were actually reduced. The reason the Council rejected this measure was that it did not do what the Government claimed it would do. I could go on and deal with the remainder of these accusations and show that they are untrue.

This Bill, which comes before us with any reference to the Legislative Council completely removed from it, is another measure that the Premier hopes to add to the list by which he misrepresents this Council's attitude to the people of South Australia. If one studies the history of such committees one must conclude that such a committee is not warranted here. Both Parties over a long period of years have been unwilling to establish this committee in South Australia when they have had the power to do so. As the Bill is framed at present I consider it is an insult to this honourable Council. I consider it has been designed, by amendment in another place, to be defeated in this Council.

I said at the outset that I oppose the Bill not because the Council has not been included in the committee but because I do not think it serves any useful purpose. But whatever happens to it in the Council, I am certain that the Premier will attempt once again to use this as a stick to beat the Council for having been obstructive. The arguments I have put before the Council show quite conclusively that a public accounts committee would serve no useful purpose to the State.

Second reading negatived.

ADJOURNMENT

At 3.52 p.m. the Council adjourned until Thursday, September 21, at 2.15 p.m.