LEGISLATIVE COUNCIL

Wednesday, December 11, 1968

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

QUESTIONS

FROZEN CHICKENS

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

Leave granted.

The Hon. L. R. HART: When the Minister of Agriculture recently attended a dinner arranged by the South Australian chicken meat industry he said that the State's chicken meat industry would make rapid progress so long as smart practices were curbed. One of the smart practices referred to concerned moisture content of frozen chicken meat. South Australia has been fairly free from this practice, but it is apparent that uniform legislation is needed if the industry is to be completely protected. Can the Minister say what progress has been made in obtaining uniform legislation throughout the Commonwealth regarding the moisture content of chicken meat?

The Hon. C. R. STORY: South Australia took a leading part in this matter of water content in chicken meat. In fact, it was Mr. M. R. Irving, the Deputy Director of Agriculture, who did most of the experiments which finally have been accepted by the other States. Also, our Parliamentary Draftsman was responsible for drafting the pilot legislation, which has been accepted by Victoria, the State that has perhaps by far the greatest need for this type of legislation. At present that legislation is being passed through the Victorian Parliament.

South Australia is quite prepared to introduce the same legislation into Parliament here with the object of controlling the amount of moisture in chicken meat. The principle, accepted by Victoria at least, concerns an uptake method of gauging the amount of water. This allows up to 8 per cent of moisture added. This would compare with the thaw method of 5 per cent, which has been used in regulations by Tasmania in the interim period. I assure the honourable member that legislation will be brought down as soon as practicable to this Parliament with the object of getting uniformity throughout the Commonwealth on an uptake method.

ANGASTON RAIL SERVICE

The Hon. S. C. BEVAN: Can the Minister of Roads and Transport say, in answer to my question of November 28, whether it will be possible for passengers to retain the return tickets used on the last journey on the railway line from Angaston to Adelaide before the service is discontinued?

The Hon. C. M. HILL: As requested by the honourable member, arrangements have been made for the retention of tickets issued for the last journey from Angaston to Adelaide.

CONTAINERIZATION

The Hon. A. M. WHYTE: Has the Minister of Agriculture, representing the Minister of Marine, an answer to my question of November 27 about containerization?

The Hon. C. R. STORY: My colleague, the Minister of Marine, informs me that, on the assumption that the honourable member is referring to containerization ships of the type that the Commonwealth Government intends to charter from Associated Container Transportation Ltd., port facilities capable of handling such ships are unlikely to be provided in Port Adelaide until the following two conditions are fulfilled:

(*a*) Containerable traffic reaches a figure of at least 1,500,000 tons annually (it is only about 200,000 tons at present) and all of this is between South Australia and a specific destination—Tilbury or San Francisco. With this volume or traffic it would be possible to employ nine container vessels on an economically viable basis providing a direct service every seven days to Tilbury. (Such a service will obtain from Melbourne next March.) Fewer vessels would be needed on the North American run.

(*b*) A consortium of shipowners is prepared to make Adelaide its Australian terminal.

The Director of Marine and Harbors estimates that the type of facility required would cost about $15,000,000. A sketch plan is available on the notice board for the honourable member's perusal and the use of the

members of the Council. It indicates the type of terminal necessary to satisfy the first part of the answer to the question that I have just given.

WHEAT

The Hon. R. A. GEDDES: It was announced in the press yesterday that 212,000 tons of wheat would be sold to Japan in January and February next. Will the Minister of Agriculture use every avenue open to him to see whether South Australia will be able to supply a reasonable amount of this wheat in order to assist growers with their problems of grain delivery?

The Hon. C. R. STORY: I certainly will. I took some steps in the matter as soon as I saw the announcement to see that South Australia (without being nasty) gets more than its share. We are in a very precarious position at the moment, in that we have not had much shipping or many sales recently. This is a very important sale and I shall use every endeavour to see that we provide as much wheat as possible from South Australia.

BUS STOPS

The Hon. Sir NORMAN JUDE: I understand the Minister of Roads and Transport has a reply to my recent question about bus stops.

The Hon. C. M. HILL: The very few instances of buses not drawing in as close as practicable to the kerb at stopping places are now being brought to the notice of the Municipal Tramways Trust by the general public or by their own inspectors, but M.T.T. drivers are still experiencing some difficulty in this regard because of motor vehicles standing at or near bus zones. The trust will have its inspectors continue to pay attention to this matter with a view to ensuring that the regulations are observed.

KINGSTON BRIDGE

The Hon. M. B. DAWKINS: I seek leave to make a short statement prior to asking a question of the Minister of Local Government.

Leave granted.

The Hon. M. B. DAWKINS: My question is in relation to the proposed construction of a bridge over the Murray River at Kingston. There is considerable interest, particularly in the Upper Murray, regarding the construction of this bridge and also from the point of view of through traffic, which travels in large numbers to Sydney *via* the Sturt Highway. I know considerable preliminary work is still to be done, but I would be interested if the Minister could inform the Council what progress is being made in the construction of this very necessary bridge.

The Hon. C. M. HILL: Owing to the shortage of time before Parliament adjourns, the honourable member was kind enough to indicate to me that he was going to ask this question, and I have obtained the following information from the department: the specification for the construction of the river flat embankment is at present being prepared, and it is expected that work will commence early in the new year. Although the design of the bridge itself is in hand, it is not expected that bridge construction will commence before July, 1970.

WATER STORAGES

The Hon. M. B. DAWKINS: Has the Minister of Agriculture a reply to the question I asked on November 21 regarding further water storages in the streams adjacent to and immediately north of Adelaide?

The Hon. C. R. STORY: My colleague, the Minister of Works, reports that the department has for many years been interested in all the major surface streams in South Australia and in many cases has carried out some degree of investigation as to their potential for development for water supply purposes. Run-off of streams in South Australia tends to be irregular, and it has become necessary to stabilize important areas of demand by the use of sure supply from the Murray River. Supplemental storages to these need to be developed both to provide maximum economy in water cost and to ensure the fullest development of our water resources.

Of the streams mentioned in the inquiry, the North Para and the Light are too irregular for development at the present time in relation to available alternatives. Development of the Little Para is under consideration and careful gauging of this stream is now being undertaken. This is particularly important as the Little Para obviously provides some intake to the aquifers of the North Adelaide Plain, and the total effect of development of this stream must be considered. At present higher priority is being given to development of the more reliable streams to the south, and the next dam to be recommended for consideration by the Public Works Committee and the Government will be at Clarendon on the Onkaparinga River.

CONSTITUTION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from December 4. Page 2965.)

The Hon. R. A. GEDDES (Northern): This is our land and we are the servants of the people of this land. As individuals and collectively we represent every person: the employer and the employee, the labourer and the artisan, the foreman and the farmer, the mother and the children, and the intellectual and the trauesman. We as the people's representatives have the right and the privilege to share in moulding in this Council the future destiny of the people of this State. How can Parliament now and in the future best do this? How can we adjudicate the needs of the people, of industry and of commerce to the best advantage of all concerned?

This Bill was introduced by the Leader of of Opposition in another place and it provides adult franchise for the Legislative Council. It is designed, as he has admiitted, as one of the steps necessary for the future abolition of this Council. The Bill contains a clause for a referendum, should the political climate be suitable in the future for the Australian Labor Party to go ahead with the abolition of the second House. As the Chief Secretary and the Hon. Sir Arthur Rymill have so ably explained, we cannot legislate for future Parliaments, and there is ample proof of this statement in the records of history. The Upper House was abolished in Queensland in 1922 and in New Zealand in 1950.

Therefore, if this Bill becomes law and if in future another Bill to abolish this Council is passed and the referendum clause is ignored, let us consider what type of Legislature the State will have. As I see it, there are three main types of Government in the world—the bicameral system, the unicameral system and the dictatorship. It is well known what form of Government dictators preside over, and in the unicameral system we have a cousin of a dictatorship. Because of the political system we have in South Australia, with only two main Parties representing the people, if there was only one House reviewing all legislation, the Government of the day would have immense powers to legislate for the good or for the detriment of the people.

The only way Parliament can legislate under these circumstances is for legislation to be laid on the table of the House for some months after the second reading so that the people can have time to discuss it and, if necessary, make representations to their local members. It may be necessary, as is the case in New Zealand, for many select committees to sift the evidence that the people present. Under this system the Party with the majority of votes on the floor must still have the final say. This Council recently had evidence of how a Select Committee can be undermined by the withdrawal of two of its members—two Opposition members. I refer to the Select Committe: on the Scientology (Prohibition) Bill. I do not imply criticism of those honourable members, nor do I imply criticism of the finding of the committee, but I do draw honourable members' attention to the type of circumstance that could occur if a State had a one-House system. If Opposition members decided not to serve on a Select Committee or if they withdrew after being appointed, then the Government members of the committee could bring decisions to Parliament that might not be in the best interests of the people.

As some political Parties insist on their members obeying the rules of the Party machine, this form of allegiance, without provision for a House of Review, would lead to bad government. We must not forget the ability of a single House to rig electoral boundaries, as was evident in Queensland, where Labor was entrenched apparently for all time until the Democratic Labor Party stuck to certain principles, which caused a split in the Party; it was then that the Labor Party in that State lost control. It is evidence of this type that causes me to brand a unicameral system as a form of dictatorship. The biggest problem of any member of Parliament who has any sense of responsibility is that of deciding how he should vote on important legislation, realizing his vote carries with it the future of the State, whether it concerns a major or a minor decision. It is his thinking, the work he does, that makes his decisions so important.

With a unicameral system the responsibility of each member of Parliament would be far greater than that of each member today, where a two-Chamber system exists. In our system time is available for debate, reasoning, and looking into arguments for or against legislation. It is possible for members to make up their minds far more easily than would be the case under a unicameral system of Government.

To sum up my opposition to a unicameral system, I consider that, with the political Party allegiance as it is, the possibility of ineffective Select Committees, the temptation

to rig electoral boundaries, and the fact that no great nation in the English-speaking world persevered with such a type of Government for long, is sufficient proof to me that the inherent faults of the system should not be entertained in this State. It is interesting to list briefly what happened to Parliament in Great Britain under the rule of Oliver Cromwell when he, by vote, in 1649 formed a one-House Parliament. In the Act of the Long Parliament appears the following statement:

> The Commons of England assembled in Parliament, finding by too long experience that the House of Lords is useless and dangerous to the people of England to be continued, have thought fit to ordain and enact . . . that from henceforth the House of Lords in Parliament shall be and is hereby wholly abolished and taken away.

Four years later in an instrument of Government delivered on December 16, 1653, the following words were read:

> That the Supreme Legislative authority of the Commonwealth shall be and reside in one person and the people assembled in Parliament.

Four years later again, a document called "Humble Petition and Advice", was delivered on May 25, 1657. An extract stated:

> That your Highness will for the future be pleased to call Parliament consisting of two Houses.

Three years later, in an extract from "Resolution of Convention Parliament (1 May 1660)" appear the words:

> That the Government is and ought to be by King, Lords, and Commons.

So in 11 years Britain experienced a dictator unicameral type of Parliament and, by the strength of persistent demands by the people, they won back the bicameral system that she still enjoys today—a Parliamentary system she gave to most of the colonies of her Empire, such as South Australia has enjoyed for 111 years. What of Great Britain today, with its hereditary House of Lords, a Britain governed by Labor with a large majority in the House of Commons? Parliament in Whitehall has agreed to alter the format of the House of Lords. The hereditary principles are to be extinguished by depriving the present hereditary peers of the vote and their heirs of the privilege of attending the House.

Under a two-tier system, only a working core of 230 who will be specially nominated will be allowed to vote, and the Government of the day will be assured of a 10 per cent majority over the combined Opposition peers, but not over the House as a whole because 30 crossbench peers will be given the vote to see that they do not vote according to Party lines all the time. As I interpret this, it means that the Government of the day can have a 10 per cent majority in the House of Lords, but so that the principles of a House of Review will be maintained the 30 members (which we could liken to Independents) will be free to exercise their voting rights as they see fit on each part of legislation presented to them.

According to the press, this reform has been welcomed by both Labour and Tory leaders in the House of Lords. They believe that this reform will give greater independence to that House and that it will be better able to oppose legislation initiated in the Commons. This move happened in Great Britian in November, 1968, initiated by Labour, whose grass roots originated from the chartist reform movements which, when Mr. Dunstan first became Premier of this State, he said he hoped Labor in South Australia would be able to adopt also. In Great Britain, there are reforms to make the second Chamber more effective; in South Australia, attempts are being made to introduce reforms to make the second Chamber less effective. There is much talk these days about one vote one value.

The Hon. S. C. Bevan: Do you say the second Chamber in Great Britain is being made more effective? It has been stripped of much if its power, and now it hasn't got a feather left to fly with.

The Hon. R. A. GEDDES: As I was saying, there is much talk these days about one vote one value, about equality, and about a one-class society, but where have we a practical demonstration of these principles when we pause to consider how divided the world is and, in fact, how divided our society is, with the friction of East versus West, of black versus white, of gentile versus Jew, of Socialists versus Capitalists and of management versus unions? How in practical politics can we ever achieve equality?

A recent cartoon in the *Advertiser* showed a man called Lane who was the leader of a group who planned to form a new Australia in Uraguay in South America. Lane is shown talking to a shearer whose knowledge of human nature is very limited, and as Lane tries to persuade the shearer to go with him to the new Utopia he says, "We will all share alike, all be equal, and live as happy as a turtle dove." The slow-thinking shearer replies, "But tell me, mister, who will do the washing up?"

This is how I relate the one vote one value and the adult franchise arguments on which this Parliament is wasting its time. "We'll

live like turtle doves" is the catch cry of those who advocate one vote one value, but under this philosophy who will do the washing up for the people of the State? In conclusion, I wish to quote some words that Churchill used when speaking against the unicameral system. He said:

When there is an ancient community built up across the generations, where freedom broadens slowly down, from precedent to precedent, it is not right that all should be liable to be swept away by the desperate measures of a small set of discredited men. One thousand years scarce serve to form a State, an hour may lay it in the dust.

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

INDUSTRIAL CODE AMENDMENT BILL (No. 1)

Adjourned debate on second reading.

(Continued from December 4. Page 2966.)

The Hon. F. J. POTTER (Central No. 2): This is a private member's Bill to amend the Industrial Code, and I think that little needs to be said in addition to what was put to the Council by the Minister of Agriculture in reply to the second reading explanation of the honourable member who introduced the Bill. I think just about all the points have been covered in the Minister's speech. All I want to say is that I think this is a Bill that is undesirable, and even if it were desirable I do not think it would work in the terms in which it is now drawn.

The jurisdiction of the Industrial Commission is governed by the definition of the word "industry" in section 5 of the Code, and this has been interpreted to mean that the commission can deal only with employers and employees. I do not know whether the honourable member who introduced the Bill can tell us whether or not this amendment is intended to mean that the commission can deal with independent contractors. In any case, I think this matter was well and truly thrashed out in this House during the last Parliament, when the House saw fit not to include provisions dealing with subcontractors.

I was puzzled by the use of the phrase "term and conditions", but I now know that this should be "terms and conditions". In any event, I would like to ask the honourable member: how can restrictions on independent contractors, if that is what is intended, affect the terms and conditions of employment in any industry? After all, these terms are laid down by the particular award. Also, I do not know what is meant by "indirect" in the phrase "the direct or indirect use of labour". Does this relate to the indirect use of labour of persons not covered by the award? It is a mystery to me exactly what those words mean. It is possible that such a provision could even prevent the purchase of a completed article.

I think the Minister in his reply to the honourable member mentioned disputes that had occurred between plasterers and builders' labourers in the past. It is true that these particular disputes were common a few years ago. How would the new paragraph the honourable member wants inserted affect this position? If I remember correctly, I think it was the plasterers who in these disputes contended that they should have exclusive rights to fix certain ceilings, while the carpenters and certain sheet metal workers thought it was their right to do this. Would this new paragraph enable plasterers to insert a provision in their award prohibiting the ceiling work or whatever it was (I think it was suspended ceilings) from being done by any person not subject to the plasterers award? I think it could do this, and if it could and the right was exercised would we not then get a situation that the carpenters would also want a similar provision inserted in their award? In those circumstances, where would we go from a situation like this? It is impossible to say. I think the honourable member's suggested amendment is quite impractical. I oppose the second reading.

The Hon. D. H. L. BANFIELD (Central No. 1): I support the second reading. As we all know, this Bill gives jurisdiction to the commission to include in any award provisions specifying that the terms and conditions of employment in any industry to which the award relates shall not be adversely affected by the direct or indirect use of persons who were not subject to an award. Out-workers were not subject to that award. We have heard from time to time over the years how well the unionists have behaved in this State and what good relations exist between employers and employees. The trade union movement has even received recognition by the Government, which has expressed its appreciation of the way in which trade union leaders in this State bear their responsibilities. The trade unions in this State have been reasonable compared with those in other States, but the time is fast approaching when the trade union movement will have to take stock of the treatment it receives from the Government in industrial matters. It is all right for the Government to say, "Let us be

reasonable in all these things". Fair enough, but the trade union movement has been reasonable for many years, and this amendment will prevent certain malpractices now taking place in industry.

For example, in the clothing industry many employers are attempting to put machinery into the homes of certain people who indicate they are unable to attend a place of work. They are not subcontractors—they are outdoor workers, and, because of a recent decision by the commission, employers will now have an opportunity to flout the award even more than they have done in the past, when there has been some control over such things. If it was laid down that these people could be given only a limited amount of work that they could do within only 40 hours a week, this would stop the employer from taking work to people's homes that causes them to work 80 or 90 hours a week, as the output would be known, and we would know whether those people were working at least within some limits in accordance with the award. However, as a result of that decision, that provision does not hold water. A way of overcoming that difficulty is the stopping of unscrupulous employers from breaking down working conditions for which the trade union movement has fought for many years. After all, this Council and this Parliament have from time to time expressed their confidence in the commission's being able to handle matters; the inclusion of this provision will allow the commission to investigate these matters and, if it is satisfied that something along these lines is necessary, it will be able to act accordingly. It does not say that the commission is compelled to put anything into an award: it allows it to look at the matter and decide for itself.

The commission is in a better position than are the members of this Council to decide what is best for industry. If it was not in a better position, we would not need the commission; we would have all wages and working conditions fixed by Parliament, but we have a commission to adjudicate on these matters, and rightly so. That is all this provision does, and I ask honourable members at least to allow the commission to look into these matters so that it will not in any way affect the friendly relations at present existing between employers and employees. If the court can adjudicate on the matters, we shall continue in the same harmonious way as we have in the past.

The Hon. A. F. KNEEBONE (Central No. 1): I think the Hon. Mr. Banfield has answered many of the points raised. The Hon. Mr. Potter said that this could affect subcontractors. That may be so but, as the Hon. Mr. Banfield has said, we are most concerned about working conditions. I indicated three clear cases where employers had used people outside of direct employment to flout the provisions of an award. That is not mere fancy—it really happened. We are examining this situation and trying to cover it, and are attempting to put into the Industrial Code a provision that will give the commission power to do something about this.

The Minister representing the Minister of Labour and Industry in this Chamber has said that the Industrial Code now covers outworkers. That is a play on words, as often happens: there is a provision in the Industrial Code for out-workers but it has nothing to do with their working conditions. It provides that a record shall be kept and that they have to be registered. Despite the fact that a record must be kept and that out-workers must be registered, the commission had no power to do anything about their wages. To imply that the Industrial Commission does have such power is a phoney argument. Section 167 of the Industrial Code provides:

> The occupier of every factory shall make and keep for the prescribed period a record of the names and addresses of the persons employed therein, and also the age of every such person under the age of twenty-one years, and shall produce such record whenever demanded by an inspector.

That refers to the persons working in a factory. Section 168 (1) provides:

> Every person who, outside a factory, wholly or partly prepares or manufactures, either directly or indirectly, any article for the occupier of a factory for trade or sale, shall register with the Secretary for Labour and Industry his full name and address, and any change in such name or address from time to time.

Then there is a penalty of $50 if he does not do that. Subsection (2) of that section provides:

> Every such person shall answer all questions put to him by an inspector—
> (*a*) as to the person for whom the articles are being prepared or manufactured;
> and
> (*b*) the price or rate to be paid to him therefor.
> Penalty: Fifty dollars.

Section 169 provides:

> (1) The occupier of every factory for whom any person, outside such factory, directly or

indirectly, and either wholly or partly, prepares or manufactures any article for trade or sale, shall within seven days of such person commencing to prepare or manufacture any such article notify in writing the Secretary for Labour and Industry the full name and address of every such person and shall also keep in the prescribed manner a record of—

(*a*) the description and quantity of the work so done by such person;

(*b*) the name and address of the person.

(2) Such record shall be kept for the information of the Secretary for Labour and Industry, the inspectors, and such persons as may be so authorized by awards or orders of the commission or a committee, who shall be entitled to inspect and examine such record at all reasonable times.

That is all it does. What on earth do they keep a record for? It does not do any good. The commission does nothing about wages, as the Minister has told us, but, when that was put in there, there was evidently an idea that the commission had some power. That provision was not objected to because it was thought that the commission had power to deal with out-workers. In Victoria there is a provision for fixing a price for piece-work for the person who is an out-worker. This happens in other States, too. I have been informed that it happens in New South Wales. These are the simple things we are seeking, but some people think there is a bogy man behind every shadow.

The Hon. G. J. Gilfillan: Isn't this a very wide provision?

The Hon. A. F. KNEEBONE: It is the only way it could be worded. I have had advice from the Parliamentary Draftsman on this. True, it is a wide provision and, as the Hon. Mr. Potter said, it could be interpreted to refer to subcontractors. Today, because of their greater use, these people are more than ever being termed subcontractors. Whereas before they used to be paid piece-work rates, employers say today (as they do in the building industry) that a certain job must be done. An employer might say, " A parcel of these things must be done and this is the price you will get for it". The contractor will not say that the work is to be done at piece-work rates but will tell a man the price he will receive for doing the work. Such a man would do only the labour, as everything else is provided. In my opinion, although termed a subcontractor, such a man is an employee. Instead of a contractor saying to him, "You are working a 40-hour week and you will do these houses in those hours. We expect you to do house a week and if you do not keep up to that we will have to get someone else", he is now told, "The price for your labour for these five houses will be so much. You can work for as long as you like to do it, but we would like the work finished next Saturday week." Then, the man must work Saturdays and Sundays, sometimes for 90 hours a week, to receive the price offered and thereby earn the equivalent of a weekly wage. Then the contractor says that he is no longer an employee but a subcontractor. That is what happens to the outworker. He is told, "Here is a bundle of work. You will do it not in our factory but at home. You can take as long as you like to do it."

The Hon. G. J. Gilfillan: Wouldn't the word "indirect" mean nearly anything.

The Hon. A. F. KNEEBONE: That may be so, but he is an indirect employee because he is not working in an employer's factory. These are the subterfuges that are put across to make these men subcontractors. I believe it is feared that a subcontractor could be regarded as coming within this clause. The man who applies to drive a truck for a carrying firm might have little money. The firm sometimes says to him, "We will not employ you but we will make you a subcontractor and assist you to buy a truck from us on hire-purchase." Such a man would then work on that basis. Unfortunately, however, he would not get home very often to see his family, and he would not have time to carry out the necessary maintenance on the truck, as a result of which the truck could not be handled properly and accidents would occur. This sort of practice is creeping into nearly every industry that one can think of where work is being done on a subcontracting basis. In my opinion, however, these people are not subcontractors but employees.

If honourable members think the clause goes too far, the matter is in their hands. I am merely trying to introduce something that will give to the Industrial Commission power to bring control into this matter, as the lives of people are being endangered because employees are not regarded as such by some people. The Industrial Code does not go far enough to cover them. Such persons work under conditions not properly regulated by industrial legislation such as workmen's compensation, and other factory rules do not seem to apply to them. Although the Industrial Code provides that such people must be registered, I believe many people are escaping the provision and are not registering these so-called subcontractors, in which case the Department of Labour and Industry does not know they exist.

This means that that small avenue of control is lost and, looking at the position in regard to industrial safety, I have yet to see how a home can be described as a factory. Certainly, the code provides that a worker must be registered but, as the Hon. Mr. Potter and the Minister have said, it does not control their employment or conditions.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Jurisdiction of Commission."

The Hon. G. J. GILFILLAN: In its present form, this clause appears to go too far, particularly in the use of the word "indirect". I realize that this is the principal part of the Bill. However, I could not support this clause because, although the mover of the Bill has given quite a detailed explanation, the words used could be read to apply to almost anything and to include almost everyone.

The Hon. A. F. Kneebone: This is only giving power to the commission to deal with it.

The Hon. G. J. GILFILLAN: I cannot accept the clause in its present form.

The Hon. F. J. POTTER: I oppose the clause because, in some ways, it is difficult to interpret and it would be impossible to know what would be its practical effect. As I was not present when the Hon. Mr. Kneebone replied on the second reading, perhaps he could tell me what is meant by the term "the indirect use of labour". I do not know what it means: it is very wide. If we passed the Bill in this form I would be very worried about its implications. It is important that honourable members should clearly know what they are doing.

The Hon. S. C. Bevan: You have no confidence in the commission?

The Hon. F. J. POTTER: I did not say that. I want to know what we are giving the commission to do. We must know what this clause is intended to cover. I certainly oppose the clause.

The Committee divided on the clause:

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

Noes (11)—The Hons. Jessie Cooper, M. B. Dawkins, R. A. Geddes, L. R. Hart, C. M. Hill, H. K. Kemp, F. J. Potter (teller), C. D. Rowe, V. G. Springett, C. R. Story, and A. M. Whyte.

Pair—Aye—Hon. A. J. Shard. No—Hon. G. J. Gilfillan.

Majority of 8 for the Noes.

Clause thus negatived.

Title passed.

Bill reported with an amendment. Committee's report adopted.

The Hon. A. F. KNEEBONE moved:

That this Bill be now read a third time.

Third reading negatived.

LOCAL GOVERNMENT ACT AMENDMENT BILL

The Hon. C. M. HILL (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934-1967. Read a first time.

SWINE COMPENSATION ACT AMENDMENT BILL

Second reading.

The Hon. C. R. STORY (Minister of Agriculture): I move:

That this Bill be now read a second time.

Its purpose is to give effect to the wishes of the pig industry (as expressed by deputations to the Minister of Agriculture from the United Farmers and Graziers of South Australia Incorporated) to provide the Agriculture Department with funds to enable it to establish a pig research unit at the Northfield research centre. This unit will provide facilities for conducting research into diseases and nutritional disorders of pigs as a basis for future extension activities by the department in connection with the pig industry.

A total of $50,000 is required to construct, equip and stock the centre, and plans have already been prepared for this purpose. In addition, the industry representatives have agreed to the annual allocation from the fund of an increased amount of $10,000 in lieu of the present allocation of $5,000. This will assist in staffing the research unit and cover contingent expenses.

The research unit will provide facilities for the isolation of pigs undergoing tests and for the study of obscure problems of pig health associated with infective and nutritional factors. The unit will be run by the staff of the Northfield Research Centre under the technical supervision of officers of the Animal Health Branch of the department. Clause 2 amends section 12 of the principal Act so as to provide for the payment out of the Swine Compensation Fund of the sum of $50,000 to establish a research piggery to be conducted by the Agriculture Department. It further provides that after the first day of July, 1969, a sum not exceeding $10,000 per annum may be expended

from the fund for research and investigation into swine diseases. The amount previously authorized to be expended was $5,000 per annum.

In addition, I add that I have agreed that the pig industry shall be properly represented on an advisory committee to be established to assist the department in research work. It is not possible for me to include details of that proposal in this Bill at present, but I give an assurance that such a committee will be established and that members of the pig industry will be properly represented on it.

The Hon. M. B. DAWKINS (Midland): I support the Bill, which has the laudable object of establishing a research piggery to be conducted by the Agriculture Department at Northfield. We have been in the habit of thinking that the swine compensation fund contains $200,000 or $250,000, so when I saw the allocation of $50,000 from the fund it seemed to be a very considerable allocation, even though it was for research. However, I have since ascertained that the fund now contains more than $400,000, and I am informed by the President of the pig section of the United Farmers and Graziers of South Australia Incorporated that the fund has increased considerably because this Council four or five years ago passed the Branding of Pigs Bill, which resulted in diseases being traced. Consequently, the calls on the fund have been considerably reduced—the value of the calls is now only half what it used to be.

The pig breeders of this State are far better organized than are most other stockowners. The stud pig society has about 180 members, and I was informed today that the deputation that recently saw the Minister on this matter represented, as well as stud breeders, between 3,000 and 3,500 commercial breeders. Several men are on both stud and commercial breeders breeders' committees. When these men go to the Minister to ask for something they know that the bulk of their members are behind it. Having ascertained that this Bill meets the wishes of the pig breeders of this State and having ascertained that the swine compensation fund is in a buoyant position, I have much pleasure in supporting the Bill.

The Hon. L. R. HART (Midland): I, too, support the Bill. The emphasis today is on research, but research is very costly. At present South Australia has 14 research stations doing research into various aspects of agriculture. The net cost of these research stations in 1967-68 was $349,129. It must be remembered that some research stations do return some income; from these 14 research stations in 1967-68 receipts totalled $141,163 and payments totalled $490,292. The projected pig research station will not make any direct return to the Government, but the indirect return could be very great indeed.

Pig breeding today is a highly technical business and is carried on intensively. In all intensive breeding projects animals are very vulnerable to disease, so we should carefully consider the question of disease, particularly nutritional disorders. We should also look at the question of nutritional values. There is a need today for a high food conversion rate in the feeding of all animals if the industry is to be on an economical basis, so the research station should look at these matters. When we were dealing with the cattle compensation fund last year there was some criticism. Honourable members in this Council expressed the fear that the cattle compensation fund might be depleted to a degree where there would not be enough money in it to pay adequate compensation if a disease broke out. However, some safeguards were provided in that Bill. In this Bill there is no great fear that the swine compensation fund will be depleted to any degree, because at present it stands, according to the latest Auditor-General's figures, at $398,744. During the 1967-68 season the swine compensation fund received $82,590, whereas payments from it were only $31,892; so there is a net improvement in that fund of about $50,000 a year. The Bill seeks to take only $50,000 from it to set up the research station and after that a yearly payment of $10,000 from the fund.

With these payments the fund will continue to increase and with this research station the prospect of having an outbreak of disease should lessen, so there is no fear that the swine compensation fund will be unduly depleted. There is much merit in establishing this research station, and it has the blessing of the pig industry. I support the second reading.

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

COMPANIES ACT AMENDMENT BILL

Second reading.

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

It amends the Companies Act, 1962-1966, to provide for a situation which is peculiar to South Australia. Part X of the Companies Act, 1934, originally made provision for companies constituted and regulated by deeds

of settlement, such deeds of settlement being the constitution of those companies which correspond with the memorandum and articles of modern companies. In particular, that part empowered companies so constituted and regulated to substitute a memorandum and articles of association for the deed of settlement. When the Companies Act, 1934, was repealed by the Companies Act, 1962-1966, no provision was made for the alteration or substitution of deeds of settlement and the existence of a few (at least three) companies was overlooked. No companies had been constituted pursuant to deeds of settlement in other States so the same problem does not apply to them.

These companies therefore have no power to substitute a memorandum and articles of association for the deed of settlement, nor have they statutory power to alter their constitutions. The Bill will enable a company incorporated by a deed of settlement to bring itself into line with other limited liability companies in South Australia by substituting a memorandum and articles of association for or altering its deed of settlement.

The Hon. F. J. POTTER (Central No. 2): I support the second reading, and the brief explanation given by the Minister makes it abundantly clear that it is necessary to include this provision in the Companies Act. I see no reason why the Council should delay the progress of the Bill.

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

PUBLIC SERVICE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 10. Page 3110.)

The Hon. A. F. KNEEBONE (Central No. 1): I am pleased to see this Bill presented because earlier in the year I noted that, through an omission from section 126 of the Public Service Act, some people were being deprived of long service leave. Although others had been paid such leave in a lump sum on a pro rata basis, this omission was discovered and long service leave payments were then stopped. I expressed my concern and, as a result, the Chief Secretary promised to examine the matter. Later, he told me that this matter had been investigated and that the Government was prepared to take action to rectify the position. The Bill does this, and I notice an amendment on file clarifies the position relating to people to whom such long service leave shall apply. I support the second reading, as well as the proposed amendment.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Application of certain provisions of Part III to certain employees."

The Hon. C. R. STORY (Minister of Agriculture): I move:

In new section 126 (1) (*c*) after "Officer" second occurring to insert "as if the service of that person in that employ were service as an Officer".

These words were inadvertently left out when the Bill was prepared.

The Hon. A. F. KNEEBONE: This clarifies the situation in that it indicates the person to whom the long service leave is to be granted. I support the amendment.

Amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

CROWN LANDS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 10. Page 3110.)

The Hon. A. M. WHYTE (Northern): The most important provisions of this Bill are the ones that repeal sections 31 and 220 of the principal Act. I think it is 70 years since limitations were first placed on leasehold land. In 1966 the then Government imposed a limitation which had so many anomalies and was so ridiculous that it caused even that Government a good deal of concern. I know this because of the number of interviews I had with the Minister at that time and the number of interviews I have had since then.

The limitation imposed was 4,000 acres, and in many areas of the State this had the immediate effect of impeding progress. It was most obvious that some of the land that was lying undeveloped at that time could be developed only by those people who had the necessary know-how, who lived close to it, and who had the type of equipment and the backing to develop it. However, although in some instances they had made a start on areas of land held on a miscellaneous lease, when this limitation was imposed they found that there was no point in their proceeding with development, for they were faced with the position that because of the limitation they could not obtain this land under perpetual tenure. Therefore, I believe that irrespective of what Party had been in power this 4,000-acre restriction would have been reviewed and lifted.

The only question that will enter some people's minds is the one raised by the Hon. Mr. Bevan. Although the honourable member did not say so directly, I consider that he perhaps thought we were moving from the ridiculous to the sublime and that the limitation could have been greatly raised without its being waived altogether. When a limitation is lifted, how far should it be lifted to make it effective? Then, having lifted it to that point, is there any point in having a limitation at all? I think this is perhaps the way in which the Minister and the department viewed this matter, realizing as they did (and as I am sure most people do) that the limitation was unfair, that it would not work, and that it had created so many anomalies that it had to be altered. They were faced with the question of whether they should double the limit, treble it, or go even further, and whether the anomalies would be overcome whatever limit was reached. Finally, a decision was made to waive the limitation altogether.

I believe this is the correct move, so I am prepared to support the Bill in its entirety. I know that some questions have been raised about whether we are creating hardship for the small landholder, and whether the big landholder will become bigger and acquire all the land. I do not think there is much foundation for this belief, especially when we consider the price of freeholding today and the fact that we already have 16,000,000 acres of freehold land which has not been aggregated to any great extent. A person wishing to take up leasehold land with the idea of freeholding would be faced with the position of having first to obtain this leasehold land. He would then have to pay for the goodwill involved and the cost of its development, and then he would also be faced with having to pay the Government for the right to freehold it. Of course, if anyone had that amount of money I do not see why he should not do that.

I do not think there is any great concern about undue aggregation. We know that for the economy of the rural industry in general some aggregation has to take place. This has been pointed out by a number of our eminent politicians and economists throughout the Commonwealth. They have advocated that some holdings are too small and that the industry to which they belong would be better served if some of these very small holdings were to be grouped.

As a matter of fact, New South Wales has legislation to assist in these aggregations. Whether we need that I do not know. It is not an argument I want to embark on now but I do know that the industry is facing a period when aggregation is becoming a necessity in some cases. Whether or not we like it, the industry will have to face it. Rather than legislate for aggregation or acquisition, I believe that, given time and the lifting of this limitation, most of the industry will be much better off. There is not much point in attempting to assist a person forever if he is in such a position that he cannot eventually make his property pay. We know that in many facets of primary industry today capital investment shows a profit of only 1 per cent (at best, throughout the State in the pastoral areas, something like 3 per cent) so that people like doctors and lawyers who, we have been told, dash off to invest money in the country to dodge taxation, are today finding that, although that served its purpose for them to some degree and developed a lot of land, it was not a very profitable venture.

All these points add up to what I consider to be a wise move by the Minister of Lands and his departmental chiefs. I hope that, when this Bill is passed, as I have no doubt it will be, we shall soon also review some of the anomalous rents being charged for country that could easily be left undeveloped in the State—first, because of this limitation placed on these areas and, secondly, because of the exorbitant rents being charged on miscellaneous leases.

The Hon. C. D. ROWE (Midland): I support this Bill because, in my opinion, it is liberal legislation. I congratulate the Minister of Lands and the Government on providing this solution to the problem. Over the past years we have tried to look after the situation by gradually increasing the value of the income from Crown leasehold land that a person may receive; then we looked at it from the point of view of the area of land that could be owned, but none of those things provided the real answer. I had not thought of deleting entirely the provision as regards value, but it seems to provide a satisfactory solution that will work for the benefit of South Australia.

I have a philosophy about these matters. My first point is that I do not object to how much land a man owns provided he uses it adequately and develops it properly. I am, however, against people owning large areas of land and doing nothing about them merely for the purpose of getting a profit in the future. Secondly, we should not do anything that will stop people being attracted to develop areas still open to development in this State. This Bill

will assist in that connection. I know that hardships are being created at present where fathers cannot pass on their Crown leasehold lands to their sons or members of their family, either by transfer during their lifetime or pursuant to a will after their deaths, because of the present restrictions. That is most unfortunate. It is unreasonable that, where Crown leasehold land has been in a family for perhaps some 50 or 60 years, it cannot be passed on to a successor in the family because of these restrictions. This Bill will provide a solution to that problem. I sincerely hope it will result in bringing back Crown lands to some degree of parity with freehold land from the point of view of value and ease of transfer. I support the Bill.

The Hon. M. B. DAWKINS (Midland): I, too, congratulate the Minister on this legislation, which will enable a recovery of initiative and enterprise in the outer areas to take place where limitations have been in operation for some time. I support the waiving of the limitation of 4,000 acres in the Crown land areas. I have said previously in this Chamber that in many cases in the lighter and outer areas 4,000 acres is often not enough land for proper economic development. There are, of course, some areas were 4,000 acres is more than sufficient, but it would be safe and correct to say that these are mostly freehold areas, long established and not subject to this legislation. We have seen recently in the papers reports about aggregation. I believe this is largely a red herring. The Hon. Mr. Whyte covered this matter when he inquired how much of this had happened in the freehold areas. He also pointed out that any aggregation talked about rather loosely is certainly limited by the cost of freeholding land.

This Bill is a step in the right direction. I refer also to excessive rents charged for light land, because this restrains development when a man has to develop country and is limited by the amount of capital he has. If he has to pay too much rent, he is restricted in what he can do. This is another facet of the whole problem that the department should look at. I do not wish to delay the passage of this legislation, which is a step in the right direction. I repeat that all the talk about aggregation is largely a red herring drawn across the trail. Of course, the opposite extremes to which some people would probably subscribe are, first, undue subdivision by the farmers. There are freehold areas where little blocks of land have been formed by subdivision; people have been deluded into thinking they are buying a farm but in the result they are taking out of commission land which, if it was owned on broader acres schemes, would be good producing land. If we continue with undue subdivision, we shall reach the position of creating a peasant society. I have pleasure in supporting the Bill.

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Clause 9—"Repeal of s.31 of principal Act."

The Hon. S. C. BEVAN: I oppose this clause, which repeals section 31 of the principal Act. It is necessary that the Government retain some control over the 20,000,000 acres of Crown land which is at the moment held under lease and agreement. The deletion of this section will remove any control that the Government may have over that land, and such land could then be obtained by fee simple: it could be offered and could come up for freeholding. In spite of the arguments that have been put, I cannot see any justification for this, because there is already plenty of opportunity under the principal Act for a person to freehold. However, the price of the land, its productivity and its return would not justify freeholding and this has had a dampening effect. I cannot see why the Government should now relinquish any control it may have when, according to a statement made by the Minister when introducing the Bill, there is no demand for such a move.

As I pointed out then, the Minister contradicted himself because, having said that, he went on to say that pressure was being brought to bear to freehold. It could be admitted, on the one hand, that because of various factors there is no demand to freehold, but let us assume that there is a demand. The Minister will be under extreme pressure in future in relation to this 20,000,000 acres. The Government should retain some control over it and, for that reason, I oppose the clause.

The Hon. A. M. WHYTE: I cannot follow the Hon. Mr. Bevan's concern regarding the freeholding of this 20,000,000 acres. As I pointed out, such land would have to be acquired from the present owner, and application would then have to be made for it to be freeholded. This would mean, in effect, that a person would be buying it twice, and I do not believe that sort of money is available today.

The Hon. S. C. Bevan: Then will you tell me why it is necessary to strike out the section? You say it will not happen. If it will not happen, why repeal the section?

The Hon. A. M. WHYTE: Because the limitation cannot be lifted without striking out the section.

The Hon. S. C. Bevan: Well, the big man is able to aggregate land in big holdings.

The Hon. A. M. WHYTE: If there are little people about they should be happy to take advantage of these people. They could make their land available to the big people and thereby get large sums for their holdings. It will be good for industry if people can do this. Section 31 is closely tied with section 220, which is repealed by clause 43, and I think that is more relevant to the honourable member's argument.

Clause passed.

Remaining clauses (10 to 57) and title passed.

Bill read a third time and passed.

MENTAL HEALTH ACT AMENDMENT BILL

The Hon. R. C. DeGARIS (Minister of Health) obtained leave and introduced a Bill for an Act to amend the Mental Health Act, 1935-1967. Read a first time.

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

That this Bill be now read a second time.

When introducing the Revenue Budget for 1968-69 the Government indicated that it proposed to bring into effect charges for treatment and services rendered in mental hospitals. Accordingly, this Bill is being introduced. Its purpose is to amend the Mental Health Act to confer a regulation-making power for the fixation of charges for accommodation and maintenance provided or for treatment or services rendered at institutions.

Fees had been charged on account of patients in mental hospitals prior to 1949. In that year the Commonwealth Government introduced a scheme of maintenance grants that provided for the payment to the States of small sums to each patient each day on condition that the States did not levy charges on patients. The grant to South Australia was 10d. a patient a day. In 1955 the Commonwealth replaced that section with another, which provided instead for assistance towards capital projects in mental hospitals on the basis of $1 for each $2 found by the State. That scheme will remain in effect under present legislation until June, 1970.

The Australian community is generally of the view that there should now be no distinction between mental and physical illness, and that therefore the normal Commonwealth provision of pensions and support of hospital insurance should be available to patients in mental institutions as well as to patients in general hospitals and nursing homes. The Government holds this view strongly, and I believe that all other State Governments feel equally strongly about it. By direct approach from Premiers to the Prime Minister and through annual meetings of Ministers of Health, the case has been put to the Commonwealth many times that full social services and hospital and medical benefits should be available to patients of the mental health services, and that it would be practicable to achieve this aim by a succession of steps designed to spread the impact on the Commonwealth Budget.

I am pleased to be able to say that the Commonwealth has recently adopted a more liberal approach in the payment of age and invalid pensions to certain patients in mental institutions. However, on the matter of hospital benefits, the Commonwealth has remained unresponsive up to date. I think that there is an unanswerable case for the gradual introduction of a scheme of hospital benefits for patients in mental institutions, and it may be expected that all States will continue to press the Commonwealth to take a modern and realistic approach to the problem.

The Government believes that, despite the absence of hospital benefits, a procedure of moderate hospital charges should be introduced and that payment should be made by or on account of those mental hospital patients who are able to afford the whole or part of such charges. It is proposed that the maximum fee for inpatients should be $3.50 a day (or $24.50 a week). This would be about half the average daily cost of accommodating and treating a patient at Glenside, the least costly of our mental hospitals. Whereas the average daily cost at Glenside this year is estimated to be about $7.00, it will me about $8.00 at Hillcrest and probably about $15.00 at Enfield.

I stress that the proposed charge of $3.50 a day will be the maximum. The Government has had regard to the facts that hospitals benefits are not available and that the average length of stay in a mental hospital is greater than in a general hospital. It is realized that many patients will not be able to afford the maximum charge and that some will not be able to afford anything. I assure the Council

that the scheme will be administered with discretion and sympathy, that the reasonable needs of the patient and his or her dependants will be considered, and that a charge will not be made if it would cause hardship.

It is proposed that each case be considered individually, that a careful assessment be made of the amount it would be reasonable to charge in each case, and that this be the amount actually billed. This approach will be more convenient for the patient himself and also from the point of view of administration, rather than making the full charge initially with subsequent remissions being necessary. Clause 2 amends section 4 of the principal Act by bringing the definition of "institution" up to date in the light of the modern extended range of services being rendered by the mental health services.

Clause 3 repeals section 166 of the principal Act, which contains out-of-date provisions relating to the fixing and recovery of fees for the maintenance and treatment of patients, and in its place enacts a new section that confers on the Governor power to make regulations prescribing fixed or periodic amounts to be paid for accommodation and maintenance provided or for treatment or services rendered at any institution. The regulations may confer on the Director or a person authorized by him power from time to time to reduce or remit any part of any amount so prescribed, or vary any reduction or remission, in the light of the financial position or of any change in the financial position of the person by whom the amount is payable, and may provide for the recovery of funeral and other expenses incurred by the Crown in respect of any person who dies in an institution. New section 166 (2) provides that any amount charged to any person and calculated in accordance with the regulations shall be a debt due to the Crown and recoverable accordingly.

The Hon. S. C. BEVAN secured the adjournment of the debate.

PASTORAL ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 10. Page 3078.)

The Hon. A. M. WHYTE (Northern): This simple Bill does to the Pastoral Act what the Crown Lands Act Amendment Bill did to the Crown Lands Act inasmuch as it provides for granting a substantial lease to persons wishing to develop residential areas on unproclaimed land held outside council areas. People have selected sites on pastoral or leasehold country without secure tenure and they are building substantial dwellings, motels, etc., on an annual licence. I support the Bill.

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

HARBORS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from **December 10. Page 3091.**)

The Hon. G. J. GILFILLAN (Northern): I support the Bill. As the Minister said in his second reading explanation, many of its clauses make consequential amendments to the Act following amendments to the Marine Act, which has been considered by this Council. Also, some necessary drafting amendments take up a large part of the Bill. When speaking of jetties and harbour installations within a council area, the Minister said:

> Under the present provisions of the Act, any such structure would be vested in the Minister and he has no statutory power to transfer it to any other body, however desirable that might be. In fact, in the case of the Glenelg jetty, the present proposals are that the jetty should be vested in the council for the district, and consequently the Bill inserts a provision in the Act enabling the Minister to make such a transfer.

I support the principle outlined in that explanation. The relevant portion of the Bill is clause 6 (*c*) (3), which provides:

> The Minister may, by notice published in the *Gazette* declare that any such water or other reserve, jetty, pier, wharf or breakwater shall be vested in a council and thereupon it shall become and be vested in the council, and shall be under the care, control and management of the council and shall cease to be under the care, control and management of the Minister.

It is also subject to a part of the Local Government Act. I have a query brought about by an action of the Commonwealth Department of Civil Aviation regarding airports throughout the State. There seems to be a move afoot to persuade local government authorities to accept responsibility for airports, and that could involve some councils in much expenditure.

The Hon. S. C. Bevan: Is local government going to take over the building of the Glenelg jetty?

The Hon. G. J. GILFILLAN: As the clause is drafted, I consider that it gives the Minister (or a future Minister) power virtually to hand over to a council any jetty or pier no longer of use to the Harbors Board. Such action would involve a council in some expense in maintaining such a structure for the benefit of people using that facility. I would prefer a clause containing a provision necessitating the

consent of the council to such action. I hope this authority will not be used by any future Minister as a means of passing on responsibility. That could happen, because it has happened in another field, where some responsibility has been handed to local government, thus involving it in some expense. With those reservations, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"Control over waters and jetties, etc."

The Hon. G. J. GILFILLAN: Will the Minister reply to the matter I raised in the second reading debate?

The Hon. C. R. STORY (Minister of Agriculture): This has been inserted for a special reason. When the last Government was in power (and perhaps some people may say it over-generously endowed Glenelg with the rather large expenditure on a new jetty) an agreement was reached between the Government and the municipality. However, no power exists for the Minister to divest himself of such responsibility, which belongs to the Glenelg council under an agreement involving future care of the jetty. I do not see any danger in the Minister's being able to negotiate with local government, because it takes two to make an agreement.

The Hon S. C. Bevan: He does not have to confer; all he has to do is declare it in the *Gazette*.

The Hon. C. R. STORY: I do not believe the Minister has that power. The Minister may divest himself of it by means of a proclamation published in the *Government Gazette*, but he cannot tell any council that it has to take over a jetty: there must be an agreement.

The Hon. A. M. Whyte: The Commonwealth Government did that with airfields.

The Hon. C. R. STORY: No, it did not; in all cases the councils were given the opportunity of deciding whether they would take them over. The Commonwealth Government has offered those airfields free, with all improvements. If I am wrong about this, I should like honourable members to correct me. To my knowledge, plently of approaches were made to district councils but not accepted. District councils cannot be pushed around, for they are controlled by an Act of Parliament. Some councils have wanted this right in the past, but the harbours authority, particularly during the last three years or so, has chopped jetties in halves and left them hanging. No council has to accept anything under this provision.

The Hon. L. R. HART: Upon application to the Minister, the control of a jetty, wharf, breakwater or other facility would pass to a council. However, I assume that the ownership would still remain with the department. If the council to which control had passed was to effect capital improvements to these facilities, I assume that these capital improvements also would be the property of the department.

The Hon. C. R. STORY: No; once the proclamation is made, any facility would become the property of the council until such time as the proclamation was revoked by a vote of both Houses of Parliament.

Clause passed.

Remaining clauses (7 to 28), schedule and title passed.

Bill read a third time and passed.

EVIDENCE ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 10. Page 3078.)

The Hon. D. H. L. BANFIELD (Central No. 1): As the Minister said in his second reading explanation, this is a short Bill. Apparently a bit more palsy-walsy went on in another place, because this Bill is the result of an agreement between the Attorney-General and the Leader of the Opposition in another place. I think this Council should consider this matter, because it was responsible for introducing this provision in 1848 when there was only the one House: there was not another House to review this particular section. I think that had there been two Houses this provision for the whipping of an Aboriginal for wilfully making a false statement not on oath would not have been in the Act today.

It seems that in this respect the House of Assembly is leading the Legislative Council. I hope it is not leading it by the nose. People say that some members of this Council are heartless at times, but I think that today they have shifted their heartlessness from the Aborigines to some other section. Therefore, I suggest that they would agree with this Bill. I support it, and I know that my colleagues support it.

The Hon. F. J. POTTER (Central No. 2): I support the second reading. I agree that the penalty provided for a false declaration is in these days quite inappropriate. As this

provision is a relic of the dark ages, I think the Government is to be commended for removing it from the Act.

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

PARKIN CONGREGATIONAL MISSION OF SOUTH AUSTRALIA INCORPORATED BILL

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

The Hon. C. M. HILL (Minister of Local Government): I move:

That this Bill be now read a second time.

Its purpose is to bring the trusts upon which the Parkin Mission is established up to date. The Bill may fairly be said to reflect the growth of ecumenism amongst the Christian churches.

The mission was established by an Indenture dated September 14, 1887, by William Parkin, who settled land in Rundle Street on certain trusts providing, *inter alia,* for the payment of annuities to poor God-fearing widows and the appointment of missionaries to travel in the less settled districts of South Australia and in the Northern Territory. The Indenture contained a preliminary trust for the life of William Parkin, who died on May 31, 1889, and provided for the sum of £500 to be raised and paid out of rents and profits to each of the great nephews of William Parkin, when each attained the age of 21. These specific trusts have been discharged leaving the charitable trusts established under the deed.

The Indenture has been amended on a number of occasions—several times by virtue of powers of alteration contained therein and once by Act of Parliament. The present position is that the trusts of the mission no longer conform to modern requirements. The governors desire to bring the trusts up to date and have been advised that the best and safest means of doing this would be by Act of Parliament. The main purposes of the alteration to the deed made by the Bill are:

(*a*) to authorize participation in missionary work in the Northern Territory;

(*b*) to give legal authority for participation of the mission in activities conducted jointly with other denominations;

(*c*) to change the emphasis of the trusts from missionary work in remote places geographically to missionary work among particular sociological groups;

(*d*) to authorize the employment as missionaries of specialized workers such as social workers; and

(*e*) generally to widen the purposes for which the income of the mission may be applied.

The provisions of the Bill are as follows: Clause 1 is formal. Clause 2 repeals the Act passed in 1961 amending the deed of settlement. Clause 3 is an interpretation provision. Clause 4 amends the deed of settlement by substituting for the recitals and provisions thereof the provisions contained in the schedule to the Bill. This clause also contains saving provisions preserving vested rights and validating certain action that has been taken under the Bill without direct authority. Clause 5 provides for the payment of costs out of the funds of the mission.

The schedule contains the provisions that are to be inserted in the deed, as follows: Clause 1 deals with the arrangement of the deed. Clause 2 deals with interpretation. Perhaps the most important definition is that of "the mission territory", which is defined as meaning the State of South Australia, the Northern Territory and any other area that is declared by resolution of the electors to be mission territory. Thus, the area in which the mission is to operate is defined.

Clause 3 prescribes the qualifications of the electors. Clause 4 provides for the manner in which a meeting of the electors is to be convened. Clause 5 provides for the procedure to be followed at a meeting of the electors. Clause 6 deals with the qualifications and duties of the governors. They are the trustees of the funds of the mission. The clause provides that there shall be seven governors, of whom three are to be ordained ministers of the Congregational denomination and four lay persons of the Congregational denomination. Clause 7 provides for the election of governors. Clause 8 deals with casual vacancies occurring in the office of the governors.

Clause 9 prescribes the times at which the governors shall meet for the discharge of business and provides for the manner in which a meeting of the governors is to be convened. Clause 10 prescribes the quorum at a meeting of the governors. Clause 11 deals with the office of president and the duties and authorities

appertaining to that office. Clause 12 enables the governors to appoint committees to which they may delegate their powers or functions under the deed. Clause 13 establishes a procedure by which the governors may pass a motion without actually meeting. Clause 14 empowers the governors to appoint a secretary and treasurer to the mission.

Clause 15 provides that each governor shall be entitled to a sum that is, in the opinion of the governors, as nearly as possible equal or equivalent in value to the sum of 10s. 6d. on June 30, 1926, for each meeting of the governors attended by him. Clause 16 requires the governors to present a report and balance sheet to the council of the Congregational Union of South Australia Incorporated. Clause 17 deals with the common seal of the mission and how its use is to be attested. Clause 18 empowers the governors to invest the funds of the mission and sets out a number of authorized investments. They are empowered to realize and reinvest those funds.

Clause 19 establishes a trust for widows who subscribe to and practise the Christian religion and are in indigent circumstances. Twenty such widows are, on or about Christmas Day in each year, to be paid out of the income of the mission an annuity of not less than $20. Clause 20 establishes a trust whereunder the governors are empowered to apply any remaining income towards the advancement of the Christion religion in the mission territory. It sets out a number of specific purposes to which the income may be applied. Clause 21 provides that the receipt by the secretary or other proper officer of any body to which a payment is made under the deed shall be sufficient discharge to the governors, and that they shall not be bound to see to the application of the money.

Clause 22 empowers the governors to accumulate income not immediately required for the purposes of the deed. Clause 23 enables the governors to appoint missionaries and fix the terms and conditions of their employment. Missionaries may be appointed to perform any of the functions set out in subclause (3) of that clause. Clause 24 provides for alteration to the trust deed. However, no alteration is to be made altering the character of the mission as a religious and charitable institution, or authorizing the application of income except for the purpose of providing annuities for widows who subscribe to and practise the Christian religion, and are in indigent circumstances, or for the advancement of the Christian religion.

Clause 25 provides that the governors may make rules for the purposes of the deed. Clause 26 invests the governors with certain general powers that they will require for the purposes of the deed. Clause 27 is a saving provision providing that procedural errors by the secretary or any other person convening a meeting or the non-receipt of any notice by any person shall not invalidate any proceedings under the deed.

The Hon. D. H. L. BANFIELD (Central No. 1): This Bill has been introduced as a result of representations made by the Congregational community of this State, and it will bring the main trust into line with present-day requirements. When the trust was established many years ago it made no provision for funds to be expended outside South Australia, which at that time included the Northern Territory. This is no longer part of South Australia and, as the Congregational Union is active in Darwin and Alice Springs, it now desires to spend some trust funds in those areas. The Bill will allow this to be done. The Bill has been before a Select Committee of another place that studied it thoroughly, and that committee did not object to it. For those reasons I, too, support it.

The Hon. C. D. ROWE (Midland): I, too, support the Bill, and express my appreciation of the work the Parkin Trust has done over the years. In days gone by it was easier than it is today to accumulate money and to set up trusts for special purposes. In many instances we are indebted to our forebears for their efforts to ensure that something was done that would benefit succeeding generations and the Parkin Trust is one such organization. From time to time it has been necessary for it to alter its rules to meet changing circumstances in order that it could do a satisfactory job. The time has now arrived when it has asked Parliament to alter the terms of the trust to enable the organization to reach out into other fields. In commending it for its progress and thought and its desire to progress with the times in its useful service, I hope the Bill has a speedy passage.

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

PUBLIC SERVICE ARBITRATION BILL

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

The Hon. C. R. STORY (Minister of Agriculture): I move:

That this Bill be now read a second time.

The first Public Service Arbitration Act was passed in 1961. That Act, which provided for

the appointment of the Public Service Arbitrator, was the first special legislation enacted in South Australia for the appointment of an Arbitrator especially to deal with Public Service officers. The Public Service Arbitrator exercised jurisdiction substantially concurrently with the Public Service Board which, until the passing of the Public Service Act, 1967, was itself a salary-fixing tribunal, the nominal employer of public servants being the Public Service Commissioner. However, with the passing of that Act, a number of consequential amendments to the Public Service Arbitration Act appear necessary and, as a result of the practical experience gained in the working of the Public Service Arbitration Act since 1961, the Government considers that further amendments should be made. Some amendements have been proposed by the Public Service Arbitrator, some by the Chairman of the Public Service Board and others by the Public Service Association of South Australia.

The 1961 Act is quite a short one, and rather than make extensive amendments to it a Bill has been prepared for a new Public Service Arbitration Act that will repeal and replace the present Act, thus making the necessary amendments. The Bill does not alter the jurisdiction of the Arbitrator as contained in the present Act, and many of the altered provisions are consequential upon the appointment of a Public Service Board to replace the Public Service Commissioner and the previous board, since this new board became the nominal employer of public servants and ceased to be an independent salary fixing authority. However, three main provisions in the Bill differ from the Act at present in force, namely, as follows:

(1) Under both the Act and the Bill a group of officers whose duties are similar may make application to the Arbitrator themselves, that is, without having an association represent them. Some difficulties have been experienced in ensuring that the purpose of this provision was clear, that is, that a number of officers the nature of whose duties are similar should form a group. It is often difficult to determine whether small differences in duties of officers mean that they should or should not constitute separate groups, and accordingly provision has been made in the Bill for regulations to be made prescribing officers that constitute a group.

(2) The Arbitrator at present has jurisdiction in respect of any office of the Public Service other than a permanent head of a department or an office in the State Bank of South Australia. Provision is made in the Bill for the Governor to declare, by proclamation, that the Arbitrator shall not have jurisdiction in relation to any officer or office specified in the proclamation. The provision inserted in the Act in 1964 for the Governor, by proclamation, to extend the Act to certain persons in the employ of the Government or a Government instrumentality is retained in the Bill at clause 21, which provides that any claim in respect of such persons will be made to the employing authority concerned and not to the Public Service Commissioner, as was the case under the 1964 amendment.

(3) When the Public Service Arbitration Act first came into operation Judge L. H. Williams, then Deputy President of the Industrial Court, was appointed to be Arbitrator as well as continuing to be Deputy President. The term of appointment of the Arbitrator is for seven years. Judge Williams continued to hold the appointment of Arbitrator following his appointment as President of the Industrial Commission. With the number of cases that the Arbitrator has been required to hear there is a possibility that the President will not always be able to hold both appointments, so provision is included in the Bill for an appeal against any determination or decision of the Arbitrator to the President, which will operate only in the event of a person other than the President of the Industrial Commission being the Arbitrator.

To consider the Bill in some detail: Clauses 1 and 2 are quite formal. Clause 3 sets out definitions necessary for the purposes of this Act; the most significant of these definitions is that of "group" mentioned earlier. Clause 4 repeals the former Act and, with clause 5, makes certain transitional provisions. Clause 6 provides for the appointment of a Public Service Arbitrator and continues in office the present incumbent for the balance of the term for which he was appointed. Clause 7 provides for the appointment of a Deputy Arbitrator and clause 8 sets out the salary and allowances of the Arbitrator. Clause 9 deals with the suspension of or removal from office of the Arbitrator and recognizes his "special" position, and clause 10 deals with the vacation of office by the Arbitrator.

Clause 11 sets out the jurisdiction of the Arbitrator, and clause 12 provides for certain exclusions from the jurisdiction. Clause 13 deals with claims by the board, and clause 14 deals with claims by organizations or groups. Clause 15 enjoins the board to give effect to the determination of the Arbitrator. Clause

16 sets out the powers of the Arbitrator in some detail. Clause 17 enjoins the Arbitrator to act "according to equity, good conscience and the substantial merits of the case". Clause 18 preserves the operation of the Industrial Code, clause 19 deals with representation, and clause 20 provides that costs will not be allowed in any proceedings under the Act.

Clause 21 provides for an extension of jurisdiction of the Arbitrator to deal with claims of State employees other than officers under the Public Service Act. Clause 22 provides for an appeal in certain circumstances. Clause 23 deals with the punishment for contempt, and clause 24 provides for the summary determination of offences against the Act. Clause 25 provides for the making of appropriate regulations and clause 26 is the usual financial provision.

The Hon. A. F. KNEEBONE (Central No. 1): The need for this amending Bill arises from last year's amendments to the Public Service Act. It alters greatly the system of arbitration within the Public Service. The Minister in his second reading speech referred to the fact that the present Arbitrator, and President of the Industrial Court, Judge Williams, was the first Arbitrator appointed under the principal Act and he continued as Arbitrator although the amount of work entailed in being the Public Service Arbitrator and the President of the Industrial Court was great. This was a heavy load for him to bear and it reached the point last year where the Industrial Code was amended to give the President of the Industrial Court some assistance in dealing with industrial matters under the Code. I congratulate Judge Williams on his appointment to a post in the Commonwealth arbitration and conciliation sphere and wish him well in this new appointment. Our loss will be the Commonwealth's gain, because he has done a fine job for South Australia. The fact that our figures for industrial disputes in South Australia are lower than those of the other States is due in no small measure to his fine work.

This Bill refers to the President of the Industrial Court and the fact that he will continue his appointment in this position. It will be necessary shortly to appoint a new President and a new Arbitrator.

I support the second reading of the Bill. Clause 3 is the definition clause, and one definition is that of a "group". Clause 11 refers to the jurisdiction of the Arbitrator in matters contained within the Bill, and it appears that he has jurisdiction in respect of any claim for persons constituting, or a person who constitutes, a group.

What concerns me a little is the fact that the interpretation of "a group" is not very specific, being "all the occupants of the offices prescribed as constituting a group". Apparently it has to be prescribed in regulations what "a group" may be. I know that some of the people in the Public Service are a little concerned about the fact that the Bill does not specifically refer to what "a group" may be. I hope that this will be cleared up in regulations, and perhaps the Minister can provide some information about this matter at a later stage. The Bill is certainly necessary as a result of Public Service legislation that was passed last year. Therefore, I support it.

The Hon. F. J. POTTER (Central No. 2): I support the second reading of this Bill, which was very carefully and adequately explained by the Minister. I am pleased to see that instead of amending the Act the opportunity has been taken to present a new Bill dealing with the Public Service Arbitrator. This Act was introduced in 1961 as a result of representations made at the time, particularly by the Public Service Association, for the appointment of a Public Service Arbitrator. I think the system has worked very well, although I agree with the Hon. Mr. Kneebone that over the years a considerable amount of work has built up for Judge Williams, who was appointed as the first Arbitrator under this Act. In addition, Judge Williams occupied the position of President of the Industrial Court. Therefore, he combined the two offices. I think in later years it became increasingly obvious that it was asking too much to expect a person to carry out the jobs of both President of the court and Public Service Arbitrator.

The Hon. A. F. Kneebone: This obviated the need for an appeal court, too.

The Hon. F. J. POTTER: I will have something to say about that presently. Also, it perhaps obviated the necessity to pay two salaries. I agree that Judge Williams has done an excellent job, both as President and as Arbitrator, and I join with the Hon. Mr. Kneebone in congratulating him on his recent elevation to the Commonwealth sphere and in wishing him well in the future. I am sure that we in South Australia are very grateful to Judge Williams for the many years of valuable work he has put in in his most important position as President and prior to that as Deputy President of the court.

It seems to me that some of the difficulties that have existed have been attended to in this Bill. I know very well that difficulties arose concerning the definition of what was a group and whether a person was or was not in a group. I am pleased to see that this has now been more clearly drafted. Because it seems to me that it is possible in the future that the person who will occupy the position of President of the Industrial Court may not be able to continue with the burden of Public Service arbitration work, the Government might have to consider appointing (as provided in this Bill) some person other than the President of the court to be the Public Service Arbitrator.

I see in this Bill that not only may an Arbitrator be appointed but also a Deputy Arbitrator where necessary, and if this does in fact occur there is provision in clause 22 for a right of appeal to the President of the court. This is about the only provision in the Bill with which I cannot agree entirely, because I believe that although an appeal from the Public Service Arbitrator in the event of his not being the person who is also the President of the court is probably very necessary and desirable, I do not agree that the appeal should be to the President of the court—to just one man. In fact, I think this is contrary to accepted industrial practice.

It has always been the principle in appeals that a person appeals from the decision of one person to a bench constituted of more than just one person. I very firmly believe that we shall find that this happens not only in our normal courts of law but also throughout other industrial tribunals. In fact, it is particularly important in industrial tribunals that we do not have an appeal from one man to one man, because the main thing that is under appeal in an industrial matter is usually not a matter of law. The question of what is an appropriate rate of wage for a particular job in the long run comes down to what is one man's opinion. In other words, what a person is appealing against is usually one person's opinion on the set of circumstances before him.

When we get into Committee I will suggest that this appeal from any person who is appointed as the Arbitrator should lie not to the President solely, as provided in clause 22, but to the commission in appeal session. This will fall into line with the Industrial Code, which provides for appeals from one commissioner to the commission in appeal session. I have some amendments that I will place on members' files as soon as possible. With the one exception to which I have referred, I support the provisions of this necessary Bill.

The Hon. G. J. GILFILLAN secured the adjournment of the debate.

REGISTRATION OF DOGS ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

STAMP DUTIES ACT AMENDMENT BILL (No. 3)

In Committee.

(Continued from December 10. Page 3080.)

Clause 3—"Interpretation."

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

In new section 31b (1) in the definition of "loan" to strike out "nine" and insert "ten".

The definition of "loan" includes a loan that is an advance of money—the definition is clearly set out. However, the definition does not include a loan where the interest payable in respect thereof is at an annual rate not exceeding 9 per cent or the equivalent thereof. On a normal transaction of lending on real estate mortgages, which is the principal form of this lending by private persons, a rate of 8 per cent adjusted annually is the normal rate for these transactions and will mean that a loan over five years has a true annual interest rate of 9.6 per cent. For four, three, two and one year periods the true rate becomes progressively higher. There are many private people who are prepared to invest their capital in loans on mortgage at an acceptable rate of 8 per cent adjusted annually. It is quite wrong that, because the annual rate in this kind of transaction will (as I have said) over a period of up to five years exceed 9 per cent per annum, these transactions should be caught and the person lending should become liable to be a registered person.

Persons may innocently continue to lend money at this rate and perhaps they may not have the benefit of advice from their solicitors or land brokers. (Much of this business is done through these sources.) People may make loans at this rate of 8 per cent adjusted annually and as a result be liable to register as people carrying on a credit business. Through inadvertence or misunderstanding they might by virtue of making one or two loans at this rate of interest, become liable to a penalty of $5,000 for non-registration.

The Hon. S. C. Bevan: The loan of 9 per cent is 9 per cent annually, surely?

The Hon. F. J. POTTER: Adjusted annually—this is the point. If there is a loan of 8 per cent adjusted annually, the true rate on a five-year period is 9.6 per cent, because of the annual adjustments.

The Hon. R. C. DeGaris: They adjust the interest payable after each year.

The Hon. F. J. POTTER: Yes. This is of importance not only to those who lend in this way but also to savings and loan societies. I have received correspondence from the Credit Union League of South Australia Co-operative Limited, the Gas Industry Salaried Officers Co-operative Limited and the Saint Bernadette Credit Co-operative Limited. I can also think of the South Australian Public Service Association Savings and Loans Society, which is involved in lending money at flat rates, but I have received no correspondence from it. In connection with societies that lend money at flat rates, however low, over short periods, a loan, for example, for two years at 4½ per cent flat is equivalent to 9 per cent per annum, adjusted on an annual basis. I believe these people ought not to be covered by this and I think it desirable that we should continue to have available, particularly in the purchasing and financing of houses, this considerable source of private money which has been regularly available and which everybody has come to accept as a normal rate of interest of 8 per cent.

The Hon. Sir Arthur Rymill: Actually it depends on when the repayments are made.

The Hon. F. J. POTTER: Yes, but in most of them the capital is not repaid.

The Hon. Sir Arthur Rymill: A rate of 5 per cent flat on $200 with $100 repaid at the end of the year would amount to 5 per cent at the end of the first year and 10 per cent at the end of the second year.

The Hon. F. J. POTTER: Yes, but most of these loans are carrying interest only; they are not really repayable until some other finance becomes available.

The Hon. Sir Arthur Rymill: Some are payable weekly, some monthly.

The Hon. F. J. POTTER: Strong recommendations have been made to me about this, not only by the co-operative societies but also by the Real Estate Institute of South Australia, suggesting that most cases would be covered if the minimum rate of a loan was raised to 10 per cent instead of 9 per cent over a four-year or five-year period.

I think the suggestion has much merit, and I strongly urge honourable members to give it close attention, as loans raised at comparatively reasonable rates of interest should be exempted.

The Hon. R. C. DeGARIS (Chief Secretary): The Hon. Mr. Potter has outlined his amendment fairly clearly. It seeks to exclude from the definition of a loan any loan carrying an interest rate of up to 10 per cent a year. The Bill as drafted excludes loans bearing an interest rate of up to 9 per cent a year. That is considered a high rate of interest on any loan, and if a higher rate should be demanded then the lender would not be protected in the payment of duties. The Hon. Mr. Potter's point concerning loans adjusted annually is valid. Of course, an 8 per cent loan adjusted annually over a five-year period, or a period up to five years, would be more than 9 per cent.

The Hon. F. J. Potter: It would be 9.6 per cent.

The Hon. R. C. DeGARIS: Once the period extends beyond five years the interest rate is reduced. Flat rates of interest are always higher for the shorter term. An 8 per cent flat rate for 12 months is a little over 16 per cent, and as the term extends and is adjusted annually so does the flat rate increase.

I believe 9 per cent is a high rate, and an extension to 10 per cent would exclude from the Bill many people whom we think should be included. Housing loans are already covered because, dealing with loans that must be included in returns, proposed new section 31f (1) (*a*) (iii) provides, in part:

> The total amount of all short term loans, other than housing loans . . .

The Hon. F. J. Potter: Yes, but that is at 9 per cent.

The Hon. R. C. DeGARIS: Yes, but it then describes housing loans as interpreted in new subsection 5 (*a*). If the overall percentage charged is above 9 per cent, then the Government considers this should incur duty under the legislation. For those reasons the Government cannot accept the amendment.

The CHAIRMAN: I point out to the Committee that this is a money Bill. Therefore, the question before the Chair is that it be a suggestion to the House of Assembly to strike out "nine" and insert "ten".

The Committee divided on the amendment:

Ayes (6)—The Hons. Jessie Cooper, Sir Norman Jude, H. K. Kemp, F. J. Potter (teller), Sir Arthur Rymill, and V. G. Springett.

Noes (11)—The Hons. D. H. L. Banfield, S. C. Bevan, M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, L. R. Hart, C. M. Hill, A. F. Kneebone, C. D. Rowe, C. R. Story, and A. M. Whyte.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. A. J. Shard.

Majority of 5 for the Noes.

Suggested amendment thus negatived.

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

In new section 31b (1) after "include" in the definition of "rental business" to insert "(*a*)".

The main purpose of this and the further foreshadowed amendment is to break up the definition into two separate paragraphs, the really important part of the amendment being the addition of paragraph (*b*). The purpose of the amendment is to say that "rental business" means the business of granting to any person the right to use any goods, other than books, whether pursuant to a lease, bailment, licence or otherwise, but does not include (*a*) the business of granting any person the right to use goods in conjunction with a lease of or licence to occupy or use any land, or (*b*) the business of granting to any person the right to use any goods where such person is a person who is engaged in the trade or business of selling goods of the same nature or description.

We had some debate on this matter when we were dealing with receipts duty. I mentioned the difficulties that could be experienced by dealers in motor vehicles because of the rather peculiar circumstances in which they organized their business. The Committee did not see fit to insert in the Stamp Duties Act a dispensation from receipts duty tax.

That, of course, is a minor matter. Here we are now dealing with something that is far more substantial, namely, the 1½ per cent impost on the value of the goods. In the car selling or distributing business a finance company, usually called in the trade a wholesale company, purchases a vehicle from the manufacturer. It then places that vehicle on the floor of the dealer whose task it is to try to find a buyer. When he finds that buyer the car is sold for cash or a hire-purchase contract is arranged with the finance company. The hire-purchase company then gets its money and the whole transaction is concluded. Obviously, duty has to be paid on the finance contract. What concerns me is that the car dealer, often in connection with his overall expenses, operates on a small margin, and it is important that this bailment transaction, as it is called, where he has no right of property in the goods on his floor, should not attract duty. Those goods belong to the other company, and they are there purely on a bailment.

I think the Minister will probably say that duty may not be leviable on that particular section of the transaction, and this may be so. However, it depends on the interpretation of this definition. It all depends on the legal definition of whether or not the dealer has a right to use the goods, because these are the words used in this definition.

The whole purpose of my amendment is to make it clear that this is the position and that some argument may not arise between a finance company and the Commissioner that in fact, because the vehicles are there on the floor under this arrangement, it is contended that the dealer has the use of them in some way or another and that therefore the transaction or the arrangement attracts duty under this Act. The whole purpose is to make it clear that in the circumstances I have outlined in my amendment such a transaction is to be exempted. I do not think the amendment changes this definition at all: it merely puts beyond doubt that these kinds of transaction are not to be considered as transactions which give rights to use goods.

The Hon. R. C. DeGARIS: In the opinion of the Government, this and a further substantial amendment cannot be accepted, although I agree with the Hon. Mr. Potter that his first amendment is rather minor; but, if that is carried, I presume he will move the other amendments on file.

The Hon. F. J. Potter: Substantially.

The Hon. R. C. DeGARIS: An exemption for the types of transaction that the Hon. Mr. Potter refers to is granted by clause 8 under an instalment purchase agreement, where Exemption 2 states:

Any instalment purchase agreement under which the purchaser is a person who is engaged in the trade or business of selling goods of the same nature or description as the goods to which the agreement relates.

I believe that no other exemption should be considered.

The Hon. F. J. Potter: Unfortunately, this is not really an instalment purchase.

The Hon. R. C. DeGARIS: No, but it is a means of avoiding stamp duty on a transaction that we believe should incur duty. In many of these cases a rental is charged, which is the total value of the vehicle. So we have the equivalent value of the vehicle involved in what is virtually a financial situation. A

genuine bailment or leasing of goods under a rental plan is dealt with in the legislation and, if a floor plan situation is involved in a similar situation, it is covered. There is complete exemption in clause 8 for a genuine instalment purchase agreement, which the Government believes should be exempt. But, if it goes beyond that and there is a bailment situation, it should attract duty.

The Hon. F. J. POTTER: The substantial amendment is the addition of paragraph (*b*), but there is a very minor drafting amendment to insert "to" after "granting", to which I gather the Chief Secretary is agreeable, irrespective of whether or not my paragraph (*b*) amendment is accepted.

The CHAIRMAN: I understand the honourable member wishes the two amendments to be considered separately—indeed, all amendments put separately and not as one suggested amendment.

The Hon. R. C. DeGaris: As I understand this, the first amendment is to insert paragraph (*a*).

The Hon. F. J. POTTER: It is only a preliminary amendment but it might help the Committee if it was put first. I would be prepared for the Committee to take a vote on that rather than vote on the substantial amendment.

Suggested amendment negatived.

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

In the definition of "rental business" after "granting" to insert "to".

This amendment merely inserts a word that I am sure was inadvertently omitted.

Suggested amendment carried.

The Hon. Sir ARTHUR RYMILL: I move:

In new section 31f (1) (*a*) (x) to strike out "(A)"; before subparagraph (B) to strike out "and"; and to strike out subparagraph (B).

This amendment is designed to help the small man. The credit arrangements referred to in the section would include goods sold by retail stores, such as clothing, drapery, furniture, furnishings, floor coverings, electrical appliances and general domestic goods. It seems unfair to penalize the small customer, who needs to use credit arrangements to buy necessities, and this is only likely to be a minor part of the $600,000 revenue forecast by the Treasurer.

If this amendment is carried, it will relieve in particular the retailers of a great amount of unproductive book work. Let me give an example. As soon as the credit arrangements get over $300, the duty becomes payable. This is a running account and I am instancing it to give a simple example. Duty is paid on an account of $301. The customer reduces it to $250. The next month he books up goods again to the value of $51, bringing it up to over $300, and again the duty has to be paid, but not on the $301, as previously, but on the new $51. If this were just a separate account, no duty would be payable on the $51. However, that is just a simple example.

These accounts aggregate into dozens of entries, in many cases, and it may be that having paid off some of his account a purchaser will book up 15 or 20 items in the next two or three months and the account would again rise to over $300. The retailer has to sort out all those items, correct them and find out what their total is, and once again pay duty on them.

I am not suggesting that duty will be paid more than once on those items but I am saying that it will impose a tremendous burden on these people, and particularly on the other people as well who have to sort out all these items, doing completely unproductive work. This clause should be amended.

The Hon. R. C. DeGARIS: The effect of the Hon. Sir Arthur Rymill's amendments is to relieve a department store of the obligation to pay duty on firm arrangements where they charge interest on overdue monthly accounts at a rate exceeding 9 per cent. This would leave it open to some departmental stores to so arrange their affairs as to cover up any credit arrangements by opening up a monthly account and allowing the customer to get into arrears in order to avoid the stamp duty. It is the view of the Government that the amendment should not be approved.

The Committee divided on the amendments:

Ayes (7)—The Hons. Jessie Cooper, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill (teller), and V. G. Springett.

Noes (10)—The. Hons. D. H. L. Banfield, S. C. Bevan, M. B. Dawkins, R. C. DeGaris (teller), G. J. Gilfillan, L. R. Hart, C. M. Hill, A. F. Kneebone, C. R. Story, and A. M. Whyte.

Pair—Aye—The Hon. R. A. Geddes. No—The Hon. A. J. Shard.

Majority of 3 for the Noes.

Amendments thus negatived.

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

In new section 31f (1) (*a*) (x) (B) to strike out "during the last preceding month" and after "part of" insert "a debt which was

owing to him and was outstanding during the last preceding month and which was contracted pursuant to".

These amendments are designed to accede to the requests of certain departmental stores. They do not in any way alter the intention or the import of the subparagraph, but remove possible misinterpretations, and will facilitate its implementation.

Amendments carried.

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

In new section 31f (1) (*a*) (x) to strike out "credit" and insert "a debt owing to him".

This amendment is consequential on the one that has just been carried.

Amendment carried.

The Hon. Sir ARTHUR RYMILL: I move:

In new section 31f (1) (*a*) (x) to strike out "three" and insert "four".

I should like to compare the position obtaining here with that in New South Wales. I understand that at the moment the minimum amount of exemption in New South Wales is $200 and that this amount is to be raised, if it has not already been raised, to $400. Again, this is an endeavour to assist the small man, because I am informed that in New South Wales the amount is being raised to $400 as the Government there considers that the revenue from duty on ordinary household goods will adversely affect newly-married couples or migrants coping with the cost of new homes.

I do not think this amendment affects the real purpose of the Bill which, I understand, is to secure revenue from the finance on credit terms on large items such as motor vehicles that avoid the present duty. This will assist the smaller individual because it may be, as the Chief Secretary said in reply to my previous statement, that on the face of it the department stores pay this amount. However, I will move later that they be permitted to pass on this cost. If this is not carried the costs will ultimately be borne by the purchaser by way of additional purchase charges; it is unrealistic for anyone to think otherwise. This is a proper amendment which will help the smaller person, and I certainly hope the Government will accept it.

The Hon. R. C. DeGARIS: As Sir Arthur Rymill pointed out, the amendment is designed to raise the limit of exemption of credit from $300 to $400. The honourable member quoted the situation obtaining in New South Wales, of which I have no knowledge. I will, therefore, have to accept his word that that State intends to lift the exemption to $400, not that I am in any way doubting the honourable member, because he is usually correct. However, the Government believes that a limit of $300 is generous enough. The limit in Victoria is $200.

The Hon. S. C. BEVAN: I support the amendment. Many loans are made to finance purchases that, strictly speaking, are not made under a hire-purchase arrangement. The sum of $400 does not go very far when an ordinary person is buying a refrigerator, for instance.

The Hon. Sir ARTHUR RYMILL: In New South Wales this duty is levied on individual items purchased, whereas here all purchases on the same account are to be aggregated. Taking the Hon. Mr. Bevan's example, if a person purchases a refrigerator and a washing machine, it does not matter whether a person purchases them at the same time or six months apart—this duty is levied. Particularly in view of this point, I believe that the small increase that I propose in the minimum amount, which is designed to help the ordinary person, is fully justified.

Suggested amendment carried.

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

In new section 31f (1) (*a*) (*x*) to strike out "has been provided" and insert "has become or remained outstanding during the last preceding month"; and after "returned or" to insert "goods accepted in part consideration for goods supplied or".

These amendments are consequential.

Suggested amendments carried.

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

In new section 31f (1) (*a*) (*x*) after "him" to insert "as rent".

I discussed this matter with honourable members before the sitting resumed. This amendment will go a long way towards clearing up the difficulty that I described this afternoon, when I moved amendments to the definition of "rental business". I then pointed out the great difficulty that would arise for finance companies who were financing motor car dealers under the floor plan arrangement that is common in that trade. I moved an amendment that would clarify the position so that the actual bailment agreement would not be subject to duty under this legislation. The Committee saw fit not to accept my amendment, after it had been opposed by the Chief Secretary. However, I still thought that the matter had not been resolved.

It is important to this industry, particularly when we consider paragraph (*x*), which requires that a return be made to the Commissioner of the total amount received by a person or a finance company during the last preceding month in respect of rental business. If the total value of the vehicle when it is sold is to be included in a return to the Commissioner as rent received in respect of rental business, under this legislation on an average car price of $2,000 duty of $30 will be payable. It appears that these bailment agreements entered into between wholesale finance companies and dealers provide for a nominal rental to be paid by the dealer to secure the ownership to the finance company and also to pass as a consideration for the bailment contract.

In these circumstances, I thought that only the rental on that agreement should be subject to duty, and that the whole value of the vehicle should not be regarded as a payment received in respect of rental business. The one way to clear up this matter is to make it clear that it is only the amount received as rent that is to be returned.

The Hon. R. C. DeGARIS: The Committee fully debated this matter when it was considering a previous amendment moved by the Hon. Mr. Potter. At that stage I said that the amendments were not acceptable to the Government. A very similar situation is in the Victorian legislation. However, to make the matter completely clear, the Government is prepared to accept the amendment.

Suggested amendment carried.

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

In new section 31f (5) (*a*) (i) after "construction" to insert ", alteration, renovation"; after "acquisition of" to insert ", or any addition to,"; and after "purposes" to insert ", or of defraying the whole or part of the cost of the construction, alteration or renovation of any improvement on or to any land occupied or intended to be occupied by the borrower for residential purposes or of defraying the whole or part of the cost of the land on which the borrower intends to have constructed a house or flat to be occupied by him for residential purposes".

This amendment widens the definition of a housing loan to include a loan obtained for the purpose of defraying the whole or part of the cost of altering, renovating or adding to an existing house or flat or for the purpose of defraying the whole or part of the cost of construction, alteration, renovation of any improvements on land, or the cost of the land itself on which the borrower intends to erect a house or flat for his own residential needs.

Suggested amendments carried.

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

In new section 31f (5) (*a*) (ii) after "constructed" to insert ", altered or renovated or on which the addition is or improvements are constructed, altered or renovated or on which the house or flat is intended to be constructed".

This amendment is along the lines of those suggested by the Hon. Mr. Potter.

Suggested amendment carried.

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

In new section 31i (1) (*c*) after "transaction" to insert "or grant of the right to use any goods".

The amendment brings paragraph (*c*) of subsection (1) of new section 31i into line with the corresponding provision in the Victorian legislation. The effect is to exempt from duty any amount received in respect of any rental business entered into before this Bill becomes law. I think that is a reasonable amendment.

Suggested amendment carried.

The Hon. F. J. POTTER: As this is one long clause, I want to refer to new section 31p. I do not intend to move an amendment to this new provision but I think it ought to be put to the Committee for decision as a separate part of this clause, because the Hon. Sir Arthur Rymill in his second reading speech indicated that he intended asking the Committee to strike out this provision. This matter needs to be carefully considered by the Committee. I do not know whether some procedure can be devised but I suggest that you, Mr. Chairman, put to the Committee the clause as far as and including new section 31o, and let us deal with new section 31p as a separate matter. If that is not possible, perhaps Sir Arthur will move to delete those lines.

The CHAIRMAN: I have listened to that request and I think we can now deal with the clause as far as new section 31o.

Clause, as amended up to and including new section 31o, passed.

New section 31p—"Vendor not to add duty to purchase price."

The Hon. Sir ARTHUR RYMILL: This new section is a separate entity. I spoke on this matter at considerable length during the second reading debate. This provision relates to the requirement on the vendor not to pass on to the purchaser the duty that is payable. In other words, the duty in respect of the transactions mentioned in this provision are paid by the vendor, and the intention is that he should not pass on the duty to the purchaser. I said in the second reading debate that I considered this was entirely unrealistic because, if the vendor cannot pass it on

directly, he will do so indirectly, either by an addition to his interest or in some other way, which will probably result in the purchaser's having to pay more, in many cases, than if the duty had been passed on directly.

The Hon. R. C. DeGaris: And at a higher interest rate; he would pay more?

The Hon. Sir ARTHUR RYMILL: Yes. I meant that, by charging an additional interest rate, the vendor will see that he is fully covered. This will be more than the simple expedient of passing on the duty itself. Several people have said that they have no intention of passing on the duty. If a retailer passes on this duty, he will probably lose trade, because there is a minimum of $300 or $400 in respect of these accounts. (That is a matter for another place, to some extent. That provision appeared in this Council and an amendment was made this afternoon.) As I see it, the position would be that in the ordinary course of trade if a retailer passed on the duty (let us call him trader A) the purchaser would see that he did not exceed $300 or $400 from trader A, and would open another account with trader B and see that he did not exceed the stipulated amount with trader B, too. It is rather a simple proposition. That is the reason why a retailer probably would not, even if this clause did not exist, pass on the duty.

On the other hand, there are plenty of other people, such as simple hire-purchase companies, who are not traders themselves and who would want to pass on the duty, because it would not matter to them. If they do not pass it on directly, they will undoubtedly pass it on indirectly, because businesses generally work to a fairly fine profit margin and, if they did not pass on the duty in some way or other, it would not be profitable for them to trade. As I am informed on this position, I regard this as not a financial but a political provision in the Bill, because it will not cost the Government anything. I understand (and the Minister can correct me if I am wrong) that this provision does not exist in any other State of the Commonwealth, so why should we have to have it in South Australia?

The Hon. R. C. DeGARIS: For a number of years State legislation has prohibited the general passing on of duty in hire-purchase and money-lender transactions. The position stated by the Hon. Sir Arthur Rymill is correct: I believe in other States these duties are capable of being passed on but in this State, in the case of our hire-purchase legislation and money-lender transactions, it is prohibited that the duty be passed on in any way whatsoever. Whatever the merits of this may be, it seems to be supported by the majority of the public and all procedures in the relevant financial arrangements have become adapted to it. While Sir Arthur's move to strike out this provision would be uniform with the legislation of other States, it would not be uniform with what is happening here in relation to other types of transaction. To change now would create upset and confusion and some inequity. Accordingly, with the extension of stamp duty to other comparable arrangements, it is logical that the same rule should apply in this State. My point is that we should keep this matter uniform in this State. Therefore, the Government opposes the suggested amendment of the Hon. Sir Arthur Rymill.

The Hon. Sir ARTHUR RYMILL: As I understood him, the Chief Secretary has said that in all hire-purchase arrangements none of these duties is passed on. I cannot claim that that is not correct. The Chief Secretary was kind enough to say this afternoon that I do not make statements that I have not verified, and I should like to say the same about him. I remember a Bill that we passed a few years ago that specified that certain stamp duties under hire-purchase agreements could not be passed on. That is the first one that I can remember, and it may be the only one and in fact the one to which the Chief Secretary was referring.

However, I would like to take the matter a little further and refer to all transactions of this nature, whether hire-purchase or otherwise. I had a fair bit of experience when I was practising the law, and I can say that if we exclude hire-purchase from our discussion the purchaser in any other case I can think of always has to pay the stamp duty. When I was fortunate enough to purchase a property the other day, I had to pay the stamp duty, and in my experience of transfers of property of any sort the purchaser always has to pay the costs of the transfer and the duty. Apart from the Bill I have referred to that we passed a few years ago, I can think of no other case where that does not apply.

The Hon. R. C. DeGaris: I was referring to hire-purchase transactions.

The Hon. Sir ARTHUR RYMILL: I am talking as a matter of general principles. I see no differentiation in hire-purchase from any other purchase, except for political purposes.

The Hon. F. J. POTTER: I believe there is a good deal of sound common sense in what the Hon. Sir Arthur Rymill has said. It is a fact that the person who acquires property or who mortgages property, whether it be real estate or whether it be under bill of sale, is called upon to pay the stamp duty involved in these transactions. That has always been the rule. Back in the 1950's, after we introduced uniform hire-purchase legislation, we introduced a stamp duty in this State on hire-purchase transactions. It was then that we started to make this exception, namely, that in hire-purchase transactions the stamp duty could not be passed on.

I cannot remember the exact year when that was done, but I can recall that my colleague the Hon. Mr. Rowe was the Minister at the time. Certainly it was about 1960 or 1961 when we dealt with that Bill. Then later when we imposed the same rate of duty on money-lending transactions (this was only a short time ago) we said that the same rule applying in hire-purchase stamp duty should apply, namely, that it cannot be passed on. Apart from those two exceptions, the general rule that the borrower pays still exists in this State.

I am at a loss to follow the Chief Secretary when he implies that the whole commercial structure of these kinds of transaction in the community is now geared for the payment of this duty by the lender, because this is not true. The borrower in most cases still pays. The important thing about this is the prime fact that if the duty is not passed on then inevitably the lender will raise his interest rate. This has occurred and it will occur again, because there is nothing to prevent his raising his interest rate.

If this is done, the borrower, in my view, will pay more through the raised interest rate than he would pay if he was made to bear this particular duty. The removal of this provision would not make it mandatory for a lender to pass the charge on to the borrower: it would merely allow him to do so. Putting it another way, it would not be illegal for him to do that if he chose to do so.

As I said earlier, all honourable members have had correspondence from the small loans societies and credit societies to which I referred previously. We have received letters from the Gas Industry Salaried Officers Co-operative Society, the Credit Union League, the St. Bernadette Credit Co-operative, and many other such organizations. If honourable members read those letters they will see that those bodies are lending at low rates of interest, as low as 4 per cent, and in each case they say that if they cannot pass this duty on they will have to raise their rates of interest to their borrowers.

The Hon. R. C. DeGaris: But they are flat rates of interest.

The Hon. F. J. POTTER: In most cases they are low flat rates of interest, as low as 3½ per cent in some instances.

The Hon. R. C. DeGaris: They are for very short terms.

The Hon. F. J. POTTER: The Public Service Savings and Loans Society, which is a big society in this State and which is established by the Public Service Association, has loans at 3½ per cent flat rate for up to 10 years.

The Hon. C. M. Hill: The trade unions have got one.

The Hon. F. J. POTTER: Yes. These co-operative societies are all in the same boat. We may not have received correspondence from all of them, but it is plain from the letters we have received that if they cannot pass on the duty the interest rates on their loans will have to be raised, and they are perturbed about this. Members will see that they are asking for the option to pass the duty on, for otherwise they cannot continue as they have done. Therefore, this is most important.

The consumer has been mentioned. Actually, the consumer in the sense of the person who buys goods (and this is the true meaning of the word "consumer") is not going to be affected. The person who is selling the goods for competitive reasons is not going to pass the particular charge on.

[*Midnight*]

It is not the consumer that is important, but the borrower. The borrower must pay, and it is in the interests of people who are borrowers of money that they should absorb this duty rather than pay a higher rate of interest. The removal of this clause will not make it mandatory, but it will enable the lender to pass on the charge to the borrower if he wishes.

The Hon. R. C. DeGaris: I cannot follow your point about a 3½ per cent interest rate. How would these people be caught?

The Hon. F. J. POTTER: They lend on securities of one kind or another and, in many cases, depending on the rate of interest, the annual rate when calculated on a flat rate is more.

The Hon. R. C. DeGaris: The 3½ per cent rate would be for short-period loans?

The Hon. F. J. POTTER: Some are, but perhaps this was a bad example when I mentioned 3½ per cent. Apart from isolated examples, I come back to my main point, which is that it is one thing or the other. Lenders of money will charge higher rates of interest if they cannot pass it on. It is shortsighted for the Government to say that the consumer will benefit, because he will not. This imposition does not exist in any other State.

The Hon. R. C. DeGaris: It does in Victoria.

The Hon. F. J. POTTER: Only in relation to hire-purchase. What we are trying to do takes us further from the normal pattern throughout Australia, and a good case has been made out to delete this clause.

The Committee divided on the amendment:

Ayes (11)—The Hons. Jessie Cooper, M. B. Dawkins, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill (teller), and V. G. Springett.

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

Majority of 4 for the Ayes.

Suggested amendment thus carried; clause as amended passed.

Remaining clauses (4 to 8) and title passed.

Bill read a third time and passed.

PUBLIC EXAMINATIONS BOARD BILL

The House of Assembly requested a conference, at which it would be represented by five managers, on the Legislative Council's amendments to which it had disagreed.

The Legislative Council granted a conference, to be held in the Legislative Council conference room at 7.45 p.m., at which it would be represented by the Hons. D. H. L. Banfield, M. B. Dawkins, C. M. Hill, A. F. Kneebone, and V. G. Springett.

At 7.45 p.m. the managers proceeded to the conference, the sitting of the Council being suspended. They returned at 11.8 p.m.

The Hon. C. M. HILL (Minister of Local Government): I have to report that the managers conferred together but no agreement was reached. I think I should explain that we from this Council attended the conference hoping that it would be possible to reach an amicable arrangement with the managers from the other House. We went there in the knowledge that the managers from the House of Assembly asked for the conference, and we thought they did so because they had something to offer by way of compromise. Therefore, we hoped that we could develop discussions upon some suggestions for compromise and that ultimately we could reach agreement.

However, no submissions were made as a form of compromise. We had what we thought were ample discussions and then we adjourned into two separate groups in different rooms. We were able to continue our discussions on the problem in an endeavour to reach a satisfactory arrangement. When we met again after the adjournment we did not receive any suggestions of compromise from the managers of the other House, so in a final endeavour to reach agreement we ourselves put forward a proposal to compromise with them. This was not acceptable to the managers from the other place, so we could do nothing but come away and report to this Chamber that it had been impossible to reach agreement.

I would like to thank the other managers from this Chamber for the manner in which they conscientiously applied themselves in the conference and for the attention they paid to the discussion and the debates that took place.

The PRESIDENT: As no agreement has been reached at the conference the Council, pursuant to Standing Order No. 338, must either resolve not to further insist on its requirements or order the Bill to be laid aside.

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

That the Council do not further insist on its amendments Nos. 1 to 6.

I think it is only proper that in order to support my motion I should put forward some of the arguments that I have heard. This is a question of great seriousness to honourable members in this Chamber, because this is the last possibility of salvaging the measure. I think it is fair to say that the majority of honourable members here wish to see a new Public Examinations Board established There seems to be common agreement that an independent board should be set up.

The Hon. F. J. Potter: The university is in favour of this, too.

The Hon. C. M. HILL: That is so. I think all people connected with education in South Australia are in favour of this principle. A new board is required, and a new board should be set up. The only problems that we have run into concern the composition of the board. However, on the overall problem we have to ask ourselves what will happen if this whole measure is defeated.

It seems to me that if it is defeated there will not be any board in April of next year, and it seems to me, too, that some other arrangements will then have to be made. Whether these arrangements will be satisfactory to educationists here, and whether these will prove satisfactory to the students who are involved in this question, and particularly the parents of students, I cannot foretell.

Nevertheless, the fact remains that some other arrangements, perhaps not as satisfactory as the existing ones, will have to be made, because someone has to set a Leaving examination next year. I pose that as being one of the very important questions in this debate. It also means, of course, that the Flinders University, which at present does not have a say, will go on not having any representation on this Public Examinations Board. I think it is fair to say, too, that this is very unfortunate from that university's point of view.

The Hon. R. A. Geddes: Is there anything to stop the Adelaide University setting the Leaving examination for next year?

The Hon. C. M. HILL: That is one arrangement that might be arrived at; but are the parents of Leaving boys and girls going to be happy with the Adelaide University setting the examination? These are some of the questions that have to be solved. We have to look forward into the future next year and look at these problems as they will undoubtedly arise.

The Flinders University at the present stage has a splendid record, and its establishment has been successful in every respect. Everyone is complimenting those who are taking part in establishing that university, and it is very unfortunate indeed that because of this measure that we are dealing with now it seems that that university will have to continue taking no part in setting the Leaving examinations or dealing with all the matters that the P.E.B. will deal with. That will be the position if we continue insisting on our amendments here and this whole matter is ultimately laid aside.

The Hon. S. C. Bevan: We cannot afford not to have a board.

The Hon. C. M. HILL: I agree. I imagine that if this Bill is laid aside some sort of makeshift board will have to be got together in April. The composition of that board, of course, will be completely outside our control, whereas we now have some say if we have another look at this question now.

I put the suggestion to honourable members that if they did not insist on their amendments now, and if this measure was carried, in the next session of Parliament a member could put forward a private member's Bill to introduce amendments and bring about changes to the board. I think that is a thought worth considering. If we got the board established and if after some months or after the board was in operation any honourable member here was critical of the board, he could endeavour to amend the Act.

One point that has been worrying me considerably in regard to the problem of the constitution of the board is the manner in which this Council has been strongly supporting the added representation from independent schools. I think I have said before that I am a great supporter of the independent schools. However, what worries me greatly is that I was told today by the headmaster of one of our leading private schools that he and his headmaster colleagues and also the headmistresses were satisfied with the Government measure, and I believe that that is the case.

I believe that the people to whom we are trying by this measure to give further representation have not in fact asked for it. I challenge any member to say who has asked for it. On this basis we have to consider seriously this question, and again we have the point to which I referred previously (and it was put to us at the conference) of this great disparity between the numbers attending State schools and those attending private schools.

As much as one wants to put this argument on one side, if one is fair-minded on the question it cannot be forgotten that in 1967 there were about 65,000 pupils in one set of schools and only about 13,000 in the other set. Yet, members here are saying that these groups should have equal representation. If there was not a great difference in the numbers, or one was half of the other, perhaps this point could be overlooked, but it is apparent that one group is about one-fifth the size of the other. I again emphasize that members should consider this point.

One question that caused members here much concern was that of being sure that some women were appointed by the Education Department as its representatives on this board. It was put to us tonight that women teachers did not necessarily want this written into the measure: if they want it, who are the people who say they do?

The Hon. R. A. Geddes: Who have said they don't? Have the women teachers said that?

The Hon. C. M. HILL: No. The Director-General, acting as the departmental spokesman, and, taking it a step further, the Minister of Education, have made this point strongly. It is reasonable to accept an assurance from the department that if women are worthy of choice they will be chosen as representatives on the board. I know that it is safe and sure to put forward the view (and I respect it) that these things should be written into the legislation. However, it has gone past that point now and we cannot go back for further conferences on this matter. I think that, when the number of nominees was put forward by the department if there were suitable and worthy women who had the ability for the job they would be appointed.

The Hon. V. G. Springett: Judging by the past, this has not happened.

The Hon. C. M. HILL: In the past women have not come forward and sought this kind of office in the department. We were told that when teachers were asked to apply for scholarships only four out of 100 were women, and in 1969 I think it was about eight out of 200, or something like that. This indicates that women are not putting themselves forward for further elevation within the department.

The Hon. D. H. L. Banfield: The opportunities are there for them, aren't they?

The Hon. C. M. HILL: Yes, if they had wanted to apply. In putting forward these arguments I respectfully suggest that honourable members should give further consideration to them. I was disappointed at the manner in which managers of the other Chamber conducted the conference tonight. That Chamber had called for a conference and its managers should have had some proposals to put forward for compromise and discussion, but I was disappointed that that was not the case. We should consider this matter in a broad light: it is an important question and this is our last chance.

I do not want any reflection cast on this Chamber by people in this State who may be affected next year, particularly parents, because of the general mix-up that will occur in April. This is an important issue and I know that we have to be broadminded in considering it, but this Council is capable of that. I earnestly suggest that members have further thoughts about this problem: they may express them now, which perhaps may be in the best interests of this Council, while we still have a chance to keep the door open a bit.

There may be further debate on it now, or it could be adjourned until tomorrow if any member wished to do that. I have expressed my views sincerely while not in any way agreeing with the attitude of another place, and have considered the matter entirely from the point of view of this Chamber and with the strong conviction that we may be making a mistake regarding this measure if we are not careful. This is our last opportunity to review the position.

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

LICENSING ACT AMENDMENT BILL (No. 3)

Third reading.

The Hon. C. M. HILL (Minister of Local Government) moved:

That this Bill be now read a third time.

The Hon. M. B. DAWKINS (Midland): I did not oppose this Bill at the second reading stage because I believed that the provision relating to 20-year-olds was far better than the previous provision relating to 18-year-olds. I did not oppose the Bill at that stage but I did say that I reserved the right to oppose the Bill at the third reading if I saw fit to do so. At this stage I believe I must oppose the Bill because I think that 21 years is the best minimum age. My opinion is borne out by the findings of the Royal Commission that two years ago inquired into the whole question of our licensing laws. I oppose the Bill.

Bill read a third time and passed.

GIFT DUTY BILL

Adjourned debate on second reading.

(Continued from December 10. Page 3080.)

The Hon. F. J. POTTER (Central No. 2): When I was speaking previously on this very important Bill I suggested that perhaps some more detailed explanation should be given through the Minister by means of a memorandum from the Parliamentary Draftsman, who could explain in more detail the purpose of some of the more intricate clauses in the Bill, because I found great difficulty in understanding precisely what their effect would be. Since I last spoke I have conferred at length with other honourable members, with members of the legal profession and with other people in the community who are interested in this Bill.

As a result, I think I now clearly see what the Bill aims at and what some of the intricate clauses, in fact, do. They will have a big effect on allocations of dividends in proprietary companies, which are defined as "controlled companies" in the Bill. They will, in fact, catch for duty allocations of dividends or allotments of shares or deposits of moneys in private companies where those dividend distributions have been made as a result of a decision or a power exercisable by a governing director or even by the directors acting as a body. Of course, in this respect the Bill breaks new ground in South Australia, and no such provision exists in Commonwealth legislation.

It is important to realize this point, because the Minister, in his second reading explanation, said that the pattern in the Bill was related to the pattern of rates in other States and to the same general pattern of the Commonwealth. I do not know exactly what is meant by the words "the same general pattern". Some kind of argument may be produced that the patterns of rates of duty are similar. However, I emphasize that the rates of duty in this State Bill that we are now considering are higher than those imposed under Commonwealth legislation for similar gifts. One must never forget that if a gift is made under the provisions of this legislation it will also incur gift duty under the Commonwealth legislation.

In fact, I have heard today honourable members say openly that a gift of $20,000 (which sounds a big sum but is not really so big) would attract a combined Commonwealth and State duty of 9.3 per cent, which is a fairly heavy imposition for a gift of that magnitude. These company transactions, which are common and of which there must be hundreds or even thousands in the State, will now be caught for duty under this Bill. Careful consideration of some of these provisions of the Bill have disclosed anomalies that need to be corrected. For instance, there is the situation concerning a Statute-barred debt. In this regard, we see that clause 4 (6) provides:

> Where a debt, contract, chose in action or interest in property becomes irrecoverable or unenforceable by action or other process through lapse of time,

and so on. In other words, the Limitation of Actions Act applies and after a period of six years the debt is irrecoverable; then "for the purposes of this Act it shall be deemed not to be a gift". So there was the extraordinary position of a creditor being unable to collect an outstanding debt from a person because the time had elapsed. The debtor perhaps could not be found and the money was irrecoverable, yet he still had to pay duty if the amount involved was covered by this Bill; he still had to pay duty on some presumed gift. That is an example of the kind of provision that I found on a close examination of this legislation.

As a result of that examination, some amendments suggested themselves to me and to other persons who took part in the conference and I am pleased to see that these amendments have been largely incorporated in a schedule that appears on honourable members' files under the name of the Chief Secretary. I assure honourable members that all these amendments are important. Although they may appear to be brief, they are vital. I do not know that at this stage I can usefully carry the second reading debate any further because in many respects this is a Committee Bill, in the sense that, although it does not deal with a number of different subjects as a normal Committee Bill does, it does deal with the one matter of exemption from gift duty. Nevertheless, the circumstances in which this gift duty will be payable as framed in the Bill are separate circumstances that make this a kind of Committee Bill and it is difficult broadly to say much about these individual matters. I prefer to leave what I have to say on these different matters to the Committee stage.

I said earlier that I do not oppose the idea of taxing gifts made in this State. We have avoided for a long time this kind of taxation but we have sooner or later to face up to the fact that we are not in step with other States in this respect. I personally would not object to taxing gifts along the lines of the Commonwealth legislation. Rightly or wrongly, it appears that not only many honourable members in this Chamber and in another place but also many members of the public believe that, when this Bill was first mooted in the Treasurer's Budget speech, something like this was proposed but it was not until the Bill was actually before us that one could see that something very different was proposed for gift duty in this State. It is not like the Commonwealth legislation at all: it goes much further and will have a wider effect. It is not a Bill that can be examined in complete isolation because it is linked with our succession duties legislation. In other words, it taxes gifts because they may be used as a means of ultimately avoiding succession duty.

If we do not make a gift from time to time of our property, then naturally it accumulates and when we die succession duty is payable. If by some plan or even haphazardly a person's estate is disposed of by means of gifts during his lifetime in such a way that duty is either paid or avoided, then his ultimate estate is reduced. So this matter cannot be viewed in isolation: it is part of the pattern of succession duties in this State.

This leads me to one further important point and to something about this Bill that I do not like. We have a Succession Duties Act whereby individual persons who receive a succession are taxed on that succession according to a certain rate based on the relationship of the donee to the deceased. Although we have that system in South Australia, which is a system that I believe we should always retain, we are now in this Bill going to tax gifts in the same manner as the Commonwealth, although with a net spread much wider.

The Commonwealth Government imposes a system of estate duties and not succession duties at all, so to this extent it seems to me that this Bill does not fit in with the pattern of our succession duties legislation. Because this is so, and because we have the same provisions as appear in the Commonwealth Act, namely, an aggregation of gifts over a certain period of time so that duty is attracted to that aggregated amount, I say that this does not fit in quite satisfactorily with our succession duties legislation.

This Bill is something that we have to look at very carefully because of this fact. It is a Bill that I think will be widely talked about in the community and will be regarded as a most unusual piece of legislation. I know that people do not like to face up to the possibility of the imposition of a new tax or, for that matter, any tax. Many things in this Bill cause me grave disquiet, and I just wonder where we are going with the introduction of this kind of legislation which has such a wide effect, which interferes with practices that have been going on in this State for many years quite legitimately and lawfully, and which are now, as it were, proscribed. Although it will be possible to continue those practices, they will never be able to be continued in the same way as in the past.

I said earlier that I supported the Bill. I consider that it is absolutely necessary that amendments be moved in the Committee stage to some of the very important clauses. In fact, I say quite categorically that without those amendments I would not be prepared to support the Bill at the third reading. However, I think some real progress will be made, because I am pleased to see that the Chief Secretary is prepared to move some of these amendments.

If ever there was a Bill that one could point to as justifying the work of this Council, this is the one. When it was introduced in another place it was dealt with in double-quick time. So far as I know, no objection was raised to it and it came to us intact, yet this is a Bill that will have grave implications for many people, and it will have to be carefully considered. Much hard work has been done on the Bill. Without boasting, I will say that I put in many hours' work on this Bill yesterday, and many other members did so, too. After much work and thought, we have arrived at some very important amendments.

The Hon. R. A. Geddes: You are speaking for yourself when you say "we"; the Council has not even had a chance to follow the matter.

The Hon. F. J. POTTER: When I said "we" I meant the honourable members who worked with me last night. I pay a tribute to the Hon. Mr. Rowe and the Hon. Sir Arthur Rymill for the work they did, and to the Treasurer, the Under Treasurer and the Parliamentary Draftsman for the assistance they gave us. If ever there was a Bill which so vitally affects South Australia and which justifies the existence and the worth of this Council, here is one, because without the work that has been done and will be done in this Council this Bill, on a one-Chamber system, would now be law, and that would be a situation that many South Australians would regret. I support the second reading.

The Hon. JESSIE COOPER (Central No. 2): Since I was a child and presumably before that time Governments have been preaching that people should be thrifty, that they should save their money, and that they should invest a little in Australia. I can never see why those people who carry out those old but good recommendations should be forced to make a special and even greater contribution towards the public purse than those who pay lesser taxes and quite frequently make themselves a burden upon the community and our social services. I have never believed that the smashing up of pockets of wealth is desirable in a country like Australia, which is straining to find sufficient investment capital for its own development.

The Bill before us is to introduce yet another tax on capital. I believe that we already have too much taxation of capital assets. We have in Australia become accustomed to assorted death duties, both probate and estate duties. Now we are being asked to accept punitive rates of tax upon gifts. It is a punitive tax on the thrifty. Today a man is not only subject to heavy income tax upon his earnings; if he has been successful in his endeavours, if he has been careful to harbour his resources, if in fact he has been able to accumulate any assets, then what do we find? We find that our Governments insist upon acquiring a portion of his capital asset, if he should in any way attempt to transfer it by so-called gift to members of his own family. Let us not forget that his wife and sons and daughters have probably been responsible for helping to find that asset, often by great self-sacrifice. This Bill provides for a taxing raid, neither more nor less, on capital, should a man by any means attempt to distribute it. The rates of duty proposed in the Schedule can only be termed to be excessive and punishing to thrift. Therefore, I do not intend to support this Bill.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I find myself much in agreement with the honourable member who has just resumed her seat. I do not like the Bill: I consider that the Government has no mandate for it, and I would feel at perfect liberty to oppose the Bill on any reasonable cause if I considered that that was the correct course to take. I also consider that the rates of duty are too high. Clause 4 (17) I find particularly offensive because it is completely against all concepts of common law, which provides that no interest is chargeable by anyone against anyone else except by contract or agreement or in the case of some trade usage or some form that would apply at law when interest was payable. This clause has been inserted in the Bill for the purpose of gaining revenue, but it is totally against all the accepted concepts of law. It revolts me in relation to all my ideas of what should be the law.

However, one must be realistic about the matter, and I know that other States have these laws in some form or other, though not necessarily in this form. Also, I know that sooner or later this form of imposition of taxation will come in in this State, and one must face up to these matters of realism. It is our duty, therefore, rather than to reject this Bill out of hand to try to make it as just a Bill as we can in the circumstances. The Hon. Mr. Potter said that he had spent many hours yesterday working on the Bill: I did the same. We have not had much time to consider it, because it was received in this Chamber only last Thursday. Some of us with interests in business and the law have been heavily engaged on two other Bills, one being the Stamp Duties Act Amendment Bill, which is hard to get to holts with and difficult to understand. Yesterday, I considered that I could not divert my attention from those Bills to the pursuit of trying to understand this Bill. However, some people, who came down here to advise us, are experts in some aspects of matters dealt with in this Bill. They were helpful to some of us, and they suggested amendments that I think the Government, in a spirit of reasonableness, is prepared to accept.

These amendments will tidy up the Bill and alter some things that I think were not really intended to take place. This is not a criticism of the drafting of the Bill, but it went further in some respects than I think the Government meant it to go. All amendments on file should improve the Bill. I wish to make clear one particular point. During the last Parliament we had two successsion duties Bills before us, and I think every Liberal member was totally opposed to them: I have certain references from *Hansard* of speeches made by members who were totally opposed to the concept of aggregation of gifts by will or testamentary disposition in any form. This Bill is similar: it relates to non-testimentary dispositions of property, but the principles are the same. I am as totally opposed to the principle of aggregation applying in the Bill in its present form as I was in relation to the succession duties Bills. This is a matter of fundamental principle, and I hope honourable members will agree with me when I suggest that, although under the Bill gifts to the same donee can properly be aggregated within the specified period, gifts to other donees should be as they are in the case of the Succession Duties Act, that is, non-aggregatable.

If a donor gives a gift to A, B, and C, those gifts should be separate. This is a principle which we have had in this State and which I hope will never be departed from. The aggregation of gifts, whether by will or by other forms of disposition, is totally unjust. I can give dozens of instances, as I did in relation to the succession duties Bills, whereby there can be no justice in this matter as between the beneficiaries of the gifts. It works hardship on donors as well.

I have several amendments on the files, a couple of which will probably be accepted by the Government, which have been drawn to try to clarify certain matters that it has been suggested might operate in practice differently from what was expected. I have some of the amendments already on file, and I hope I will have the balance on file shortly. I hope honourable members will agree with me in removing the non-aggregation clauses of this Bill, except in relation to periods in respect of the same donee. These clauses have not been easy to draw, and I am grateful to the Parliamentary Draftsman for his assistance. Certain loopholes that could have emerged have been covered up, I hope. When I was discussing the matter with others it became obvious that certain matters would have to be dealt with other than by simple amendment, namely, in the matter of A giving something to B for the purpose of B giving it to C, and A also giving to C, which could, through a longer chain, have the effect of defeating the objects of the Bill, which is not my intention. I hope these amendments will satisfactorily cover that point, and I think they do. I intend to support the second reading, and I hope satisfactory amendments will be made to the Bill in Committee. If they are not made, I reserve the right to do what I think is appropriate at a later stage.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Interpretation."

The Hon. R. C. DeGARIS (Chief Secretary): I move:

In subclause (6) after "shall" to insert "unless the commissioner is satisfied that it was not rendered so irrecoverable or unenforceable for the purpose of evading or avoiding gift duty".

Where a debt becomes irrecoverable or unenforceable, it shall not be looked upon as a gift if the commissioner is satisfied that the debt is, in fact, irrecoverable and unenforceable and that its irrecoverability has not been brought about to evade gift duty. My amendment makes the provision clearer.

The Hon. F. J. POTTER: I support the amendment. I said in the second reading debate that where a debt was irrecoverable it was ridiculous that it should be regarded as a gift. The effect of the amendment is to exempt normal *bona fide* commercial transactions from being classed as gifts where debts become irrecoverable.

Suggested amendment carried.

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

In subclause (12) after "made" sixth occurring to insert ",unless the disposition is made to all the shareholders of the company in proportion to their respective shareholders or unless the commissioner otherwise determines".

This amendment alters subclause (12), which deals with a disposition of property or payment of money by way of dividend or interest or any other way that is made by a controlled company to its shareholders. As the subclause was originally drawn, any distribution of property or moneys could very well be income from a controlled company; even if this money was dispersed to the shareholders in accordance with their shareholdings, it would still be looked upon as a gift.

Suggested amendment carried.

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

In subclause (13) to insert the following new paragraph:

(*b*1) to the nature and extent of the respective shareholdings of the shareholders of the company.

This amendment is along similar lines.

Suggested amendment carried.

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

In subclause (17) to strike out "demand payment of" and insert "recover any"; and after "money" first occurring to insert "which has become due and payable to him".

This important amendment alters subclause (17), to which the Hon. Sir Arthur Rymill took particular exception. As originally drawn, it was difficult to interpret, particularly where it referred to the right to demand payment of money. This provision deals with notional interest in respect of gifts that are left outstanding from year to year. My amendments will go a long way toward clearing up the difficulty. If loans or deposits of money are left from year to year in a controlled company, it is only in the case where there has arisen a right to recover that money and the particular owner has not taken all reasonable steps to enforce payment of that money that the notional interest will be implied. In other words, so long as money is left on deposit without demand being made for such payment, then it will not be caught for this notional interest rate. I assure honourable members that my amendments are very necessary.

The Hon. R. C. DeGARIS: The Government believes that this is the general intention of clause 17 and has no objection to the amendment suggested by the Hon. Mr. Potter.

Suggested amendment carried.

The Hon. F. J. POTTER moved:

In subclause (17) before "first" to insert "money"; and to strike out "demand for payment could have been made" and insert "became due and payable".

Suggested amendments carried.

The Hon. Sir ARTHUR RYMILL: I move:

In subclause (17) after "payable" to insert ": Provided that this subsection shall not apply in the case of a contract *bona fide* entered into in the course of an ordinary commercial transaction which is not entered into for the purpose of evading or avoiding gift duty".

This amendment speaks for itself. The subclause is not intended to cover commercial transactions, but it has been pointed out to me by legal friends that it can be so construed in certain circumstances.

Suggested amendment carried.

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

To insert the following new subclause:

(21) Notwithstanding any other provision of this Act, where a gift that is a disposition of property referred to in subsections (11) to (17) inclusive of this section has been made before the third day of December, 1968, gift duty shall not be payable in respect thereof and it shall not be taken into account in ascertaining whether gift duty is payable in respect of any other gift made by the same donor or ascertaining the amount of any gift duty so payable.

The Treasurer in his Budget speech said that gift duty legislation would be introduced similar to that in other States and in the Commonwealth. However, in subsections (11) to (17) certain provisions are included dealing with the control of companies. This type of legislation does not appear in either the Commonwealth legislation or that of the other States. I expect it may well be introduced in the other States and in the Commonwealth but, when the Treasurer spoke, these provisions broke new ground. The Government believes that new subsection (21) should be inserted.

The Hon. R. A. GEDDES: Does this mean that, if those people who started to transfer their property to their sons before the Treasurer's Budget speech and then, after taking certain steps, found that they were subject to State gift duty and so terminated those transactions because they could not afford to pay this additional tax, had proceeded with their plans they would have had up to December 3 of this year to complete them?

The Hon. R. C. DeGARIS: No. This deals only with gifts made under these new subsections (11) to (17). Any gifts made other than under these new subsections will be subject to duty as at September 6, when the announcement was made, under clause 2. Subsections (11) to (17) are new provisions dealing specifically with the control of companies.

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

Clause 5—"Definition of value of all gifts."

The Hon. Sir ARTHUR RYMILL: I move:

In subclause (*b*) (ii) to strike out "or to any other"; and after "donee" to insert "; But where the Commissioner is satisfied that that donor has made a gift through one or more persons to some other person with the object of evading or avoiding gift duty which would have been payable if the gift had been made by that donor directly to that other person, that donor shall, for the purposes of this section, be deemed to have made that gift directly to that other person".

This is the important amendment I mentioned to ensure that no aggregation of gifts is made to more than one donee. These amendments are to ensure that a person shall not evade this provision by a series of gifts through a chain resulting in the gift coming back to the donee himself.

The Hon. R. C. DeGARIS: Sir Arthur Rymill and I seem to have got on extremely well tonight on most amendments. However, the Government cannot accept this amendment. Sir Arthur referred to the question of aggregation, but I do not think the question of aggregation can be looked on in the same way in this legislation. I point out that the other States and the Commonwealh Government do not look on this question as we have looked on it in respect of our succession duties. I believe that this question of gifts presents some greater difficulties. Although the further amendments make some attempt to overcome the problem by saying that a gift by A to B that eventually goes to C will be caught, it will be very difficult to catch up with this matter.

In the case of succession duties, there is no doubt that a disposition goes to a certain person, but in the present case an arrangement can be made whereby some way around this provision can be found. I appreciate very much the view of Sir Arthur Rymill, and I will say that I entirely agree with the State's attitude towards succession duties. I think the only fair way in which an estate duty should be arranged is that the actual succession is taxed. However, I believe this present matter is in a slightly different category. Therefore, I must oppose the amendment.

The Hon. Sir ARTHUR RYMILL: I do not wish to weary the Committee by arguing this question, which I regard as completely vital. I support the Bill, but with the utmost

respect I disagree with the Chief Secretary on this matter. I consider that the principle of aggregation for a non-testamentary gift is exactly the same as the principle for a testamentary gift. I ask for the support of honourable members in this amendment.

The Committee divided on the amendments:

Ayes (12)—The Hons. Jessie Cooper, M. B. Dawkins, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, F. J. Potter, C. D. Rowe, Sir Arthur Rymill (teller), V. G. Springett, and A. M. Whyte.

Noes (6)—The Hons. D. H. L. Banfield, S. C. Bevan, R. C. DeGaris (teller), C. M. Hill, A. F. Kneebone, and C. R. Story.

Majority of 6 for the Ayes.

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

Clauses 6 to 13 passed.

Clause 14—"Exemptions."

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

In paragraph (e) to strike out "the State" twice occurring and insert "Australia".

I think the purpose of this amendment is abundantly clear. It is too restrictive to confine gifts made to charitable institutions merely to the State of South Australia.

Amendment carried; clause as amended passed.

Clauses 15 to 18 passed.

Clause 19—"Return by donors and donees."

The Hon. Sir ARTHUR RYMILL: I move:

In subclause (2) (a) after "same" to strike out "or any other"; and to insert the following new subclause after subclause (5):

"(6) For the purposes of subsection (2) of this section, where the Commissioner is satisfied that a donor has made a gift through one or more persons to some other person with the object of evading or avoiding gift duty which would have been payable if the gift had been made by that donor directly to that other person, that donor shall be deemed to have made that gift directly to that other person."

These amendments are purely consequential on the previous amendments I moved and which were carried.

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

Clauses 20 to 24 passed.

Clause 25—"Amendment of assessment."

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

In subclause (2)(a) to strike out "otherwise than by reason of" and insert "in order to correct"; and to strike out "in the construction of this Act".

These are purely drafting amendments to clarify the provision.

Suggested amendments carried.

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

In subclause (4) after "thereto" insert "together with interest thereon at the rate of four per centum per annum from the day on which the duty was paid"; and in subclause (5) after "duty" second occurring to insert "together with interest, if any, payable thereon".

These amendments follow the provisions of the Succession Duties Act, so that if duty is overpaid the repayment must be paid with interest at 4 per cent. If Government duty is not paid interest must be paid to the person liable to pay the gift duty, and it is reasonable that interest should be payable on overpayments in the hands of the Government, as these have to be refunded to the person paying the tax.

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

Clauses 26 to 50 passed.

Clause 51—"Valuation of shares."

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

In subclause (3) to strike out "sum" and insert "net benefit"; and after "as" second occurring to insert "in the opinion of the Commissioner".

In the valuation of shares in some situations heavy income tax and other charges could be made on the gift. These amendments are to ensure that gift duty would be payable only on the net benefit to the donee.

Suggested amendment carried.

The Hon. Sir ARTHUR RYMILL: I move:

In subclause (3) after "receive" to insert "after payment of all income taxes in respect thereof".

This amendment clarifies the clause. The Chief Secretary's idea of net benefit is the benefit that is received by the recipient after both company tax and personal income tax have been paid. That is the intention of this amendment. In my view and in the view of other legal people the provision might not be interpreted to mean that—it might merely mean the net amount going to a person before he has to pay his income tax.

The Hon. R. C. DeGARIS: The Government is prepared to accept the amendment.

However, I point out that it may not always be in the interest of the donee.

The Hon. Sir ARTHUR RYMILL: I do not understand why it may not be in the interest of the donee.

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

Remaining clauses (52 to 54), schedule and title passed.

Bill read a third time and passed.

ADJOURNMENT

At 2.38 a.m. on Thursday, December 12, the Council adjourned until Thursday, December 12, at 2.15 p.m.