LEGISLATIVE COUNCIL

Wednesday, December 3, 1969.

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

QUESTIONS

SITTINGS AND BUSINESS

The Hon. A. J. SHARD: Many rumours are circulating about when it is likely that Parliament will rise. No-one seems to know definitely when this will be, although we have heard about the likelihood of a prorogation dinner tomorrow night. As at this time of the year we all have important engagements that we wish to keep, can the Chief Secretary give the Council some definite information?

The Hon. R. C. DeGARIS: Depending on how Parliament handles the work before it, the Government hopes to finish sittings tomorrow. That is the present plan.

BUTE BY-PASS

The Hon. M. B. DAWKINS: On November 25 I asked the Minister of Roads and Transport a question relating to the possible construction of a by-pass around the town of Bute. Has he a reply?

The Hon. C. M. HILL: The existing road between Kulpara and Bute is substandard in regard to width, geometric alignment and strength, and at some time in the future, as traffic volumes increase, it will be necessary to undertake reconstruction. The existing alignment through the township of Bute also contains several substandard curves which, although tolerable at present, will not be acceptable with higher traffic volumes on what is essentially a high-speed rural road. Accordingly, it will be also necessary eventually to realign the road in the vicinity of the town so that through traffic is separated from purely local traffic.

Highways Department engineers have had a preliminary look at the situation, including the possibility of constructing a new road on the alignment as described in the letter from the council to the honourable member.

At this stage, no approvals have been given for any detailed investigations to be carried out, and there are accordingly no definite proposals under consideration. When a planning investigation commences (and this could be in the relatively near future), the council may be assured that it will be made fully aware of the thoughts of the department and will be given ample opportunity to present its views.

RHODESIA

The Hon. V. G. SPRINGETT: On November 11 I asked the Minister of Agriculture a question regarding the volume of trade between this State and Rhodesia. Has he a reply?

The Hon. C. R. STORY: The total trade between a State and any country is not available because the indirect trade (that is, goods moving to other States before leaving or after entering Australia) cannot be measured. However, the Deputy Commonwealth Statistician states that during 1968-69 there were no direct imports from Rhodesia but direct exports to Rhodesia were as follows:

	$
Tallow	5,513
Agricultural spraying machinery	3,341
Currants	1,964
Other items	7,965
Total	$18,783

GAUGE STANDARDIZATION

The Hon. A. F. KNEEBONE: On November 27 I asked the Minister of Roads and Transport a series of questions about the transport of concentrates by rail from Broken Hill to Port Pirie. I said that the mining companies sidings would have to be standardized and that arrangements would have to be made for the shunting and assembly of ore trains for delivery to the South Australian Railways crews so that they could convey them to Port Pirie, despite the fact that freight services on the Indian Pacific route would commence on January 2. Has the Minister a reply?

The Hon. C. M. HILL: The sidings serving the Broken Hill mines will be converted to standard gauge by January 12, 1970, on which date both concentrates and other traffic will be conveyed by standard gauge to Port Pirie. Advice has been received from the Mining Managers Association at Broken Hill that it has successfully negotiated with the Silverton Tramway Company Limited for the latter firm to undertake the mines shunting at Broken Hill.

POLICE ESCORTS

The Hon. A. M. WHYTE: I ask leave to make a short statement before asking a question of the Chief Secretary.

Leave granted.

The Hon. A. M. WHYTE: A taxi-cab driver recently told me that she had been called to take a seriously ill child to hospital and, as she thought the matter was extremely urgent, she

inquired whether a police escort could be provided. She was told that an escort would not be provided in such circumstances because there was only one child in the taxi-cab and because travelling in the city faster than the speed limit could endanger other lives. As it seems strange to me that a police escort was not provided, will the Chief Secretary investigate this matter?

The Hon. R. C. DeGARIS: I will have inquiries made for the honourable member and bring back a reply.

GUARD RAILS

The Hon. A. M. WHYTE: Has the Minister of Roads and Transport a reply to my question of October 28 about the replacement of guard rails at approaches to railway crossings?

The Hon. C. M. HILL: The Railways Commissioner is obliged in terms of section 78 of the South Australian Railways Commissioner's Act, to construct fences and other obstacles to prevent the entry of cattle upon railway land. Consequently, he is not empowered to remove wing fences at level crossings as suggested by the honourable member. The alternative suggestion that the rail fences be replaced with lighter material is currently under investigation and installations have been carried out at a number of locations. However, as yet no conclusive results have been obtained.

TEA TREE GULLY PLANNING REGULATIONS

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

The Hon. Sir Arthur Rymill to move:

That the regulations made on August 28, 1969, under the Planning and Development Act, 1966-1967, in respect of Metropolitan Development Plan, City of Tea Tree Gully Planning Regulations—Zoning—and laid on the table of this Council on September 2, 1969, be disallowed.

The Hon. Sir ARTHUR RYMILL (Central No. 2): Certain undertakings have been given in relation to these regulations by the Tea Tree Gully council which, as honourable members know, is a reliable and capably managed body. In view of this, I move that this Order of the Day be now discharged.

Order of the Day discharged.

UNFAIR ADVERTISING BILL

Adjourned debate on second reading.

(Continued from December 2. Page 3414.)

The Hon. M. B. DAWKINS (Midland): This Bill has the commendable object of endeavouring to ensure that no unfair advertising is carried on. However, I question whether it will have the desired effect. At present an organization is trying to deal with this very matter.

When speaking to the Bill yesterday, the Hon. Mr. Rowe drew attention to clause 3, which is the operative clause. Clauses 1 and 2 are formal clauses. The honourable gentleman read most of the clause which, in my view and that of other honourable members (although it may be commendable in its intention), is somewhat incapable of implementation.

It would be difficult, if not impossible, to apply this clause in practice and, if that is so, why should we clutter up our Statute Book with legislation that is impracticable and largely unworkable? The honourable gentleman drew attention to the Australia-wide voluntary body, the Australian Association of National Advertisers, which tries to improve the standard of ethics in relation to advertising; I believe it has achieved some success in this respect. According to the information given yesterday, that body is involved in 85 per cent of the total annual expenditure on advertising amounting to about $200,000,000 a year.

That should give honourable members some idea of the large commercial enterprise that this Bill seeks to control. If passed, this Bill would attempt to control only the South Australian section of that enterprise. The Australian Association of National Advertisers opposes Government control because it believes that the object of the Bill can be achieved in a voluntary manner. It considers it has taken sufficient action over the past five years to improve the situation, and it is continuing so to do.

I do not intend to speak at length on this Bill, which contains only 4 clauses. In view of the information I have just mentioned, which was given to us yesterday, we may well get better control in advertising, by voluntary methods. I accept that there is some persuasion in advertising. If that were not so, it would have scarcely any effect on people. Of course, there is too much exaggeration in some advertising, and it is necessary to keep that under control. The Association of National Advertisers is to be commended for its efforts to raise the standard of ethics and the correctness of advertising and to limit, to a reasonable degree, the persuasiveness and exaggeration that occur in the advertising field.

We shall get better control by the voluntary efforts of the advertisers themselves than by what may be described as rather wordy legislation, which I believe it is difficult to put into practice. Therefore, without delaying the Council further, I oppose the Bill.

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

PROHIBITION OF DISCRIMINATION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 2. Page 3415.)

The Hon. R. A. GEDDES (Northern): I support the second reading of this Bill introduced by the Hon. Mr. Shard, the Leader of the Opposition in this Council. In his second reading explanation, he said:

A well-dressed and well-behaved Aboriginal man and woman were refused a drink in the lounge of a hotel.

Later, he said:

The aim of this amendment is to ensure that the Act is not evaded by the imposition of special conditions attaching to persons by reason of their colour of skin, race or country of origin.

That was the original intention of this legislation when it was introduced into this Council by the previous Government. It is only right and proper that, when a matter like this arises and an Act of Parliament exists that cannot be enforced because of technicalities, amendments should be introduced to make it work. As all honourable members know, much of our amending legislation deals with problems of flaws, faults or changing conditions that need to be rectified or met so that the legislation can work properly in the light of present-day conditions. Decisions made by various courts can also give rise to amending legislation. The key to this short Bill is the definition of "service". Clause 3 states:

"Service" includes . . . the supply of any goods or services.

Clause 5 provides:

A person whose business includes that of supplying goods or services for reward shall not, on a demand being made for any such goods or services, refuse or fail to supply such goods or services to a person only by reason of (*a*) the race; (*b*) the country of origin; or (*c*) the colour of the skin.

The Bill then goes on to say:

For the purposes of proceedings for an offence that is a contravention of subsection (1) of this section a refusal or failure by a person to supply the goods or services demanded pursuant to that subsection on the same terms and under the same conditions as those goods or services are usually supplied by him to any other person shall be deemed to be a refusal to supply those goods or services.

That appears to be clear-cut as far as it affects people covered by the Bill, whether it be an Aboriginal, a person from another country, or a person of a different skin pigment. On the point of discrimination, we are now faced with the challenge as it affects the aims of a trader who is concerned with a standard that he wants to maintain in his shop, or concerned with the type of clientele patronizing that shop. I refer not only to a shopkeeper, but also to a hotelkeeper.

The implication that a person must not discriminate makes it easy for those of a different race, colour, or country of origin, to lay a charge against the proprietor of a shop or hotel; but who looks after the principles that a trader is trying to establish? Who looks after the type of clientele that that trader wishes to encourage to use his shop or hotel? How does that person establish a standard and at the same time be assured of justice if a charge of discrimination is laid against him?

No-one wants to encourage use of the word "discrimination" in this modern day and age; in fact, it is a shame that the word has to be used, knowing that "to discriminate" means "to make a distinction". One must be fair when planning the rights of other people, because at the same time that fairness must extend also to a trader who does the supplying of goods or services. We may all want to have a Rolls Royce motor car, but can we afford it? Is it discrimination if the cost of that article is so great because the trader who makes the Rolls Royce motor car wants it built in a certain way? Perhaps a hotelkeeper may want a lounge of a certain standard in his hotel, and he may demand a separate charge for people using that lounge; in addition, the proprietor may also insist that people using that lounge wear a collar and tie. This Bill does not prevent a trader from doing those things.

The Hon. A. J. Shard: It would not prevent a trader doing that at all.

The Hon. R. A. GEDDES: I realize that, but it would create problems for a trader if he wanted to set certain standards, and I am not happy with that. I understand the Hon. Mr. Whyte is projecting some amendments to the Bill, and I support the second reading so that I can look at the amendments and give the matter further thought. As I have said, if an Act of Parliament is not working

correctly, then it is fair and proper that amendments should be introduced to try and overcome the problem. Whether the proposed amendments will have that effect, in the light of further amendments, remains to be seen, but I support the second reading.

The Hon. L. R. HART secured the adjournment of the debate.

ELECTORAL ACT AMENDMENT BILL (ROLLS)

Second reading.

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

That this Bill be now read a second time.

This Bill, which is consequential on the Constitution Act Amendment Bill, is designed to permit the preparation of electoral rolls for the electoral districts under the new boundaries contemplated by the Constitution Act Amendment Bill in addition to the electoral rolls for the electoral districts under the existing boundaries. The new boundaries will operate for the purposes of the next general election and any election thereafter, whereas the existing boundaries will operate for the purpose of any by-election that might take place before the next general election.

Clause 2 of the Bill provides that it is to become law on the day on which the Constitution Act Amendment Bill becomes law. Clause 3 gives effect to the main objects of the Bill.

The Hon. A. J. SHARD (Leader of the Opposition): I support the Bill, which is purely a machinery measure.

The Hon. Sir NORMAN JUDE (Southern): I gave notice earlier that I would move a contingent notice of motion with a view to adding further provisions to this Bill. I intend to move to insert new clauses 4 and 5. New clause 4 ensures that in a State election there shall be provided, legislatively, separate rolls for the House of Assembly and for the Legislative Council. Section 21 (1) of the principal Act provides:

The rolls shall be printed whenever the Minister directs.

I intend to move to insert after "directs" the passage "but separate rolls shall be printed and used for any Council election to be held after the commencement of the Electoral Act Amendment Act (No. 2), 1969". The purpose of my second amendment is to repeal section 118a of the principal Act. That section provides that it shall be the duty of every Assembly elector to record his vote at every election in the Assembly district for which he is enrolled. I support the second reading.

Bill read a second time.

The Hon. Sir NORMAN JUDE moved:

That Standing Orders be so far suspended as to enable a contingent Notice of Motion to be moved forthwith.

Motion carried.

The Hon. Sir NORMAN JUDE moved:

That it be an instruction to the Committee of the whole Council on the Bill that it shall have power to consider new clauses providing for voluntary voting for the House of Assembly and the Legislative Council and for separate rolls for the House of Assembly and the Legislative Council.

Motion carried.

In Committee.

Clauses 1 to 3 passed.

New clause 4—"Printing of rolls."

The Hon. Sir NORMAN JUDE moved to insert the following new clause:

4. Section 21 of the principal Act is amended by inserting in subsection (1) after the word "directs" the passage "but separate rolls shall be printed and used for any Council election to be held after the commencement of the Electoral Act Amendment Act (No. 2), 1969".

The Hon. C. M. HILL (Minister of Local Government): When I introduced this Bill I said that it was a simple measure consequential upon the proposed changes to the electoral boundaries. The Government simply had to provide that new electoral rolls be prepared for the proposed new electoral districts for the next general election and at the same time we had to continue the existing rolls in case a by-election became necessary between now and the time of the next general election. However, if the Hon. Sir Norman Jude's amendments are carried what was a simple measure will become by no means simple.

I can well recall the time when the change from separate rolls to one roll occurred. At that time there was considerable comment and criticism about the need for the change. As a result of elections that have been held since that time, the Government believes that the new system has been working reasonably well and it therefore does not see any reason why it should revert to the old system. Perhaps the honourable member would like to explain his reasons for the amendment. The Government does not support it.

The Hon. Sir NORMAN JUDE: It has never been my opinion that compulsory voting is democratic.

The Hon. C. M. Hill: We are dealing with new clause 4—separate rolls.

The Hon. Sir NORMAN JUDE: I am sorry. I mixed the clauses up. We all know of the unfortunate happenings at the recent Senate election when difficulties were experienced at polling booths in people getting their rights. As the result of computerized rolls there has been some inaccuracy because of human failing. Anyone with a sense of fair play appreciates that it is desirable to have separate rolls, particularly when there are different types of franchise.

It can be argued that that costs money, but that is rubbish. In my room in the basement of Parliament House I have stacks of paper in the form of rolls printed in the last 12 months; they are reissued and republished for each election. The wastage of paper is immense. We should adopt voluntary voting; a person should be able to vote by going into a polling booth and asking to vote. With compulsory voting, people are dragooned into it. One election paper is thrown at a person and then another one, whether or not he likes it. People should be free to vote if they have sufficient interest in politics; they should not be told that they must vote.

The Hon. A. J. SHARD: I oppose this amendment on the ground that this is purely a machinery Bill of no great importance. It is foolish and stupid to blame the computerized roll for what happened in the Senate election: it was purely because of the incompetence of the clerks. At a Commonwealth election every voter is entitled to two papers, but on this occasion many people were not handed them. I have had experience of this sort of thing; it does not amaze me to know what went on. The clerks acted according to instructions received. This is too serious a question to be thrown at us now on the eve of Parliament's proroguing. The Hon. Sir Norman Jude is entitled to his point of view but we are entitled to time to study these things and not to have to consider them within 48 hours of the end of the session. I take exception to a contingent notice of motion on a machinery Bill to introduce a really important and serious matter for the public of this State.

The Hon. Sir Arthur Rymill: What about the cross in a square?

The Hon. A. J. SHARD: This is a serious matter. If the honourable member wants to introduce it next year by means of a private member's Bill that we can study in detail and discuss, he can do that, but it is not playing ball at this stage of the session.

The Hon. D. H. L. BANFIELD: I did not realize the Hon. Sir Norman Jude took it to heart the other day when he looked like losing his seat. He is not prepared to face his electors; he is not prepared to allow the people to vote. He does not want to represent the people. What he is attempting to do is to make voting much more difficult for people because he is not prepared to accept their verdict. The one roll has been found satisfactory: in fact, South Australia was commended for it when it was introduced.

The Hon. L. R. HART: We are indebted to Sir Norman Jude for bringing this matter before Parliament. Previously, we had two rolls. When they became one roll, the matter was never brought before Parliament; it was done by an administrative act of the Premier of the day. In this case at least the honourable member has had the decency to bring the matter before Parliament, and Parliament should discuss it.

The Committee divided on the new clause:

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

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

Majority of 5 for the Ayes.

New clause thus inserted.

The Hon. Sir NORMAN JUDE moved to insert the following new clause:

5. Section 118a of the principal Act is repealed.

The Hon. C. M. HILL: This is a tremendous surprise and a tremendous change to thrust upon this honourable Chamber at this moment. To think of changing back from our present system to voluntary voting is a change that I think the Hon. Sir Norman would agree warrants much thought and consideration.

The Hon. M. B. Dawkins: It is a change for the better.

The Hon. C. M. HILL: I know that some of the great democracies of the world have a voluntary voting system; Britain is one, and the United States is another. I know, too, that quite strong arguments from the academic point of view can be put forward claiming that our present system is not democratic when people are forced by law to vote, thereby not having an opportunity to refrain from voting if they so desire. However, to introduce this measure at this time and in this form is too sudden a move altogether. I oppose the amendment.

The Hon. D. H. L. BANFIELD: This highlights the inconsistency of some members. A Bill was recently introduced that would have given 18-year-olds the right to vote if they so desired, but honourable members opposite said that position did not obtain in any other State, and they asked why we should adopt that principle. However, what is the position regarding this amendment? This situation does not exist in any other State.

The Hon. R. C. DeGaris: I think you are getting a bit confused regarding the Bill that the Committee is now considering.

The Hon. D. H. L. BANFIELD: On numerous occasions it has been said that because something is not operating in other States we should be doubly sure of what we are doing. Honourable members should be consistent, and should truly represent the people who elect them. At present, if everyone in a member's district voted, that member would receive only about half of the votes, because about half the people of this State vote for the Labor Party and the other half for the Liberal and Country League.

The Hon. M. B. Dawkins: That's a change from what you usually say.

The Hon. D. H. L. BANFIELD: I could be wrong. Perhaps the L.C.L. gets only 43 per cent of the votes, and the Labor Party 52 per cent. One would find that the people in Southern, Midland, Northern, Central No. 1 and Central No. 2 Districts were elected by a number of people who comprise only 25 per cent of those on the House of Assembly roll. Therefore, whom do we represent?

No member here could say he represents all the people in his district, because half of them are excluded from voting, and of the remainder 56 per cent vote for Labor and 42 per cent vote for the Liberals. What happens in Central No. 1 District when an L.C.L. candidate does not stand, or when there is a by-election to elect a member of the Legislative Council? Less than 10 per cent of the people elect the member.

The Hon. R. C. DeGaris: Only in Central No. 1.

The Hon. A. J. Shard: No, this applies to all districts.

The Hon. D. H. L. BANFIELD: Well, it could be 10 per cent in Central No. 1, and 7 per cent in the other districts. The Hon. Sir Norman Jude, instead of being satisfied with 25 per cent of the people voting for his Party, wants the figure reduced to less than 5 per cent, because if only 10 per cent of the Legislative Council voters cast a vote, about half of them vote for the A.L.P. He would therefore be voted into Parliament by only 5 per cent of the people in his district. Although the honourable member says it is democratic, that is not a democratic way of doing things. Members should be elected by the people, whom they should represent to the best of their ability.

The Hon. Sir NORMAN JUDE: I can only assume that the honourable member is worried because with voluntary voting he might not be sure of getting back.

The Hon. D. H. L. Banfield: I would still be elected.

The Hon. C. D. ROWE: The honourable member seems to be confused regarding this matter. I once introduced an amendment to give a large number of people the right to vote, but it was opposed by the honourable member. He is, therefore, not being consistent. As I understand the position, voting for the Legislative Council is voluntary at present.

The Hon. D. H. L. Banfield: But this is not for Legislative Council voting.

The Hon. C. D. ROWE: The honourable member was talking about the number of people voting at Legislative Council elections, the implication being that it was compulsory to vote at them, whereas it is not.

The Hon. D. H. L. Banfield: I didn't say that.

The Hon. C. D. ROWE: I have always been in favour of voluntary voting. When the L.C.L. got into the business of compulsory voting, it did so because it thought that it was expeditious at the time. However, the moment we get to the point where we act not on principle but on expedition, we get into trouble. We live in a democracy.

The Hon. D. H. L. Banfield: You wouldn't think so.

The Hon. C. D. ROWE: We spend large sums of money on educating people so that they can take their proper place in a democracy, and one of the great privileges they have is the right to vote at elections. I have never been convinced that the person who does not take enough interest in the affairs of the State to inform himself adequately of the issues involved in order to express an opinion voluntarily should be entitled to a vote. There are many people who on conscientious grounds do not wish to vote at an election, and I cannot see why we should put them in a position of having to give an explanation if they do not wish to vote.

The Hon. D. H. L. Banfield: You have been a long while coming around to that point of view.

The Hon. C. D. ROWE: I have not; I have held it ever since I have been in this Chamber. I realize that this clause, if it was carried, would make a big difference to our voting structure in this State. However, I think it would result in a better-informed opinion being recorded at the ballot box. As we go forward, and as we move with modern times, it is unfortunately becoming a fact that the political machines are more and more responsible for moulding people's ideas. We find that more and more money and more and more publicity are being provided by the political machines to condition people with regard to what their political opinions ought to be, and this is a trend that disturbs me in our modern democracy. It has gone much further than this in America, to the detriment of that country, but it is getting to the stage here—

The Hon. S. C. Bevan: Would you like the guns to come out at the elections, as they do in America?

The Hon. C. D. ROWE: No, that is what I want to avoid. I want people to be able to make their decisions, if possible, through having a personal knowledge of the candidate for whom they are voting and knowing what his policies are, not basing their opinions on the way in which the candidate is presented to the people, dressed up for some television interview or conditioned by hordes of public relations officers. I believe that if we could get back to a system of voluntary voting, those people interested in the cause would make it their business to inform themselves, first, of the issues involved and, secondly, of the nature of the candidates. I think we could then create an awakening of interest in the minds of the people regarding Parliament, and this would be good for the country. Also, I think we would get to the stage where people with more abilities, talents and aptitudes would present themselves to Parliament. It may be said that the Hon. Sir Norman Jude has brought this matter forward without much notice. If it were considered that the matter should receive further and deeper consideration, I would have no objection if the Bill were held over until another session.

The Hon. A. J. SHARD: I wish to refer to a point made by the Hon. Mr. Rowe. We did not last night discuss the merits of his amendment. He was gracious enough to give me credit for my remarks, which he said had some merit. If there is any confusion, it is in his mind; or he is deliberately playing on words and telling untruths. We never dealt with the merits of his amendment last night. We opposed it because we said it should not have been contained in that Bill. The Hon. Mr. Rowe has accused the Hon. Mr. Banfield tonight of opposing an added franchise for this Chamber, but this was never opposed, and no-one knows that better than the honourable member. Let us be straightforward and honest with one another. I have risen only to put this matter straight. I know what would happen otherwise; the relevant page would be taken out of *Hansard* and read to the honourable member's meetings in order to suggest that we opposed the measure. This has been done more than once previously. The statement that has been made is completely untrue.

We never discussed the merits of the provision last night. I take strong exception to the honourable member's getting up here tonight and saying that one of my colleagues said something which, in fact, he did not say. I object to the Government's bringing in this Bill at this stage of proceedings, and I am not going to deal with the merits of it tonight because I do not think it is fair or reasonable to expect us to do so.

The Hon. C. D. ROWE: I think I should rise by way of explanation. If what I said during my remarks was not correct, I am happy to correct it and put this matter in order. I agree that the Leader of the Opposition said last night that he was not concerning himself with the merits of the Bill but was opposed to it because the provision was introduced in that particular Bill. I said then (and I repeat it now) that if the statement I

made that the Hon. Mr. Banfield voted against this Bill on its merits is incorrect, I withdraw it, because I had no intention of giving a wrong impression.

The Hon. A. J. Shard: Thank you very much, and now that will be in *Hansard*, too.

The Committee divided on the new clause:

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

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

Majority of 5 for the Ayes.

New clause thus inserted.

Title passed.

Bill reported with amendments. Committee's report adopted.

WORKMEN'S COMPENSATION ACT AMENDMENT BILL (DEPENDANTS)

Second reading.

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

That this Bill be now read a second time.

It is to some extent the result of discussions with bodies interested in workmen's compensation and effects certain amendments to the principal Act which appear desirable. Clauses 1 to 3 are formal. Clause 4 removes the limitation of $110 which excluded persons earning above this amount from being classed as a "workman" for the purposes of this Act and also strikes out subsection (2) of section 7 of the principal Act which is now redundant. Clause 5 clarifies the meaning of section 16 (4) of the principal Act.

Clause 6 effects the following amendments: (*a*) it provides for a payment of $9 a week if the workman has a dependant mother. Previously, such a payment was available only for a dependant wife; (*b*) it raises the maximum compensation for a workman with dependants from $32.50 to $40; (*c*) it raises the maximum compensation for a workman without dependants from $22 to $27; (*d*) it makes it clear that the total liability of the employer for weekly payments under the section shall not exceed $12,000 in any case and raises the maximum liability for partial incapacity to $11,700; and (*e*) it raises the minimum payment for total incapacity from $12 to $15 a week.

Clause 7 amends section 24a of the principal Act to make it clear that an order under that section which, in effect, deems partial incapacity to be total incapacity if the worker is genuinely unable to obtain work shall apply, of itself, only to the calculation of weekly payments. Clause 8 effects certain decimal currency amendments.

Clause 9 permits the arbitrator in suitable cases to regard "deemed" total incapacity pursuant to section 24a as total permanent incapacity in fixing the lump sum payment and changes an inappropriate reference to "disability" to "incapacity", since the expression "disability" does not appear in this context anywhere else in the Act. Clause 10 inserts a new section 33a in the principal Act which provides that copies of reports of medical examinations to which, pursuant to this Act, the workman is required to submit himself shall be given to the workman or a person nominated by him.

Clause 11 removes the limitation of 12 months on the bringing of actions for injury otherwise than under this Act. The normal period of limitation will now apply to such actions provided that notice is given within six months of compensation being received or the failure to give that notice is excused on the grounds set out. Clause 12 is consequential on clause 11.

Clause 13 clarifies the meaning of section 94 of the principal Act. Clause 14 provides for an appeal from a decision of the committee which deals with claims under the provisions relating to silicosis. Clause 15 increases the fine for not insuring a workman from £5 to $100. I commend the Bill to honourable members.

The Hon. A. F. KNEEBONE (Central No. 1): This is a very important Bill from the viewpoint of workmen in South Australia. To indicate its importance I should like to quote the following article, headed "10,000 Hurt at Work", that appeared in the *Advertiser* on November 20:

Nearly 10,000 people in South Australia had sustained an injury at work which incapacitated them for a week or more last financial year, the acting Minister of Labor and Industry (Mr. Millhouse) said yesterday.

Commenting on the latest figures from the Commonwealth Bureau of Census and Statistics, he said there was still evidence that industrial accident prevention measures in South Australia were having some effect.

When I was Minister of Labour and Industry much work was done by the department in regard to education and safety measures in

industry. Courses were conducted for trade union officials, foremen and shop stewards in regard to industrial safety, and there were other activities in connection with the Accident Prevention Organization. During my term of office as Minister, for the first time in South Australia since records were kept, there was a reduction in the number of industrial accidents. The article continues:

Although the 9,888 accidents were 326, or 3.4 per cent, more than in the previous year, figures indicated that South Australian employment increased by almost 3 per cent.

The increased number of accidents was therefore mainly brought about by the higher level of employment. The 9,888 accidents were 1,921 fewer than four years ago.

That was prior to the time I referred to earlier. The article continues:

That was a reduction of 16 per cent over a period in which the number of people employed increased by 11 per cent. Mr. Millhouse said that, while the number of accidents involving men increased by .9 per cent, those for females increased by nearly 27 per cent.

Apparently the weaker sex is more susceptible to accidents than the stronger sex. The article continues:

A total of 54,500 workmen's compensation claims were made during the year in South Australia, and compensation payments totalled more than $6,000,000. This represented an increase of 300 claims on the previous year, but was still lower than in any other year since 1964-65. The total time lost as a result of accidents was 40,089 weeks, an increase of nearly 3 per cent.

This indicates the magnitude of the problem. As I have said in this Council before, the suffering and inconvenience to the person involved and the inconvenience to his dependants are of great concern and, of course, the loss to industry is tremendous. I have spoken many times in this Council on workmen's compensation, and I well remember that one of my first speeches in this Council related to an amendment to the Workmen's Compensation Act. I have noticed a change in people's attitudes to workmen's compensation, even amongst honourable members of this Council, since I first became a member. When I was talking on the occasion I have referred to, one honourable member, who is not with us now, thought that my ideas about workmen's compensation were altogether altruistic. When I was talking about the need for insurance cover for workmen during their journeys to and from work, another honourable member, who is still with us, interjected that this could be provided by the employee himself through his taking out his own insurance.

When the Labor Government came to power, workmen's compensation in this State received a good boost. Prior to the time I became a member of this Council there was a workmen's compensation advisory committee on which were representatives of the insurance companies and the United Trades and Labor Council and a nominee of the Government. This committee investigated suggestions for improving the principal Act. When Sir Thomas Playford was Premier we frequently noticed that a Bill dealing with workmen's compensation was introduced late in a Parliamentary session. Such Bills sometimes increased the weekly payments. Sir Thomas told us that, if we dared to move any amendments to such a Bill, it would be shelved. Therefore, workmen's compensation dribbled along from year to year with some upgrading of the amounts provided, but that was about all.

The Hon. R. C. DeGaris: Did you see what the *Advertiser* said about it?

The Hon. A. F. KNEEBONE: No, I did not see that; I do not always read the *Advertiser* columns. In those days, workmen's compensation coverage applied to an employee travelling to and from work only in a conveyance provided by the employer. Sir Thomas Playford said, "Even if the committee recommends coverage for an employee when going to and from work, it will not happen in my time." And it did not happen in Sir Thomas Playford's time: it happened in the time of the Labor Government. We have come a long way since those days. This Bill does improve the present situation. The improvements do not go far enough but, because of the late stage of the session, I do not intend to move any amendments to the Bill. The Bill effects some small improvements in the amounts payable weekly and in other amounts. One provision, defining disease and injury, is in line with the Victorian and New South Wales legislation, and that is an improvement.

The Bill proposes to increase the maximum weekly payments from $32.50 to $40 a week for a married man, and from $22 to $27 a week for a single man. Prior to the preparation of this Bill, the Trades and Labor Council submitted to the Minister a suggestion that the workman should receive his average weekly earnings during incapacity. However, a provision to that effect has not been included. It is interesting to note that in 1963, when the State living wage was $28.80 a week, which was about equal to the Commonwealth basic

wage at that time, a married man on compensation received $32.50 a week, which was $3.70 above that living wage. Everybody knows that the basic wage has been eliminated in regard to Commonwealth awards, and the minimum wage fixed the other day is now $41.90. Instead of the compensation rate for the married man being above the present minimum wage, it is below it.

It is also interesting to note that, although the amount for incapacity has been increased, when we compare the amounts received for incapacity under workmen's compensation with the amounts received in civil cases (in respect of motor vehicle accidents, for example) we see a substantial difference. Honourable members in the legal fraternity will probably draw my attention to the fact that civil cases are brought about as a result of negligence on the part of somebody else. I can understand that. However, despite that, the amounts provided for incapacity under workmen's compensation are not sufficient. As I said before, this Bill contains some improvements and, as I am concerned that it be passed before the end of the session, I will say nothing further at this stage. I support the second reading.

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

STATUTES AMENDMENT (PUBLIC SALARIES) BILL

Second reading.

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

That this Bill be now read a second time.

Its purpose is to increase the salaries of certain public officials whose salaries are fixed by statute. Since July, 1967, no general adjustment has been made in the salaries of public officials which are fixed by statute except in the case of Supreme Court judges. Public servants, including permanent heads, under the Public Service Act received a living wage increase of $70 per annum from October 28, 1968. This increase has not been extended to the salaries to which this Bill refers.

The Public Service Board has now reviewed the salaries of permanent heads and other senior administrative officers in the Public Service and has submitted a classification return in accordance with provisions of the Public Service Act incorporating its recommendations and determinations. The increases, which vary from $3,430 a year to $780 a year, were assessed on the basis of salaries now applying at appropriate levels in the Commonwealth and Public Services in other States, and I should mention that the salaries of permanent heads and senior officers of those Public Services have been increased since July, 1967. The board has also taken into account the increasing responsibilities being undertaken by senior officers.

Having regard to previously accepted relativities and to the general structure of Crown employment within the Public Service, it would seem reasonable to adjust the salaries of officials to which this Bill relates in accordance with the increases for officers under the Public Service Act. The only variations from that principle occur in the case of the two Commissioners of the Public Service Board, other than the Chairman, and in the case of the Agent-General. At present, the salary of each of those Commissioners of the Public Service Board is fixed at $400 a year below second level group of permanent heads of the Public Service. This Bill proposes to bring them to the same level as that group.

As for the case of the Agent-General, it is felt that, having regard to the present ratio of salary to representative allowances applying to Agents-General of other States, it would be fair and reasonable to apply the sterling equivalent of the increased emolument to the allowance component. The increases of salary proposed by the Bill are to date from December 1, 1969.

The Bill is divided into eight Parts. Part I is formal. Part II amends the Agent-General Act. Part III amends the Audit Act. Part IV amends the Industrial Code. Part V amends the Licensing Act. Part VI amends the Police Regulation Act. Part VII amends the Public Service Act. Part VIII amends the Public Service Arbitration Act.

Clause 2 is formal. Clause 3 amends section 5 of the Agent-General Act by increasing the expense allowance of the Agent-General from £2,100 sterling a year to £3,240 sterling a year. Clause 4 is formal. Clause 5 (*a*) increases the salary of the Auditor-General from $13,000 to $16,500 a year. Clause 5 (*b*) authorizes the payment of any arrears of salary whenever accruing. Clause 6 is formal. Clause 7 (*a*) and (*b*) increases the annual salary of the President of the Industrial Court from $13,000 to $16,500 and the annual salary of the Deputy President from $11,400 to $14,000. Clause 7 (*c*) authorizes the payment of any arrears of salary whenever accruing.

Clause 8 is formal. Clause 9 (*a*) and (*b*) increases the annual salary of the Judge of the Licensing Court from $11,400 to $14,000.

Clause 9 (*c*) authorizes the payment of any arrears of salary whenever accruing. Clause 10 is formal. Clause 11 (*a*) and (*b*) increases the annual salary of the Commissioner of Police from $12,200 to $15,200. Clause 11 (*c*) authorizes the payment of any arrears of salary whenever accruing.

Clause 12 is formal. Clause 13 (*a*) and (*b*) increases the annual salary of the Chairman of the Public Service Board from $13,000 to $16,500 and the salary of each of the two other Commissioners from $11,000 to $14,000. Clause 13 (*c*) authorizes the payment of any arrears of salary whenever accruing. Clause 14 is formal. Clause 15 (*a*) and (*b*) increases the annual salary of the Public Service Arbitrator from $11,400 to $14,000. Clause 15 (*c*) authorizes the payment of any arrears of salary whenever accruing. I commend the Bill to honourable members.

The Hon. A. J. SHARD (Leader of the Opposition): I support this Bill, which increases the salaries of public officials whose salaries are fixed by Statute. It is not for me to say whether the increases are too much or too little but, because they have been fixed in accordance with decisions by the Public Service Board and because they have been scrutinized by Cabinet, I think we can accept them as reasonable. I was rather surprised to hear that there had been no adjustment to these salaries since 1967; everyone else received an increase of $70 when the living wage was increased. Apparently these officials missed out, but that has been taken into account now, as also have the salaries paid to comparable officers in other States. This State has been fortunate in having public officials who put so much time and effort into their work in such a sincere manner. This Bill will encourage them to carry on their good work and keep them happy in their employment. I support the Bill.

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

PARLIAMENTARY SUPERANNUATION ACT AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

It makes a significant change in the superannuation scheme applicable to members of Parliament. Under the principal Act at present provision is made for the payment of a fixed contribution for a fixed benefit by way of pension and the change proposed is for the contribution to be determined as a percentage of a member's basic salary as from time to time payable and the pension to be determined by reference to a percentage of the basic salary payable to the member at the time he becomes entitled to a pension.

In addition, other amendments of somewhat less significance are proposed by the Bill. Clauses 1 and 2 are formal. Clause 3 amends the interpretation section of the principal Act (*a*) by defining "basic salary" with reference to the basic salary payable under the Parliamentary Salaries and Allowances Act; (*b*) by extending the definition of "member" to include persons who are not strictly speaking members but who are still in receipt of Parliamentary salary; and (*c*) by redefining "Parliamentary salary" in the terms of the Parliamentary Salaries and Allowances Act.

Clause 4 sets out two new rates of contribution: (*a*) a rate of 9 per cent of basic salary in lieu of the old rate of $456 a year; and (*b*) a rate of 6¾ per cent of basic salary in lieu of the old rate of $342 a year. It further provides that all new entrants to the fund shall contribute at the 9 per cent rate. Clause 5 is intended to permit a contributor at the rate of 6¾ per cent to convert to the higher rate of 9 per cent. This option is open to such a contributor only during the two months next following the coming into force of these provisions and is contingent on the contributor paying to the fund the difference between the amount he has already contributed to the fund and the amount he would have contributed to the fund if he had always contributed at the higher rate. If the contributor elects to pay the difference by instalments, until all the instalments are paid his pension is subject to a reduction which would vary in amount depending on the number of his instalments from time to time unpaid.

Clause 6 makes certain formal amendments to the principal Act to preserve the rights of existing pensioners. Clause 7 deals with rates of pension and re-enacts section 13 of the principal Act and at subsection (1) preserves existing pension, and subsections (2) and (3) adjust pensions payable to pensioners by taking into account any period of contributory service of less than a year. Previously, entitlement was based on complete years of service and no regard could be paid to any period of less than a complete

year even though contributions had been paid during that period. Subsection (4) sets out the new rates of pension payable under this Act. The rates commence at 30 per cent of the basic salary on retirement for eight years' contributory service as a member with stepped increases up to a maximum of 68 per cent of basic salary on retirement.

Appropriate provision is made for a lower pension to be paid to a contributor who is entitled to contribute at a lower rate. If a member with less than eight years' service is obliged to retire on grounds of invalidity his pension will be 30 per cent of his basic salary on retirement. New section 13a appears to be a complex provision but is intended to ensure that the increased benefits payable from the fund do not affect its future financial development. In substance, they provide that any member who qualifies for a pension, other than a pension on retirement through invalidity within three years next following the commencement of this amending Act, must either pay a sum equal to the difference between the contributions he would have paid under the old system of contributions and the contributions he would have paid under the new system of contributions in each case over three years.

If the retiring member does not desire to pay this sum, a pension somewhat higher than the old rate pension but somewhat lower than the new rate pension will be payable. The reduction principle expressed in this provision will not apply to widow or widower pensions. Clause 8 provides that a member who resigns or fails to seek re-election because he wishes to stand for election to the Commonwealth Parliament or the Parliament of another State shall be deemed to have satisfied a judge that there were good and sufficient reasons for his resignation or failure to stand for his re-election.

Clause 9 is a decimal currency amendment. Clause 10 makes certain amendments consequential on the amended definition of "member" and at paragraph (*b*) makes it clear that where a member who has less than eight years' service dies, for the purpose of calculating a pension to his widow he will be deemed to have had eight years' service. In addition, the widows of former members who would, had they been alive, have benefited from the adjustment of pensions provided for by new sections 13 (1) and (2) will be entitled to three-quarters of the benefit that the members would have been entitled to if they had been alive. Clause 11 allows for the repayment of contributions by persons who are entitled to a pension from another Parliament. Clause 12 effects an amendment consequential on the amended definition of "member".

The Hon. A. J. SHARD (Leader of the Opposition): I support this Bill, which provides that a member will contribute to the fund a percentage of his basic salary, and he is to be entitled to a percentage of his basic salary as superannuation according to the period for which he has been a member of Parliament. That principle, which has been desired for a long time, and is to be admired, whether salaries rise or fall. It will be effective, as adjustments will be made automatically as salaries change rather than amending Bills having to be introduced from time to time. Another good feature of the Bill is that payments will be judged on a monthly basis instead of on the number of completed years served. That provision will benefit retiring members.

The Hon. A. F. Kneebone: I think that is a good idea.

The Hon. A. J. SHARD: Yes. One member left the Parliament at the last election after having contributed to the fund for 10 months for nothing: that should not be able to happen. Also, I do not like the word "pension" being used, because this is not a pension: a pension is something that one receives after paying income tax and without paying into a special fund for it. Members of the public have referred to this aspect at times, and I object to it. When I retire, I will receive not a pension but superannuation for which I have paid dearly. Also, one must remember that those members who do not have other large incomes and need to receive superannuation are penalized further as the superannuation we receive makes us ineligible for the age pension. In that way, too, we pay dearly for our superannuation. When honourable members retire they must maintain themselves without the many fringe benefits that age pensioners receive.

I have spoken to many insurance people and, when I tell them of the amount of superannuation we pay (indeed, for the last few years I think members have paid $456 a year), they say they could do much better for us. When this Bill becomes law members will pay about $650 a year, which is not a small sum. Right throughout the Bill the word "pension" is used. However, it is not a pension but something for which we have paid and to which we are entitled. I should like the

Government to take up this matter with the Parliamentary Draftsman to ascertain whether the word "pension" can be removed from the legislation.

The fund has accumulated a large sum over 20 years, and it is worth possibly $1,000,000 today. One must contribute a certain amount before one can receive any benefits. In my opinion one should derive benefits from the fund as soon as any payments are made. There are 59 members in this Parliament, and surely they will not all die or retire at the same time, thereby ruining the fund. If the fund cannot carry the odd member who ceases to remain in office or the widow of such a member without the specified sum having had to be paid into the fund, it is a poor state of affairs. I have held these views for some time, and this is not the only occasion on which I have stated them. Although I do not like that aspect of the Bill, I support it. However, we should see whether the fund can be made a real superannuation fund instead of its being called a pension fund.

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

DISTINGUISHED VISITOR

THE PRESIDENT: I notice in the gallery the honourable Speaker of the Singapore Legislative Assembly, Mr. Punch Coomaraswamy, and on behalf of members of this Council I extend to him a warm welcome. I invite Mr. Coomaraswamy to occupy a seat on the floor of the Council, and I invite the Chief Secretary and the Leader of the Opposition to escort our distinguished visitor.

Mr. Coomaraswamy was escorted by the Hon. R. C. DeGaris and the Hon. A. J. Shard to a seat on the floor of the Council.

LOTTERY AND GAMING ACT AMENDMENT BILL (COMMISSION)

Second reading.

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

That this Bill be now read a second time.

The Lottery and Gaming Act Amendment Act (No. 2), 1966, which provided mainly for the introduction of off-course totalizator betting, also provided for a standard deduction, both for on-course and for off-course betting, of 14 per cent of the moneys invested in the totalizator. As far as off-course betting is concerned, out of the deduction so made the first requirement is to pay the statutory stamp duty and the balance is applied in meeting the expenses of the Totalizator Agency Board, in making payments for the administration of horse-racing and trotting and in making distributions to the clubs.

The amount deducted in respect of on-course totalizator betting is applied, first, in making payment of the statutory stamp duty and the balance is retained by the club for its use and benefit. However, as the on-course commission was raised to 14 per cent from 12¾ per cent upon the inauguration of off-course betting so as to facilitate the use by the board of totalizators conducted by the clubs, the Government included special provisions in the 1966 Act to deal with the extra 1¼ per cent being deducted from the total invested. Thus, for a period of three years after the commencement of off-course betting the clubs are permitted to retain the extra 1¼ per cent providing they expend such part thereof as the Treasurer approves on such improvements to totalizator installations, facilities and information services as are approved by the Treasurer.

The period during which the clubs may retain the extra 1¼ per cent commission expires on March 29, 1970, and, in the absence of amending legislation, the 1¼ per cent will then be payable to the Hospitals Fund to be used for the benefit of hospitals in this State. Submissions have been made by racing and trotting interests that the Government should legislate to continue this assistance and to permit the clubs to use the funds for general purposes rather than restricting their use specifically to totalizator improvements.

Excluding this particular 1¼ per cent, the balance of 12¾ per cent is divided in South Australia as follows: for turnover of less than $10,000, 1¼ per cent to 4¼ per cent to the Government and 11½ per cent to 8½ per cent to the clubs; and for turnover in excess of $10,000, 5¼ per cent to the Government and 7½ per cent to the clubs. It will be seen, therefore, that when this 1¼ per cent reverts to the Government its share of on-course turnover will be 2½ per cent to 5¼ per cent for most country meetings where the turnover is normally less than $10,000, and 6½ per cent for city meetings. It is relevant to point out that the clubs in South Australia receive a higher share of the bookmaker's turnover tax than is received by the clubs in most other States.

The turnover on totalizators in 1968-69 was some 12 per cent above the 1965-66 turnover, (that is, the year prior to T.A.B.) and, whether this increase was due to the existence of improved on-course facilities or whether it was due to increased familiarity with totalizator betting due to T.A.B., it is obviously in the interests of the Government and the clubs that this turnover should be maintained and, if possible, further increased.

The Government has, therefore, decided that, rather than terminate the arrangement in accordance with the proposals originally agreed upon, it will phase out this additional assistance by allowing the clubs to retain a smaller percentage for a further period. At the same time, whilst the Government hopes that the commission to be retained will be used for totalizator improvements, it will not make such application a condition of retention, as was the case with the 1966 legislation. The Government realizes that for smaller clubs it may be difficult to apply the smaller percentage of commission, which may be retained, to specific improvements unless the club is also able to apply substantial amounts of its own funds. The metropolitan clubs, on the other hand, will assuredly, and without compulsion, spend more on totalizator improvements than will be available through this extension.

The Bill now submitted provides that after the expiration of three years from the appointed day (that is, after March 28, 1970) and until March 28, 1973, after paying the statutory stamp duty out of the 14 per cent commission, the clubs must pay a further ½ per cent to the Hospitals Fund, to be used for the provision, maintenance, development and improvement of public hospitals, and retain the balance for their own use and benefit. They will thus retain an additional ¾ per cent for this period. After this period they will cease to be entitled to retain any part of the additional 1¼ per cent, the whole of which will then be paid to the Hospitals Fund, as originally proposed.

The Hon. A. J. Shard: Are you sure it is to the Hospitals Fund? Doesn't this go to the general funds?

The Hon. R. C. DeGARIS: No.

The Hon. A. J. Shard: You check that.

The Hon. R. C. DeGARIS: I commend the Bill to honourable members.

The Hon. A. J. SHARD secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (ABORTION)

In Committee.

(Continued from December 2. Page 3412.)

Clause 3—"Medical termination of pregnancy."

The Hon. C. D. ROWE: I move:

In new section 82a (1) to strike out "(i)"; in paragraph (*a*) to strike out "greater risk" first occurring and insert "grave danger" and to strike out "greater" second occurring and insert "grave"; and to strike out "than if the pregnancy were terminated".

I am trying to provide that a person shall not be convicted of a felony or misdemeanour if an abortion operation is performed by agreement with the consent of two legally qualified medical practitioners. They would have to be satisfied that the continuance of the pregnancy would involve grave danger to the life of the pregnant woman, or grave risk of injury to the physical or mental health of the pregnant woman. In other words, it puts the onus on a higher level than would otherwise have been the case.

At present it would be possible for the two practitioners to approve of the abortion operation if they formed the opinion in good faith:

That there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped.

My intention is to delete the proposed new section 82a (1) (ii), but to test the view of the Committee I now merely move to delete "(i)" in the proposed new section.

The Hon. C. M. HILL (Minister of Local Government): I oppose the amendment which has been explained by the Hon. Mr. Rowe. It simply deals with the consequential amendment to another amendment to which he has just referred, and concerns, in effect, deleting the word "greater" and inserting in its stead "grave". I also oppose that suggestion. Under the Bill as it stands both doctors have to consider whether there would be a greater risk in the woman continuing pregnancy than there would be if it were terminated or that there would be a substantial risk that if the pregnancy were not terminated the child would suffer from such physical or mental abnormalities as to be obviously handicapped.

In the early stages of pregnancy it could invariably be said that there would be a greater risk in a woman continuing a pregnancy than there would be if it were terminated. Under

the proposed amendment the doctors would have to be satisfied that the continuation of the pregnancy would only involve grave danger to the life of the pregnant woman or grave risk of injury to her physical or mental health.

If the amendment were accepted, we would be restricting more than at present the grounds upon which an abortion could be carried out now. I would also oppose the suggested amendment dealing with paragraph (ii), which seeks to delete the provision that would enable an abortion to be carried out where the continuation of a pregnancy would result in the child suffering from such physical or mental abnormalities as to be seriously handicapped.

The Hon. V. G. SPRINGETT: I draw the attention of the Committee to the effect of the suggested amendments, which would read "grave risk to the life of the pregnant woman or grave risk of injury to the physical or mental health of the pregnant woman . . ." I think this originally meant not that there would be greater risk of injury but surely a risk of greater injury, which is something entirely different. There could be a greater risk of a very minor injury (as it stands here) and the Hon. Mr. Rowe's amendment as it stands mentions "grave risk of injury" and not "risk of grave injury". It is a matter of the way the words are arranged.

However, I mention that the longer I practise medicine the harder I find it to decide whether some conditions are grave or not. Years ago I would have been prepared, and ready, to tell relatives of a patient that I thought the patient would die within a certain period of time, or that the condition would deteriorate in a certain period of time. However, the older I become the more difficult I find it to decide on matters of this nature. Nevertheless, with passing years one finds it easier to make an assessment, to say that one condition is more serious than another.

As the Minister has pointed out, the essence is to decide whether to allow a particular person under review to go ahead with a pregnancy or not. It is not comparing the greater risk between any pregnancy and the risk involved in abortion, but it is considering a particular pregnancy under review. Therefore, in one case it is a question of a doctor performing his normal, everyday function of comparatives, and in the other case it is putting one under a strain that becomes harder as the days and years go by, and making it more difficult to come to a decision. I do not support the amendment; I support the clause as it stands.

The Hon. JESSIE COOPER: I would like to ask a question in connection with the complete clause, if I am in order in doing so. Is the Minister prepared to explain the meaning of the term "in good faith"? Does it mean that the medical practitioners in question would actually see a patient and conduct a proper personal examination of that patient, or is it vizualized that one doctor only would make the examination and then consult the other doctor verbally? I would like that position clarified.

The Hon. C. M. HILL: My view would be to answer the first part of the question in the affirmative. Apparently the Hon. Mrs. Cooper wishes to make certain that a consultation should take place after both doctors have examined the patient concerned, and if that is so then perhaps that could be written into the Bill. However, I do not believe that there has been any misunderstanding that one of these medical practitioners should come to an opinion without personal consultation with a patient.

The Hon. JESSIE COOPER: My informant was one of the leading gynaecologists of the State, of whom there are 45 registered in this State through the Royal College of Surgeons. This Committee was misinformed yesterday when the number was given as 28; it should be 45. These specialists practise from Elliston to Mount Gambier, and they are available within 24 hours for any emergency. This Bill, I think, does not apply to emergencies but to elective abortions.

The question therefore arises from the gynaecologists whether both practitioners should be involved in the examination. The gynaecologists are extremely anxious that this place should consider the position when examinations are necessary, and they consider that this should be written into the Bill. Can the Minister, given time, have this included in the Bill?

The Hon. A. M. WHYTE: I support the amendment. I believe that the clause is so wide that one could interpret it in any way one liked. I would find it very hard to believe that a woman would not be at some disadvantage because she was pregnant, and it could quite easily be interpreted that there was greater risk because of this pregnancy. About 70 per cent of all abortions carried out in England come under this provision.

The Hon. V. G. SPRINGETT: When a doctor examines a patient he forms an opinion, and that is all any professional man does at

any time: he gives his opinion on a certain situation. Doctors are all the time giving opinions because they have to do so, and those opinions are always given in good faith.

The Hon. Sir ARTHUR RYMILL: This morning I received from a medical friend of mine a letter which I think really bears out what the Hon. Mr. Springett has just said. As I think this letter may be of some help to the Committee because the writer refers particularly to these amendments, I shall read portion of it. He said:

The Bill as it stands contains legislation that can be operated sensibly because it is based on the positive medical notion of a doctor seeking the health of his patient. It enables a doctor to assess comparative risks of different courses of action for a particular patient, taking the environment into account, exactly as is done in all other medical situations. Doctors are entirely familiar with such a method of working, having due regard to professional and community ethics.

If the Bill is amended as Mr. Rowe wants, doctors will be right back in the unclear situation of guessing what the law means by "grave"—a non-medical notion which the amendment does nothing to define. They will see they could abort where there are "grave" risks or dangers but evidently could not do so when there is only "ordinary" danger or even "substantial but not grave" danger to life or health.

Now I think it would be outrageous if a doctor should be prevented by a quibble from acting in his patient's interests when there is definite—but not "grave"—danger or risk to life.

Again, if Mr. Rowe's amendments, being carried, should lead doctors to believe that they must not take a patient's "foreseeable environment" into account, they may have to delay an abortion until there is actual deterioration in mental or physical health, even though this could reasonably have been foreseen. Delay increases the surgical risk of the abortion itself—all undesirable, and amounting at times to the practice of bad medicine.

In my view there is nothing unworkable or unclear in the existing clauses of the Bill before you as they stand, unamended. True, they put considerable trust in the judgment and ethical behaviour of the doctors, but this is done in other areas, so why not here? Carrying Mr. Rowe's amendments reduces that element of trust, and introduces (or reintroduces) obscurity.

I think that is extremely well put. As it makes the medical position very clear, I feel that I cannot support this group of amendments.

The Hon. M. B. DAWKINS: I support the amendment as now worded. I do not insist that the word should necessarily remain as "grave". Whether it should be "substantial" or some other word, I do not know. However, I cannot support the Bill as it stands, because proposed new section 82a (1) (a) (i) contains the words "that the continuance of the pregnancy would involve greater risk".

In common with all other honourable members, I have had considerable representations from both pro-abortionists and anti-abortionists, and I wish to quote a comment made to me because, as a layman, I do not presume to know anything about the matter. I wish to quote the comments of a doctor who has been in general practice and is now a psychiatrist. That doctor is pro-abortion. He came in here with a social worker and put to me his views, which I respect. Of course, I have also had representations from doctors and social workers who are on the other side of the fence. This gentleman (Mr. Colin Brewer) told me that a legal abortion, provided it was done in the fairly early stages of pregnancy, was almost always safer than having a baby. I then received from this gentleman a written submission that says exactly the same thing.

Now if it is correct that legal abortion is even safer than having a baby, one could drive a horse and cart through the words "greater risk", because almost always it would be a greater risk for the pregnancy to be continued than to take the apparently very safe course of having an abortion in the early stages.

Therefore, I cannot support the Bill as it stands. I do not know whether the Hon. Mr. Rowe wishes to make any variation to the words "grave danger" but, as the amendment stands at present, I would support it.

The Hon. F. J. POTTER: I repeat what I said in my second reading speech that I think that with this kind of Bill we, by a process of Parliamentary debate, particularly in Committee, will search in vain for an exact form of wording that will satisfy both the social concern that we have on this question and the medical considerations. I think we are here presented with that kind of problem. I support entirely what the Hon. Mr. Springett has said, and I also support the remarks quoted by Sir Arthur Rymill.

If we are going to ask a medical practitioner to form an opinion in the circumstances of the case before him as to whether or not some grave danger is going to be involved to the health of a woman, we are going to call upon him to make, as it were, an evaluation *in vacuo*. He cannot balance probabilities; he just has to rely on his interpretation of what we mean by

"grave danger", and there can be a thousand variations of that. This is precisely what I think we wish to avoid.

Surely, we are asking a doctor here to weigh up the balance between the two circumstances. It seems to me that we have to give him the opportunity, as even a judge has in a legal case, to weigh up the alternatives and to make his decision on the case in front of him on the balance of two possible situations. How else he can do it, I do not know. We are calling upon him to be some sort of a definer of mysteries. We are asking him to put his own interpretation on what is meant by these words: there will be no court interpretation for him to follow. Lawyers and judges have such interpretations to follow, because they can turn up cases and find out how a certain thing was defined in certain circumstances. However, that is not available for the doctor: he has to make his decision without such aids and I believe that we should not try to hamper his consideration of the particular case. If this amendment is carried it is true, as the Minister has said, that we will have a much more difficult situation than that of what we understand to be the existing law. I should have thought that that was an undesirable consequence.

The Hon. V. G. SPRINGETT: The comparison concerning greater risk is not between the patient and the operation to terminate the pregnancy: it is between the state of the patient and the continuation of her pregnancy. It is the pregnancy and her condition that are being compared. Thank goodness, the operation is comparatively free of risk. Let us remember the statement for that 1,000 pregnancies to be achieved 1,200 conceptions are required, there being a natural loss of 200 out of each 1,000 pregnancies. This loss, as I say, is a natural one and not the result of illegal abortions or any other form of operative procedures. There is a natural risk in all pregnancies.

The Hon. D. H. L. BANFIELD: I am strongly against the amendment. If the doctor believes there is a chance that the expected child will suffer such physical or mental abnormalities as to be seriously handicapped, then the mother should be informed accordingly and allowed to decide whether she is prepared to continue with the pregnancy. I have worked alongside many parents who, had they been fully aware of the consequences, and had legal abortion existed, would have had no hesitation whatsoever in seeking to have the mother's pregnancy terminated. It is not reasonable to expect a woman to have to continue with a pregnancy when she has been informed that there is every possibility of the child's suffering from an abnormality. Nor is this fair to other children in the family or, indeed, to society, which has to carry the burden of children born in this way. I believe that there is a great risk not only to the well-being of the mother, as time goes by, but also to the whole family as a result of the birth of a seriously handicapped child in the family.

I have no doubt that many institutions today are filled with mothers and other members of families who have been affected by such births being allowed to take place. A woman does not have to avail herself of the opportunity, but she should at least be given the opportunity to decide whether or not she will have the pregnancy terminated. I should think that 95 per cent of people, into whose family a seriously handicapped child has been born, pray that that child will be taken before they themselves die. What is the good of having such a child in those circumstances? As I speak from personal experience, I claim to know what I am talking about. I urge everyone to think of the people concerned and to let the mother decide whether she should avail herself of the opportunity to terminate the pregnancy at a stage before she may become mentally or emotionally affected.

The Hon. G. J. GILFILLAN: This is an important clause, as it defines the principles contained in this legislation and largely forms the basis on which the Bill would be administered and prosecutions launched. I believe that many members of the community, including members of the medical profession, are happy with the situation as it stands and with the so-called Bourne's case interpretation. However, many would like to see this codified perhaps more definitely concerning the legal position. We must consider how far the Bill is to go in codifying what is now accepted practice and consider also what will be the total results. I think it has been clearly shown in this debate that some consider that the interpretation in Bourne's case does not go far enough, while others hold the view that I believe is held by the majority of the people concerning this matter.

I find some inconsistency in the remarks made by the Hon. Mr. Springett, although I greatly respect his logical views. I refer particularly to his statement that, as one gets more experience, the less confidence one has in one's judgment concerning what is grave

risk or greater risk, etc. I believe this is the crux of the matter. We are leaving these decisions to medical men who have a wide range of experience and, no matter how the provision is worded, there will be some doubt about, or at least some difference in, the way in which opinions are arrived at.

The Hon. Mr. Rowe is quite correct in what he is trying to do although, like the Hon. Mr. Dawkins, I question whether "grave" is the most suitable word. Possibly "substantial" may be a more suitable word; with this qualification I support the Hon. Mr. Rowe's amendment. I believe that the term "greater risk" makes the provision too wide.

The Hon. Mr. Whyte and the Hon. Mr. Dawkins said that almost any case could be covered by this term. I think the Hon. Mr. Potter said during the second reading debate that the Bourne case had been used as the ground for abortions for 31 years and that it was probably time we had a look at it. However, I believe that if something has worked reasonably satisfactorily for 31 years we should look at it closely before we alter it. If we are cautious in dealing with this legislation we can always reconsider it later after we have seen its effect.

The Hon. C. D. ROWE: I seek leave to amend my amendment by substituting "substantially greater risk" for "grave danger". New section 82a (1) (*a*) (i) will then read:

That the continuance of the pregnancy would involve substantially greater risk to the life of the pregnant woman or substantially greater risk of injury to the physical or mental health of the pregnant woman . . .

The Hon. C. M. Hill: Greater risk than what?

The Hon. V. G. SPRINGETT: The doctor still has to make the decision whether in his opinion there is substantially greater risk. The medical care of the patient is in the hands of a doctor who has a legal qualification recognized by the community. The more one tries to delineate and confine the definition the greater the problem becomes. Regarding the point made by the Hon. Mr. Banfield, I point out that we are concerned not only with life but with the quality of life. Everyone knows about German measles, but there are other diseases which, if they affect the parents, can affect the child, too. These conditions, although rare, nevertheless exist. A decision in each case cannot be made as a result of an overall blanket cover.

The Hon. F. J. POTTER: The Hon. Mr. Rowe has sought leave to amend his amendment but he is now, in effect, adding one word to the provision already in the Bill. In other words, he is seeking to narrow the field for the decision of the doctor. What is the difference between "involve greater risk" and "involve substantially greater risk"? I find this extremely difficult to comprehend and I suggest that we should be laying down broad terms, not terms that are too narrow. I wish to quote from a letter written to *The Times* in 1967 by two eminent doctors, Sir Dugald Baird and Sir John Peel; the extract is as follows:

We think it necessary for the law to show clearly the broad lines within which doctors may act but it should interfere as little as possible in the practice of medicine, since the standards should be guarded by the profession itself.

Here, we are merely juggling with words, which is often an unwise thing to do.

The Hon. D. H. L. BANFIELD: Mr. Chairman, much discussion is centred around a play on words in new section 82a (1) (*a*) (i), but there has been little discussion about paragraph (ii). Will the two questions be put separately?

The CHAIRMAN: Does the Hon. Mr. Rowe seek leave to amend his amendment?

The Hon. C. D. ROWE: I appreciate the remarks of the Hon. Mr. Banfield, and I think we should take the two parts separately. I now believe that new section 82a (1) (*a*) (i) should read:

That the continuance of the pregnancy would involve substantial risk to the life of the pregnant woman or substantial risk of injury to the physical or mental health of the pregnant woman.

In other words, I seek leave to amend my amendment by substituting "substantial" for "greater".

Leave granted; amendment amended.

The Hon. A. M. WHYTE: This is an important clause, as so much hinges on it. I am not certain whether the honourable member's second amendment is as good as his first. Would he therefore explain the purpose of the rewording? I was prepared to agree to his amendment whereby the words "grave danger" were used.

I do not think what the Hon. Mr. Potter has said about leaving this matter wide open is correct. The medical practitioners need to have the law codified sufficiently to enable

them to follow it. Can the honourable member say whether this amendment will cover the case better than the insertion of the words "grave danger" would?

The Hon. C. D. ROWE: Having listened to the debate that has taken place I formed the opinion that, if I persisted with the amendment using the words "grave danger", I would have lost it. For that reason I thought it would be better to use "substantial" and have the Bill pass rather than lose my amendment altogether and have the Bill pass as it now stands. In this way I think we would be more likely to limit the number of such operations that take place. If two medical practitioners have to be satisfied that the continuance of the pregnancy would involve substantial risk to the life of the pregnant woman, a substantial onus is placed on them when deciding whether to operate. On the other hand, that onus would not be as great if the words "grave danger" were used.

The Hon. R. A. GEDDES: The words "grave", "greater" and "substantial" are more legal than medical terms. I asked a city legal practitioner to define these words and to give me a form of priority for them. He listed "grave danger" as being of a high order; "greater risk" as being of next in importance; and "substantial risk" as being of the lowest importance from a legal viewpoint.

The Hon. F. J. Potter: Of course, "greater" is a comparative word. You must qualify it by using "than", if you are going to use it at all.

The Hon. R. A. GEDDES: Be that as it may, I am sure the Committee is concerned to ensure that only those abortions that are necessary should take place. On the advice I have received, I consider that "greater risk" is of more substance than "substantial risk".

The CHAIRMAN: I understand that the Hon. Mr. Rowe has withdrawn his first amendment.

The Hon. C. D. ROWE: I have moved that in subparagraph (i) the word "greater" twice occurring be struck out and "substantial" be inserted; and that all words after "woman" last occurring be struck out.

The Committee divided on the amendment:

Ayes (5)—The Hons. M. B. Dawkins, G. J. Gilfillan, H. K. Kemp, C. D. Rowe (teller), and A. M. Whyte.

Noes (14)—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, R. C. DeGaris, R. A. Geddes, L. R. Hart, C. M. Hill (teller), Sir Norman Jude, A. F. Kneebone, F. J. Potter, Sir Arthur Rymill, A. J. Shard, V. G. Springett, and C. R. Story.

Majority of 9 for the Noes.

Amendment thus negatived.

The Hon. C. D. ROWE: I move:

In new section 82a (1) (*a*) (ii) to strike out "that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped,".

I know that this matter is fraught with all sorts of emotional feelings, many of them well founded. It is difficult to ask a medical practitioner to determine whether in fact a child is likely to be born with physical or mental disabilities. It frequently happens that, although the medical practitioner may believe a certain condition to be the case, it does not turn out to be so. Therefore, I should like to see the deletion of these words.

The Hon. V. G. SPRINGETT: A few moments ago I referred to this part of the clause and said that we are faced here with the quality of life. I agree with the Hon. Mr. Rowe that it is difficult for any doctor to say that a certain condition will arise after a child is born, but we do know unquestionably that there are certain conditions that are transmitted to the unborn child through the parent and, if one parent or both parents have a certain condition, then almost unquestionably the child will be born with a similar condition. It is probable that in a few years' time, after a greater study has been made of genetics, more statistics will come to light and we shall know that certain other defects and diseases are due to inherited factors that the mother or father cannot help transmitting to the child.

We are not concerned here with whether John Willie will have weak flat feet or weak arms; we are concerned with whether he will be born with some sort of disease or deformity that will handicap him completely and utterly. In other words, we are concerned here with the quality of life. Therefore, I oppose the amendment.

The Hon. D. H. L. BANFIELD: I, too, oppose the amendment, because the medical profession is no different from the legal profession in this regard. We hear from members of the legal profession that white is white, yet we find that is not always right and they are often proved wrong. However, they are given the opportunity to test whether they are right or wrong. Only after very careful consideration of the whole case does the doctor take

action, and he is a man who has studied extensively and is most likely to give us the best advice about the possibility of a child being born with a physical or mental abnormality. He is the one who will be giving the advice—there is no-one else for us to turn to. We cannot turn to the legal profession in this regard; the matter has to be left entirely to the medical profession.

It is true that doctors make mistakes (that is why there are so many burials!) but in each case they have given their considered opinion and have done their best in the circumstances, and we have to accept their advice. All that the doctors would be doing is that they would be advising a mother of the grave possibility of her child being born with a mental abnormality or seriously handicapped, and then, and only then, would it be up to the mother to decide. Whether we become emotional or practical about this matter, each and every one of us has known some person who has been affected in this way. I have spoken to people time and time again about the different problems associated with this type of person who has been allowed to come into the world and, while the people who have not been closely connected with such a person say, "Yes; I understand the conditions thoroughly", they then ask a stupid question that shows they have no understanding of the problem.

I always ask them to put themselves in the position of a mother having to feed her child for the rest of its life, having it slobber all over the place and having to carry it to and from the bathroom, morning and night, until perhaps it reaches the age of 50 or 60. People should consider this possibility and allow the parents to think of it as being with them for the rest of their lives. They should be allowed to decide whether they want their pregnancy terminated; we should not deprive them of the opportunity of deciding whether they want to put up with that sort of life for the following 50 to 70 years, which is often the case with modern drugs to help the handicapped child along. Let the prospective parents decide for themselves but, a decision having been made, let it be a legal abortion, if an abortion is wanted, and not a backyard one, where a mother runs a substantial risk of being murdered at the hands of a backyard abortionist. We should look at this matter reasonably and let the prospective mother decide for herself.

The Hon. F. J. POTTER: The Hon. Mr. Banfield touched on an important point, that the situation envisaged by subparagraph (ii) is, in nearly all cases, the very reverse of what most honourable members believe is likely to happen if this Bill is passed: a pregnant woman will go to her doctor and say, "Doctor, I am pregnant. Such-and-such has happened. Can you do something about it?" That puts the onus on the doctor to make the final decision, but the woman herself is also very much involved in the ultimate decision, although she is the one who made the request. However, here I believe it more likely that a woman would consult her doctor, believing she was pregnant, and that the doctor would confirm that pregnancy and then conduct a proper examination of the woman, taking into account some of the associated factors. The doctor may be compelled to say, "Look here, do you know that in the circumstances of your heredity, or because of certain drugs you have been taking, or because of certain diseases that you have, there is a substantial risk that you will have a deformed child?"

The suggestion for considering termination of pregnancy would in practically all cases come from the doctor in the first instance, but the final decision would have to be made by the woman. She may be prepared to take the risk, but there is nothing in this Bill to compel any woman to have an abortion. I suggest that this is a case where a doctor, after examining all the circumstances, would probably suggest in certain cases (and perhaps not many of them) that the woman would be running a substantial risk of having a mentally or physically abnormal child if she continued with the pregnancy. That might for the first time make the woman consider whether she would request an abortion. The situation is a little different from the normal case that has been alarming some honourable members, who have talked of abortion factories, and so on. This provision is intended to cover a special case, and I believe it should not be deleted.

The Hon. A. M. WHYTE: I believe we are creating new legislation. At present doctors are equipped to handle cases in the circumstances outlined by the Hon. Mr. Banfield. I could show the Committee a child who could possibly win a baby competition anywhere, but whose mother was advised by three specialists to abort. The mother did not ask for an abortion, and it was only because of her decision to have the child that she now has it. I point that out because under the present law doctors are doing exactly what the honourable member has said they should be able to do.

The Hon. S. C. BEVAN: It has taken me some time to decide whether or not to support the Bill, and my main reason for supporting it now is to enable a woman to have an abortion where necessary and to seek and obtain professional advice and services. This provision will stop the back-yard abortions being performed in this State; nobody can deny that this happens here.

I have visited nursing homes here and in other States, and as a member of the Public Works Committee I took part in the investigation into the building of these homes. In them I have seen deformed children of all ages, and if honourable members could see some of those children they would appreciate that the mothers should have had professional medical advice that would, perhaps, have prevented their bringing deformed children into the world. Probably 98 per cent of the children I saw would not be in the category mentioned by the Hon. Mr. Whyte: they will be almost helpless all their lives.

I think that had the mothers been aware of the circumstances prior to the birth of these children they would not have been anxious to have continued with their pregnancies, despite the normal mother love all women and girls have. This clause will enable a woman to seek professional advice and also enable a doctor to know a case history before giving advice. That opinion would have to be substantiated by a second medical opinion, and a second doctor would have to satisfy himself that the circumstances warranted an abortion. I believe it is up to a mother to decide whether she will have a pregnancy terminated. I oppose the amendment.

Amendment negatived.

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

In new section 82a to strike out subsection (2).

This provision was inserted in another place at the last moment because the Minister in charge of the Bill said he had seen a similar provision in the Statutes of an American State when he was overseas, and he thought it might be a good idea to include it. I believe it to be anything but a good idea and that for several reasons it should be deleted. First, I think it is unconstitutional anyway. Section 117 of the Commonwealth Constitution Act provides that a subject of the Queen resident in any State shall not be subject in any other State to any disability or discrimination.

I know it may be said, in relation to this Bill, that that is a backhanded way of expressing the position as far as this State is concerned, but I genuinely believe (and my opinion has been reinforced by two eminent constitutional lawyers to whom I have mentioned the matter) that this is *ultra vires* the Commonwealth Constitution. I do not put forward the reason for deleting the provision specifically or mainly on that ground. However, I think it is a factor that we ought to bear in mind.

Secondly, I believe that the provision could work unfairly against newly arrived migrants, who should have the benefit of our laws from the day they arrive. What do we mean by the words "a woman has not resided in South Australia for a period of at least four months immediately before the termination of her pregnancy"? I find these words difficult to define. We may have the situation that a woman who has been long resident in this State goes on a trip overseas or to another State. Is such a trip that extends beyond four months (and there is nothing abnormal about that) to disbar a South Australian resident from getting the benefit of the provisions of this Bill if she wished to take advantage of them?

Thirdly, we are dealing with a Bill to codify or clarify the law in relation to abortion, and if our Bill is right it should be right for all Australian women who come to this State. It seems to me that there is no moral reason for discriminating between women in this State, who are somehow to be put in a privileged position, and women who have not resided in this State for four months.

Perhaps my most important reason for moving this amendment is that I think we are putting doctors in an impossible position with regard to policing this provision. In weighing up the risks and deciding whether or not a woman is to have an abortion, doctors make their own inquiries and examination; they may call in the services of people who know the woman, such as her pastor or other members of the family, in order to inform themselves in the best way they can about the factors involved. However, they cannot in any way determine whether or not a woman has been resident in this State for four months.

The Hon. Sir Arthur Rymill: Must it be continuous residence? It doesn't say so.

The Hon. F. J. POTTER: That is so. It is something that doctors cannot police or be expected to police. All they can do is take the woman's word.

The Hon. Sir Arthur Rymill: What if she said, "I went to Melbourne a fortnight ago"?

The Hon. F. J. POTTER: Exactly! What if she says, "I have lived here all my life, but I have just come back from a six months' trip overseas"? It seems to me to be an impossible thing to interpret. It is an unfair burden to put on the medical profession. In these circumstances, I do not think it should have any place in the Bill.

The Hon. JESSIE COOPER: We have heard the legal reasons why this provision should be withdrawn from the Bill. I would say that there is another reason, too, that I feel very seriously about, and that is that surely the object of this Bill in the first place is to do away with backyard abortions. This provision more than any other will drive people to seek backyard abortions. I think it is really a most dangerous and most improper idea that a woman should have to wait four months if this need arose.

The Hon. A. M. WHYTE: It is obvious that the Hon. Mr. Potter and I agree on this provision because, although we went to different Draftsmen, we have similar amendments on file. It has been said that, irrespective of the "greater risk" clause, abortions will not increase. However, this paragraph says that we must prohibit some people from having abortions, even though they may be necessary in order to save their lives. If a person has not lived in this State for four months, apparently we are to say, "Bad luck, we can't help you." This gives the lie to the suggestion that the Bill is designed purely to assist women whose health is endangered. In fact, it seems that it is designed as an easy means of contraception. I hope that this provision is voted out.

The Hon. S. C. BEVAN: I think that this Bill, whether or not it is amended, will reach our Statute Book and that we will be the first State to have such legislation, although I am sure that ultimately other States will follow. What concerns me is that here the door is wide open to encourage the very thing that everyone wishes to avoid. Some members have spoken of the need to prevent this State from becoming an abortion factory. If this provision was deleted and there was no qualifying period, any woman could come to this State for an abortion and then return to her own State.

I know that some people would say that a woman should be able to do that if she wished to do so. After all, a doctor would still have to certify that in his opinion it was necessary to perform the operation, and he would have to be prepared to perform it. However, he would not have the case history of a person such as this. This would be tantamount to allowing abortion on demand, and I do not think any honourable member would agree to that. In the final analysis, it becomes a matter for the medical profession.

The Hon. A. M. Whyte: If the woman was ill, wouldn't the doctor be able to diagnose this?

The Hon. S. C. BEVAN: If the woman was ill the doctor would certainly diagnose it. I do not know how a doctor will decide whether a woman has been in South Australia for the qualifying period. He would have to be guided by her statement and, if that statement was false, the woman would have to take the consequences. I fear that South Australia will become an abortion factory not only for Australia but for a wider area.

The Hon. C. D. ROWE: I notice that the Hon. Mr. Springett has an amendment on file to new section 82a (2); it is to strike out "four" and to insert "two". Can the honourable member say whether he still intends to proceed with that amendment?

The Hon. V. G. SPRINGETT: I did intend to move it.

The CHAIRMAN: In order that the honourable member may be able to move his amendment I will put the Hon. Mr. Potter's amendment only up to "for a period of at least".

The Hon. V. G. SPRINGETT: Professionally, I have no hesitation in saying that the shorter the time that elapses between knowledge of a pregnancy and its termination, if necessary, the better. At the four-month stage what would earlier have been a simple termination is replaced by a more serious procedure. Most women are not aware that they are pregnant until they are about 8 weeks pregnant. Ideally and professionally they should be no time limit whatsoever. I support the amendment.

The Hon. Sir ARTHUR RYMILL: I support the amendment. I think the draftsmanship of the provision is defective. I do not know what it means, and I doubt whether other honourable members do. If the word "domiciled" was substituted for "resided" we would know what the provision meant. If a woman is temporarily absent from South Australia she is still domiciled here. New section 82a (2) says "four months immediately before"; on a literal construction, if the woman went to Melbourne for

a fortnight and then returned for this operation, she would not be able to meet the conditions imposed by this provision.

The Hon. D. H. L. BANFIELD: During the second reading debate I said that if women had been in charge of this Bill there would not have been half the amount of argument. Let us consider the case of a woman whose husband has been transferred to South Australia from another State. She has been pregnant for two or three months and, because of certain developments, it becomes necessary that her pregnancy be terminated. However, she must wait until she is seven months pregnant before she can have an abortion.

The Hon. F. J. Potter: She cannot have it then.

The Hon. D. H. L. BANFIELD: That is right; by that time she will have passed the recommended time for an abortion. When this Bill was introduced I thought that at last we were becoming a little enlightened, but this provision will cause us to slip back. I strongly urge honourable members to support the amendment.

The CHAIRMAN: Does the Hon. Mr. Springett wish to move his amendment later?

The Hon. V. G. SPRINGETT: I should like to keep it on the file until the amendment now before the Chair has been decided.

The Hon. L. R. HART: The only reason justifying the inclusion of this provision is that it will deter women from coming to South Australia to take advantage of our abortion laws. What troubles some people is that women have gone to England to take advantage of the abortion laws there. Of course, in England there is a free medical service, so there is some advantage in their going to England for an abortion. However, in South Australia an abortion operation will no doubt be costly, so there will be no financial attraction to women in other States to come here for that purpose. Consequently, I do not think we can draw any analogy between our situation and the English situation. Members must take note of the many reasons that have been put forward why this clause cannot work. I support the amendment.

The Hon. F. J. POTTER: I agree that we do not want to have great numbers of people flocking into this State. We must not overlook the fact that if this Bill becomes law (and, like the Hon. Mr. Bevan, I expect it will become law), we will not be the only State in Australia in which abortion is permitted. In the other States the common law is being applied, and a grave situation would arise regarding temporary migrant women coming here from the other States only if the laws of those States were oppressive. It is obvious that the laws in the other States as they are administered are not oppressive. Indeed, it has been said that at present South Australian women are going to other States to have abortions and, because of that, we can be sure that there will not be a tremendous inflow of women coming here for this purpose.

The Hon. Mr. Hart mentioned the situation in Britain, but that is a different situation from the one obtaining here. As he has said, Britain has a free medical service, and it stands just off the Continent of Europe, where a large number of countries have oppressive abortion laws. The latest figures prove to be incorrect the suggestion that a large number of women are going to England to have abortions. Lady Serota recently said in the House of Lords that at the end of 1968 about 50 women a week from abroad were going to England to have private abortions, so that about 2,500 women a year out of a total of 35,000 women who had abortions were going to England for this purpose. That is hardly an alarming proportion, even in England.

The Hon. A. M. WHYTE: Honourable members should keep it well in mind, especially when the Bill reaches the third reading stage, that this legislation could result in South Australia's becoming an abortion centre. We must consider carefully legislation that will attract people to this State merely to make use of our abortion laws. On the other hand, if we are passing legislation that will merely assist women in distress, there is no point in stipulating that they should remain in the State for four months. If a woman is in distress, what sort of a doctor would say, "I can help you, provided you stay here for another four months"?

Amendment carried.

The Hon. F. J. POTTER moved:

To strike out all the remaining words in new subsection (2).

The CHAIRMAN: That is automatic.

The Hon. L. R. HART: I move:

To strike out new subsection (3).

This provision must be considered in conjunction with new section 82a (1). If it is inserted, the tendency will be for a woman's

environment to become the deciding factor in a doctor's deciding whether an abortion is desirable. The Hon. Mr. Springett made it clear in his second reading speech that in deciding whether an abortion was desirable the question of environment would definitely be considered. A doctor could not form an opinion as to the possible effects on the physical or mental health of a woman if he did not consider environment. If this clause is to be inserted as it stands, it will be mandatory for a doctor to consider the woman's environment.

The other weakness in this respect is that the doctor must also consider the reasonably foreseeable environment. It will be impossible for many doctors to do this, as they may never have seen the woman before. As the doctor could consider only her immediate environment, it should not be mandatory for him to consider the woman's reasonably foreseeable environment. Most people consider that this provision could be deleted and that the word "shall" could be substituted for "may". However, I would prefer that the subsection be deleted altogether.

The Hon. C. M. HILL: I oppose the amendment. It seeks to delete the environmental provision, which provides that in determining whether the continuance of a pregnancy would involve much risk of injury to the physical or mental health of the pregnant woman, account shall be taken of the woman's actual or reasonably foreseeable environment.

In line with accepted medical practice, when a doctor is treating a patient for whatever condition it might be, he must have regard to her total well-being, and he treats her in the situation in which he knows she finds herself.

The Committee divided on the amendment:

Ayes (6)—The Hons. M. B. Dawkins, G. J. Gilfillan, L. R. Hart (teller), H. K. Kemp, C. D. Rowe, and A. M. Whyte.

Noes (13)—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, R. C. DeGaris, R. A. Geddes, C. M. Hill (teller), Sir Norman Jude, A. F. Kneebone, F. J. Potter, Sir Arthur Rymill, A. J. Shard, V. G. Springett, and C. R. Story.

Majority of 7 for the Noes.

Amendment thus negatived.

Progress reported; Committee to sit again.

[*Sitting suspended from 5.5 p.m. to 7.45 p.m.*]

SUPERANNUATION BILL

In Committee.

(Continued from December 2. Page 3394.)

Clause 43—"Amount of contributions"—to which the Hon. A. F. Kneebone had moved the following amendment:

After "43" to insert "(1)"; and to insert the following new subclause:

(2) The contributions for the first fourteen units of pension of a contributor who first becomes an employee after attaining the age of forty-five years shall be reduced in accordance with the following table:

Determining Age	Fraction of Reduction
46 years	1/30
47 years	1/15
48 years	1/10
49 years	2/15
50 years or over	1/6

and in that table—

"Determining Age" means the age of the contributor on the anniversary of his birth next following the last day of the month immediately preceding the month in which his first payment day occurs:

"Fraction of Reduction" means the fraction by which his contributions (other than his contributions payable pursuant to section 22 of this Act) for his first fourteen units of pension shall be reduced.

The Hon. A. F. KNEEBONE: I referred to this amendment in the second reading debate. This section was introduced into the principal Act in 1965 by the late Frank Walsh, when Premier. A concession was granted to persons who became employees of the Government and who became contributors to the fund if they were over 45 years of age. Since the provision was introduced, at least 100 persons have availed themselves of it and, because that is the case, I can see no reason why the Government should want to take away that concession from these people. I therefore hope that the subclause will be inserted.

The Hon. R. C. DeGARIS (Chief Secretary): As the honourable member has pointed out, the effect of this amendment would be to continue to give persons who first joined the fund after attaining the age of 45 years the right to contribute at a reduced rate for the first 14 units of pension. The rights of contributors who have already received this concession are unaffected by the Bill. Regarding whether this concession should be retained, the Public Actuary reported as follows:

The request to keep the concessions granted in 1965 is impractical and unjustified. With the exception of Queensland, where the position is obscure because of the great complexity

of their Act, all other States reduce entitlement to benefit for persons of advanced age at entry. This practice is also common in private superannuation funds.

Under our scheme, regardless of length of service, a member has a minimum entitlement (if he takes all his units) of a pension of 60 per cent of salary. This is most generous and should act (I know it did in my case) as an incentive to recruitment of the older person. The benefit of this large entitlement far outweighs the very small concession granted in the 1965 amendment.

Very few persons have been recruited at an age which has entitled them to this benefit. Recruits from other Government funds do not come into this category as they are covered by regulations providing for the transfer of their contributions received on resignation from the other fund. They are therefore placed in the position in our fund as though they had commenced contributing from the age at which they joined the other fund. The concessions therefore affect only those persons who come from outside the Government sector. If thought necessary, the scope of regulations which provides for transfer from other Government funds could be enlarged to provide for transfer from any fund, thus allowing any person who on resignation from his previous employer has received a refund the benefits of entering as at an assumed age earlier than his actual entry date. There would, under this suggestion, be no effect on the cost to Government.

This matter has been considered by the Government, which considers that the present clause is justified.

The CHAIRMAN: I will put first the question that "(1)" be inserted after "43".

Amendment negatived.

The Hon. A. F. KNEEBONE: That is the test vote, of course, Sir. As a result, I will not proceed with the rest of the amendment.

Clause passed.

Remaining clauses (44 to 116), schedules and title passed.

Bill read a third time and passed.

CONSTITUTION ACT AMENDMENT BILL

In Committee.

(Continued from December 2. Page 3435.)

New clauses 2a, 2b, and 2c.

The Hon. C. D. ROWE: I explained to honourable members last evening that the object of these new clauses was, in effect, the same as that which I hoped to achieve when I introduced a private member's Bill last year: to give the spouse of any person at present enrolled as a voter for the Legislative Council the right to vote; secondly, to provide that certain categories of ex-servicemen should be entitled to vote for the Legislative Council; and thirdly, to remove the property qualifications altogether concerning the right to vote for the Legislative Council. It seems to me that this Bill will permit a considerable increase in the enrolment of persons entitled to vote for the Legislative Council, and this is to be desired.

The Leader of the Opposition, if I remember correctly, said last evening that he was not necessarily opposed to the principle of these provisions, because they went partly in the direction that he wished to follow. Although he had some objection to their being included in this Bill, I think we are acting entirely within our constitutional rights in having the provisions inserted in this measure, and I ask honourable members to support them.

The Committee divided on the new clauses:

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 (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

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

Majority of 5 for the Ayes.

New clauses thus inserted.

Remaining clauses (3 to 7) and title passed.

Bill reported with amendments. Committee's report adopted.

GIFT DUTY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 2. Page 3396.)

The Hon. C. D. ROWE (Midland): I support the Bill. The Government has tackled this matter in the best possible way. It is to be expected that, when a Government moves into a new taxation field, there will be difficulties in implementing the legislation, and that is precisely what has happened in connection with the principal Act. When speaking on the Gift Duty Bill last year I said that it was unfortunate that it did not follow more closely the provisions of the Commonwealth Gift Duty Act, and I am still of that opinion; if it had, there would have been a much simpler administrative procedure. However, the Government did not follow the policy I advocated either in regard to the principles in the Bill or in regard to the gift duty rates.

It is disappointing that these rates are higher in the State sphere than in the Commonwealth sphere. It is nevertheless true that the Government has not yet been able to balance its Budget and is running into a fairly heavy deficit. Because this situation cannot be allowed to continue the Government must take steps to stabilize its budgetary position. Whilst no-one likes new taxation measures, I must congratulate the Government on taking steps which, although unpopular in some quarters, will put its financial house in order and pay dividends in the future. I remember that Sir Thomas Playford was consistently congratulated by the Grants Commission on the efficient way in which this State's financial affairs were managed. This gave the public confidence in his administration.

The present Government is endeavouring to manage South Australia's finances on a proper basis. With the increasing imposts placed on the Government through wage increases, the problem of balancing the Budget will become even more difficult. Clause 7 repeals section 18 of the principal Act and inserts a new section. Section 18 of the principal Act could be interpreted to mean that, where a father sold a property to his son and took the mortgage back for the purchase price, that mortgage of itself constituted a reservation. If at a later date portion of the moneys was discharged from the mortgage, those moneys would be aggregated with the original gift and the two assessed together to determine gift duty. If that had been the situation, the man would have had to pay gift duty at the rate applicable to the total value of the property transferred to the son, even though he might have spread the gift over several years.

I do not think that this was intended when the Gift Duty Bill was dealt with last year but, unfortunately, in the rather rushed session we did not give the careful attention to this provision that we should have given to it. The new section 18 reads as follows:

Where any disposition of property is made subject to a reservation of any benefit or advantage in favour of the person by whom the disposition is made, and the whole or any part of that benefit or advantage is subsequently made the subject of a gift from the person by whom the disposition is made to the person to whom it is made, the subsequent gift shall be deemed to have been made at the time of the earlier disposition or upon the third day of December, 1968, whichever is the later.

The effect of this is that, if a father transfers property to his son and there is reserved to the father specifically in the instrument any advantage or benefit to the father and a subsequent gift is made, it is regarded as one gift. Subsection (2) of the new section provides:

Where a disposition of property is made—

(*a*) in consideration of a sum payable at a future date and upon terms agreed between the persons by whom and to whom the disposition is made;

or

(*b*) in part as a gift and in part in consideration of a sum payable at a future date and upon terms agreed between the persons by whom and to whom the disposition is made,

that consideration shall be deemed not to be a reservation of benefit or advantage for the purposes of subsection (1) of this section, except where, and to the extent that, the obligation to make payment were undertaken in accordance with an agreement or an arrangement that the whole or any part of it be cancelled or forgiven at some future date.

As I understand the position, it means that, where a father transfers a property to a son and he takes a mortgage to secure the balance of the purchase price, if he voluntarily releases that mortgage from time to time that does not constitute a gift or reservation. I think this clarifies the uncertainty that exists in the present law, and I commend the Government for its consideration of this matter. It could be argued that it might be wiser to delete section 18 altogether, but I am satisfied with the amendments made to it, and I support it. I think this will implement the law on the intended basis. I compliment the Treasurer on agreeing to repeal the existing section 18, about which there was some doubt and difficulty, and to implement this new section. I understand that the Government, when it found that difficulties and criticisms were arising in respect of the Gift Duty Act last year, consulted the legal profession, the accountancy profession and other sources, and as a result of their investigations and considerations introduced this Bill, which, whilst it does not in some respects meet the criticisms raised, particularly in regard to controlled proprietary companies, nevertheless generally does go a long way towards satisfying the criticisms made. In the circumstances, I congratulate the Government on the work it has done on this Bill and the amendments it has produced. I support the Bill.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Interpretation."

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

In paragraph (*c*) to strike out subparagraph (*ea*) and insert the following new subparagraph:

(*ea*) for the purposes only of subsections (12) and (13) of this section, the distribution by a controlled company of a dividend upon shares held in that company or of interest on money advanced to that company whether the dividend or interest be paid to the shareholder or creditor entitled thereto or accumulated or invested on his behalf or credited in his name to a loan account or fund however designated or otherwise held or dealt with on his behalf or as he may permit or direct.

This is the first of a series of amendments designed to solve some of the difficulties that have arisen since this legislation has been in operation. In its original form, clause 2(*c*) inserts a new paragraph in connection with the definition of "disposition of property". In the Bill, subparagraph (*ea*) refers to a declaration by a corporation of a dividend. Obviously, this is designed to treat as "disposition of property" dividends declared by controlled companies. Therefore, it is suggested that "controlled company" be used in the section instead of "corporation"; and that is shown in my amendment. The original subparagraph (*ea*) refers to dividends paid or credited to shareholders. I think the subparagraph would have more meaning if it was extended to include interest paid or credited on loans. Also, this subparagraph is to be inserted in the definition of "disposition of property" for the purposes of tying in subsections (12) and (13) of section 4 of the Act within the meaning of this definition. I suggest that this amendment clarifies the position. Consequently, I have included the words "for the purposes only of subsections (12) and (13) of this section". I do not know whether that explanation is clear, but I am given to understand that this amendment has been examined by the Government and that it may be prepared to accept it.

The Hon. R. C. DeGARIS (Chief Secretary): This amendment limits the definition so that it applies only to the distribution of interest by a controlled company. The Government has no objection to that.

Suggested amendment carried.

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

In paragraph (*d*) after "'share'" to add "'and shareholder'".

The clause in its original form strikes out the definition of "share", but a definition of "shareholder" appears in the same clause. I think this was probably a drafting oversight.

The Hon. R. C. DeGARIS: It is agreed that this extension is logical. The Government has no objection to the amendment.

Suggested amendment carried.

The Hon. F. J. POTTER: I move to insert the following new subparagraph:

(*ha*) by inserting after the word "members" in paragraph (*a*) of subsection (12) the passage "or creditors".

Originally I had on file two amendments to insert new subparagraphs (*ha*) and (*hb*). Having further considered this matter, I am moving the insertion of only the one new paragraph. Section 4 (12) of the principal Act, as amended by clause 2 (i), refers to the disposition of property made by a controlled company for one or more of its members. I suggest that the words "or creditors" must be added, as interest can be paid to persons who are creditors and not members.

The Hon. R. C. DeGaris: The Government has no objection.

Suggested amendment carried.

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

In paragraph (*m*), to strike out all words after "determines"; and to insert new paragraph (*n*) as follows:

(*n*) by striking out subsection (13) and inserting in lieu thereof the following subsections:—

(13) Notwithstanding any other provisions of this Act, a disposition of property referred to in subsection (12) of this section and deemed pursuant to that subsection to have been made by a person other than the controlled company shall, for the purposes of this Act, be deemed to have been made without consideration except to the extent that the consideration, if any, that passed from the person to whom the disposition is made to the person or persons by whom the disposition is made or to the controlled company was, in the opinion of the Commissioner, fully adequate, having regard—

(*a*) to the nature and extent of the right or power that could have been exercised by the person or persons by whom the disposition is made, as referred to in that subsection;

(*b*) to any increase in the total estate or the value of the total estate of the person to whom the disposition is made that resulted from the disposition;

(*c*) to the nature and extent of the respective shareholdings of the shareholders of the company;

and

(*d*) to any other circumstances that he thinks relevant.

(13a) For the purposes of subsection (13) of this section, the disposition of property shall be deemed to have been made for adequate consideration—

(*a*) where the disposition (in the case of a distribution of dividend or an allotment or issue of shares) is made, and all such dispositions (if any) made during the previous three years or during the period commencing on the third day of December, 1968, and ending on the day the disposition was made, whichever is the lesser period, were made, to all the shareholders of the company in proportion to their respective paid up shareholdings (not being shareholdings entitled to a fixed rate of dividend);

and

(*b*) to the extent that the person or persons deemed by subsection (12) of this section to be the person or persons by whom the disposition is made disposes or dispose of such property to himself or themselves.

Section 4 (12) of the Act refers to dispositions of property arising from the declaration of dividends and payment of interest by controlled companies, and deems certain persons to be disponors in the circumstances referred to therein. Section 4 (13) deems a disposition falling within subsection (12) to be a disposition made without adequate consideration, and measures the quantum of the inadequacy of that consideration.

Clause 2 (*m*) of the Bill strikes out certain words from section 4 (12) and inserts new words in their place. It is felt that these words would be better placed in section 4 (13), as they tend to exempt from gift duty certain gifts deemed dispositions by way of dividend or share issues where made pro rata to all shareholders in proportion to their respective paid up share holdings.

The Hon. R. C. DeGARIS: The intention of this amendment is to facilitate the following amendment to which the Hon. Mr. Potter has referred. The Government has no objection to it.

Suggested amendment carried; clause as amended passed.

Clauses 3 to 6 passed.

Clause 7—"Disposition in consideration of reservation of benefit."

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

In new section 18 (2) to strike out all words after "section".

As the Minister said in the second reading debate, this is an important amendment. It will engage the attention of members, particularly country members. It deals with the disposition of property made in consideration or with reservation of any benefit or advantage in favour of the disponor, and if any part of the benefit or advantage is made the subject of a gift from the disponor to the original disponee, such gift is deemed to have been made at the time of disposition. The obvious effect of this section is to strike at a peculiar form of transaction and impose a higher rate of duty than in any other type of transaction. I refer, for example, to an ordinary series of gifts of, say, a man to his wife amounting to over $4,000 a year. I think honourable members are familiar with the mortgages that are executed by a son in favour of his father to secure an income to the parent, even though later the parent gives up that mortgage entitlement to his son, This is a form of transaction which, until this Act came into operation, was greatly used by country people.

Because of the effect of section 18, it means that there is an aggregation of rates. It has a wider effect than merely the operation of a transaction to dispose of a farm property: it also has an effect on house property transactions between husband and wife. However, I do not need to go into that, because perhaps it is not of such wide application as the forgiveness of a mortgage debt by a farmer. The rates involved in a transaction of forgiveness over a number of years of, say, $100,000 can attract rates of duty as high as 12 per cent by the time the whole matter is finalized. I think this is something that was not intended by the Government in the first instance. Some effort has been made by this amending clause to give some relief, but it seems to me that the existence of the words that I seek to delete does not take the matter far enough, and accordingly I am moving to have the words removed. I think that the position will then be clear.

On the other hand, I would not be surprised if some members wished to amend the measure even more drastically by striking out all words after "repealed". I think this would have the same effect as my amendment would have, because I think that the matter would remain as it was and that there would be no difficulty in the application of this provision. The vital question about this amendment is this: why should a person who wishes to adopt this particular method of disposing of his property

be caught for gift duty as against someone else whose assets are in a more liquid form and who, because of that fact, can dispose of them in such a way that they do not attract gift duty? I think this is the crux of the problem. It is because the farmer's assets are not liquid assets and he has to adopt this method of making a gift of his real estate to his son that he gets caught for gift duty, whereas another person with cash can merely pass over the money from time to time without attracting any duty at all. That really is the vital matter involved.

The Hon. A. M. WHYTE: I am in accord with the amendment, because the Hon. Mr. Potter has told me that it will do what I intended to do by repealing section 18 of the Act. It is apparent that section 18 has concerned the Government and all those who are caught within its ambit. Although I am not certain that the honourable member's amendment will have the same effect as deleting section 18 would have, I am prepared to defer to his legal knowledge and support the amendment.

The Hon. C. D. ROWE: Those members, if any, who were good enough to listen to what I had to say on this Bill will recall that I dealt in rather considerable detail with this particular clause because, as has been said by the Hon. Mr. Potter and others, this has a particular application to people who have their investments in farming lands. Section 18 of the principal Act has given rise to much concern, particularly among primary producers who are not in a position to make gifts of cash in the same way that people whose assets are in more liquid form can. A person with liquid assets can easily arrange to make cash gifts at 18-monthly intervals to take full advantage of the exemptions which the Act provides, and these gifts are not aggregated in any way whatsoever. Because of section 18, a person with real estate (particularly a country person) is placed in a difficult position where, for example, he sells his property to a member of his family and, from time to time thereafter, makes gifts in reduction of the amount owing to him on the sale.

This clause is designed to exempt from duty these subsequent gifts except where there was an arrangement or agreement (which could be written or verbal) at the time of the sale under which it was understood that periodic gifts would be made in reduction of the amount due under the sale contract. The vital question is why a person in the latter position should be caught for gift duty as against the person referred to earlier whose assets are in more liquid form and can be given to others at 18-monthly intervals in such a form as to take advantage of the exemptions available. As I understand it, what the Hon. Mr. Potter seeks to do is not to alter the position which it is desired to set out in new section 18 but to clarify it so as to avoid difficulties of interpretation concerning what is or is not a reservation. A difficulty existed here in the original drafting. I think the Government can accept this provision without giving away anything to which it thinks it is entitled. I think it is a matter of clarifying the drafting rather than of asking for any further concession to be made.

The Hon. H. K. KEMP: I am rather disturbed to hear this provision being attached only to farming land. Although it is a provision with which many members here are concerned in that regard, it applies just as much to the small business man and to the privately-owned business to be found throughout the whole of our commercial world. It also applies just as much to the professional man who has set up a practice. Although that person cannot transfer his practice under the present legislation, he is given a reasonable chance to do so equitably under the amendment. This matter is terribly important, because it really amounts to a capital tax being levied frequently on the whole sector of private business, and for that reason I support the amendment.

The Hon. R. C. DeGARIS: The matter raised by the Hon. Mr. Potter and supported by the Hon. Mr. Rowe and the Hon. Mr. Kemp relates to gift duty when a whole property passes to the possession of the donee, that gift being made in instalments. Although I clearly understand the rationale of the honourable member's amendment, I am not certain that the amendment does exactly what he considers it may do. Therefore, I should like to have progress reported at this stage in order to have the matter checked.

Progress reported; Committee to sit again.

HARBORS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from December 2. Page 3400.)

The Hon. C. D. ROWE (Midland): This Bill makes provision for the imposition of a charge of 2.5c a bushel in respect of grain

shipped over a certain harbour installation constructed for a particular purpose. It relates particularly to the Port Giles installation. Near the end of the 1950's or in the early 1960's representations were made to the Government of the day that Edithburgh should be made a deep sea port. At one time, Edithburgh was regarded as such a port, and I think it could be said that it was the third port in South Australia. However, there was a very short jetty there and, although the water was deep, it was not sufficiently deep for the larger vessels that became involved in the oversea grain trade.

Almost overnight the differential on wheat shipped from Edithburgh rose from 1d. a bushel to almost 9d. a bushel, and that caused the graingrowers in the area to urge that Edithburgh be made a deep sea port. When a deputation from the Yorke Peninsula graingrowers met Sir Thomas Playford, the then Premier, on the Edithburgh jetty, he explained to them that the investigations made by the harbours authorities showed that it would not be possible to establish a deep sea port at Edithburgh but that possibly one could be established at Port Giles, three or four miles farther north. After much investigation, a proposition was prepared and referred to the Public Works Committee, which reported favourably on the project. However, in its 1967 report it included the following paragraph under the heading "Financial Aspect":

If facilities are to be provided in addition to the existing bulk handling terminals a basic requirement is that the people who use the facilities must be prepared to bear the extra annual costs incurred. In this instance the local growers have voluntarily offered to contribute an additional 2.5c a bushel to the Marine and Harbors Department for grain handled across the proposed new berth. Whilst this amount is insufficient to fully cover the costs when related to the current production the prospects of increased output are sufficiently encouraging to indicate that the installation will become self-supporting within approximately 10 years. The committee considers that before any expenditure is undertaken on the project, the voluntary arrangement between the interested parties should be made legally binding by means of enabling legislation empowering the Australian Barley Board and the Australian Wheat Board to collect the requisite additional levy on behalf of the Marine and Harbors Department.

The findings of the committee stated, in paragraph (6):

There are no immediate prospects of substantial tonnages in addition to barley and wheat and consequently enabling legislation empowering the Marine and Harbors Department to obtain an additional levy from the wheatgrower and the barley producer is a basic requirement of the committee's recommendation.

It was on the basis of that report that the Government of the day and, subsequently, the Labor Government acted; as a result this installation was commenced, and it will be completed by May, 1970. Consequently, it is now necessary for the Government to introduce this Bill. Since the time I have referred to, certain things have happened and, as a result, it was decided that certain extensions should be made to the Port Giles facility to strengthen and lengthen it so that the water would be deep enough to accommodate larger ships. This was done not so much just to assist the local growers (because the original facility would have been sufficient for their purposes) but because, in view of the over-supply of wheat and barley in South Australia, the Government had wisely decided that an additional outport that could handle larger ships would be desirable. Consequently, the Government believed that the additional expenditure was justified. I should like to read the following extract from a report in connection with the Port Giles proposals:

Evidence submitted by Mr. J. R. Sainsbury, then General Manager of the South Australian Harbors Board, revealed that the scheme was estimated to cost £830,000. This figure was subsequently amended to £844,000, but that slight increase did not materially affect the financial aspect of the project.

Mr. Sainsbury advised that the rate for shipping grain at any of the bulk installations provided at ports nominated in the Bulk Handling of Grain Act was 2d. per bushel.

I believe that that rate has now been reduced from 2c to about 1.25c a bushel. I think there is an arrangement between the Government, the Barley Board and the Wheat Board that these matters are reviewed every five years. Consequently, that charge is now 1.25c a bushel instead of 2c a bushel. That charge applies to every harbour with a bulk installation. It applies to Port Giles, Ardrossan and Wallaroo. I emphasize that is separate from the 2.5c a bushel about which we are talking this evening. The report continues:

He produced a chart which set out the annual costs of the Port Giles scheme for various throughputs of grain, from which we have extracted the following:

For an annual throughput of 50,000 tons, the cost a bushel would be 9d., for 75,000 tons it would be 6d., for 100,000 tons it would be 5d., and for 125,000 tons it would reduce to 4d. a bushel, taken to the nearest penny. Actually, from the cost a ton, it woulld be something less than 4d. a bushel.

From a logical extension of Mr. Sainsbury's chart, the cost, based on the throughput of 150,000 tons, would be little more than 2d. a bushel required to place our port on an equal basis with the average of the other ports. Mr. Sainsbury added that, with a 3d. a bushel subsidy from growers on Southern Yorke Peninsula, an average annual throughput of about 100,000 tons would have to be maintained in order that the scheme should be economically self-sufficient.

I think it is estimated at present that the throughput of grain at Port Giles would be about 100,000 tons a year and that it would be 10 years before that grain throughput would be increased to 150,000 tons. At that time it was not possible to say what would happen with salt and gypsum in relation to this installation but, with modern developments and in view of present investigations, it is likely that salt and gypsum will come to be handled in fairly large quantities through this facility.

If that is so, I think the volume and tonnage through this installation will be sufficient, in a relatively short time, to justify the removal of this 2.5c surcharge. Whilst in the beginning it was estimated that Port Giles would service the people in that area only, because of the altered conditions I have just mentioned it is now apparent that Port Giles will possibly be used for out-shipping grain that is brought to it from perhaps Ardrossan and Wallaroo.

The question arises, therefore, whether the 2.5c surcharge should be applied only to the farmers who deliver to the installation at Edithburgh (that is, the people for whom this facility was originally provided) or whether it should be imposed also in respect of all grain handled over this belt, even if it comes down from Wallaroo or Ardrossan. The Government's attitude in this matter is that the facility there was provided for the people of that area, that it is they who should be responsible for providing this 2.5c surcharge, and that there are machinery difficulties that prevent the charge of 2.5c being imposed on grain coming from Ardrossan, because that cannot be debited to the individual farmer: the charge in respect of that grain must be a pool charge, which means it is paid by the wheat-growers and barley growers throughout the Commonwealth. The Government considers that it would not be possible to administer this.

However, I think that arrangements should be made whereby this charge could be levied in respect of all grain that goes over the belt. Otherwise, we shall get ourselves into a difficult situation. It will mean that, if this charge is made only on the local grain delivered to Port Giles and not on the grain coming from Ardrossan, people will tend to deliver their grain to Ardrossan, where they will not have to pay the charge of 2.5c, rather than to Port Giles.

The Hon. R. A. Geddes: But the costs of getting the grain across to Ardrossan will be greater.

The Hon. C. D. ROWE: Yes.

The Hon. M. B. Dawkins: Only for some of them.

The Hon. C. D. ROWE: It depends where the farms are situated. In many instances what the Hon. Mr. Geddes said would be true.

The Hon. C. R. Story: What is the natural division between Ardrossan and the lower area?

The Hon. C. D. ROWE: About halfway between Maitland and Minlaton would be the natural division. Of course, natural divisions have many conditions hedged around them. At present, I believe the silos for barley at Ardrossan are full, whereas there is still room at Port Giles for barley. The farmers, in their anxiety to get their barley off their properties, would possibly incur the additional costs of having it serviced at Port Giles. This causes me concern.

Representations have been made to me on this by people living in the area, who have led a deputation to the Treasurer and stated their case clearly and calmly. Their request was that the surcharge of 2.5c a bushel be removed altogether, as this has become a State-wide port rather than merely one for the local farmers; but the Treasurer, after considering the matter, said that he could not agree to that request. Consequently, he went ahead and introduced this Bill into another place, where Mr. Ferguson, the member for Yorke Peninsula, moved an amendment that is now incorporated in the Bill. It provides:

(2a) The Minister shall in the month of September in each year review the charge fixed or as varied pursuant to subsection (2) of this section and for the purposes of that review the Minister shall have regard to a report from the Auditor-General stating—

(*a*) the total amount of revenue derived from the use of the declared port facilities in respect of the shipment of grain in respect of which the charge is payable;

(*b*) the total amount of revenue derived from the use of the declared port facilities in respect of the shipment of all other goods, including grain, in respect of which the charge is not payable;

and

(*c*) the total of the expenses incurred in earning the revenue referred to in paragraphs (*a*) and (*b*) of this subsection,

and in varying the charge pursuant to subsection (2) of this section the Minister shall have regard to—

(*d*) the relationship between the amount of revenue referred to in paragraph (*a*) and the amount of revenue referred to in paragraph (*b*) of this subsection;

and

(*e*) the expenses referred to in paragraph (*c*) of this subsection,

and any such variation shall be expressed to have effect from the first day of October next following that month of September.

The effect of that amendment is that, if there is a build-up in the tonnage that goes through Port Giles, whether that build-up occurs as a result of grain or as a result of tonnages of salt or gypsum (as is likely to happen in the not too distant future), these matters will be taken into consideration by the Auditor-General and he will adjust this 2.5c downwards according to the total tonnages that go over the belt facility. If that builds up to about 150,000 tons a year, as I hope it will in the not too distant future, it will be possible for the 2.5c surcharge to be removed.

That brings me back to the basic point I mentioned, namely, whether this 2.5c surcharge should be made only in respect of the grain delivered by the local growers to the facility at Port Giles or whether it should be made also in respect of the grain carted there from Ardrossan and other places. I am of the opinion that it is reasonable to ask that this charge be made in respect of all grain that goes through that facility. There may be administrative difficulties as far as the Australian Wheat Board and the Australian Barley Board are concerned, and it would amount to a charge against the general pool funds. That is the difficulty facing us. That is the aspect I have been asked by the growers in the area to put before the Council, and that is the aspect I bring forward. I hope the growers in the area will take full advantage of this facility and see that as many tons of grain as possible go through it, because it is by pushing up the tonnage that we shall reduce the surcharge most quickly. That is the object of the exercise.

I also sincerely hope that the money spent on exploring the possibilities of the development of salt and gypsum in the area will prove to be well spent and that sooner or later we shall have large quantities of salt and gypsum that will not only be of benefit to the State but also make this a profitable installation.

The Hon. D. H. L. Banfield: How many tons of salt and gypsum are coming from there now?

The Hon. C. D. ROWE: I cannot say for certain, but this matter is being investigated at present. I understand that the figure could rise to 400,000 tons a year. I support the Bill.

The Hon. M. B. DAWKINS (Midland): I noted with interest the Hon. Mr. Rowe's remarks tonight and the remarks of the Hon. Mr. Kneebone yesterday, when he recounted briefly the history of the Port Giles installation. Originally, the matter was brought to the notice of the Playford Government, and the Public Works Committee, after considering it, eventually approved the installation. After some delay, the project was continued by the Labor Government and then by this Government. The Hon. Mr. Kneebone was gracious enough to say that the members representing this district have enthusiastically supported the people in obtaining this valuable installation; I do not deny that. Some of my colleagues have done much work to enable this installation to be provided.

I had an opportunity not long ago of inspecting the installation and the facilities set up there by South Australian Co-operative Bulk Handling Ltd. They are indeed worth while, and, as a result of the extra expenditure incurred to make it a deep sea port, this facility will in the short term at least be a great asset to the community in that district as well as to the people of South Australia generally.

The Bill gives the Minister power to impose a levy not exceeding 2½c for each bushel of grain in respect of which the facilities are used. I ask honourable members to note that the charge cannot exceed that amount. Perhaps in the proposed annual review it will become evident that the use of the facilities will be sufficient to make it economically possible for that charge to be reduced. Indeed, I hope it will be reduced more quickly than was first envisaged because of the amounts of grain, salt and gypsum (the latter two having been referred to by the Hon. Mr. Rowe) that will, we hope, go over the belt.

I discussed this matter with the Treasurer only this evening, and he agreed that the charge will apply only to the material that actually goes over the belt. Therefore, it is possible

that a proportional refund will be made to growers whose wheat was delivered to the Co-operative Bulk Handling Ltd. facility at Port Giles if that wheat had to go to another port to be shipped away before this installation was completed in May, 1970.

I commend the honourable member for Yorke Peninsula in another place for securing the inclusion of the amendment referred to by the Hon. Mr. Kneebone. That amendment provides that there will be an annual review of the charge, which will take into account the total amount of revenue derived from the use of the facilities in respect of the shipment of grain and in respect of which a charge is payable. Also, the total amount of revenues derived from the use of the port for the shipment of other goods will have to be considered. However, the honourable member's amendment does not go as far as I should like it to go.

The Hon. Mr. Rowe said that grain will go over the belt at this port on which an extra charge over and above the normal charge will be payable. Almost certainly, grain from other ports will be brought to Port Giles, which will have the deep-water facilities to enable larger ships to be topped up there. Unfortunately, that grain will not be taxable to the same extent, which will to some degree place a brake on the quick development of the port. I am sorry that that is the position.

The Wheat Board and the Barley Board apparently are not prepared to consider this matter. I was part of the deputation which was referred to by the Hon. Mr. Rowe and which, I believe, presented a well-reasoned case to the Treasurer. That deputation told him that the Premier had in another place referred to the overall use of this port and the necessity to speed up its construction so that it could be used for grain coming not only from Yorke Peninsula but also for topping up ships with grain from other parts of the State. The deputation made out a good case. On the other hand, the extra cost of making this a deeper port than was originally intended has not been passed on in the 2½c levy. That levy was agreed to before the construction of the port was commenced, and it has not been increased. In the old currency, the intended charge was 3d, and the 2½c levy was meant to amortize over a period of years the $1,600,000 that the port was to cost. However, with the passage of time and the extra depth to which the port has been taken, its cost has risen. The Government does not expect (and I would oppose that if it did) that proportion of the cost to be amortized from contributions coming from the people in that area.

The residents of southern Yorke Peninsula have asked for this charge to be waived. I believe this will happen in a shorter period than was first envisaged. This charge was agreed to, and only by the good grace of the Government could it be waived or reduced because, of course, the port must be paid for. I commend the member for Yorke Peninsula for the work he has done regarding this matter. I am sure that the Government will sympathetically examine it and that this charge will be reviewed as soon as possible. If we can get anything near the quantity of salt or gypsum that the Hon. Mr. Rowe said could go over the installation, the need for any further charge to be levied will rapidly become non-existent. I wish to see the people on Yorke Peninsula treated fairly in this matter, and it is with some reluctance that I support the Bill.

Finally, the fact that people living at or near Mount Rat will go five or 10 miles farther to Ardrossan and save a levy of 2½c on every bushel carried on their trucks will tend in the normal season to take grain away from Port Giles. This may tend also to lengthen the period that I said just now I hoped would be considerably shortened. If I have to cart grain, I can go either to Roseworthy, which is about 11 miles uphill, and pay 2½c a bushel, or I can go to Port Adelaide, 21 miles away, and pay no freight differential. I know which choice I make in these circumstances, and I believe that this will be the case with some people on Yorke Peninsula. I see this as a disadvantage regarding the development and use of Port Giles.

The Hon. L. R. HART (Midland): The Bill seeks to give the Government power to impose a levy on grain shipped through certain port facilities, Port Giles not being actually referred to in the measure. However, Port Giles is the first port to which this levy will apply. I think it is reasonable that the Government should be able to impose a levy in respect of port facilities provided for the loading of grain. As grain is often the only commodity loaded over the facilities provided, the proposition in this case would not become a viable one were it not for the agreement entered into by the people using these facilities who agreed to pay a levy of 2½c (in addition to a belt charge that applies to all ports). Bulk storage facilities in South Australia are provided at terminal ports and at

certain inland storage centres. Although at the terminal ports the only charge is a belt charge, the inland storage facilities carry a differential that approximates the rail freight charged to convey the grain to the nearest terminal port.

As there are no inland storage facilities on Yorke Peninsula, the farmers there have an advantage over those in other areas where these inland storages have to be used. As the Hon. Mr. Dawkins has said, many people prefer to cart their grain greater distances to the port facilities, thus avoiding payment of the differential. With the competition existing in road transport today, the charges made are probably less than the differential applying to a particular area. As a result, much grain is by-passing the inland storages and being carted to the port terminals. The farmers in South Australia generally have a distinct advantage over people in other States, for South Austraila has far more port terminals than has any other State. A particularly high cost is involved in establishing loading facilities, and requests are being received from several areas to provide deep sea loading facilities. The Government has agreed to provide such facilities at Port Lincoln, where I assume the 2½c-a-bushel levy will not apply but will be borne by the Government itself. However, an agreement to pay this levy was entered into by people on Southern Yorke Peninsula, this being one of the requirements prior to constructing the facilities. Certain things have happened recently that have made people in the area a little concerned that they should still be required to pay his charge.

Provision is now made for a port deeper than the one first envisaged, as well as for a longer jetty, and this represents an advantage not only to local farmers but also to farmers throughout the State, because it permits larger vessels to enter the port and results in sales of grain overseas that might not otherwise occur. While I sympathize with the people on Southern Yorke Peninsula having to pay a charge for using facilities that are used also to load grain coming from other areas, we must not forget that, had the extra facilities not been provided, the local farmers would probably still have been quite happy to pay the 2½c levy to which they originally agreed. In due course, we hope that, apart from Port Lincoln, extra facilities will be provided at Wallaroo. Will this amount of 2.5c be used to provide these extra facilities?

The Hon. M. B. Dawkins: It probably should be.

The Hon. L. R. HART: Yes, but I doubt whether it will be. I support the second reading.

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

ADJOURNMENT

At 10.22 p.m. the Council adjourned until Thursday, December 4, at 2.15 p.m.