LEGISLATIVE COUNCIL

Thursday 17 November 1983

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 11 a.m. and read prayers.

QUESTIONS

TAX AVOIDANCE

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General a question about tax avoidance.

Leave granted.

The Hon. M.B. CAMERON: Yesterday, the Leader of the Opposition in another place indicated that he had been informed that the Government could be further deprived of up to $10 million a year in taxation as a result of State tax avoidance. He said that he had received telephone calls from several people drawing his attention to the extent of tax avoidance in this State. He indicated that the previous Liberal Government had taken positive action to reduce tax avoidance by appointing an officer to identify cases of avoidance in the liquor industry and by prosecuting offenders. The Leader in another place also indicated that he had been advised that avoidance was occurring on a large scale because of the State Labor Government's increases in tobacco franchise tax. We all know that the tobacco franchise tax in this State is much higher than a similar tax in Queensland, so avoidance is obviously a real possibility. In the document entitled 'South Australia's Economic Future, Stage 1', released by the State Labor Opposition last year, page 18 under the heading 'The elimination of tax avoidance' states:

> Labor is also concerned by the potential for avoidance of State taxes and charges. Evidence from other States suggests that there has been an upsurge in State tax avoidance in recent years. In this State there have been instances of schemes to avoid the payment of land tax. This indicates that an attack on tax avoidance could generate worthwhile extra revenue that could be used to benefit all South Australians. Labor believes that the elimination of State taxation avoidance has not received adequate attention from the Tonkin Government. Instead, the Premier has tried to convey the impression that no problem exists. As a first priority Labor will review methods and procedures for the collection of State revenues to the extent necessary to eliminate tax avoidance.

My questions are as follows: in the light of the statement in its economic policy that 'Labor is also concerned by the potential for avoidance of State taxes and charges,' what steps will the Government take to review methods and procedures for the collection of State revenue, to the extent necessary? Secondly, what steps will the Government take to investigate the avoidance of taxes and charges?

In the light of the statement by the Premier that he had authorised extra State taxation officers to look into areas of avoidance (and indicated that the positions had been advertised but not filled), and in view of the fact that this was going to be a first step, why has it taken the Government 12 months to get around to taking that first step? Why have further steps not been taken to appoint the extra staff as indicated by the Government?

The Hon. C.J. SUMNER: I indicated that certain action has been taken. I do not have full details, but it relates to areas where extra staff can be put on to assist with the collection of revenue possibly being avoided. I will obtain further details for the honourable member along with details of other action that the Government has taken and bring back a reply.

A.L.P. POLICY DOCUMENT

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Attorney-General a question about the A.L.P. policy document 'South Australia's Economic Future Stage 1'.

Leave granted.

The Hon. J.C. BURDETT: The A.L.P. policy document, 'South Australia's Economic Future Stage 1,' states, in part:

> It [the policy document] does not represent the final answer nor our final fighting platform. But it does indicate our direction and priorities. From it, a number of detailed policy initiatives will be developed. It will be the basis of public discussion and input.

In his question the Hon. Mr Cameron referred to only one aspect of the document, namely, State taxation avoidance. In the light of the document and the quotation that I have just read, my questions are as follows:

1. What public discussion has been provoked?
2. What are the detailed policy initiatives referred to in the policy document, and when will they be released?
3. When will the Australian Labor Party release final details of its economic strategy for South Australia in light of the comment in the policy document that it represents the first stage and not the final planning detail?

The Hon. C.J. SUMNER: A number of initiatives have been pursued by the Government since coming to office. I will not go through them all today. I am not sure what the honourable member's question is all about but, if he wants information from the Premier about a particular initiative, I will obtain details for him.

COURTS

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question about courts.

Leave granted.

The Hon. K.T. GRIFFIN: A constituent has asked me to raise the matter of delays in the local court jurisdiction. My constituent was injured in a road accident and has a personal injuries claim. His lawyers instituted proceedings in the Supreme Court and, in January this year, the action was transferred from the Supreme Court to the District Court. He is still awaiting a trial date and has been told that the delay in the local court is something like 40 weeks. My constituent is still awaiting a notice of trial.

He is concerned about the delay because he has injuries for which he believes that he has a right to be compensated as a result of the negligence of the other party. He is concerned that his lawyers have not been able to obtain a trial date: 40 weeks between the date of setting down a matter and the date of trial is a particularly long period.

The Hon. C.J. Sumner: About the same as it was under the Liberal Government.

The Hon. K.T. GRIFFIN: I am just saying that it is a particularly long period. In fact, the Attorney's comment is not correct: the time between setting down a matter and the actual trial date under the Liberal Government was less.

I am seeking from the Attorney-General answers to the following questions:

1. Is there a delay in the Local Court of Adelaide of the length that I mentioned in my explanation?

2. If so, what steps are being taken to reduce the delay?

3. What are the current delays between setting down for trial and the date of trial in civil matters in the Supreme Court and in the local court (in the full, limited and small claims jurisdictions)?

The Hon. C.J. SUMNER: In relation to the last question, I refer the honourable member to the information that I gave to the Budget Estimates Committee.

The Hon. K.T. Griffin: It hasn't changed since then?

The Hon. C.J. SUMNER: Not significantly, as far as I know. The situation in the District Court, as far as full jurisdiction and civil matters are concerned, is that a delay of 40 weeks could well be correct. To my recollection that is about the same delay as has been the case in recent times in that court. There have been some extensions in a couple of courts that need to be addressed, but I do not believe that the situation in the District Court is worse now than it was 12 months or two years ago, at least not to any appreciable extent.

Two replacement judges will be appointed to the District Court in the near future. Judges in the planning appeal jurisdiction now physically occupy the same premises as the District Court judges, and it is hoped that that will facilitate better and more efficient functioning of the District Court as a whole, leading to a reduction in the delays being experienced. However, I do not believe that there has been any appreciable change in the situation of a month or so ago when I supplied similar information to the honourable member during the Budget Estimates Committee; but I can check that. If the honourable member has difficulties as far as his constituent is concerned, I am happy to have the matter investigated.

The Hon. K.T. GRIFFIN: I desire to ask a supplementary question. In the light of the Attorney-General's response, is he able to indicate to the Council when the two additional District Court judges are likely to be appointed?

The Hon. C.J. SUMNER: Yes, I am happy to provide that information to the honourable member and to the Council? The answer is 'In the near future'.

MEDICARE

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health a question about Medicare.

Leave granted.

The Hon. L.H. DAVIS: We are now only 10 weeks away from the introduction of Medicare on 1 February 1984. I was concerned to read in this morning's *Advertiser* that the Secretary of the South Australian Hospitals Association, Mr Bailey, claimed that with the introduction of Medicare on 1 February there will be pandemonium in South Australian public hospitals.

Given the existing high occupancy rates and the minimum staff levels, he believed that public hospitals were not equipped to accept an increase in patients in excess of, say, 6 per cent to 7 per cent on existing levels. Mr Bailey went on to claim that he believed that at least double this number would drop out of the private health funds following the introduction of Medicare. He further observed that the private health funds themselves were not sure what that level would be, but that they estimated that anything between 15 per cent to 40 per cent of existing members of private health schemes would no longer retain their membership of those schemes following the introduction of Medicare.

However, the Minister of Health in this Chamber has consistently claimed that there will be no more than a 1 per cent to 2 per cent increase in demand for public hospital beds—

The Hon. J.R. Cornwall: No, 3 per cent to 4 per cent.

The Hon. L.H. DAVIS: I am sorry: 3 per cent to 4 per cent—following the introduction of Medicare in 1984. In view of Mr Bailey's statement, can the Minister indicate whether he has had recent discussions with the private health funds? Does he continue to maintain his view that there will be a minimal drop-out from private health funds following the introduction of Medicare in February 1984? Does he continue to hold his view that the public hospital bed situation will not be put under extreme pressure following the introduction of Medicare?

The Hon. J.R. CORNWALL: The answer to the first question is 'No', and the answer to the second and third questions is 'Yes'.

UNEMPLOYMENT

The Hon. DIANA LAIDLAW: I seek leave to make a statement prior to addressing a question to the Attorney-General, representing the Minister of Labour, on schemes to help the unemployed.

Leave granted.

The Hon. DIANA LAIDLAW: The Federal Minister for Employment and Industrial Relations, Mr Willis, in an address to the National Press Club on Tuesday this week (15 November) concluded that Australia would continue to experience unacceptably high unemployment rates unless new schemes and policies were introduced. In an article in the *Age* the following day, Mr Willis was quoted as saying:

> The Government's 'relatively ambitious target' of 500 000 new jobs in the next three years would reduce unemployment by only 100 000 to 150 000 if there was a corresponding growth in the labour force of about 350 000 to 400 000. If this happens, then in the absence of other measures to reduce unemployment there would still be around 550 000 to 600 000 unemployed people in March 1986. Such a situation is economically, socially, and morally objectionable.

I concur in Mr Willis's conclusions, and have raised this subject of unemployment on a number of occasions in this Council. Mr Willis also was reported as stating that in order to overcome this problem radical new schemes would be required. He further stated:

> Among the options before the Government were working sharing schemes, permanent part-time work, support for self-sufficient rural communities and worker co-operatives.

Earlier this year, I asked the Minister of Labour whether the Government was considering taking action to have provision for permanent part-time employment inserted in relevant State awards, if no provision existed at present. His answer was 'No'. I wonder whether he—

The Hon. Frank Blevins interjecting:

The Hon. DIANA LAIDLAW: Not according to his Federal colleague. I wonder whether the Minister has since had time to consider the response that he gave me earlier this year and whether the Government is also considering other schemes to reduce unemployment in this State. If so, would he provide this information to me?

The Hon. C.J. SUMNER: I will seek the information for the honourable member and bring down a reply.

HEALTH INSURANCE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before directing a question to the Minister of Health on the subject of private health insurance.

Leave granted.

The Hon. ANNE LEVY: We all know that Medicare is starting on 1 February 1984. The legislation establishing this was passed through Federal Parliament quite a number of weeks ago, and it would certainly be known by every private insurance company. However, several constituents have complained to me that they have received accounts from their private health funds for six-monthly payments, as they

have been accustomed to making to the health funds for a number of years.

The six-month period for which these people would be paying would go well past 1 February, yet the information sent with their six-monthly account from the private health fund made no mention at all of the fact that Medicare was coming into operation on 1 February and that the money they were paying beyond 1 February would be for a quite different type of health insurance.

There was no indication whatsoever that the rates would change after 1 February, no indication at all that the six-month period would obviously be extended considerably, as the rates would be much lower after 1 February, and no recognition of the fact that private health insurance rates and arrangements would be different as from 1 February. It seems to me that many people must be receiving such accounts from private health funds and will be paying, without question, the bill which has been sent to them, quite unaware that from 1 February the rates will be lower, and that the money that they are paying is for a quite different type of insurance.

Furthermore, as we all know, as from 1 February the funds will not refund money if people decide that they do not want private health insurance and, with the changed rates which will become operable, they will merely tell people that, instead of being paid up until the end of April, they will be paid up until the end of June or to whenever the money will extend their cover.

Does the Minister of Health feel that this is rather, shall we say, ingenious on the part of the private health funds, and would he feel that perhaps members of the public need a warning as to the tactics being adopted by the private health funds to surreptitiously get people paid up with no indication of what they are paying for after 1 February? Would the Minister feel that the matter is important enough to take up with his Federal counterpart, Dr Blewett, the Federal Minister for Health?

The Hon. J.R. CORNWALL: I am a very gentle fellow, and I do not think that I would be quite so hyperbolical as my colleague the Hon. Ms Levy in describing what the funds are currently doing. No doubt there is a problem, and it has been drawn to my attention that contributors (and this, I might say, includes pensioners, who purchase private insurance) are being sent notices of renewal which are in some cases six-monthly and in some cases annual. The reason why some of these people pay six-monthly or annually is that there is some saving in doing that compared to paying monthly or quarterly.

As against that, of course, quite clearly, for most people the insurance will be substantially cheaper from 1 February. This is primarily because from that time nobody will need, nor will they be able, to purchase medical insurance. All medical cover will be done by Medicare, so, quite clearly, rates will be different.

Basically, from 1 February, people will insure for one of three things: first, either for cover as a private patient in a public or teaching hospital (that will enable them to retain so-called doctor of choice); secondly, as a private patient in a private or community hospital (that will, of course, be more expensive); and, thirdly, they will insure, as many people now do, for extras—in other words, paramedical and dental services. The rates have not been computed with any great degree of accuracy, as I understand it, and certainly, if they have, those computations have not yet been approved by the Commonwealth, which they will have to be under the Commonwealth health insurance legislation.

There is no doubt that things will be cheaper under this cover from 1 February. My advice is that if anybody has any queries about these matters they should approach their present health insurance fund or, alternatively, they now have an excellent advice service in relation to Medicare which is being headed up by that wellknown radio personality Mr Jeff Medwell, one of South Australia's more outstanding citizens. So, a substantial degree of advice is available.

However, since the honourable member has drawn the matter to my attention I should also get an up-to-date report on the current state of play. I will be very happy, in the circumstances, to ask my senior staff to discuss the matter with the health insurance funds, and I shall, next time I am speaking to Dr Blewett (which I do on a regular basis), take up the matter with him and bring back a more detailed and up-to-date report for the honourable member.

FEES AND CHARGES

The Hon. M.B. CAMERON, on behalf of the **Hon. K.T. GRIFFIN** (on notice), asked the Attorney-General:

1. Will any fees and charges payable under any Act committed to the Attorney-General or any fees or charges payable to any of the Departments responsible to him be increased prior to 30 June 1984?

2. If yes, what fees and charges will be so increased?

The Hon. C.J. SUMNER: This question was answered previously, when the honourable member asked it a couple of weeks ago. I indicated then that any decision on these matters was a matter for Cabinet, and I am not in a position to provide further information beyond that.

PIPELINES AUTHORITY ACT AMENDMENT BILL

Second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I move:

That this Bill be now read a second time.

Section 10aa (2) of the Pipelines Authority Act, 1967, provides that the Authority may not hold any interest or shares in or debentures of, a body corporate unless the body corporate has an interest in the exploration for or exploitation of a petroleum resource situated within the prescribed area. The prescribed area is accurately defined in subsection (4), but speaking generally, it is the area within an imaginary line drawn as follows: along the Western Australian border, thence along a line 300 kilometres north of and parallel with the Northern Territory border, thence along a line 300 kilometres east of and parallel with the Queensland, New South Wales and Victorian borders, thence to a point approximately 1 000 kilometres off the South Australian coast.

Therefore, the Authority is prevented from holding an interest in a company which is not engaged in exploration for, or production of, petroleum within that area, and if any company in which the Authority is permitted to hold an interest discontinues its activities in the prescribed area, the Authority must divest itself of its interest in that company. This situation is undesirable for two reasons: firstly, it unduly restricts the ability of the Authority to hold interests in bodies corporate which operate entirely outside the prescribed area and, secondly, it indirectly restricts the freedom of the South Australian Oil and Gas Corporation, or other companies in which the Authority may wish to hold an interest in the future, to discontinue their activities within the prescribed area, if they so wish. The amendment will allow the Authority, with the consent of the Minister, to hold an interest in a body corporate which has no involvement with activities situated within the prescribed area. I

seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 repeals section 10aa of the principal Act and substitutes a new section also designated 10aa. The new section provides in subsection (1) that the Authority may—

(a) hold and deal with a share or interest in a licence authorising the exploration for, or exploitation of, a petroleum resource;

(b) enter into agreements in relation to exploration for, or exploitation of, a petroleum resource; or

(c) acquire, hold and deal with shares, debentures or other interests in a body corporate that holds a share or other interest in a licence authorising the exploration for, or exploitation of, a petroleum resource.

Subsection (2) provides that the Authority may not exercise its power under subsection (1) *(a)* or *(b)* in relation to a petroleum resource outside the prescribed area without the Minister's consent. The Authority may not exercise its powers under subsection (1) *(c)* in relation to a body corporate that holds no interest or share in a licence to explore a petroleum resource situated within the prescribed area without the Minister's consent.

Subsection (3) and (4) have the same effect as subsection (3) of the repealed section: any income derived by the Authority pursuant to activities allowed under subsection (1) which would be subject to Commonwealth income tax if the Authority were not an instrumentality of the Crown, shall nevertheless be taxed at the same rate as company income under Commonwealth laws. The Authority shall pay to the Treasurer, for the Consolidated Account, any amount certified by the Auditor-General to be so taxable.

Subsection (5) contains definitions for the purposes of the section—

'licence' means a licence permit or authority, granted under a law of this State, the Commonwealth, another State or Territory, authorising the exploration for or exploitation of a petroleum resource:

'petroleum resource' means a naturally occurring hydrocarbon or mixture of hydrocarbons whether gaseous, liquid or solid and whether or not occurring in combination with other substances:

'the prescribed area' is defined in exactly the same terms as in the repealed section.

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

FINANCIAL INSTITUTIONS DUTY BILL

In Committee.

(Continued from 16 November. Page 1842.)

Clause 5—'Receipts to which this Act applies.'

The Hon. R.I. LUCAS: I put a question in the second reading debate to the Attorney-General and I have not had a chance yet to look at *Hansard* to read the Attorney-General's reply, but I heard part of it. The question was in relation to a problem raised in relation to the New South Wales Act, and I am referring to clause 5 (1) *(b)* in particular. The question was raised in an article by people called Hambly and Hamer, entitled 'Financial Institutions Duty Revisited' in the *Journal of Australian Tax Review* in June (I think) this year. That was the reference I gave.

I will not read in detail the question I put to the Attorney-General, but, quite simply, those two people raised the question in relation to a similar provision in New South Wales as to whether there was a constitutional problem, and I suppose that their crunch sentence was on page 111 of that article, as follows:

> It is submitted that the extended definition may go further than is constitutionally permitted. It is possible that a person who does not carry on business in New South Wales nor is resident or domiciled there may be taxed by reference to a receipt outside New South Wales.

I will not quote the rest of the reference, but they raised a constitutional question. My questions to the Attorney-General in relation to clause 5 (1) *(b)* are: first, does this clause extend liability to duty to receipts taken outside of South Australia; secondly, if it does, does the Attorney-General think that there are any constitutional problems which may well be tested in courts with respect to the provision?

The Hon. C.J. SUMNER: In answer to the second half of the question, regarding the territorial provision under clause 5 (1) *(b)*, this is designed not with the intent of requiring the Commissioner of Stamps to chase transactions which occur outside South Australia but rather to establish quite clearly his jurisdiction where an attempt is being made by a taxpayer to argue that a South Australian receipt is taking place in another jurisdiction.

The Hon. R.I. LUCAS: I appreciate that that was what the Attorney stated yesterday, but I seek a little more explanation as to what is meant under this provision. From what the Attorney has said, I gather that the provision will or can extend to duties on receipts outside South Australia. That is one specific question. Assuming once again that my understanding of what the Attorney said in reply to the second reading debate is correct, will the Attorney indicate exactly what sort of question or problem he was referring to in regard to actions of a taxpayer or company so that this provision is required in the legislation?

The Hon. C.J. SUMNER: It is simply to avoid the legislation being circumvented by conducting transactions outside the State and which are, in fact, internal transactions and governed by the laws of South Australia.

The Hon. R.I. LUCAS: Will the Attorney give an example of such an attempt? When the Attorney refers to a transaction that should be taking place inside South Australia, is he talking about a person who has been conducting his business in South Australia, whether in a term deposit or by other investment, and starts channelling the money through, say, Brisbane?

The Hon. C.J. SUMNER: I have already explained the situation. This provision is to avoid the situation where people conduct transactions in South Australia and then use devices such as banking money interstate, when, in fact, the substance of the transaction has occurred within South Australia. This is an attempt to counter that, and I would have thought that, in view of the remarks of the Leader earlier today, the honourable member would fully support any action of the Government of the day to minimise attempts to avoid the effect of the legislation.

The Hon. R.I. LUCAS: I resent that snide inference. I was making a genuine attempt to obtain information from the Attorney as to what the provision is about. I do support the blocking of avoidance or evasion techniques, if possible, but I am making a genuine request for information. I take it that the Attorney-General was saying in his last reply that people may well purchase goods or undertake transactions in South Australia but that by some device the bank or financial institution may credit an account in regard to that financial transaction not in South Australia but, for example, in Brisbane. Is that what the Attorney was referring to?

The Hon. C.J. SUMNER: As I indicated to the honourable member right from the start, there may be some problems in enforcing this aspect of the Bill in the context of extra territorial effect. But, nevertheless, it is an attempt to overcome the situation of what is essentially a South Australian transaction being conducted interstate for the purposes of avoiding the legislation.

The Hon. R.I. LUCAS: In effect, that is the very first question that I put to the Attorney, namely, how can the Attorney and the Government enforce this provision? I guess this is obviously a question that Hambly and Hamer put in their article in the *Australian Tax Review*. How does the Attorney enforce the provision if the financial transaction is taking place in South Australia and by some device Queensland (which has no financial institutions duty) is being used by the financial institution to avoid the measure? Can the Attorney (not just in his capacity as being responsible for the carriage of this Bill but in his capacity as Attorney-General) indicate how he can advise the Government and under what provisions of any Act he can enforce this provision?

The Hon. C.J. SUMNER: I have provided the answer to the honourable member, although he seems to be dissatisfied with it. However, there is not very much more that I can add to it. I said to the honourable member earlier, although he seems unable to accept what I said, that there may be some difficulties with enforcement of the extra territorial aspect of the legislation. It is designed to attempt to minimise the possible avoidance of the legislation by shifting interstate what are essentially South Australian transactions. I understand that there is a similar provision in the New South Wales legislation. While alternative devices could perhaps be found to tighten up on the potential avoiders, the advice received (this was the view of New South Wales particularly) was that this is as far as one could go at present. There may be some difficulties with it, if people set out to avoid the legislation by the use of some extra territorial device, but this was the preferred solution to overcoming or attempting to overcome attempts at avoidance.

The Hon. R.I. LUCAS: The Attorney is a master of understatement: he said that there may be some difficulties in enforcing provisions. It is quite clear that the Attorney and the Government have no idea of the quite considerable difficulties involved in enforcing this provision.

The Attorney has not been able to provide the Committee with any means by which the Government can enforce this provision. The Attorney is right, and this is the point I made in the second reading debate, that New South Wales has a similar provision, and commentators in that State have already raised the constitutional problems facing New South Wales. It is clear that avoidance or evasion techniques are not going to be closed by clause 5 (1) *(b)* no matter how well intentioned the Attorney has been in regard to that clause. The Attorney said that he sees some difficulties, but there will be considerable difficulties in enforcing this provision. In effect, it is tantamount to accepting that there is a loophole in the Act and that this is the Government's best attempt at closing the evasion technique.

The Hon. Mr Davis and the Hon. Mr Griffin talked about the position in Brisbane, and perhaps they will refresh our memories in regard to the transfer of moneys through Brisbane accounts and modern banking techniques which make that easy. Perhaps the Hon. Mr Griffin will refresh our memory on the example used, but no f.i.d. applies in Brisbane. Great play is made about that. South Australia has an f.i.d. of .04 per cent. The Attorney has conceded that there are some difficulties in enforcing the extra-territorial provisions of this anti-avoidance provision of clause 5 (1) *(b)*. However, 'some' difficulties are considerable difficulties in regard to what power he has to enforce the provision. The Attorney has been unable to provide any indication of what power the Government has.

The Hon. K.T. GRIFFIN: I indicated last night that people with money to invest could invest it in Queensland, and that was largely as a result of the roll-over problems that were being discussed in respect of term deposits. An investment made for 30 days and rolled over every 30 days could be caught in the f.i.d. web for each roll-over. In that event it is more profitable for investors to shift money to Queensland than to pay a constant f.i.d. on the roll-over of funds in South Australia. I do not see any way in which the Government can get f.i.d. on each roll-over when the money has left South Australia once and for all. The other question concerns companies using overnight bags on aircraft to Brisbane to do their banking there—

The Hon. C.J. Sumner: Full of cash?

The Hon. K.T. GRIFFIN: Full of cheques.

The Hon. C.J. Sumner: That would cost more than the f.i.d.

The Hon. K.T. GRIFFIN: For some of the amounts involved—they have overnight bags in use anyway. Is it not the position that there are many doubts about the capacity to use this clause in connection with the movement of moneys interstate; that the Government believes that in some instances it will be able to use this provision, whereas in other instances it may not; and, even though there are some doubts, the Government believes it is necessary to have this provision with a view to at least deterring some of the possible outflow of moneys as a result? It is a vague provision which may or may not have an effect but it is better for it to be there than for it not to be there in terms of acting as a deterrent.

The Hon. L.H. DAVIS: I share my colleague's concern on the operation of this clause. It is quite clear that the banks will not be able to enforce the provisions of clause 5. It will be impossible to know whether moneys are being transferred interstate. I am advised that an arrangement exists specifically between the New South Wales and Victorian Governments which requires that the financial institutions duty is paid only in the State of receipt. Therefore, if a financial transaction crosses the New South Wales/Victorian border, the financial institutions duty will only be paid in the State of receipt. This is a slightly different point, but I would like the Attorney-General's reaction to it.

Initially, when the legislation was introduced in New South Wales and Victoria, there was some uncertainty as to whether financial institutions duty would be picked up in both States. There is a verbal arrangement and understanding between the two Governments that financial institutions duty will only be paid in the State of receipt. However, as I interpret the legislation in this and other clauses, it would seem that, if money is sent out of South Australia to either Victoria or New South Wales where f.i.d. is payable, the sender or transmitter of such funds will be required to pay f.i.d. not only in the State of receipt but also in South Australia. That is my understanding of the legislation now before us and I ask for the Attorney-General's comments.

The Hon. C.J. SUMNER: The evidence of moneys being taken and invested in Queensland during the operation of this legislation in New South Wales and Victoria is, I understand, not very great. It does not seem to have been a problem in New South Wales and Victoria. Therefore, I do not see any reason why it will be a problem for South Australia. Secondly, in any event, the transfer of cash to Queensland would cost more than f.i.d. The rate is 6c in the $1.00 for a security firm to truck cash from the metropolitan area to the airport. It is a similar figure to take it from the Brisbane Airport to the centre of Brisbane and

already one is up to 12c in the $100. In addition, one has to pay for the air transport of the money and also allow for the risk of losing it, which would be much greater with physically transferring the cash from this State to another.

It is possibly those practical difficulties which have led to New South Wales and Victoria having no great problem with the transfer of such funds. I have explained the effect of clause 5 (1) *(b)* and, as the Hon. Mr Griffin indicated, it is there in an attempt to get some kind of extra-territorial control and minimise any avoidance that might occur.

The alternative is to do nothing. There may be a further alternative which is more Draconian than the provision already there and which the Government has preferred not to proceed with. In the absence of any major evidence of problems from other States it was thought that the provision in the Bill was sufficient at this stage. If honourable members, having thought about it, have any suggestions as to how that could be tightened up in terms of avoidance, certainly in the spirit of co-operation the Government would be prepared to seriously examine the suggestions, but I do not believe that the Opposition has any amendments to that effect on file. It is better to have something there than nothing. There does not seem to be any problem interstate, and the Government does not anticipate any problem there.

The Hon. R.C. DeGARIS: In the second reading debate I drew attention to clause 5 (2). I would like the Attorney to explain exactly what this clause means and why it is there. Subclause (2) reads:

> Where a person receives a consideration, other than money (whether or not in consideration of his having given credit to any person), in or towards settlement, satisfaction or discharge of any debt or obligation owing to that person, that person shall, when he receives the consideration, be deemed, for the purposes of this Act, to have received an amount of money equal to the value of that consideration.

I have given considerable thought to this clause, but I am not sure exactly what it means. I referred in the second reading debate to a mortgage. Whether that applies to this clause I do not know, but I would like the Attorney to point out why this clause is there and how it applies.

The Hon. K.T. GRIFFIN: I want to elaborate on what the Hon. Mr DeGaris said because obviously the clause is causing him some difficulty. It caused equal difficulty to me because, although the concept may be directed towards a bartering transaction, it does not seem to me that it has any effect because it is only registered financial institutions which pay duty. It is all very well to provide for a bartering to be regarded as a receipt for the purposes of this Act, but if the bartering does not affect a registered financial institution no duty is payable. I really do not see, nor does the Hon. Mr DeGaris or many other people, what it is really aimed at. It would be helpful, if there is any information, if it could be given in the light of my further comment.

The Hon. C.J. SUMNER: The honourable member has raised the issue. I will attempt to obtain a further explanation of that clause and advise him before the conclusion of the debate.

The Hon. L.H. DAVIS: This again highlights the unsatisfactory way in which this legislation has been put together. Questions were raised in another place about the operation of clause 5 (2), and the same question was asked of the Treasurer as to what this clause meant. He gave a fairly graphic illustration of it, I thought. He suggested that it was aimed at striking down the transaction where a small debt may have been owed to a bank, building society or credit union. He took the specific example of $10 being owed to a bank and that bank accepting a Parker pen in consideration of the debt owed. There is no suggestion as to whether the f.i.d would be paid out.

The Hon. R.C. DeGaris: They probably chained it to the desk, anyway.

The Hon. L.H. DAVIS: That is right; one can see that it is quite appropriate to call it a graphic illustration. I am not sure whether or not f.i.d. is paid out on the pen.

The Hon. R.I. Lucas: The .04 per cent.

The Hon. L.H. DAVIS: Yes, .04 per cent. I wonder whether the Attorney agrees with the Treasurer, who, after all, is supposed to be the expert on financial matters.

The Hon. C.J. SUMNER: I have indicated to honourable members that if they are not happy with the matter they can either like it or lump it.

The Hon. R.C. DeGARIS: My interpretation of this clause might be quite wrong, but supposing a large property is sold and the bank or financial institution holds a mortgage document on that property: the sale is made for, say, $1 million and a $500 000 mortgage is held by the financial institution. If the financial institution decides to transfer the mortgage to another person, is that mortgage document an actual receipt or not? Is the debt payable on the value of that mortgage document? I am not clear on what the clause means, and I think that the Committee does deserve an explanation of exactly what the clause means and the reasons for its inclusion.

The Hon. C.J. SUMNER: I agree with the Hon. Mr DeGaris, the Hon. Mr Lucas, the Hon. Mr Davis and the Hon. Mr Griffin. It seems that the Committee stage will be taking some little time yet. I have undertaken to examine the examples given by honourable members and to obtain a more detailed explanation for them.

The Hon. K.T. GRIFFIN: That is a reasonable approach. If we deal with the whole clause and then at the end of the Committee stage, recommit, if necessary, that would be an appropriate course of action in respect of this clause. I now move the following suggested amendment:

> Page 6, lines 20 to 30—Leave out subclause (4).

My amendment is related to a later amendment to clause 7 which defines receipts which are non-dutiable. Subclause (4) provides:

> A reference to the crediting of an account includes—
>
> *(a)* the depositing of money to the credit of the account by the person in whose name the account is kept or by another person;
>
> *(b)* without limiting the generality of paragraph *(a)* the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person; and
>
> *(c)* the transfer between ledgers or divisions in an account where different terms and conditions apply in respect of those ledgers or divisions.

What I seek to do in the later amendment is ensure that no duty is payable on the transfer between accounts of the one person kept by the same financial institution, or by a financial institution that is a member of a group where both members of the group are banks, and to eliminate the complexity of subclause (4). Subclause (3) provides:

> For the purposes of this Act, the crediting of an account of a person, including the crediting of an account effected by means of an entry or record made by use of a machine or device, shall be deemed to constitute a receipt of money by the person by whom the account is kept.

That subclause puts beyond all doubt that the crediting of an account, whether it is manual or by machine or device, is a receipt for the purposes of this Act. That means that, if one pays money into a bank account, the account is credited, and that is a receipt and duty is payable. If someone else pays money into a financial institution and it is credited to an account, that receipt is dutiable. So, the general concept of the crediting of an account being a receipt is maintained even if subclause (4) should be deleted. If one looks carefully at subclause (4) *(a)*, it refers to the depositing of money to the credit of an account by the person in whose name the account is kept. I suggest that, by deleting that, there is no

compromise to the Bill, because subclause (3) clearly makes that deposit and the crediting of the account a receipt.

If the deposit to the credit of the account is made by another person, then equally that remains a receipt even if that paragraph is deleted. So, there is no prejudice to the Bill if that paragraph is deleted. Paragraph *(b)* does not want to limit the generality of paragraph *(a)*. Paragraph *(b)* provides that 'the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person' is encompassed by the reference to the crediting of an account, and that is a receipt. If we delete this paragraph there is some effect on the operation of the Bill to the extent that it relates to transfers between the accounts of the same person but, where there is a transfer from the account of a person to the account of another person with that financial institution, the deletion of paragraph *(b)* does not prejudice the concept of that being a receipt. So that is not a problem. Paragraph *(c)* refers to 'the transfer between ledgers or divisions in an account whether different terms and conditions apply in respect of those ledgers or divisions'. I am not really sure what the Government is seeking to do here.

I presume that it is something along the lines that a financial institution may keep an account for a customer and that account may have different parts identified and different terms and conditions applying in respect of those different parts. I am not sure that that does occur: perhaps the Attorney-General will clarify that matter. I could understand paragraph *(c)* if it related only to transfers between accounts where there were different terms and conditions applying in respect of each account, for instance, from an ordinary savings account to an investment account, where the terms and conditions are different—the interest rate, period for withdrawal, and so on. However, I am not sure why there is this reference to 'ledgers or divisions' in subclause (4) *(c)*. If the reference were, for example, to accounts of one person where there are different terms and conditions applying to each account and where there are transfers between those accounts, then my amendment will affect that because I will be seeking to remove the reference to the transfers between accounts of the same person within the same institution or group where those institutions or groups are banks so that there should not be a receipt for the purpose of this clause.

Subclause (5) deals with the crediting of an account where there are credits to that account made interstate or for the purpose of accounts in other States.

My later amendment, which is related to this matter, would ensure that transfers between accounts in the name of the same person are free of duty. This particularly covers people who have their salaries and wages credited to a bank account and who have standing instructions to their bank to distribute that salary to other accounts within the same institution. I do not believe that double duty ought to be paid in such circumstances. Duty is being paid at the point of crediting the salary or wages to the account, and that really ought to be the end of it. Where persons have an account into which they pay money which might not be their salary or wages, duty is then paid, but why should additional duty (double duty) be paid if that money is transferred to other accounts either at the same time or subsequently?

I understand that building societies do not allow the deposit of one amount to be divided between various accounts at the deposit point because there is a payment for withdrawal, and a variety of other transactions are involved, all of which would involve double duty. I strongly suggest that there ought not to be double dipping where there are transfers between accounts.

The Hon. L.H. DAVIS: Clause 5 (4) is clearly designed to penalise financial prudence. It seeks to penalise people who are concerned enough to set up their domestic arrangements in such a way as to make quite clear what they are doing with their savings, mortgage repayments and any other special accounts that they may have.

As honourable members would know, it is not uncommon for families and/or individuals to have more than one account, whether it be with a bank, credit union or building society. This provision, as it now stands, quite clearly penalises those people who seek to deposit their salaries in one account and then arrange a subsequent transfer from that account to another account within the same institution to pay off, say, a mortgage. I am sure that even the Attorney-General, with his admitted scant understanding of finance, recognises that many people operate a cheque account and, for the purpose of purchasing a home, borrow money from the same financial institution.

That will automatically attract a double tax. It may be that a customer has established a special account to make other regular payments. I find the notion of a double tax obnoxious. It is inappropriate for a Government to penalise financial institutions, such as banks, building societies and credit unions, in this fashion. Of course, the penalty ultimately rests with consumers—the people who make the investments.

Does the Attorney agree with the observations of the Treasurer in another place who, when asked to comment on this clause, said:

> If internal transfers to stipulated accounts are done at the time of the lodging of that initial amount, then it will not attract further duty.
>
> However, if it sits there for a month and there are further transfers, that is a different matter. One is embarking on a new transaction.

Clause 5 (4) provides:

> . . . the transfer of money to the credit of the account from another account of the person in whose name the account is kept or from an account of another person.

I am not at all sure that what the Treasurer has said is correct.

The Hon. C.J. SUMNER: The Government opposes the amendment. The information that we have from the Australian Bankers Association (representing all State and private banks throughout Australia) is that the amendment will make the Bill unworkable from its point of view. If exemptions are granted in certain transactions as between non-exempt bank accounts, it has been submitted to the Government by the banks that, as far as they are concerned, the situation will be untenable. I am sure that members opposite are concerned about the problems that financial institutions may have in relation to this legislation in the near future. I am sure that members opposite do not want to create additional difficulties for banks by supporting this amendment. The amendment cannot be accepted by the Government.

The Hon. L.H. DAVIS: The Attorney has not replied directly to my observation about the Treasurer's comments on clause 5 (4). The Premier said:

> If internal transfers to stipulated accounts are done at the time of the lodging of that initial amount, then it will not attract further duty.

I do not believe that that is how the clause will operate. Will the Attorney elaborate?

The Hon. C.J. SUMNER: I have not studied the Treasurer's reply in detail. I understand that the clause will overcome a particular problem identified by the credit unions. It will also enable the Commissioner of Stamps to do what the honourable member has outlined in relation to those credit unions.

The Hon. L.H. DAVIS: I am not satisfied with that reply. The Attorney is hedging again. I have asked a very direct question—does the Attorney agree with the observations of

the Treasurer? It is a pretty fundamental point. I will provide a practical example on which the Attorney can comment. If, say, John Smith lodges his salary cheque of $320 with a bank and at the same time $150 of that sum is transferred to a savings bank account to pay off a mortgage, will the latter transaction attract additional f.i.d. on top of the f.i.d. that will obviously be paid when the salary cheque is lodged?

The Hon. K.L. MILNE: During a conversation with a member of one of the big banks this morning I was informed that banks can recognise exempt accounts but they cannot recognise or distinguish individual transfers. The General Manager instanced a case where a company might bank, say, 1 000 cheques a day, as many companies do, but a computer cannot pick up whether any of the cheques are transferred. That will have to be done manually, but that is quite impossible. What the Opposition is trying to do is highly desirable, but I believe that it is physically impossible. I will not support the amendment, but I would certainly like to see the matter investigated at a later date.

The Hon. L.H. DAVIS: I was interested to hear the Hon. Mr Milne's observations and note the interest that he has shown in the operation of this clause. The Hon. Mr Milne also claimed that the clause will present particular difficulties for banks. However, that does not deflect me from the point I was making that, quite clearly, by the fudging that is going on, the Attorney is refusing to admit that the Treasurer was incorrect. Any logical interpretation of clause 5 (4) suggests that any transfer of funds from one account to another will automatically attract another impost of f.i.d. Two or three examples have been cited to show that there is clear variance in the degree of enthusiam for the measure in this Chamber compared with the situation in another place (there is also a differing interpretation between the two Houses). For example, I suspect that the answers that have been given by the Attorney in relation to this clause are at variance with the answers that have been given by the Treasurer in another place.

The Hon. C.J. Sumner: Why don't you check—don't just suspect?

The Hon. L.H. DAVIS: I ask the Attorney again whether he agrees with the Treasurer's observation that, if internal transfers to stipulated accounts occur when money is lodged with a principal account—will not the subsequent transactions attract further duty? I argue that the subsequent transactions do attract additional duty.

The Hon. C.J. SUMNER: I answered that previously. If the honourable member looks at clause 5 (8) he may be put out of his misery. It is a matter for the Commissioner of Stamps to determine whether that involves an entry made in accordance with internal accounting practices (which does not constitute a dutiable receipt). I understand that that is what the Treasurer in another place was referring to. It is a matter for the Commissioner of Stamps to determine, having regard to the provisions of the clause. However, as I said earlier (and I am pleased to see that the Hon. Mr Milne apparently agrees with me), if the Hon. Griffin's amendment is passed, the banks believe that the Bill will be utterly unworkable. There is no way that banks, with their current systems, can determine transfers for the purpose of this duty between non-exempt accounts. I am afraid that that is as far as one can take the matter. If honourable members want to use this device to destroy the legislation, let them come out and be honest about it (if that is their preference, rather than voting against it) and take whatever consequences flow from that. That is my answer to the honourable member's question in relation to clause 5—an answer that I gave about 20 minutes ago.

The Hon. K.T. GRIFFIN: The Opposition is not trying to indirectly destroy the Bill by moving this amendment: that is utter fabrication by the Attorney-General. We are trying to avoid double dipping. Double dipping will occur if my amendment is not carried.

The Hon. C.J. Sumner: What about the banks; what are they going to do?

The Hon. K.T. GRIFFIN: It will be a very sad day when this Parliament is dictated to by a computer—but that is what it is coming down to. I refer to the Attorney's reference to clause 5 (8) which provides that:

> An entry made in an account of a financial institution by that financial institution solely in accordance with its internal accounting practices does not constitute a dutiable receipt.

That addresses the situation where a person deposits money into (or has a salary or wages credited to) an account from which transfers are made to other accounts. If the internal accounting practices of an institution require that procedure to be done in a certain way, I suggest that the transaction has to be identified, which will be the situation if my amendment is carried.

If clause 5 (8) is applied in the context applied by the Attorney, it will apply to transactions. If the Attorney is suggesting that some transactions will be exempt on the deposit of money or crediting of money into an account or tranfer to other accounts because of the internal accounting practices of a financial institution, that is an admission that my proposition in relation to clause 5 (4) can be implemented.

The Hon. L.H. DAVIS: Like the Hon. Mr Griffin, I do not want to hang on to this point too long. I refer to what the Treasurer said in another place. Perhaps I can use a practical example to illustrate what he has said.

He said that if John Smith puts $350 into his bank account from his salary cheque it clearly attracts f.i.d. The Treasurer said that, if on the same day he asked the bank to transfer $100 to his investment account and $100 to pay off his mortgage with the savings bank, that would not attract further duty. He said that internal transfers to stipulated accounts at the time of lodging the initial amount will not attract further duty. However, if the salary is lodged on one day and then the transfers are requested a couple of days later from that cheque account, they will, according to the Treasurer, pick up f.i.d. Clearly, that is not how subclause (4) operates. I defy the Attorney to disagree. Clearly, the Treasurer in another place does not understand how this legislation operates not only in respect of this clause but also in respect of other clauses, including the ridiculous example of the Parker pen.

Frankly, I am beginning to believe that the South Australian Labor Government should follow the example of the Victorian Government where the Premier confines himself to being the Premier and has appointed someone specifically as Treasurer (a person by the name of Mr Jolly, although that name ill befits the Treasurer in this State). I suggest that the Attorney urge the Treasurer to resign from his portfolio and select someone else.

The CHAIRMAN: Order! The honourable member should not go too far in that direction.

The Hon. L.H. DAVIS: One has difficulty if one puts that proposition forward as to whom it would be. Does the Attorney agree with the Treasurer's observations?

The Hon. C.J. SUMNER: I thank the honourable member for his contribution. Certainly, I will (as I always do) convey his remarks to the Premier and Treasurer and indicate that he has certain views about certain topics. However, the honourable member does seem to be getting unduly agitated about something that I have explained about four times in the past 20 minutes. The Hon. Mr Davis may not like the explanation and may disagree with it, but nevertheless that is the explanation. There seems to be little point in the honourable member's continuing to ask the same question to which he will inevitably get the same response from me.

The situation is partly covered in clause 5 (8), which deals with the internal accounting practices of the bank. The example referred to by the honourable member dealt with the Premier's apparently not giving the correct information, but I do not accept that. I have not studied the detailed transcript of what was said, and I cannot even be sure that the honourable member is not taking the matter out of context.

So, whether that situation will apply in the case of an initial deposit to other accounts being exempt from the duty, as the Premier indicated, would depend on the banks and what arrangements they were prepared to make with the individual concerned. It would then be up to the banks to discuss that with the Commissioner of Stamps. If that is done, what the Premier has said may be possible under the legislation, depending on what arrangements the banks are prepared to make.

The Hon. R.C DeGARIS: The Hon. Lance Milne referred to the difficulty of banks programming their computers for certain transactions that are exempt. He said that the banks have informed him that it is very difficult to handle exempt transactions. I suggest that, in the computer world, it is not difficult to programme computers to handle exempt transactions in the same way as exempt accounts. Does the Attorney-General realise that?

The Hon. C.J. SUMNER: I will take up the matter subsequently with the honourable member.

The Committee divided on the suggested amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Majority of 1 for Noes.

Suggested amendment thus negatived.

The Hon. L.H. DAVIS: I would like to ask a question about subclause (6). I am not sure what the intent of this subclause is, and I am anxious for the Attorney to advise the Council of that intent. My understanding is that, at least in banking circles, every time a bank raises a debit it raises a corresponding credit. Subclause (6) *(b)* reads that where there is no corresponding credit to an account that constitutes a dutiable receipt for the purposes of this Act, the amount so debited shall be regarded as a receipt of money by the financial institution. Can the Attorney-General give a specific example as to what sort of transaction would be picked up by subclause (6)?

The Hon. C.J. SUMNER: The understanding of the honourable member is correct. It is there in an excess of caution to try to minimise any attempts to get around the operation of the measure.

The Hon. K.T. GRIFFIN: Does the Attorney have in mind any particular schemes?

The Hon. C.J. SUMNER: No.

The Hon. K.T. GRIFFIN: It is a bit strange if we do not have any idea as to what evil we are trying to stop. I can understand an excess of caution if one has some idea of some possible devious schemes that may be implemented, but I am concerned about putting into legislation something that is meant to control something about which we do not know anything. Surely there must be even a hint of what could be a problem with this. Is it designed to deal with money being transferred interstate? I would like the Attorney-General to consider it further and to try to give us something more specific and optimistic than he has given so far.

The Hon. C.J. SUMNER: I am perfectly happy to do that and to provide information to honourable members after further discussion with Parliamentary Counsel. They can see some capacity for evasion which it is designed to pick up, but I will certainly advise the honourable member before the day is out.

The Hon. L.H. DAVIS: If one reads paragraphs *(a)* and *(b)* of clause 6 in conjunction, one sees that they are designed to relate only to investments by an individual with a financial institution where that account is kept. The investments presumably in financial institutions—whether we are talking about banks, credit unions or building societies—are well established investment mechanisms, whether they be interest-bearing deposits or term deposits, and so on. It is very hard to conceive of any example where subclause (6) *(b)* would come into operation; namely, that there is no corresponding credit that would constitute a dutiable receipt. Like my colleague the Hon. Mr Griffin, I fail to understand why there is any need for subclause (6) at all.

The Hon. C.J. SUMNER: You may be right.

The Hon. K.T. GRIFFIN: I will accept the Attorney-General's assurance that he will get some information on it. I add one further comment in relation to the clause, which he might take into consideration in getting further information. If one reads the subclause one sees that, if an account with a financial institution is debited with an amount which is to be invested somewhere in the financial institution, there will have to be some record of it being invested.

I cannot envisage a situation where, if it is withdrawn from one account with the institution and is invested with that institution again in the name of the person from whose account it has been withdrawn, there will be no account. It is curious. I do accept the Attorney-General's indication that before we finish consideration of this Bill we might have an answer.

The Hon. L.H. DAVIS: I move the following suggested amendment:

Page 7, lines 5 to 8—Delete subclause (7).

Of course honourable members will recall, perhaps only too well, that we spent some time debating the intent and operation of subclause (7) when we were discussing the definition of 'term deposit'. Our side undertook not to unduly prolong the debate on this amendment when we came to it today. However, overnight I have obtained some additional information which I believe will be of interest not only to the Government but also to the Australian Democrats, because this clause very much has a practical application to existing investment habits.

I want to look briefly at what impact it would have on the major financial institutions, bearing in mind some of the observations that were made by the Attorney-General last night. First, I want to look at credit unions in South Australia, which are basically savings societies. Credit unions in South Australia have 136 000 members, representing 10 per cent of the population, with members' funds of $259 million. That is an average of $1 900 invested per account. Obviously, because often husbands and wives are both members (family membership), it has been assessed that family accounts, on average, equate to about $2 500.

Looking at some specific examples of credit unions, in Whyalla (and this example will be of particular interest to the Hon. Mr Blevins) there are 15 000 members of the Whyalla Credit Union, with $30 million deposited, which is an average in each account of $2 000. The State Public Service Credit Union, which is the second largest credit union in South Australia, has 18 000 members with $38.6 million deposited, an average of $2 150 per account.

It is interesting to note that with all the credit unions most of the money is invested at 90 days or less. The Commonwealth Public Service Credit Union, which is the largest credit union, has total deposits of some $53 million,

and $35 million, or over two-thirds of that amount, is invested and fixed for 30 or 90 days. Some of that was invested for a little longer. That, of course, is an enormous amount. It is the very nature of credit unions that depositors invest for short periods. I have explained fully the operation and impact of subclause (7); on renewals of 30 or 90 days in a credit union, financial institutions duty will be paid. As far as the building societies are concerned, at the end of September there were about 600 000 members in South Australia.

The Hon. K.L. Milne: Before you go on, will you say again what duty will be paid on what?

The Hon. L.H. DAVIS: Taking the example of the credit union, with so much of the money fixed for short periods of time, 30 or 90 days, every time that deposit is renewed, financial institutions duty is payable on the renewal. With building societies there are 600 000 members in South Australia, and remembering that the State's population is only 1.33 million, more than 45 per cent of all individuals in South Australia have deposits and funds with building societies. At the end of September 1983, $1.06 billion was invested in building societies from, as I have mentioned, 600 000 people; that is an average deposit of $1 800 per individual account. That would suggest that, on average, the deposit in the family savings account would be even higher.

Building societies have advised that there is about $150 million on fixed deposit for 90 days, on 90 day roll-overs. The important point I would like to impress on the Attorney is their experience is that 80 to 85 per cent of that 90-day money is rolled over each time it comes up for renewal. In practice, building societies give 21 days notice to members with a 90-day roll-over. Quite often the member does not react as quickly as he should, and he could be one or two days late in giving the building societies advice as to what he wants it to do with the money. In 80 to 85 per cent of cases it is rolled over, but if people are late in giving advice and it has been put on call, it is automatically trapped by subclause (7). However, if people do give advice to renegotiate it for a further term, it is also trapped by subclause (7).

As far as the banks are concerned, as I understand it, all major trading banks provide a facility for customers which enables the client to sign a requisition form which states that the bank has the right to renew the deposit unless otherwise advised by the customer. So, amounts on term deposit for 30 days or 60 days should be automatically renewed in the absence of any reply from the customer. In any event, as we have already illustrated, term deposits are a large part of banking business, and the majority of trading banks' term deposits are clustered in the three-month or 90-day area. So, one can see that the facts of the matter are very different from those put last night by the Attorney, who admitted to being in the top 1 per cent of salary earners, who admitted to having no savings account, who admitted in effect to having a propensity to consume. If his lifestyle demands that his caviar be quaffed with champagne every day, that is his affair. As I have demonstrated quite clearly, 45 per cent of the population have accounts with building societies and 10 per cent of the population have accounts with credit unions. Perhaps even a larger percentage have accounts with banks, and whether we are talking about young marrieds who are building up a sum of money to enable them to purchase a house, or people preparing for retirement or in retirement, it is quite clear that the operation of subclause (7) has an enormously dramatic effect on their net return from term deposit investments.

In conclusion, I reiterate the impact of subclause (7) on the example that I gave last night of $25 000 invested on a term deposit basis on a 30 day roll-over: it will attract financial institutions duty of $130 per year. On a three-month roll-over basis it will attract a financial institutions duty of $50 a year. I believe that that is inequitable.

The Hon. C.J. Sumner: How much is the investment involved?

The Hon. L.H. DAVIS: It is $25 000. This is a provision which is not associated with a financial institutions duty legislation in either New South Wales or Victoria. If the Committee does not strike out subclause (7) it will have a direct consequence in relation to people's investment habits and, more importantly, from the point of view of the South Australian economy it will see a flight of money from South Australia to other States which do not have this punitive provision in their legislation.

The Hon. R.I. LUCAS: I would like to clarify the debate we had towards the end of last night regarding bridging finance. Is it the Attorney-General's understanding, based on his advice from Treasury officers, that the financial institutions duty payable in the example I gave last night would be payable by the consumer? The point we have not raised is that there will be a greater reduction to that consumer by the removal of stamp duties on bills of exchange. Secondly, I will turn the statement made by the Hon. Legh Davis into a question. I have spoken to a person from a bank this morning about the example given by the Hon. Legh Davis of an investor being a little bit slow in taking up advice from an institution as to whether he wants to roll over a term deposit. I am told that the bank would put the amount on call, which will involve it being caught at that stage and then, when it is invested, say two days later and rolled over for another 30 days it will be caught again. Will the Attorney say whether it is his understanding that in such circumstances the sum involved will be caught not once but twice by this duty?

The Hon. K.L. MILNE: It seems to me, that, when one looks at the investment habits of small investors who are encouraged to invest small amounts for short terms, who find that they do not need the money at the end of that term, and who roll it over, if this legislation is left as it is it will be hurting the wrong people. There is not a tremendous amount of money involved, but this is what the Government is trying to avoid. I am certain it did not realise, as I did not realise, that the wrong people will be paying this duty on the whole. I am concerned about the small businessman as much as anybody and the person who has small amounts of money to invest, because they will be paying a disproportionate amount of this tax in comparison to what other people are paying, which I am sure is not the intention of the Bill.

The Hon. C.J. SUMNER: In answer to the Hon. Mr Lucas's first question, my understanding is that in the example the honourable member gave last night he would be better off under an f.i.d. than under existing laws, he will be happy to know. This is because the stamp duties legislation which we will be considering later will mean that he will be saving under f.i.d. in the situation he has outlined. I therefore expect his enthusiastic support for the Bill. I will have the second question looked at for him.

The Committee divided on the suggested amendment:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis (teller), H.P.K. Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Majority of 2 for the Ayes.

Suggested amendment thus carried; clause as amended passed.

The Hon. C.J. SUMNER: I appreciate that there is a considerable amount of interest in this piece of legislation by the Council and the Parliament as a whole, indeed by the community, and we are now, after some number of hours, about to embark on clause 6. A large number of amendments have still not been considered. I have no particular desire not to provide honourable members with answers to the questions that they might ask and the information that they seek about this Bill. However, it is a complicated measure, as everyone knows, and I would be interested in discussing with members opposite a procedure that might facilitate consideration of the Bill in this Council. I propose that those people in this place who are interested in this Bill engage in an informal conference over a period; honourable members would engage in this informal conference with officers and the Minister in the form, if you like, of an estimates committee—

The Hon. K.T. Griffin: On public record?

The Hon. C.J. SUMNER: Just a minute. Honourable members could then place their questions before me and the officers and receive the explanations they want. If they want those explanations placed on the public record, then that can be done. If they are satisfied with the explanations, that will be fair enough. I appreciate that members want some of the material on the record, but, on the other hand, a lot of things are repetitious and there is little benefit to us or to posterity in that.

I appreciate that all honourable members wish at some time to refer to their previous contribution so that perhaps they might say, 'Yes, I told you so', and, 'No, I did not.' I am willing to make that facility available to honourable members. Some honourable members have a particular interest in the Bill and this could be done with the understanding that the questions can be asked and answers will be provided in so far as they can be and placed on the public record.

The CHAIRMAN: We cannot let this develop into a debate.

The Hon. M.B. CAMERON: I do not wish to allow that. The Opposition will certainly consider the proposition. I point out that the reason for our not being able to hold this debate as we normally would on a matter like this is that the Government has introduced this controversial Bill with insufficient time for the starting date for us as a House of Review to consider it in the way that I would normally have assumed it would be considered. Whilst I realise that the Minister is not criticising the Opposition, I am concerned that the normal processes of debate are followed because this Council has been singled out by the Premier to review this Bill; indeed, the Council was invited to do so. Thus, it will be this Council that will be blamed if there are any faults and if the debate is not on the record, and the possibility is there for the Premier or someone else to say that it is our fault because we did not properly review it. I do not wish to enter into a debate on the Attorney-General's offer, but it would be better in the form of an extra week's debate, so that we can do the job properly and get answers to questions. We are willing to sit next week. I should be only too happy to sit next week in order to undertake further examination of the Bill. That could be done by extending the date of commencement, which has already been refused. I do not know whether there can be another move on that matter. I will not go further now. In considering the offer we will have in mind the fact that it is important that the public knows the questions that we are asking; that the public knows the effects of the duty; and that the Government will not be able to say that we did not properly consider it.

The Hon. C.J. SUMNER: I accept the Leader's comments. My only concern is in regard to the more complex technical questions of honourable members. Certainly, I do not wish to stifle debate about policy issues in the Bill. Certainly, they can continue, but it may enhance the debate if members had the opportunity for such informal discussions.

The Hon. M.B. Cameron: It could extend the debate.

The Hon. C.J. SUMNER: That is to be considered. Responses to technical questions could be made available in a similar manner to those given to Estimates Committees. I would be willing to grant an adjournment to allow that.

[Sitting suspended from 1.12 to 2.30 p.m.]

The Hon. M.B. CAMERON: I am sure, Sir, that you will show a little leniency while I put the Opposition's point of view on the proposition put to us by the Attorney-General prior to the luncheon break. We have carefully considered the Attorney-General's proposal for an Estimates Committee-type analysis of the remainder of this legislation. Unfortunately, we feel that we must reject the proposal.

The Hon. C.J. Sumner: Surprise! Surprise!

The Hon. M.B. CAMERON: We are not criticising the Attorney for putting it. We do not believe that it would be the most appropriate or responsible way of dealing with this important matter because the Attorney's proposal would be an *in camera* matter, which is not a satisfactory process.

The Hon. C.J. Sumner: That is not what I had in mind.

The CHAIRMAN: The honourable member should really seek leave to make this statement.

The Hon. M.B. CAMERON: I seek leave to make a statement.

Leave granted.

The Hon. M.B. CAMERON: There is no guarantee that all the points which are made by the Opposition or the Government would be recorded.

The Hon. C.J. Sumner: I will give you that guarantee.

The Hon. M.B. CAMERON: Discussion in some sense would be inhibited by the open and totally free situation in this Chamber. The important question of privilege could well arise. The protection that honourable members have in making comments in this place could not be guaranteed under the type of arrangement that I believe the Attorney-General is referring to. The Opposition believes that we are making steady progress on this matter and that it has been responsibly and reasonably analysing the clauses today. I give the Attorney the assurance that we have not (and will not) filibuster on this matter. We have no intention of doing so, but we have legitimate concerns which we as responsible members of this House of Review should and must raise.

In addition, matters arising from questions that we raise may stimulate other members on this side of the House to enter the debate. These members might be prevented from asking such questions in such a review of the clauses if we met as such a Committee. I make the point for the benefit of the Attorney that the Opposition has co-operated each day of this week over this matter. We took unprecedented action to ensure that all the second reading speeches were over on the first day; we sat at 11 o'clock on Wednesday and restricted private members' business on that day; we sat again at 11 today, and we restricted our activities at Question Time.

We understand fully the position of the Attorney-General as quasi-Treasurer, and we do not expect him to know all the answers. We are quite happy to report progress whenever he desires and we will not criticise him for doing that because we fully understand the position he is in. He can break in as often as necessary to report progress. We are quite happy to sit tomorrow, on the weekend or next week, but we will not be party to any restriction on this debate because it is one of the most important matters to come before this Parliament. It is a very serious tax measure and,

merely because the Government in another place failed to introduce the measure at an appropriate time leading up to the fixed date of commencement, we do not see any reason to rush the debate.

The Hon. C.J. SUMNER: I seek leave to make a statement in reply.

Leave granted.

The Hon. C.J. SUMNER: Unfortunately, for reasons which I suppose can be known only to the Leader, he has distorted the offer I made to the Opposition. I suggested that questions could be asked in an informal atmosphere about the technical aspects of the Bill. I further said that those questions and answers, should honourable members wish them recorded for posterity, could be so reported; so, I was not in any way attempting to—

The Hon. R.I. Lucas: That would defeat the object of the whole process.

The Hon. C.J. SUMNER: We would be recording the final result. Honourable members would then have their points of view recorded, but the point is that it would facilitate the formal consideration of the Bill in committee, which I still envisaged would proceed. Honourable members would be able to put their questions to me and be involved in direct dialogue with the four Treasury officers. I offered them access to the four Treasury officers who have been involved in the preparation of this Bill for the past four months.

I am disappointed that the Opposition apparently has chosen not to accept it. I certainly would have thought that that was something that would be useful to the Opposition. I point out that this is not an unprecedented situation and that quite often that sort of offer is made by Governments to the Council and to members: to discuss clauses of a Bill with officers of the Department. That was in effect the offer that I was making, with the Minister responsible (me) being there to ensure that matters of policy were dealt with as they should be by the Government.

I merely felt that that would have enabled the Bill to be dealt with not just more expeditiously but also more efficiently in terms of the honourable members' understanding of it. But, I cannot force the Opposition to accept that sort of offer. I cannot force it to accept a briefing from the officers. The fact that the Opposition in effect refuses it I find disappointing, and all one can say is that it perhaps raises questions as to the Opposition's genuineness in complaining about the Bill.

The Hon. M.B. Cameron: It is not that we felt that you are not properly briefed.

The Hon. H.P.K. Dunn: Why didn't you get your act together earlier?

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: I am well briefed on the policy issues involved in this Bill.

The Hon. R.I. Lucas: Why did you want to go and hide in Committee?

The Hon. C.J. SUMNER: I was merely offering to honourable members opposite the facility that is often offered by Government, to allow them to have briefings from the four officers.

The Hon. L.H. Davis: This Bill has been in for three weeks and you still do not have answers on some of the clauses.

The Hon. C.J. SUMNER: Honourable members apparently are not prepared to accept the proposition of the briefing from the Treasury officers which I offered. That being the case, we have no alternative but to proceed.

The CHAIRMAN: We should never have reached that area of—debate as both members had agreed to disagree. The matter next before the Chair is clause 6.

Clause 6—'Non-application of Act to certain receipts.'

The Hon. K.T. GRIFFIN: Clause 6 (1) *(b)* was added in the House of Assembly. Clause 6 (1) *(a)* states:

> . . . a corporation the sole or principal business in South Australia of which is the operation of an approved superannuation scheme—

is not a financial institution. It is also interesting that there was a significant change to the clause in the House of Assembly. Rather than there being the descriptions which are now in the Bill that the institutions, persons or bodies referred to in the clause are not financial institutions, we had a provision that the Act did not apply in relation to the receipt of money for each of them. I can see the good sense in changing the drafting, leaving only clause 7 to deal with non-dutiable receipts rather than having the confusing position of the Bill not applying to certain receipts under clause 6 and to certain other receipts not being dutiable under clause 7.

I think that the major change is important. I was somewhat surprised to see that in relation to superannuation it had been limited to a corporation with the sole or principal objective of operating an approved superannuation scheme. An approved superannuation scheme is one where there are more than 20 employees and the scheme is approved by the Commissioner. There are many superannuation schemes involving hundreds of employees where a corporation is not the trustee or the manager. In fact, the trustees or managers are individual persons. It seems to me that there is no difference between a corporation operating a superannuation scheme or being trustee of a superannuation scheme and an individual. Therefore, I am pleased to see that the Opposition's amendment to include an individual trustee was accepted in the House of Assembly. Some superannuation schemes which do have individual trustees are run for employees of publicly listed corporations; so, but for the character of the trustee, they would have been entitled not to be a financial institution under this Bill.

This is probably an appropriate point at which to raise the matter of co-operatives, which will be covered by this legislation because they come within the definition of a 'company'. According to clause 3 a 'company' is a body corporate or an unincorporated association, including a partership. It is probably taking some liberty with the ordinary use of the word 'company', but I accept for the purposes of this Bill that it has a much wider meaning. Co-operatives are very much like credit unions. They are established for the benefit of their members and are, in fact, mutual associations not designed to carry on business for profit. They are not, however, within the description of 'charitable organisation'. Some co-operatives are fairly large, and most relate to primary industry such as agriculture or fishing.

In the fruitgrowing industry they have accounts such as fruit pools into which money is received, distributed and shuffled within the co-operative. That money will become dutiable on several occasions as it moves through the various accounts of the co-operative. It may be that that is something that the Government intends. Can the Attorney-General say whether the Government gave consideration to co-operatives being placed in the same position as credit unions in respect of a financial institutions duty, or for some other provision to be made so that double and treble duty could be avoided?

The Hon. C.J. SUMNER: No.

The Hon. L.H. DAVIS: Has the Attorney-General any specific examples in mind in relation to clause 6 (1) *(l)* relating to any prescribed person or person of a prescribed class?

The Hon. C.J. SUMNER: No.

The Hon. R.J. RITSON: I will follow up on the matter raised by the Hon. Mr Griffin. Can the Attorney-General tell me what effect this will have on the bulk handling of grain and what amount, if any, will be collected from the Co-operative Bulk Handling Ltd?

The Hon. C.J. SUMNER: I do not have that information and it would be impossible to calculate.

Clause passed.

The CHAIRMAN: A clerical correction to the Bill is necessary at this time. What is shown as clause 6 should be shown as clause 5 and, accordingly, clause 5 should be shown as clause 6. This correction can be made under Standing Order 326.

The Hon. K.T. GRIFFIN: Could I ask for clarification, Mr Chairman? I have a clause 5, followed by a clause 6, in my Bill.

The CHAIRMAN: Order! I cannot hear the honourable member.

The Hon. K.T. GRIFFIN: I am speaking clearly enough.

The CHAIRMAN: I am asking for order so that I can hear the honourable member.

The Hon. K.T. GRIFFIN: In my print of the Bill I have a clause 5 following a clause 4 and a clause 6 following that clause 5. I do not follow what the clerical problem is.

The CHAIRMAN: We have received instruction from Parliamentary Counsel that clause 5 should be where clause 6 is and clause 6 should be where clause 5 is.

The Hon. C.J. SUMNER: It is not so much a clerical area, but from the point of view of drafting I am advised by Parliamentary Counsel that they wish clause 6 to be clause 5 and clause 5 to be clause 6. It is not technically a clerical error, just something that needs correcting. If that requires a motion—

The CHAIRMAN: The correction can be made under Standing Order 326.

Clause 7—'Definition of dutiable and non-dutiable receipts.'

The Hon. R.I. LUCAS: Will the Attorney-General say whether, when a customer seeks to transfer cash overseas by mail in foreign currency, that transaction will be dutiable?

The Hon. C.J. SUMNER: If it is a receipt, it is dutiable; if it is not a receipt and sent overseas, it is not dutiable. If it goes into an account, it is dutiable.

The Hon. L.H. DAVIS: I understand that any interest accruing is picked up and is dutiable, but will the Leader confirm that repayment of moneys includes interest, or is repayment of moneys taken to be the capital only? Clause 7 (2) refers to non-dutiable receipts, and payment of moneys is defined as being a non-dutiable receipt. I take it in the context of paragraph *(c)* that repayment of moneys refers only to the capital portion, the initial investment, and does not include the interest?

The Hon. C.J. SUMNER: Yes.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 9, after line 3—Insert new paragraph as follows:

(ga) a receipt of money by a bank that is a registered financial institution for the credit of an account established by the liquidator of a company solely for the purposes of winding up that company;

There is already provision in the Bill for a liquidator of a company that is being wound up to apply to the Commissioner for approval of an exempt account. All money that is paid into that account is not subject to f.i.d. although, of course, when the money is paid out to the creditors, to pay expenses, or when it is transferred to the liquidator to meet his costs, f.i.d. is paid. I have had some discussions with the Insolvency Practitioners Association which expressed a concern that is, from the point of view of the Government, merely of a technical nature.

The difficulty is that a liquidator in relation to a particular company liquidation will not automatically open an account with a registered financial institution but, when money is received for the first time, he will go along to the bank, make application to open an account, and deposit money. When that is done, unless the account is exempt, f.i.d. is payable. However, having opened the account with the initial deposit, the liquidator can apply to the Commissioner of Stamps for the account to be approved as an exempt account and thereafter f.i.d. is not paid. Yet, duty has been paid on the first account.

The insolvency practitioners request (and I support their request) that they can obtain approval on an account from the Commissioner in anticipation of them opening that account or, alternatively, that they can find some other mechanism to ensure that the deposit of money does not attract f.i.d. I propose a provision that declares that the receipt of money by a bank that is a registered financial institution, for the credit of an account established by the liquidator of a company, is not a dutiable receipt. I believe that that neatly overcomes the problem that I have identified.

If the Government does not accept this, and if the Council does not support it, I suppose the device that liquidators will have to adopt is to take 10c to the bank, open an account, hold the balance of the money, apply to the Commissioner and hope that he is able expeditiously to approve the account that has been opened with 10c as an exempt account and, as soon as it is approved, deposit the money and not pay f.i.d. That seems to me to be an unsatisfactory course, because it is merely a device to minimise the duty and it does not follow the strict letter of the Companies Code, which requires liquidators to open trust accounts and to deposit moneys in those accounts as soon as it is reasonably practicable to do so.

I doubt whether the excuse of waiting on the Commissioner of Stamps to exempt the account would be sufficient reason to avoid the obligations of the Companies Code. So, the device that I have suggested be included in this clause will avoid the necessity for liquidators to adopt any artificial mechanism for avoiding the duty and will really ensure that there is a consistency of treatment of all receipts by a company liquidator in respect of a particular winding up.

The Hon. C.J. SUMNER: The Government cannot accept this amendment.

The Hon. K.T. GRIFFIN: For the Attorney-General to just sit back and say, 'We can't accept it' is not good enough. I have put a perfectly good and reasonable argument why this should be done. If the Attorney adopts that attitude, saying 'I can't accept it', without at least giving some adequate reason why, we will just keep exploring all the possibilities of each amendment. The Attorney is a responsible Minister: he ought to know why he cannot accept the amendment.

The Hon. C.J. Sumner: I do.

The Hon. K.T. GRIFFIN: Well, tell us. I defer to the Attorney-General, if he is prepared to tell us why he cannot accept the amendment.

The CHAIRMAN: If there is no further debate, I will put the question.

The Hon. K.T. GRIFFIN: I ask the Attorney-General for the reasons why he cannot accept the amendment.

The Hon. C.J. SUMNER: There is no point in it. The Opposition is attempting to chip away at the basis of this Bill in relation to trust accounts and term accounts, and in both cases members opposite are attempting in an indirect sort of way to turn back what is basically the intention of the Bill. The fact is (and members opposite pretend not to like it) that the Bill is designed to raise revenue for the Government in order to overcome a budgetary situation with which we have been landed. Each of the substantive arguments that members opposite have put up in relation to costings, trust accounts or term accounts has been designed to chip away at the proposition.

What we are looking at is a broad-based financial institutions tax which has the advantage of being at extremely low rates and which is spread across the community in a

reasonably progressive manner. Every one of the amendments moved by members opposite seeks to chip away at the basic principle. This is another one. I do not see why there should be any exemption in regard to a liquidator, and my view is consistent with the general thrust of the Bill. My argument is consistent with my argument in regard to trust accounts and term deposits.

The Hon. M.B. CAMERON: I take exception to the Attorney's implication that the Opposition is chipping away at the Bill. We are reviewing and amending the Bill at the request of the Treasurer—

The Hon. C.J. Sumner: Rubbish!

The Hon. M.B. CAMERON: It is not rubbish. The Leader can read *Hansard,* newspapers or any comment and he will see that there was a request by the Treasurer. It was improper for that request to be made in that form, because the Bill should not have come to this Council after the Treasurer admitted that it was faulty, and we are making these changes (not necessarily the detailed ones) at the Treasurer's request. I ask the Attorney in answering questions not to make that implication, in view of the request coming from another place.

The Hon. R.I. LUCAS: Although we are discussing an amendment moved by the Hon. Mr Griffin, I do not know what it is, as I do not have it on file.

The Hon. C.J. Sumner: He has not got it on file—it hasn't been circulated.

The Hon. K.T. GRIFFIN: I have circulated it. I had the amendment drafted last night and asked that it be circulated.

The CHAIRMAN: I apologise to the Hon. Mr Griffin, because, although I know he has spoken in regard to line 3, I thought that his amendment came after line 24. This amendment seeks to insert a new paragraph after line 3.

The Hon. K.L. MILNE: I have no idea what we were discussing. Can the arguments be given again?

The Hon. K.T. GRIFFIN: Briefly, it is to enable company liquidators to open accounts and, as a result of this amendment, moneys paid into those accounts will not be dutiable as receipts when they are lodged with a bank, the registered financial institution where the account is established.

The Hon. K.L. MILNE: No approach has been made to me by the Institute of Chartered Accountants. What is the Attorney's view?

The Hon. C.J. SUMNER: The argument is the same in regard to term deposits and trust accounts. The basic philosophy of the Bill is to provide a broad-based financial institutions tax. Opposition members seem to forget that that is what the Bill is about. They have been insisting on amendments that have been designed to deny what the Bill is all about. I cannot see why a liquidator should be exempt in these circumstances any more than should apply to trust accounts or term deposits, as argued earlier. The amendment seeks to turn back the rationale of the Bill and, for that reason, I object to it.

The Hon. K.T. GRIFFIN: Company liquidators are required to establish a trust account and pay money into it. They are compelled to do that by law. The Attorney says that we seek to chip away at the Bill—we do not. We seek a reasonable attitude to prevail in order to ensure that instances of double and treble dipping are minimised, if not avoided.

We will be able to debate the whole concept of solicitors, land brokers and real estate agents trust accounts, because the same sort of principle applies there. In liquidation, whatever money is received by the liquidator has to be paid into an account and disbursed from it. At the point when it is disbursed and received by creditors, the duty should be paid; that is the only point.

The Hon. C.M. HILL: I agree with the Hon. Mr Griffin. There is no difference whatsoever between the Hon. Mr Griffin's point and the double dipping process that occurs with trust accounts held by licensed land brokers and solicitors. A liquidator opens a trust account so that money can be received from liquidations, prior to its being distributed to beneficiaries. It seems to me it is quite improper and unfair that the Government should collect two lots of duty, namely, at the point when money is paid into a trust account and also when money is distributed to beneficiaries.

If we we do not remain consistent in our approach to this very difficult measure, we will find ourselves in even worse trouble than is the case at the moment in relation to lengthy debate and delay. I believe that the Hon. Mr Griffin has a strong point: this section of the professional or commercial world should receive Parliament's protection, and the Government should not have the right to receive double duty in instances such as this.

The Hon. K.L. MILNE: I have been able to give this matter some thought now. Honourable members should bear in mind that many liquidators carry on businesses, but not to the same extent as receivers. I do not believe that this situation amounts to double dipping any more than is the case where an ordinary business places money into a bank account and then distributes that money to its creditors. What confuses the philosophical outlook is that, in the case of a liquidator, creditors will lose a lot of money, anyway. Unfortunately, I do not think that that alters the principle. At a later date, following discussions with the Government, the Institute of Chartered Accountants and the Australian Society of Accountants, I am prepared to go into this matter again. I do not think that any good purpose can be served by delaying this measure now. I do not propose to support the suggested amendment at this stage, but I will further consider the matter at the expiration of the legislation's trial period.

The Hon. J.C. BURDETT: With respect, I do not think that the Hon. Mr Milne has correctly understood the situation. If a creditor is paid money by a liquid company, and the creditor pays that money into his bank account, the duty is paid only once. However, if a company that owes a creditor money is in liquidation, as the Bill reads at the moment, the money is compulsorily paid into his bank account which he is required to keep, and duty is paid (as the Hon. Mr Milne has correctly observed, only some of the money owed to the creditor will be paid—it is unlikely that it will all be paid); the creditor then pays the money into his bank account and the duty is paid again. Therefore, it is double dipping. If money is paid directly by a debtor company to a creditor, duty is paid only once. However, if money is paid through the medium of a liquidator, the duty is paid twice. As the Hon. Mr Milne has said, it is unlikely that all the money owed will reach the creditor, anyway. However, the main point is that in the latter situation the duty is paid twice.

The Hon. K.L. MILNE: Will the Attorney inform the Committee whether this clause is included in legislation in New South Wales and Victoria, as was suggested by the Hon. Mr Griffin?

The Hon. C.J. SUMNER: No.

The Committee divided on the suggested amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Majority of 1 for the Noes.

Suggested amendment thus negatived.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 9, after line 24—

Insert new paragraph as follows:

(ka) a receipt of money by a pastoral finance company that is a registered financial institution other than a receipt that is an amount received by the pastoral finance company in the course of banking business carried on by it, or in the course of short-term dealings;.

In another place the Government accepted amendments proposed by the Leader of the Opposition in relation to pastoral finance. Those amendments largely corrected a problem with receipts in the original Bill in relation to pastoral finance companies—but those amendments do not go far enough. This amendment, if taken in conjunction with an amendment to clause 31, will put South Australian pastoral finance companies on exactly the same footing as pastoral finance companies in New South Wales and Victoria.

Pastoral finance companies in New South Wales and Victoria are registered financial institutions. Unless special provisions apply, pastoral finance companies in those States pay financial institutions duty on all their receipts. The special provisions that apply in New South Wales and Victoria provide that duty is required to be paid only by pastoral finance companies, as registered financial institutions, on receipts in relation to pastoral banking and finance business.

In South Australia the Bill provides that pastoral finance companies are financial institutions. My understanding is that they will all be registered financial institutions. As such, unless there were special provisions in the Bill, they would have to pay duty on all their receipts: not just the receipts from their pastoral banking and finance business but also on their receipts relating to the sale of goods, receipts as agent resulting from the sale of livestock and receipts for the provision of services.

The Bill so far provides that receipts from the sale of goods are not dutiable receipts in the hands of the pastoral finance company, but all other receipts are within the ambit of the collection process so far as pastoral finance companies are concerned. My amendment will provide that only those receipts received by the pastoral finance company in the course of banking business carried on by it or in the course of short-term dealings are dutiable in the hands of the pastoral finance company. That then puts pastoral finance companies in South Australia on the same footing as those in New South Wales and Victoria. So, these two amendments will achieve that; the other is in clause 31.

The Hon. C.J. SUMNER: The Government is prepared to accept the amendment.

Suggested amendment carried.

The Hon. C.J. SUMNER: My amendment to insert a new paragraph *(na)* in clause 7 after line 39 as part of a package of amendments to be moved by me to give effect to the Government's decision to exempt charitable institutions from the incidence of f.i.d. The proposed new paragraph *(na)* effects this exemption. However, I would propose that the last three words of the amendment that stands in my name in relation to this clause be omitted. As a result of the amendment moved by the Hon. Mr Davis being passed in relation to term deposits, those three words (namely, 'on term deposit') are superfluous and would probably be better deleted. I seek leave to move my amendment to clause 7, page 9, after line 39, in that amended form.

Leave granted.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Page 9, after line 39—

Insert new paragraph as follows:

(na) a receipt of money by a registered financial institution from a charitable organisation for the purpose of investing that money;

The Hon. K.T. GRIFFIN: This is certainly a welcome extension to the exemptions to charitable organisations which the Government is now supporting. It has taken the Government some time to get to the point of accepting the exemption of charitable organisations from the payment of duty, but having got to that point-

The Hon. C.J. Sumner: We accepted it before, and you know it.

The Hon. K.T. GRIFFIN: We will debate that a little further when we get to clause 31.

The Hon. C.J. Sumner: I will not be debating it. I can assure you of that.

The Hon. K.T. GRIFFIN: Well, we will be. Having accepted the point that charitable organisations are hopefully exempt from day one, we see the amendment which the Attorney-General is moving as a welcome extension. One would hope that it is partly as a result of that change of heart by the Government that he wants to go a little further than the Government initially indicated that it would go.

The Hon. L.H. DAVIS: I welcome the Attorney's change of heart on the Government amendment on file and its recognition that the charitable organisation can lodge money not only on term deposit but also on call. By deleting the last three words of the proposed new subclause *(na)*, the Government has accepted the amendment that I had on file.

The Hon. C.J. Sumner: I am not accepting it; I am doing it for drafting purposes in view of the Council's having passed the honourable member's earlier amendment. If that is not subsequently amended the words will have to go back in.

The Hon. L.H. DAVIS: The Attorney claims that he is doing it for drafting purposes, but I suspect that he is doing it not only for drafting purposes, but also because it would leave quite clear the position of charities which invested money on call. I submit that many charities invest money regularly at call: the churches for one. Charitable organisations that have appeals through television, radio programmes and door-knocks, raise money and lodge it in a bank account for a short period at call, and then subsequently pass those funds on.

As the provision now stands they would still be caught, because new paragraph *(na)* as initially proposed by the Government related only to term deposits. Deleting the last three words relieves any ambiguity in that clause and allows the charity to invest money either at call or on term. It is essential that the Government understands that the charities require a maximum amount of flexibility. I am pleased to see that the Attorney has accepted that proposition which is implicit in the amendment that I have on file, albeit that he says that he is doing it for drafting purposes.

Suggested amendment carried.

The Hon. K.T. GRIFFIN: My next amendment is consequential upon an earlier one relating to clause 5, relief from double duty on the transfer of money between accounts of the same person within the same institution. Having lost the earlier matter because of the votes of the Hon. Mr Milne and the Hon. Mr Gilfillan, I will not proceed with this amendment.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 9, line 39—Insert new paragraph as follows:

(na) a receipt of money by a registered financial institution (being a bank, building society or credit union), being a payment to the credit of an account kept by that financial institution of an amount payable to the person in whose name the account is kept under or by virtue of the Repatriation Act, 1920, of the Commonwealth,

or any other Act of the Commonwealth Parliament relating to the repatriation of members of the military forces of the Commonwealth;

This amendment relates not only to pension cheques but also to any other cheques that come through the Repatriation Department. These cheques have been free of tax ever since the 1914-18 war and I suggest that they should continue to be free of tax. I am sure that that is what is intended and that my amendment will make this quite clear.

The Hon. K.T. Griffin: This tax applies to the dole.

The Hon. K.L. MILNE: I will raise the matter of taxing the dole later and whether or not people should pay this tax on social service payments.

The Hon. K.T. Griffin: They will pay it if they pay those cheques into an account and unless they take cash.

The Hon. K.L. MILNE: That matter is worth considering when we get time, but for the moment I am merely dealing with my amendment.

The Hon. C.J. SUMNER: This amendment is not acceptable to the Government. I understand that, so far as the banks are concerned, it is unworkable. Also, there has not been any attempt anywhere else in similar legislation to exempt duty on any social security payment made to financial institutions.

The Hon. C.M. Hill: I thought the people in your Party cared for people.

The Hon. C.J. SUMNER: We do. That is why a broad-based taxing measure such as this is much more desirable than are the sorts of measures that honourable members opposite are interested in.

The Hon. K.L. Milne: Are you indicating that they are not exempt in New South Wales and Victoria?

The Hon. C.J. SUMNER: They are not exempt in those States. Repatriation cheques and the like attract Commonwealth debits tax on moneys paid out of accounts by cheque, attracting stamp duty, so there does not seem to be any reason for exempting social security payments from this tax. In any event, I am advised that from the banks' point of view it is completely impractical to do so.

The Hon. R.C. DeGARIS: I have a high regard for the Hon. Mr Milne, who seems to be the balance of power in this Council at the moment. I point out that a few moments ago the Hon. Mr Milne did not accept an amendment moved by the Hon. Mr Griffin relating to internal transactions between accounts controlled by the one person. His argument against that amendment was that it would not be possible for the banks to programme their computers to handle that matter. In speaking to Mr Milne's amendment, I point out to him that I do not believe that that is correct information, because the difficulty the banks have relates to exempting transactions in the one non-exempt account. That is extremely difficult to do, but there is no problem, as I understand, in the banks programming their computers so that there is no payment of duty for transactions between certain accounts. That appears to me to be an easy way to programme a computer. However, it is extremely difficult to programme a computer to handle exempt transactions in a non-exempt account. That is almost impossible to do.

I am for the amendment, which I think is correct, because repatriation cheques have always been non-taxable. They have never been looked on as a pension but as a compensation for those who made a contribution or lost something during war time. What I cannot understand is how the Hon. Mr Milne can move an amendment such as this which is impossible for the banks to programme when he has just voted against an amendment that I believe computers could handle very easily. I would like the Hon. Mr Milne to realise that I am in favour of his amendment and think that it is correct that this should be done, but I cannot understand why he has moved it after voting against the previous amendment. To programme a computer to handle the proposal suggested in the previous amendment would merely require the computer being programmed to accept that transfers between accounts 1, 2, 3 and 4 are not taxable, which is easily done. However, to programme a computer in accordance with the amendment would be difficult. I support the amendment but agree with what the Attorney has said that this is an extremely difficult matter to programme.

The Hon. K.T. GRIFFIN: I support this amendment and pursue the point that the Hon. Mr DeGaris has made that this will require banks to identify transactions. However, I still maintain that banks can do that. Computers can identify transactions between accounts and can identify war pensions that are paid into accounts—it is simple. For anyone to argue that that cannot be done means that they do not understand much about computers. As I said earlier, it is a great pity that the business of the Government and of the Parliament is dictated by computers.

The Committee divided on the suggested amendment:

Ayes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne (teller), and R.J. Ritson.

Noes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Majority of 3 for the Ayes.

Suggested amendment thus carried.

The Hon. L.H. DAVIS: Paragraph *(o)* is a dragnet measure relating to non-dutiable receipts. Can the Attorney give specific examples? One of the concerns expressed to me is that some organisations or associations act as a conduit pipe. Reference was made in the Lower House to the International Association of Travel Agents. I can think also of the Master Builders Association, which runs the group apprenticeship scheme and which deposits payments in a special bank account. Is that the sort of organisation that the Attorney envisages will be exempted from f.i.d. under the terms of paragraph *(o)*?

The Hon. C.J. SUMNER: It is a drafting matter to ensure maximum coverage and to give the Government flexibility if any problems arise.

Clause as amended passed.

Clause 8—'Short-term dealings.'

The Hon. L.H. DAVIS: I move the following suggested amendment:

Page 11, line 16—Leave out '10' and insert '12'.

This clause relates specifically to short-term dealings. In the second reading stage I referred briefly to the fact that the Government has chosen to adopt a similar formula to that which exists in the Victorian legislation whereby short-term dealers are required to pay f.i.d. at the rate of .005 per cent on a formula as set out in subclause (3). That amount is defined as the average daily liability of a person during a month in respect of short-term dealings throughout Australia; that is, the sum of the daily closing balances of the liability of the financial institution throughout Australia divided by 10 times the number of days in the month.

The denominator of 10 represents the fact that, for the purposes of this formula, the Government believes that the short-term money market operation in South Australia is approximately equivalent to 10 per cent of the Australian total. It is very difficult to be dogmatic about this point, but my amendment seeks to change the formula to $\frac{A}{12B}$ for the following reasons. The population in South Australia is only 8.6 per cent of the national total. Bank deposits in South Australia run between 7.5 per cent and 8.3 per cent of the national total, which is indicative of the size of the

money operations in South Australia as a percentage of total banking operations in Australia. More pertinently, when one deals with the money market as such, one is talking not only about the merchant banks but also about the life insurance offices, the building societies, which have their own short-term money market dealings, and the banks. We are talking about a large number of institutions that are engaged in daily short-term money market dealings. If one looks at the Australian Merchant Bankers Association annual report for 1983, one sees that the Association has some 26 members Australia-wide and employment in these merchant banks associated with the Association is 3 372 Australia-wide.

Only 72 of these 3 372 people are located in Adelaide. Little more than 2 per cent of the total merchant bank staff are located here. In itself, that is indicative of the fact that at least as far as merchant banks in Adelaide are concerned, they go nowhere near comprising 10 per cent of the Australian total in respect of their total daily average balances held in the short-term money market.

I have been advised by a merchant banker that Victoria has 26 merchant banks which are paying about $20 000 a year each in f.i.d. In other words, merchant banks alone are paying $500 000 anually in f.i.d. in Victoria. I do not know what is the figure with regard to banks, building societies, life offices and other short-term money market dealers, but I will be interested to know from the Attorney what gain to revenue from f.i.d. Treasury expects from short-term money market dealers as a result of the implementation of this clause. Only one facet of the operations of merchant banks involves the short-term money market in South Australia, and the Government could reasonably expect perhaps $150 000 annually from f.i.d. from that source. I will be interested to know whether the assessment that has been given to me by a merchant banker in Adelaide is close to the mark. In introducing the Bill the Government has been at pains to stress its encouragement of the financial sector in Adelaide. My argument is that the formula $\frac{A}{10B}$ does not do that. The formula used in New South Wales and Victoria is $\frac{A}{3B}$. In other words, they are saying that the New South Wales short-term money market comprises 33 per cent of the Australian total as does the market in Victoria. Combined, it comprises 66.6 per cent of the Australian short-term money market for the purpose of calculating f.i.d. in those States. Treasury has said that 10 per cent should be the figure in South Australia. We cannot surmise what the figure should be if Queensland ever introduced f.i.d., but that seems to be unlikely. From all the available statistics, 10 per cent seems to be too high, and my amendment seeks to bring it to 8.3 per cent, which is closer in line with the South Australian population, with its share of bank deposits and is much closer in line with the real experience of merchant bankers and other money market dealers. South Australia is not a significant financial centre and thus should not be accorded 10 per cent. It is a fatuous assumption by the Government to believe that we are so strong in the capital market.

The Hon. C.J. SUMNER: It is unacceptable to argue about what revenue we will get from this measure. It is a matter of opinion and there is little point in arguing backwards and forwards at length. Merchant bankers have had the Bill made available to them and they have not made any protests to the Government as far as I am aware.

The Committee divided on the suggested amendment:

Ayes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis (teller), R.C. DeGaris, H.P.K. Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne, and R.J. Ritson.

Noes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Majority of 3 for the Ayes.

Suggested amendment thus carried.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Page 11, line 19—After 'person' insert '(not being a charitable organisation)'.

The Government has decided that short-term dealings carried out on behalf of charitable organisations may also be exempt from the short-term dealing rate of .005 per centum. As members will be aware, f.i.d. in relation to short-term dealings is calculated by reference to 'average daily liability'. Accordingly, under the present system, if a charitable institution paid money to a registered short-term money market operator for investment on the market, the amount, if a short-term dealing, would attract f.i.d. on the daily closing balance of the liability of that operator to the charity. By excluding charitable organisations from the formula by which the average daily liability of a short-term money market operator is computed, charities are effectively excluded from the incidence of duty on their short-term money market investments.

The Hon. K.T. GRIFFIN: Is the Attorney saying that charities will not be liable for duty?

The Hon. C.J. SUMNER: Yes.

Suggested amendment carried; clause as amended passed.

Clause 9—'Declaration of short-term dealer in unofficial market.'

The Hon. K.T. GRIFFIN: Will the Attorney-General indicate what criteria the Commissioner will use in determining whether or not an unofficial short-term money market operator will be declared to be a short-term dealer for the purposes of the legislation?

The Hon. C.J. SUMNER: No, I cannot do that. A dealer in the short-term money market is well known.

The Hon. K.T. GRIFFIN: The clause provides that unofficial short-term money market operators will be declared as short-term dealers. Clause 3 provides a definition of 'short-term dealer,' and there is also special reference to the Companies (South Australia) Code, which deals with authorised dealers in the short-term money market. Clause 3 also provides a definition of 'short-term dealing account'. What criteria will the Commissioner use to declare unofficial short-term operators to be authorised for the purposes of the legislation?

The Hon. C.J. SUMNER: They will be those people who operate on the short-term money market, and they are well defined. In New South Wales and Victoria they are declared under the legislation, and that is what will happen in this State.

The Hon. K.T. GRIFFIN: Will all operators on the unofficial short-term money market be so declared?

The Hon. C.J. SUMNER: Yes, unless there is a particular reason why they should not be declared.

The Hon. K.T. GRIFFIN: Is there any reason why any unofficial dealer should not be so declared?

The Hon. C.J. SUMNER: Not to my knowledge.

The Hon. R.I. LUCAS: Did the Attorney say that there is a similar provision in New South Wales and Victoria?

The Hon. C.J. SUMNER: Yes.

Clause passed.

Clause 10—'The Commissioner.'

The Hon. R.I. LUCAS: During debate in another place the Treasurer estimated that the cost of administration of the legislation in the first year would be $175 000. Under some pressure, the Government has accepted a new administrative arrangement for the legislation, at significant additional cost. In his second reading speech the Hon. Mr

DeGaris said that a significant percentage of the cost and time involved in the administration of the Victorian and New South Wales legislation is spent on the administration of exemptions for charities. As I recall, last night the Attorney said that the new estimate for the administration of the legislation in the first year is $225 000. Is the Attorney saying that the cost of administering the new provision for the exemption of charities will amount to only $50 000?

The Hon. C.J. SUMNER: Yes: $50 000 in the first year and $30 000 for each subsequent year.

The Hon. R.I. LUCAS: Is that the total cost to the Government or is it an estimate provided by the Treasury? I notice in clause 11 that the Commissioner can delegate any officer of the Public Service. It may well be that the Commissioner has in mind—and I will certainly put the question to the Attorney under clause 11—using officers from departments other than the Treasury to assist in the administration of this Act. The question is quite simple: is this just for the Treasury estimate or is it a total estimate for the administration of the Act by the Government?

The Hon. C.J. SUMNER: The $50 000 is the estimated cost for the implementation phase, but that money would be used up substantially in the first period after the introduction of the legislation. The continuing cost is $30 000 per annum; in other words, it requires more staff to administer the exemption scheme than the rebate scheme. It is not possible to give any absolute, hard and fast figures in this area. It would depend very much on the work load generated, but they are the costs that have been estimated by the Commissioner of Stamps and that is the cost to the Treasury—not anyone else.

The Hon. R.I. LUCAS: Will any extra allocation have to be made to the Treasury, or was this included in its departmental estimates that went through Parliament a month or two ago?

The Hon. C.J. SUMNER: Additional funds would be needed.

Clause passed.

Clause 11—'Delegation.'

The Hon. R.I. LUCAS: Is this a normal provision, and exactly what is intended under this clause? It clearly gives the Commissioner power to delegate any officer of the Public Service to assist in the operations of this Act. Is it a normal provision? Does the Commissioner have any particular departments in mind or any particular officers in particular departments in mind who may be used?

The Hon. C.J. SUMNER: It is not an abnormal clause. The question of delegation is something that is practised very widely in public administration.

The Hon. R.I. LUCAS: I repeat the second question: does the Commissioner at this stage have in mind any particular Government departments or officers that he may want to use for the administration of the Act?

The Hon. C.J. SUMNER: No.

Clause passed.

Clause 12—'Secrecy provisions.'

The Hon. J.C. BURDETT: I move:

Page 12, line 18—After 'proceedings' insert 'under this Act'.

Clause 12 very properly provides that a person shall not divulge or communicate information that is or was acquired by him by reason of his being, or having been, employed in, or in connection with, the administration of this Act, and then follows a series of exceptions. The last of them, paragraph *(e)*, is for the purpose of legal proceedings. Taking this literally, it might be any legal proceedings. It could be, for example, legal proceedings between two private citizens, in which case, on the face of the words in the clause, it would be admissible and proper for a person to divulge information which he had acquired by reason of his being engaged in the administration of the Act. That, of course, is quite improper, and I am sure that it was not intended. It may very well be that the clause would be interpreted in any event to restrict the exception to legal proceedings under this Act, but my amendment is to add at the end 'under this Act' to make it quite clear that that relief from the obligation of confidentiality is restricted to this case.

The Hon. C.J. SUMNER: Like the previous amendment, the amendment means nothing; so, I will accept it.

The Hon. K.T. GRIFFIN: It is all very well for the Attorney-General to start stonewalling on these sorts of amendments and say, 'There is nothing in it.' He is trying to suggest to those observing that there is nothing in it, and that it is the Opposition that is being difficult and not the Government. The fact is that all the amendments about which he is saying, 'There is nothing in it; so we will accept it,' have some substance.

The Hon. C.J. Sumner: Nonsense!

The Hon. K.T. GRIFFIN: They do have substance. The Attorney-General is merely casting them to one side because he does not want to attract attention to them. If they did not have any substance, why accept them?

The CHAIRMAN: I think that the honourable member has made his point. We are not debating it.

The Hon. K.T. GRIFFIN: I am debating whether they have substance.

The CHAIRMAN: We have to stay with the amendments; otherwise, we will not get anywhere.

The Hon. K.T. GRIFFIN: I assert in support of the Hon. Mr Burdett that this amendment has a great deal of substance. The Attorney-General will not get away with just sitting back and saying, 'There is nothing in it; so I will accept it.' Maybe he is looking for an easy ride, but he has got a long way to go yet and he will not have that easy ride. I support the amendment because it is an amendment of substance.

The Hon. C.J. SUMNER: It adds absolutely nothing. On that basis, I have accepted it. I am very surprised that the Hon. Mr Griffin is getting so agitated about it. I thought that he would concentrate on the more important provisions of the Act.

Members interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: The acceptance of this amendment, as with one of the others moved by honourable members opposite, is for the purpose of getting a comparatively quiet life. There is nothing in the amendments. They do not alter the effect of the Bill one iota. They do not add anything or detract anything from the Bill; so, we will accept it.

The Hon. J.C. BURDETT: I am glad that the Attorney is accepting the amendment, but the fact remains that as the Bill at the present time appears with clause 12 as printed—and that is the basic way in which one interprets anything—there is nothing to prevent divulging confidentiality for any legal proceedings whatever. To make that quite clear it is a perfectly sensible amendment which should not have been cast aside in the snide, sneering way that the Attorney-General has done.

Suggested amendment carried; clause as amended passed.

Clauses 13 to 18 passed.

Clause 19—'Beneficiaries under discretionary trusts.'

The Hon. K.T. GRIFFIN: It seems to me to be casting the net very wide to suggest that where there is a discretionary trust a person may, under the trust, be deemed to be a beneficiary in respect of 50 per cent or more than 50 per cent of the value of that trust. I can only accept that the group of provisions involved is designed to minimise the opportunity to avoid the duty. It may be that discretionary trusts may be used for that purpose. I think that it is really

casting the net very wide to suggest that just because a person may, as a result of the exercise of a power or discretion by the trustee, then benefit under the trust to the extent of 50 per cent or more of the value, he thus has a liability. It may well be that there is a particular class of beneficiary involved, perhaps members of a family, parents and children, or other relatives or persons who are at arms length. Is the Attorney able to indicate specifically why the net was cast so wide in respect of discretionary trusts under clause 19?

The Hon. C.J. SUMNER: We do not want the provisions of this Act to be avoided or evaded by anyone. It is a similar provision to that which applies in the Pay-roll Tax Act and has been taken from that Act and inserted in this legislation.

Clause passed.

Clause 20 passed.

Clause 21—'Registration of financial institutions.'

The Hon. K.T. GRIFFIN: The Commissioner has a discretion under this clause to register a financial institution that he would not otherwise have to register. A financial institution that is required to register is one which, during the preceding 12 months, had dutiable receipts totalling more than $5 million or, during the preceding month, had dutiable receipts totalling more than $416 666. In the event of such an institution applying to be registered, and there is an obligation to register, the Commissioner must register that financial institution. Will the Attorney-General say what criteria the Commissioner may use in respect of those financial institutions which are not otherwise required to register and do in fact apply to register under this clause; not only what criteria may be applied, but also the sorts of financial institutions that are likely to be encompassed by this discretionary power?

The Hon. C.J. SUMNER: The Commissioner will adopt a flexible attitude to this legislation.

The Hon. K.T. GRIFFIN: So he may, but what I am interested to find out is how he is going to exercise this discretion. There are about 11 clauses in this Bill in which the Commissioner has a discretion. I think that it is fair that this Council should have some idea of the criteria that the Commissioner may apply in determining whether or not he will register an institution which is not otherwise required to register. I also ask the Attorney-General what sorts of institutions are likely to come within the ambit of this particular discretionary provision.

The CHAIRMAN: Does the Minister wish to make any further reply?

The Hon. C.J. SUMNER: No.

The Hon. K.T. GRIFFIN: I have noticed a distinct change in attitude since lunch on the part of the Attorney-General. It is now an attitude of shrugging off the serious questions that the Opposition is asking. I think that the Parliament is entitled to know what sorts of criteria the Commissioner may apply in respect of what sorts of institutions. I ask the Attorney-General again: what sorts of criteria are likely to be applied and what sorts of institutions are likely to be encompassed by this discretionary provision?

The Hon. C.J. SUMNER: I have given the honourable member the operative answer.

The Hon. M.B. CAMERON: This whole matter is becoming very concerning. I raised the point during my second reading speech that we may well reach a point where the most politically damaging groups in the community may be encompassed and that that would be a matter of real concern to me if one of the criteria used was whether or not there is embarrassment to the Government involved. I think this question needs to be answered fully before we proceed too far with this matter. I am quite happy, as I indicated earlier, for the Attorney to report progress for a short period while he goes away and finds out the answer to this question. I do not think that it is proper for us to proceed too far without that answer being available to the Council. The question put by the Hon. Mr Griffin is a proper one and a serious one, indeed, for this Council in relation to this Bill.

The Hon. R.I. LUCAS: I support the Hon. Mr Griffin in his asking of this question. Under many clauses of this Bill the Commissioner is given wide discretionary power. The Opposition, through the Hon. Mr Griffin and other honourable members, has sought quite genuinely under each and every clause to ascertain the criteria that are going to apply to decisions that the Commissioner might make. It is all very well for the Attorney, as he has done since 2.30 p.m. when he did not get his way, to sulk in the corner and not provide responses to genuine requests for information, in particular from the shadow Attorney-General. It is all very well for him to carry on in that way, but this Bill, and this particular clause, gives the Commissioner wide discretionary powers with respect to the way he operates. How can the Attorney expect the Parliament to write a blank cheque for the Government and for an officer who acts under the authority of the Government to administer certain matters?

The Hon. M.B. Cameron: It could be done by regulation.

The Hon. R.I. LUCAS: That is right, at least under the regulations. The Parliament may have some say, albeit a limited say, in the matter. The Opposition is being very reasonable in regard to regulation-making powers in a lot of these provisions. I suppose for the smoother operation of the Government and the administration of the Act, proclamation and this type of power rather than regulation is acceptable, but the Attorney cannot just sit there and sulk and expect not to give any response at all to genuine requests for information from the shadow Attorney-General. I support that genuine request, and I hope that the Attorney will perhaps consider his performance, sharpen up a bit and start providing a little bit of information to the requests put to him by the shadow Attorney-General.

The Hon. C.J. SUMNER: I am very pleased to do that: I have done it all afternoon. I have responded to every question that has been asked.

The Hon. M.B. Cameron: Yes, but by saying 'yes' or 'no'.

The Hon. C.J. SUMNER: I have answered 'yes' or 'no' or given full explanations to the matters that have been put. Similarly, in relation to this matter, I can say that the criteria will be determined by the Commissioner in light of the circumstances prevailing at the time. It is not possible to outline the criteria, as members opposite know, in any great detail. That is the situation, and that is the information I gave the Committee some 15 minutes ago.

The Hon. K.T. GRIFFIN: Certainly, the Attorney-General stated that the provision would be administered flexibly. I would expect any provision to be administered flexibly, but there must be some guidelines on which to exercise discretion. If the Attorney-General says 'I don't know the answer and I can't help you at all,' I suppose we will have to leave it at that. It is unsatisfactory. Any legislation that involves the exercise of discretion should at least be explained to the Parliament before it is passed so that the conferring of that discretion can be adequately assessed. If the Attorney does not have a clue about it, I guess I will have to accept that.

In taxing legislation, there is a growing trend to provide greater and greater discretion to the Commissioner, whether it is the Federal Commissioner or the State Commissioner. I do not reflect upon any individual, but in respect of that office, and *vis-a-vis* the citizen, that ought to be a matter of concern for the Parliament and the wider community. I know that there must be some discretions to combat schemes

that might seek to artificially avoid tax, but at least there must be some basis on which that discretion is exercised.

The Commonwealth Taxation Commissioner publishes practice guidelines or memoranda that outline the way in which he will exercise his discretion. One of the most commonly confronted problems (as the Hon. Lance Milne would appreciate) is in respect of section 23f superannuation funds, where income is exempted. The Federal Commissioner of Taxation sets down specific criteria upon which he will determine whether or not such a superannuation fund is to be exempt for the purposes of the Commonwealth Income Tax Assessment Act. That is a desirable trend.

I would hope that, in respect of this Bill, if the Commissioner is not able to do that now through the Attorney-General, at least there will be a willing exposure of the criteria to the community on or before the time when this Act will come into operation. However, it is just not good enough to be confronted with a piece of legislation that confers discretions if the Attorney is unable to give any indication at all as to the criteria that might be used to exercise those discretions or the sorts of bodies in respect of which the discretions will be issued.

The Hon. M.B. CAMERON: I want to back up what the Hon. Mr Griffin has said. The reply given by the Attorney was quite remarkable. He stated, 'Criteria will be determined by the Commissioner in the light of circumstances existing at the time.' Really, that says that there are no criteria at present, so we are considering this legislation with no idea of what criteria will be used. I totally agree with the shadow Attorney-General that this is unsatisfactory. We should have in front of us at least some idea of the criteria and certainly before the Bill is proclaimed there ought to be some indication of the criteria involved.

The Hon. L.H. DAVIS: We should not forget that this clause, dealing with registration of financial institutions, is an important clause. We are talking about those who are required to register under the provisions of the Act and also those who may apply to be registered as a financial institution under the Act. We have no indication as to how many financial institutions may be eligible to apply, and perhaps that is not particularly relevant, but it is critical for us to know what powers and discretions the Commissioner has.

The Attorney-General is now taking the attitude that the best way to facilitate the passage of this Bill is not to answer any questions at all. I really do not think that is satisfactory. Before lunch, the Attorney was at least showing a willingness to attempt to provide answers, although on many occasions he admitted that he did not know the answer and would seek further advice. That in itself, I thought, was a remarkable admission, given that the Bill was first introduced on 27 October. Now, 20 days later, the Government is still not sure what some of these clauses mean or whether some of these clauses should even be included.

I urge the Attorney to be candid in dealing with questions from the Hon. Mr Griffin, because I believe that the Commissioner's power to register financial institutions which includes a discretionary power and also the power to cancel registration of an institution is something which the community is entitled to know. We are entitled to know what guidelines the Government has in mind for the Commissioner in exercising the power contained in this clause.

The Hon. C.J. SUMNER: I have already answered the question in relation to this and many other clauses all afternoon. The Opposition is into another nit-picking phase. Under this legislation, the Commissioner will adopt a flexible attitude towards the registration of those institutions which the Government believes ought to be registered. As I said, there will be flexibility. The Commissioner will not adopt a dog in the manger attitude to those institutions that wish to register.

Presumably, while there are no specific criteria available now (and there will not be, no matter how long honourable members want to keep going), it is not possible to provide criteria. The Commissioner has indicated that it is likely that those institutions which are *bona fide* institutions and which are in sound financial position and wish to register under this clause will be granted registration. Unfortunately, the Opposition did not accept this explanation 20 minutes ago.

The Hon. K.T. GRIFFIN: I can see the position and, if the Attorney says that we will not have any guidelines, no matter how long we go on, the Opposition will not prolong debate. At least now we know where we stand. No consideration has been given to the criteria upon which the discretion will be exercised. It is just one more indication—

The Hon. C.J. Sumner: I just gave you the criteria—registration will be granted unless there is some evidence of financial instability. I don't know what you're on about.

The Hon. K.T. GRIFFIN: That is something, anyway. We will not prolong the debate.

Clause passed.

Clauses 22 and 23 passed.

Clause 24—'Exemption from furnishing returns of financial institutions.'

The Hon. L.H. DAVIS: This clause deals with financial institutions which may be exempted from monthly returns in accordance with the provisions of clause 22. I refer to subclause (1), which provides that institutions may furnish a return relating to each financial year within 21 days after the end of the financial year. What financial institutions will be caught under the provisions of sublcause (1)?

The Hon. C.J. SUMNER: I cannot outline that for the honourable member, but I will attempt to obtain further information for him and advise him in due course.

Clause passed.

Clauses 25 to 28 passed.

Clause 29—'Financial institutions duty.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 19—
Line 3—Leave out '0.04' and insert '0.03'.
Line 5—Leave out '$400' and insert '$300'.

This is one of the key clauses and deals with the rate of duty that will apply in respect of registered financial institutions. I refer to the draft Bill circulated to selected institutions in September, although dated 29 August. No rate was included, yet the Budget had been firmed up, and there may not have been a decision at the time of introduction of that Budget. Most State Budgets are finalised toward the end of July with a view to completion of all documentation work and introduction to Parliament about a month later. The Budget had an f.i.d. figure, but even during the Budget debate the Government was not able to give any indication of what rate would be included in the Bill that would finally be introduced. That seemed strange, because the Government made a calculation of the duty that it wanted to collect, yet it was unwilling to indicate what rate would be included in the Bill.

Although selected institutions had access to the draft Bill in September, they had no idea what the impact of this measure would be on their operations and those of their clients and customers until the Bill was introduced on 27 October—three weeks ago. There was some speculation as to what the rate might be. There was a reference point in that in Victoria and New South Wales the rate was .03 per cent with a maximum payment of $300 on any receipt, but there was some speculation that there was some shuttle diplomacy and that South Australia sought to encourage

Victoria and New South Wales to increase their rate to .05 per cent.

In Western Australia Mr Burke was sufficiently far from the financial markets of the Eastern States that he went for .05 per cent, but Mr Bannon opted for what can be described only as a classic Democrat compromise—half way in between .03 per cent in Victoria and .05 per cent in Western Australia. The Hon. Mr Milne has indicated that he will support the amendment if he cannot obtain assurances on other amendments. I do not believe he has been given too many assurances yet, and I hope to persuade him to support my amendment to reduce the rate from .04 per cent to .03 per cent with a maximum of $300 per receipt, and not $400.

Although the Government says that the amount of duty in respect of each receipt is not great, my information suggests that it is sufficiently significant to make corporations consider whether or not they should continue financial operations in South Australia. We have to be sure that everything we do does not discourage investors, financiers and developers from developing businesses in South Australia and carrying on their businesses in this State.

If South Australia is to have yet another tax or duty which is higher than the similar rate on the eastern seaboard, we will undoubtedly see a significant movement towards the east rather than to South Australia, which is so excellently located and which ought to be a vibrant commercial and financial centre. It is important for us to assess critically the Government's position and to support the amendment so that South Australia at least maintains what some have described as 'competitive neutrality'; that is, where the position is no worse in South Australia in regard to such a tax in comparison with the position in New South Wales and Victoria.

During the course of my second reading speech I mentioned some of my concerns about South Australia developing a high cost infrastructure, contrary to what Sir Thomas Playford endeavoured to maintain in this State, that is, a low-cost centre that would encourage industries to locate in South Australia. We should be taking every available initiative and opportunity to ensure that business is attracted to this State, because that will have a number of spin-offs for our business community in the form of providing financial, commercial and accounting advice. If we have enterprise and initiative in South Australian commercial activity, we will have professionals who have sufficient experience to provide the necessary advice and skills required by businesses locating in South Australia. I strongly believe that we should be in no worse a position than New South Wales and Victoria; therefore, I believe that the rate should be .03 per cent.

The Hon. L.H. DAVIS: When introducing this measure the Government indicated that it would raise a gross figure of $22 million, based on a rate of .04 per cent per annum. Taking into account the benefits provided in stamp duties legislation, Treasury would net $14 million, which is $2 million lower than the August Budget estimate of $16 million. On what basis was the Budget estimate of $16 million arrived at? Did the Government have a proposal to lift the level of stamp duties transactions on cheques or on the Stock Exchange? Did the Government contemplate an even higher duty than .04 per cent? The Hon. Mr Griffin pointed out that there was a suggestion that the Governments of New South Wales and Victoria were being courted by the Premier in an attempt to get them to amend their f.i.d. rate to .04 per cent or even .05 per cent (which is the rate chosen by the Western Australian Government).

The Hon. R.C. DeGaris: It hasn't gone through yet.

The Hon. L.H. DAVIS: No, but that is the proposal in Western Australia. It has been suggested that the original Budget estimate of revenue accruing from f.i.d. in New South Wales and Victoria has fallen well short of anticipated levels. Has the Government taken full account of the experience gained in New South Wales and Victoria? During debate in another place the Treasurer suggested that between 85 per cent and 90 per cent of f.i.d. will be raised from banks (I presume that he was referring to the major trading banks and the State Bank). What are the respective contributions from other financial institutions?

The Bill sets a rate of .04 per cent per annum, with $400 being the maximum duty payable. That means that any dutiable transaction of $1 million or more will attract the maximum financial institutions duty of $400. The Treasurer and Attorney have pointed out that Government is endeavouring to minimise the impact of the duty on South Australia's financial community, and that it has attempted to do that by removing stamp duties in relation to bills of exchange transactions.

A maximum duty of $400 means that it will be cheaper to draw down bills in New South Wales and Victoria, where the maximum duty is only $300. I point out that the majority of bills are drawn down by banks. Banking authorities and money market dealers have indicated that the increased duty will certainly not build up the money market in this State in relation to bills of exchange and other short-term transactions. Not only does this clause provide a rate higher than the rate in New South Wales and Victoria, which are our major competitors in the capital market in relation to financial transactions and business generally, but also the maximum rate of duty payable ($400) is higher than the maximum level in either of those two States.

Clause 29 (1) provides:

> . . . a financial institution that receives money during a month is liable to pay financial institutions duty in respect of each such receipt to which this Act applies.

That confirms the Opposition's suspicion that f.i.d. will be picked up from transactions that commence outside South Australia. Transactions crossing State borders will be hit twice, whereas transactions between, say, Victoria and New South Wales will be hit only once (under a special arrangement between the New South Wales and Victorian Governments).

In conclusion, I confirm that I share the Hon. Mr Griffin's view: the legislation is unnecessary not only in the sense that, if the Government had put its own house in order, it could have avoided the necessity of introducing another burden, impost or new tax on the people of South Australia but also because the Government should have been able to avoid the decision to introduce a new tax which is above the current rate applying in New South Wales and Victoria. This new tax will be a further impost on a community that is already disadvantaged by distance from major markets and by a weak and narrow economic base.

The last thing in the world that this Government should be contemplating is introducing a tax which is higher than those applying to our major competitors in New South Wales and Victoria. It is no argument to say that Western Australia is introducing a rate of .05 per cent because very little of our trade goes to the West, besides which Western Australia has some natural advantages that we do not enjoy in South Australia. In conclusion, I hope that the Government reviews the situation and takes into account the arguments that have been put forward by this side of the Council, and seriously considers the amendment that is on file from the Hon. Mr Griffin.

The Hon. R.C. DeGARIS: In this debate so far, in my contribution to the second reading debate and in my statements to the press, I feel that I have been more than fair to the Government in relation to this legislation. I have supported the idea of a broad-based tax, as opposed to specific and selective stamp duties that apply at present. I

have also said that the general concept should be supported in the Parliament. I understand the difficulties in exempting certain organisations. I supported the basic principle that the Government tried to follow with a rebate system because it is extremely costly to apply exemptions in the way we are trying to apply them in this Bill. I do not know how the Government will face this problem later, but the Council needs to understand that is a great difficulty.

However, I cannot agree that this State should be inflicted with a higher duty than that which applies in New South Wales and in Victoria. That should not be permitted; this Council should not pass a Bill that applies a higher tax in this State on financial transactions than that existing in New South Wales and Victoria, and there are very many reasons for that.

The Government may have an understanding with Victoria and New South Wales. Maybe it knows that Victoria and New South Wales will change to .04 per cent in the near future, but this Council does not know that; nor should that be considered. Having so far assisted the Government to the best of my ability with this Bill, I now ask the Government to change its arguments on the level of this tax in South Australia.

In my second reading speech I pointed out that the Treasurer, always being a conservative person and more conservative when a Labor Government is in power, always underestimates the returns from any tax increase or from any new taxes. I do not blame him for that; that is a perfectly reasonable and conservative way to go about it. There is no accusation against anyone in saying that. It is a plain statement of fact; I have been here long enough to see a number of taxes come in and the estimates for revenue from those taxes, and I can say that they have always been under-estimates.

An honourable member: That is Treasury.

The Hon. R.C. DeGARIS: It is the Treasurer I am blaming, not anyone in the Public Service—not that I am laying blame; it is the Treasurer's responsibility.

The Hon. R.I. Lucas: Are you saying that he changes the figures that the Treasury has come up with?

The Hon. R.C. DeGARIS: I am saying that the Treasurer and no-one else is responsible under the Westminster system for what comes into this Council. How does the Treasurer, for example, come to the conclusion that the new tax will bring in $22 million in one year? I suggest that he looks at the tax in Victoria, adjusts the rate to .04 per cent, and then takes three-tenths of that figure to come to the South Australian figure. In assessing the return in this State that is a perfectly reasonable way to do it.

So, I decided to do that kind of figuring to point out the position in South Australia. The Victorian duty so far is $40 million collected in six months and will be $80 million in 12 months.

The Hon. C.J. Sumner interjecting:

The Hon. R.C. DeGARIS: I rang the Department this morning to get the figures. If the figures given me from the Victorian stamp duties office are correct, and if the level was .04 in Victoria, the return there this year from f.i.d. would be approximately $107 million. The multiplier in comparing Victoria to South Australia is .3. Therefore, if one multiplies by .3 it would be estimated to return $32 million in 12 months from .04 per cent in South Australia. The figure given to the Council is $22 million.

I have said before in looking at financial Bills that come before this Council that always the Treasurer's estimate is extremely conservative. It is extremely conservative again in this case. I would also like to add the information that other areas in Victoria are exempt from duty that are not exempt in South Australia: I refer particularly to local government. I do not know what the return on local government accounts would be in Victoria, but I would say that it would be almost $2 million. If my figures are wrong—and I do not think so—and supposing that they are $5 million out, which I believe is an exaggeration, then the figure of $22 million given to this Council is once again an extremely conservative figure. So, one will see that the return to this Government from f.i.d. at .04 per cent must be at least $25 million or more. There is no case for us to place a tax on the people of this State higher than that in New South Wales and Victoria. It is something that we should not do.

Also, I have pointed out that the estimate of $22 million is low and that the return will be higher than that. Further, we must realise that in Victoria they took off stamp duties on cheques, which we are not doing in South Australia. I stay where I started: that it is a broad-based tax that this Parliament should in principle support. We should also see the removal of other selective stamp duties, but it would be disastrous if this Parliament in looking at these figures let the Bill go through at .04 per cent when our competitors in Victoria and New South Wales have .03 per cent.

I strongly urge the Government to reconsider this measure and to agree with the suggested reduction in this duty so that this legislation can commence operating in South Australia. I support the amendment.

The Hon. M.B. CAMERON: I strongly support the amendment. I concur totally with the remarks made by the Hon. Mr DeGaris. It is a very serious situation, indeed, for this State if we place ourselves in a non-competitive position in relation to the other States. This has been recognised for years as a problem. As members said during the second reading debate, it is a position that was recognised in the days of the Playford Government, which was the reason why this State made big progress in manufacturing industry during that time, because we were able to keep our cost structures lower than those in other States. It is surprising that we must move an amendment to put this State on an equal footing with other States. I would have thought that it would be better if we had followed Queensland's example and kept our rate lower than that applying in the other States.

The Hon. R.I. Lucas: The Premier said he saw some advantage in that for South Australia.

The Hon. M.B. CAMERON: He has been a constant proponent of this idea, as has the Hon. Mr Milne, who has said in the past that it is essential for us to keep our cost structure down by comparison with the cost structures of other States to ensure that we retain our industry and promote further opportunity. They were not his exact words, but that is the import of what he has said about this matter. I do not think that there is a person in South Australia who does not hold a similar view. A document issued by the Labor Party prior to the last election was titled 'South Australia's economic future—Stage 1', and had as its whole thrust a similar idea. It was 'Stage 1', but I do not know what happened to Stage 2.

The Hon. R.I. Lucas: It's still coming.

The Hon. M.B. CAMERON: I imagine that it is. I will read into the record some of the quotes from that document because I think it outlines the difficulties we now see in the Government's Bill and the reasons why we are motivated to try to amend the Bill to give us back that competitive advantage, or at least get back the *status quo.* The problem is not only with the rate of duty applied here but also with costs in other areas of stamp duties where we are not going to be competitive. Page 9 of this document states:

> A number of companies which were South Australian household names are now controlled elsewhere.
>
> Few companies now remain in local hands or retain head offices in this State.
>
> Under the Tonkin Government, South Australia has become very much a 'Branch Office State'.

Company boards making decisions about operations in South Australia now typically are located in Sydney or Melbourne or in other capitals.

This has important potential consequences for this State's prospects. Decisions may be made with imperfect knowledge of South Australian conditions.

Unless this amendment is passed, the very concept that the present Government was accusing the previous Government of will become very much a reality.

I said earlier that I have knowledge of one company that has intimated the possibility that it will shift its financial operations away from this State because of this duty. The difficulty associated with that is that most of the firms that do this will be heading for Queensland where there is no problem with such a tax. It would be most unfortunate if South Australia lost employment because of that happening and because this Council did not take this step to ensure that we have compatibility with other States in this area (at least compatibility, although we are certainly not going to have compatibility with Queensland which has no such tax). The document continues at page 20:

The Tonkin Government's financial policies also endanger manufacturing industry. Under the Tonkin Government there have been unparallelled increases in charges for power and water. Both of these are significant elements of the local industrial cost structure.

I want members to listen to the following words carefully:

As a consequence, South Australia's advantage as a 'low-cost State' is being seriously eroded.

That middle paragraph of this document, issued by the Labor Party when in Opposition as a blueprint for South Australia's economic future, is worth repeating:

As a consequence, South Australia's advantage as a 'low-cost State' is being seriously eroded.

I would have thought that unless it agrees to this amendment the Government is taking steps along the road away from its blueprint at a very rapid rate. I would have thought that rather than face up to the prospect of being accused of yet another broken promise the Government would give serious consideration to this amendment. Surely, if the duty in this State is 4c per $100 and is less in every other State except Western Australia, where it is 5c, then we are not keeping this as a low-cost State but doing just the opposite. I think that this is an area to which the Government ought to give serious thought. The next quotation from this document (and one could quote from throughout it but I have only picked out a few of the quotes) has as its thrust the cost advantage involved and states the following:

Labor is committed to ensuring that South Australia provides an economic environment that promotes the establishment, sustained viability and growth of small businesses. The vast potential in terms of employment and economic development should be fulfilled.

One does not provide an economic environment that promotes the sustained availability and growth of small business by establishing here a higher cost structure than in other States; it just will not work. In order to conform with this blueprint for 'South Australia's economic future—Stage 1', surely the Government must give serious consideration to this amendment, which will create a climate for small business to expand in this State. It is not just big business that is available for South Australia, there are small businesses, too, that can be just as important in terms of employment and economic growth within the State. On page 76 of this document the following statement appears:

The drift of ownership and control out of South Australian hands to interstate and overseas interests will not be stopped if Governments stand aside from the market.

There is a need for the Government to adopt a new approach to investment and to work with private enterprise to create employment opportunities and achieve a diverse and vigorous economic structure for South Australia.

We are not going to get that if we do not have the necessary cost advantage—it is just not on! Again, that cost advantage will be eroded by this duty being levelled on financial transactions in this State. That is one of the principal problems with this Bill.

I believe that the rate is probably one of the reasons why this Bill was not introduced at an earlier stage. And that is a pity, because if we had seen this Bill earlier and if we had been able to point out more clearly to the Government the problems that it could present to industry and business in this State, if people in the community and in the financial community had told the Government exactly what it was doing by imposing a rate that is higher than that in other States, the Government may well have been persuaded to change its mind. As a result of the rather rushed consideration of this Bill, many people in the community will feel very frustrated that their views have not been properly considered.

It is unfortunate that the Opposition is in a situation where the most important part of this Bill will be considered on this day and before we have had an opportunity to really search out the views of people in the community on this matter. The Hon. Mr Milne will know exactly what I am talking about, because he would know that people in the community are still approaching us with problems associated not only with this point of the Bill but also with other areas. It is extremely difficult in these circumstances to give proper consideration to the matter. It is a very important point. On Tuesday night I referred to a telex from the Australian Bankers Association Research Directorate. I assumed that the Attorney-General would have had the opportunity to look at it.

The CHAIRMAN: Does it deal with the rate?

The Hon. M.B. CAMERON: Yes, that was the purpose of the whole telex. That telex is a very important part of the consideration of this clause, and this is the clause that has caused the most concern to the Australian Bankers Association. That Association will be a very vital part of this whole taxation measure. For the sake of the Attorney-General, I will cite the telex once again. It puts forward a very important point of view, which must be put again and again so that the Attorney and the Government understand just what people in the financial community think of what the Government is about to do in this State.

The CHAIRMAN: Standing Orders clearly state how many times matters can be repeated but, if it deals with the rate, I will accept it.

The Hon. M.B. CAMERON: I think it is important. I am not repeating comments within this debate: I have no intention of doing that. It will be once and once only in the debate on this clause, which is an important stage of the proceedings. This is the first time we have had the opportunity to obtain direct replies, and I am not to know that this matter has been given the consideration that I believe is necessary so that I can obtain the replies from the Attorney that I require. Therefore I intend to repeat the telex, because the Association is a very important part of this measure. In my mind, this clause is the most important part, because it is the part that will ensure that South Australia is either competitive or non-competitive—that makes it an extremely important clause in the Bill. Therefore, I will repeat the telex and I trust that the Attorney will listen. The telex, from the Australian Bankers Association Research Directorate, states:

Banks are disappointed with two key features—

I will not refer to the second feature: I will stick to the first feature—

Mr Ron Cameron, Director of the Australian Bankers Association Research Directorate, said today. First, the South Australian Government has established an excessively high rate of duty. Second, the Government did not remove the stamp duty on cheques in

the package of financial taxation reform associated with the introduction of the financial institutions duty. The 4c per $100 duty charged on the receipts of financial institutions is higher than the 3c per $100 established for a similar duty in both New South Wales and Victoria.

'This means that a savings bank customer in South Australia will be paying 33 per cent more duty than an individual in a similar financial position in Victoria,' Mr Cameron said. The banks have presented arguments to the Government of South Australia requesting the abolition of stamp duty on cheques, because it is a discriminatory tax on bank customers.

I will not go on in that regard, although this creates a difficulty, too. It is further stated:

As a result of the new legislation in South Australia, the average personal cheque account customer will pay a significant amount in new tax. When stamp duty on cheques is added, the personal customer in South Australia will pay over four times the amount of State duty now paid by a person operating a similar bank account in Victoria. For a small company customer the total State financial duty will be towards twice that levied on a company with similar financial transactions in Victoria.

Mr Cameron said that, while the banks appreciate the Government's action in arranging consultation on the technical aspects of the new legislation, it is nevertheless the strongly held view of the banks that the legislation should be reformed to reduce the rate of duty to 3c per $100 of financial institutions receipts . . .

He goes on to ask for the removal of the stamp duty on cheques altogether. The reason for the second point is that in another area the State will be non-competitive with Victoria, and maybe other States. The important point is that the banks have asked for this. They know, and they have been informed by some of their customers, that major companies within South Australia that operate on a national level will not continue to operate in South Australia if a situation is created where they are non-competitive: where there is an advantage to them to go to another State, they will certainly do that.

I will not quote the figures contained in the bank telex, because that material has already been recorded in *Hansard*, and I refer members to the second reading stage, but clearly the figures show what the situation will be. Those figures cannot be argued, and they show clearly that South Australia will be non-competitive. For the sake of South Australia, for the sake of the industry here, and for the sake of the economic future of South Australia, industries and financial institutions and individuals—

The Hon. R.I. Lucas: Did they make South Australia great?

The Hon. M.B. CAMERON: That slogan could not be applied to the present Government if it does not consider this amendment. This is a very important amendment. I do not believe that the Government knows exactly what it is doing if it refuses to accept this amendment, and I plead with the Hon. Mr Milne to give very serious thought indeed to this amendment, because it really creates a situation that he has been consistently arguing for.

The Hon. C.M. Hill: He has been the champion of this principle.

The Hon. M.B. CAMERON: That is exactly right. This is an opportunity for the Hon. Mr Milne to show us that he means it.

The Hon. C.M. Hill: He can be consistent.

The Hon. M.B. CAMERON: That is right: he can now stand up and support a move that keeps South Australia in the very position that he has consistently argued for. That is a very important point indeed, and it should be important to the Hon. Mr Milne to be consistent. I know that there are other areas where Government can make differences within the financial climate of this State. It can reduce the public sector to a point where it is not such a great burden on the State. Nevertheless, this a direct step that Parliament itself can take. Almost all the other steps are within the control of Government, of the Executive, of the governing Party.

However, this matter is within the control of Parliament: Parliament can say to the Government for the first time, 'Take this step and keep us in a non-competitive position.' Therefore, I urge the Committee to support the amendment of the Hon. Mr Griffin which is essential for the economic future of South Australia.

The Hon. C.M. HILL: I do not intend to speak for long, but I support the representations that have been made to the Government from this side on this issue. It may appear that Opposition members are repeating the same arguments on this matter, but different constituents, business interests and small businessmen throughout South Australia contact different members of Parliament, who have a responsibility to reflect in this Chamber the voice of constituents as it comes to them. People have been in touch with me in considerable numbers and they are most critical of this part of the legislation.

It must be said that many of them have expected a general measure of this kind. Some notice has been given and they have observed the situation in other States and so there has been an acceptance of the inevitability of this duty. Certainly, they did not expect a different rate from that applying in Victoria and New South Wales. This is the vital point that they are making, and it is the vital point in my opinion which deserves the strongest criticism of the Government in regard to this measure.

The Government has introduced a clause in which the rate of tax exceeds that applying in major States on the eastern seaboard. It reflects a lack of understanding by the Government of the whole commercial and business world in South Australia. Already, the business sector is beset with problems and difficulties. It has the difficulty of employment, which it wants to support if at all possible. In such difficult circumstances with little light at the end of the tunnel, it is unfortunate that the Government has introduced a measure which includes a tax rate exceeding that applying in other States in their relatively new legislation.

I believe from what people have told me that they accept that the Government just does not understand the problems of the commercial and business world in South Australia as a result of this clause. It cannot be said too often—the Hon. Mr Milne has said it himself from time to time, and I commend him for it—that South Australia must remain competitive with the larger States, especially Victoria and New South Wales. We must make every possible effort to keep our costs low.

We know our difficulties in our manufacturing sector; for example, where goods and articles produced in South Australia must be transported to larger markets on the eastern seaboard for sale. The costs in that transportation are added to our production costs compared with those encountered by competing firms in Melbourne and Sydney, which produce adjacent to those capitals and who beat South Australia in that one element of transportation costs. That is just one example of the difficulties which South Australian manufacturers are up against.

When those same manufacturers see that their Government in South Australia introduces a duty and lays down a rate higher than that applying in New South Wales and Victoria, it is tough and can cause them to lose confidence in their Government. The Government must acknowledge the need to keep costs low. Surely, it must acknowledge the need for this competitive factor to be retained within the South Australian economy so that not only can they survive but also so that they continue to make progress, of which there has been some evidence in recent months.

So, it is a blow to the commercial and business world, to the manufacturing sector, in particular, to have to face up to the State Government's introducing this tax and setting a rate higher than that in New South Wales and Victoria. I

am simply bringing to the Committee these criticisms and fears of business interests throughout the State that have been raised in recent weeks when the rate of duty became known. Certainly, I commend the amendment and the Hon. Mr Griffin for moving it. Further, I hope that it will not be even too late for the Hon. Mr Milne, who has given some indication to the press that he is going to support the Government in the measure, to have a further think about it to maintain consistency with the principles that he has often stated since he became a member of Parliament. He referred to the need to maintain South Australia's competitiveness. If he departs from that principle, I am certain that he will be letting down many people who sent him to this Chamber.

As I said, it is not too late for him to have a further think about it. I hope that he gives full consideration to his vote on this clause so that the Committee, in regard to this suggested amendment, can maintain the stand which it has always taken over the 18 years in which I have been here, namely, that the South Australian Parliament must bend over backwards to help the business, commercial and manufacturing sectors so that they can maintain their competitiveness with Victoria and New South Wales, and so that we can survive and prosper as a community in South Australia with costs kept in hand in this way.

The Hon. K.L. MILNE: The rhetoric is all great stuff but the Opposition has said that it will support this Bill in principle, and there are many things in it that the Opposition does not like, I expect, but it is concentrating its attack—although the Opposition will support the Bill—on this difference in the rate of duty. It is most unlikely that the Opposition will defeat the Bill, whatever.

The Hon. R.J. Ritson: We don't want to defeat it—we want to reduce the rate.

The Hon. K.L. MILNE: The Opposition knows the reasons why South Australia has become uncompetitive. It is not likely that .01 per cent of this duty will change that. There are much bigger taxes than this one. This duty is being imposed because of the enormous deficit that the Government inherited from the Tonkin Government—do not forget that. Members opposite should not blame me for this new tax.

The Hon. C.M. Hill: This Government has overspent by $23 million. The Hon. Mr Milne shouldn't fall for the Attorney's statement that it wasn't overspending.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K.L. MILNE: I refer to the figures published in the Treasurer's financial statement of September 1983. According to the statement the deficit at the last election amounted to $42 million. That deficit was generated in the five months following the previous Budget (that amounts to expenditure of nearly $10 million a month). The previous Government honoured its promise to reduce taxation, but it did not reduce expenses and, as a result, was running down hill at a rate of $10 million a month. That point should not be forgotten. An estimate was provided in December of what would occur for the remainder of the financial year. The estimate was that South Australia would have a deficit of $62 million—in reality it amounted to $67 million—

The Hon. M.B. Cameron interjecting:

The Hon. K.L. MILNE: —because it could not reverse the trend in that time. The Government could not do enough to correct the situation, and very few of its members had experienced Government before.

The Hon. L.H. Davis: The Labor Party was in Government for 10 years before that. The Liberal Government had to spend a lot of time fixing up the previous Labor Government's mess.

The Hon. K.L. MILNE: It was a funny way to fix it up. The resultant deficit shared by the previous Government and the new Government amounted to $67 million, and $42 million was attributable to the previous Liberal Government.

The Hon. R.I. Lucas: You can't blame that on us.

The CHAIRMAN: Order!

The Hon. K.L. MILNE: The total deficit of $109 million was unprecedented. Members cannot tell me that the previous Government was not responsible for a large part of that deficit and, as a result, we must introduce this new tax. I think that the present Government has made a mistake in budgeting for a deficit of $33 million: it could have avoided a deficit.

The Hon. C.M. Hill: Two bob each way.

The Hon. K.L. MILNE: In what way?

The Hon. C.M. Hill: All you are doing is criticising us and then criticising the Government. Your solution is to tax the people heavily.

The Hon. K.L. MILNE: Am I right or wrong? I have said nothing to indicate that I like taxing people. I think the Opposition is trying to be funny.

The Hon. C.M. Hill: You're going to support the Bill. I'm not being funny—I'm serious.

The CHAIRMAN: Order!

The Hon. K.L. MILNE: If the Liberal Party had won the last election what would it have done, bearing in mind that it was running down hill at the rate of $10 million a month? A Liberal Government would have taxed the people.

The Hon. C.M. Hill: You've got no idea.

The CHAIRMAN: Order! If the Hon. Mr Hill does not come to order I warn him that I will take action.

The Hon. K.L. MILNE: Thank you, Mr Chairman; the Hon. Mr Hill's behaviour is disgraceful and hurtful. We all agree that it is most unfortunate that the rate of .04 per cent is .01 per cent higher than the rate in New South Wales and Victoria, but if that were not the case the Government would be forced to increase other charges. As I have said, a duty of .04 per cent will provide $22 million in a full year, according to Treasury figures. If the duty is reduced by .01 per cent (which is a quarter) the amount collected will be reduced by $5.5 million. At the moment the Government is considering a reduction in stamp duties on certain loans, which will amount to $8 million. That will reduce the revenue gained from f.i.d. by $13 million, leaving only $8.5 million out of the original estimate of $22 million. The Hon. Mr Davis has said that the Government has not reduced stamp duties, as was the case in Victoria. I point out to the honourable member that Victoria regrets that move, as he well knows.

The Hon. L.H. Davis: That's not right.

The Hon. K.L. MILNE: The honourable member should contact the Victorian Government, because it has not collected the revenue that it anticipated.

Members interjecting:

The CHAIRMAN: Order!

The Hon. K.L. MILNE: Should we adopt the Opposition's suggestion? It is a great idea: the abolition of stamp duties on cheques, and that would cost a further $6 million. Therefore, out of the original $22 million to be collected from f.i.d. only $2.5 million would remain, and that would not solve the State's financial problem! In fact, it would be better not to introduce any new tax at all. If a tax must be imposed at all it should be done properly without requiring an adjustment in another area. The Opposition should put this matter into focus: it is making political capital and it thinks that it is being very clever in relation to the rate of the duty. The rate that has been set cannot be avoided at this stage. If the Opposition is going to support the Bill, it

must be with the rate at .04 per cent and Opposition members know it.

The Hon. M.B. Cameron: We don't.

The Hon. K.L. MILNE: The Opposition should support it with that rate.

The Hon. M.B. Cameron: We don't care what you think we should do—it is what we think we should do.

The Hon. K.L. MILNE: The difference between the South Australian legislation and the legislation in Victoria and New South Wales will amount to 1c in $100 or $1 in $10 000. It is a pity that South Australia is forced to impose a higher rate, but that will not cause people to leave this State and it will not make us uncompetitive. The Opposition should not forget that. The Opposition should get the matter into focus and stop trying to be clever.

The Hon. M.B. Cameron: You've got a bit to learn.

The Hon. K.L. MILNE: Yes I have, but not on this Bill.

The Hon. M.B. Cameron: You're obviously not listening to people.

The Hon. K.L. MILNE: It is not a matter of listening to people. We should cut the coat according to the cloth. The Opposition is ignoring the consequences in its desire for votes. That desire at the last election resulted in a deficit running at $10 million a month. The Opposition (then in Government) was buying votes.

The CHAIRMAN: Order! I ask the honourable member to relate his remarks to the clause.

The Hon. K.L. MILNE: After a deficit of $109 million on Recurrent Account, I think the Government made an error in budgeting for a deficit of $33 million. No matter what I or anyone else says, the State is living beyond its means. We are trying to do things that New South Wales and Victoria are doing, but we cannot afford to do that.

The Hon. L.H. Davis: What would the Democrats do in Government?

The Hon. K.L. MILNE: I think that my attitude can be judged from what I have said. Of course, the honourable member will say that it is easy to make suggestions when one is not in Government, and it is unlikely that we will form a Government for some time.

The Hon. L.H. Davis: What would you do?

The Hon. K.L. MILNE: We would cut costs.

The Hon. L.H. Davis: What sort of costs?

The Hon. K.L. MILNE: Public expenditure costs. If the honourable member does not know what that means, that could be an indication of why the Liberal Government went down hill at the rate of $10 million a month.

The Hon. M.B. Cameron: What was the deficit at the time of the election—was it $105 million?

The Hon. K.L. MILNE: It was $6 million the year before, and it was $42 million at the time of the election—roughly $50 million in all.

The Hon. M.B. Cameron: Plus the transfer.

The Hon. K.L. MILNE: No, it was covered up by the transfer. The total deficit was $50 million.

The CHAIRMAN: Order! This can be discussed at some other time.

The Hon. R.J. Ritson: You can't make bald statements without justifying the arithmetic.

The Hon. K.L. MILNE: It is not a question of justifying the arithmetic. It is in my second reading speech—members opposite should read it. I repeat that the Government will have to be very persuasive before I support any further increase in State taxation, unless the Government reduces its deficit in relation to public expenditure, especially in the area of salaries, about one-half or two-thirds of which goes straight to Canberra in the form of income taxes.

Everybody in South Australia is worried about our total State tax. Only about a year ago we were one of the cheapest States for State taxation; now we would be well on the way to being one of the highest—not because of this tax, but because of a whole range of increases in State charges.

The Hon. L.H. Davis: This duty will make it worse.

The Hon. K.L. MILNE: How much worse will it make it? The honourable member knows perfectly well that it is not a major issue.

The Hon. L.H. Davis: $22 million!

The Hon. K.L. MILNE: The whole tax will be $22 million. The Opposition is arguing between .03 per cent and .04 per cent.

The Hon. M.B. Cameron: Will you knock it out altogether?

The Hon. K.L. MILNE: If necessary, yes. Will you?

The Hon. M.B. Cameron: You will not reduce it, but you will knock it out?

The Hon. K.L. MILNE: Is the honourable member talking about the Bill or the rate?

The Hon. M.B. Cameron: Both.

The Hon. K.L. MILNE: The Government knows perfectly well, because I have declared it and discussed with the Government under what conditions I would support this Bill. The Government needs to know what it can expect after the Bill in some form comes into operation.

Members interjecting:

The Hon. K.L. MILNE: Mr Chairman, can you stop these children?

The CHAIRMAN: The honourable member should not go back to his second reading speech. It would help us all if he sticks with this clause.

The Hon. K.L. MILNE: We would like the Government to make a clear announcement that if this Bill is passed it would impose no more taxes in its term of office and that its expenses would be reduced. I have said that I will support .04 per cent. I do not like it; nobody does, but I see no alternative if the Bill is to be supported at all and, if the Opposition is going to support it, it has to be .04 per cent or it is useless.

The Hon. DIANA LAIDLAW: Before I address a number of questions to the Hon. Mr Milne based on his last comments, I will make a few remarks in relation to this clause. I was critical of the Bill in my second reading speech on a number of counts. One, which the Hon. Mr Milne mentioned at the end of his remarks, was the fact that the Government has broken a promise that it made many times before the last election: that it would not introduce a new tax. But an equally important promise that the Premier (then the Opposition Leader) made at that time was that he and his Government wanted South Australia 'to win'. The only way that he, the Government, and we in this Parliament are ever going to help South Australia to win is to inject confidence into this State, and confidence is based a great deal on psychological factors. For too long, I believe, we in this State have demonstrated a lack of resolve in the general community to make decisions and positive responses to the many problems that we face. The restoration of confidence, as I said, will depend on our psychological approach and attitudes, and that means from the Government as well as from the community at large. In fact, I remind the Council that the Premier acknowledged no less when announcing a very large project over the Adelaide railway station yards, when he said that that was going to be a psychological and confidence booster to the State at large. The Hon. Mr Milne, in talking of many clauses in this Bill, has justified his comments and his support for the Opposition amendments on the fact—

The Hon. Frank Blevins interjecting:

The Hon. DIANA LAIDLAW: Before I was distracted by the Minister of Agriculture I was addressing a number of questions to the Hon. Mr Milne, based on his comments on clauses in this Bill that we have considered to date and

also on his remarks on amendments moved by the Opposition.

The CHAIRMAN: I must remind the honourable member that there is only one amendment to which she can address herself at this stage, and that is on the rate at which the duty is to be levied.

The Hon. DIANA LAIDLAW: I am coming to that now.

[Sitting suspended from 5.58 to 7.45 p.m.]

The Hon. DIANA LAIDLAW: Before the dinner break I was referring to the matter of psychological factors being involved in an endeavour to boost the confidence and enterprise of the people in this State. I referred to this point because the Hon. Mr Milne has placed such stress on psychological factors when he has supported various amendments moved by my colleagues to this and other clauses. It is because of the stress he placed on this fact earlier in this debate that I find it difficult to equate the importance that he placed on that factor at that time with his total disregard for psychological factors when considering this clause. I would like to know why he has discounted that factor when considering this clause, which refers to the rate of duty to be levied on South Australians. The Hon. Mr Milne said the following in his second reading speech:

> Whether this is worth worrying about on the grounds of South Australia not being competitive is open to doubt. I am inclined to think that it is not a penalty which would influence people who are likely to deposit large sums of money or even small sums of money.

That statement is relevant to the whole of this clause. I would like the Hon. Mr Milne to disclose why he does not think psychological factors will make that difference in this case of the rate of the duty. I would also like him to enlighten me about whether or not he has received a demonstration from the Government that it has done its utmost to reduce Public Service spending. Mr Milne indicated in a press release yesterday that, unless he received such a demonstration, he would find it difficult to support this clause, which sets the duty at 1c higher per $100 than the rate set in New South Wales and Victoria.

The CHAIRMAN: Does the Hon. Mr Milne wish to say anything?

The Hon. K.L. Milne: No.

The Hon. H.P.K. DUNN: I support the amendment. Just prior to the dinner adjournment we heard a long speech from the Hon. Mr Milne who now cannot answer the very minor questions asked of him by my colleague.

The Hon. K.L. Milne: I can answer them, but I might say something that I would regret.

The Hon. H.P.K. DUNN: He can, but will not, answer. I think that the Hon. Mr Milne has totally missed the point here. If one looks at the *Hansard* record tomorrow of what has been said by members on this side of the Council, one will see that all the remarks have centred around this State's competitiveness. The Hon. Mr Milne made a quite incredible statement in his speech when he said that if we do not accept this .04 per cent duty we throw out the Bill. Is he suggesting that we block Supply? I believe that that statement was quite significant. He went on to say that he would not accept a .03 per cent duty. The difference between a .03 per cent and a .04 per cent duty is an increase of 33⅓ per cent. In anybody's language that is a significant increase even though it is only on a small amount of money. A 33⅓ per cent increase on that rate makes us uncompetitive with other States.

The Hon. R.C. DeGaris: It would have involved an extra $30 million in Victoria if the duty there was .04 per cent.

The Hon. H.P.K. DUNN: That is a prime example of what I am saying. I thought that the Hon. Mr DeGaris put his story very clearly. We are a small State with only 8.6 per cent of the population involved in a small area of the total financial transactions that take place in this country. However, that does not alter the fact that putting this 1c duty on each $100 of the transactions involved is increasing this duty by 33⅓ per cent.

The Hon. R.C. DeGaris: But we only cut it 25 per cent.

The Hon. H.P.K. DUNN: That is being pedantic—going backwards and dropping the percentage. The same could be done in New South Wales or Victoria. As I said during my second reading speech nothing was said by the Premier and Treasurer prior to the election. For him now to introduce this tax—0.1 per cent higher than that of our competitors must mean that he believes the community does not understand finances. From what I have read in the *Hansard* report of the Lower House proceedings and have seen in this Chamber I am not sure that the present Government understands finances. If Government members have had to run their own business (and I am not sure whether the Hon. Mr Milne has had to—he may have been an accountant) and pay cheques, make the business economic and finish in front at the end of the year otherwise the bailiff will be at the front gate), they would know what was involved. Very quickly one learns that an increase in tax is hard to recover, particularly if one is in the rural industry.

The Hon. K.L. Milne: I had a staff of 40 in a big accountancy firm. Is that any good?

The Hon. R.C. DeGaris: No accounting for the Democrats!

The Hon. H.P.K. DUNN: That Party has shown its ability to run in every direction at once. When considering .04 per cent, it is like following blind Freddie. They may be able to do it over the border but they certainly do not have to compete with the Eastern States as we do.

The Hon. K.L. Milne: You are not suggesting that we do it here, are you?

The Hon. H.P.K. DUNN: I am not suggesting that. I suggest that this State should be the same as our competitors.

The Hon. K.L. Milne: Don't suggest it here.

The Hon. H.P.K. DUNN: I did not suggest it here. We ought to drop it to .03 per cent, the same as our competitors I believe that this is a deliberate attempt by the Government to reduce our competitiveness with the Eastern States. In this State we do not have a big Budget because we do not have access to money from mining royalties as do Queensland, New South Wales and Western Australia. We will not have these royalties until Roxby Downs gets going.

This is the first new tax in nine or 10 years and to push it through as the Government is endeavouring to do suggests that we should start with a percentage further down the ladder and later work our way up, because nobody knows what effect it will have. The Hon. Mr DeGaris made the point that Treasuries are generally conservative, and it is reasonable to assure that this tax will collect more than we are being told. I believe that the Government will have to wear the consequences of this. If the Democrats join with the Government to keep the percentage at .04 per cent, I believe that they also will have to wear the consequences.

The matter is worse when one considers that stamp duty on cheques will not be reduced as in Victoria, which I believe would have made this tax reasonably acceptable to the public. If we are to attract business to South Australia then we have to show that we will invite and encourage business and not tax the pockets off it.

What will happen is that this State will lose its competiveness, and lose business, which will go to the Eastern States, but the Government will still need taxes to run this State. How will that be done? I suggest that the answer can be found in tonight's *News:* the next tax will be an extra 1c on petrol. Who pays for that? The person who uses most of the petrol, I suggest—the rural community. The rural community uses a higher proportion of petrol than do people

in the city, and I suggest that if this State loses business and our competitiveness, it will lose industry to the Eastern States, which will be another belt in the ears for people living in country areas. This is one of the reasons, along with the reasons mentioned by my colleagues, that makes me believe that I should support this amendment.

The Hon. J.C. BURDETT: This amendment seeks to reduce the rate of f.i.d. from .04 per cent to .03 per cent. As we are now talking about the rate, obviously the state of the economy is relevant. When the Hon. Lance Milne spoke he sought to apportion the blame for the deficit between the former Government and the present Government, which course of action was in order and relevant. It is just that he is quite wrong. Obviously, any Government must rely on advice and information from Treasury officers regarding financial matters. The former Government and the present Government have been blessed with extremely good Treasury officers, who can act only on the information available to them. In times like these, it is often difficult for those officers to give the right advice.

The Hon. Mr Milne sought to cast much blame for the deficit on the former Government and talked of over-runs of $10 million a month during a portion of the last financial year that the former Government was in office. I now refer to minute from the Under Treasurer to the Chairman of the Budget Review Committee concerning the 1982-83 Budget and titled 'Review Based on Actual Results to 30 September 1982', which is shortly before the last election and before the previous Government went out of office. I do not know whether the Hon. Mr Milne, having made these rather shocking allegations against the previous Government, is interested in hearing this recitation.

The Hon. B.A. Chatterton: Is it relevant to the Bill before us?

The Hon. J.C. BURDETT: It is very relevant. The Hon. Mr Milne has referred to whether it is right for the percentage to be .04 or .03 and that this is dependent on the State's deficit and finances. He proceeded at great length to blame the former Government for part of the deficit, talking about $10 million a month.

The Hon. C.J. Sumner: Quite rightly so.

The Hon. J.C. BURDETT: Members should listen to this minute which is dated 12 October 1982, only a few weeks before the election, when the former Government was told by the Under Treasurer—

The CHAIRMAN: I do not wish to contribute towards the debate on the rate. The Hon. Mr Milne expounded largely, but he did relate his remarks to the question of the rate. I hope that the Hon. Mr Burdett can also tie in his remarks to that question.

The Hon. J.C. BURDETT: Yes. I say that there is no reason to have .04 per cent because the deficit cannot be blamed on the former Government. It can be blamed on the present Government, which should be operating in another direction, namely, reducing costs. The content of this minute is true and states:

1. The review is tentative. It is difficult to draw firm conclusions at this early stage of the financial year. The effect of planned changes has not yet impacted to any significant degree.

2. Treasury, in conjunction with all agencies, will be undertaking a detailed review of the Budget based on the end of September results. It is hoped to complete the review by the end of October.

3. The attached table sets out the actual results achieved to 30 September 1982 and a comparison with the corresponding period last year.

Recurrent Operations:

4. Comparisons need to take into account that:

(a) to September 1982 no repayment had been received from the Farmers' Assistance Fund; to September 1981, $4.7 million had been received.

(b) individual variations in both receipts and payments (both up and down) seem to even out overall. The reasons for these variations and their longer-term consequences will become clearer following the review.

5. The deficit positions as at 30 September 1982 and 30 September 1981 are about comparable if allowance is made for the above.

What the Government was told by Treasury officers was that there was not much difference if allowances were made as set out between 30 September 1982 and 30 September 1981. It further stated:

6. Areas of concern involve:

(a) Health Commission—receipts appear to be running below the Commission's expectations by about $8 million. The Chairman of the Commission believes that an increase in fees will be necessary early in the New Year if the Commission is to meet its budget target.

(b) Wage increases—increases granted to date have a 1982-83 cost of about $69 million ($74 million for a full year), against a budget allowance of $74 million.

The CHAIRMAN: Will the honourable member round out the data rather than going into detail?

The Hon. J.C. BURDETT: Yes, Sir, I will. The areas of concern were the Health Commission and wage increases, and they were explained in detail. The Hon. Mr Milne can look at that if he wants to.

The Hon. C.J. Sumner: It might be easier if we called for the production of the document.

The Hon. J.C. BURDETT: I will produce it.

The Hon. C.J. Sumner: Just give me a copy.

The CHAIRMAN: Is the Attorney making a personal request for a copy of the document?

The Hon. K.L. MILNE: I move:

That the document be tabled.

Motion carried.

The Hon. J.C. BURDETT: I table the document, but I think that, if I am to table it, it is proper that I seek leave to have it inserted in *Hansard.*

The CHAIRMAN: The Hon. Mr Milne moved that the document be tabled, the motion was carried, and that is that.

The Hon. R.J. Ritson: The Hon. Mr Burdett then sought leave to have it inserted in *Hansard.*

The CHAIRMAN: I know what has happened, but I do not accept that a document that has been tabled can be inserted in *Hansard.*

The Hon. J.C. BURDETT: In view of the fact that the document is to be tabled and because I believe that people are entitled to know what it contains, I propose to read it. It is further stated—

The Hon. I GILFILLAN: I rise on a point of order. I ask you, Mr Chairman, to consider Standing Order 367 in relation to the fact that you have already indicated that this is irrelevant.

The CHAIRMAN: I asked the Hon. Mr Burdett not to detail the document, and I ask him again, more especially since the document has been tabled.

The Hon. J.C. BURDETT: I understand that the figure of $74 million as contained in the document was a misprint and should have read $80 million. It further stated:

While most of those increases are on the basis of a six-month moratorium and there seems to be a growing recognition for some wage restraint, the industrial position generally is fairly unclear. If wages were to increase in the New Year by, say, a further 4 per cent, then the Budget allowance could be overspent by $20 million or more.

(c) Seasonal Conditions—present indications are that, unless there is a substantial improvement in seasonal conditions shortly, then the net effect of drought relief (allowing for maximum Commonwealth support) and pumping (allowing for increased revenue from usage) is likely to be about $10 million.

7. These additional costs could be offset partly by—

The CHAIRMAN: Once again, I ask the honourable member not to go into detail; he should give the overall picture.

The Hon. J.C. BURDETT: The argument is that the rate of a large tax like this depends on the economic position.

The Hon. Mr Milne has made the point that he claims the deficit must be met and that in part this is due to the Liberal Party. The honourable member has called for the tabling of this document. I have to read only two or three relevant sentences, as follows:

(a) A net budget improvement as a result of falling interest rates—provided the fall is sustained.

(b) A lower than expected call on the large allowance for price increases. It might be wise to advise agencies now that, given the likely effect of wage increases and seasonal conditions, only exceptional and unexpected price movements will be considered for a call on the round-sum allowances.

The remaining part of the document relates to capital works and it is not relevant. I do not propose to read that part. It was on the basis of this document and this information that the Leader of the Opposition in the other place stated some time ago that, had the former Government remained in office, it would have placed the deficit at just over $13 million at the end of the last financial year.

The Hon. C.J. Sumner: What sort of deficit are you talking about now?

The Hon. J.C. BURDETT: $13 million.

The Hon. C.J. Sumner: On what?

The Hon. J.C. BURDETT: On the operating account.

The Hon. C.J. Sumner: What do you mean? Do you mean consolidated capital?

The Hon. J.C. BURDETT: I guess it would have been the Consolidated Account, $13 million, and that makes the Hon. Lance Milne's suggestion—

The Hon. C.J. Sumner: You are not taking into account any of the natural disasters.

The Hon. J.C. BURDETT: No, that was talking about the period up to that time, the basis of the decision.

The CHAIRMAN: This argument can take place at any time.

The Hon. J.C. BURDETT: Mr Chairman, I do not propose to go any further except to say that the Hon. Mr Milne's allegations about the financial management of the previous Government were unfounded and, as we are in fact faced with this deficit because of a Government that is unable to control its expenditure, it is necessary for it to address itself to the matter and not to seek a rate of tax that is out of kilter with the rate in neighbouring States. That will send investment away from this State, resulting in unemployment. The rate in South Australia should be the same rate as in other States, .03 per cent, and I support the amendment.

The Hon. M.B. CAMERON: Before the dinner break, the Hon. Mr Milne became quite excited about his proposition that we were taking away a quarter of the revenue that will result from this Bill. The honourable member then put forward a lengthy proposition to the effect that in essence the Government required the money, so therefore he could not support the amendment, we should not support it, and in fact we should not move it. The Hon. Mr Milne went on to say that, unless he got a certain statement from the Government, he would be prepared to defeat the Bill. We are faced with a situation where the honourable member went from one extreme, saying that we are dreadful people who are taking away almost a quarter of the Government's expenditure, to the position that he was prepared to wipe out the whole Bill and take away the $20 million.

One cannot have it both ways. Surely, it would be better to take this one step and bring us back to parity with other States than to be faced with the Hon. Mr Milne's suggestion that he is willing to wipe out the lot if he does not get certain words spoken in this Chamber. That is the situation presented by the honourable member and I think I know why he is doing it.

The Hon. R.J. Ritson: Because he does not believe in interfering with the money Bill?

The Hon. M.B. CAMERON: No, he wants to be seen to be prepared to defeat the Bill but at the same time he does not want to take any step—

The CHAIRMAN: We have heard enough about the Hon. Mr Milne.

The Hon. M.B. CAMERON: That is okay, Mr Chairman, except that he has tried to imply some improper behaviour by the official Opposition in this Chamber and put himself forward as an angel in this place. He is not an angel at all—he is perpetually the devil's advocate.

The Hon. I. GILFILLAN: I rise on a point of order, Mr Chairman. I hardly believe the angelic characteristics of the Hon. Mr Milne are relevant to this clause.

The CHAIRMAN: I accept the point of order and ask the Hon. Mr Cameron to come back to the amendment.

The Hon. M.B. CAMERON: I have been on the amendment ever since I started speaking. The Hon. Mr Milne has indicated that he will not support the amendment because it will deprive the Government of money. Yet, after saying that he then said that he was willing to defeat the Bill if he does not obtain certain commitments from the Government.

The Hon. R.I. Lucas: Has he got those commitments?

The Hon. M.B. CAMERON: I have not heard any commitments from the Government, but I will be interested to see whether, prior to the amendment being put, he will demand a commitment from the Government that it will not initiate any further tax measures. It may give such a commitment because it has taken enough in the past 12 months to last a lifetime, especially as it promised not to increase taxes, and not to bring in any new taxes or increased charges as a back-door means of taxation. He then went on to accuse the Opposition of increasing the deficit by $10 million a month. Over the three years of our Government, the deficit should have been $360 million! Certainly, the honourable member did not learn his arithmetic at the place where I learnt mine. Again, I ask the Hon. Mr Milne to get his thoughts back to the real issue of comparison between this State and other States about which he has constantly made statements. He said that South Australia must become competitive, and this is one opportunity that he has to ensure that.

The Hon. I. GILFILLAN: I rise on a point of order, Mr Chairman. Did you give a ruling in regard to Standing Order 367? If you uphold it, I remind you that a member under that Standing Order should not be heard again during the discussion of the question.

The CHAIRMAN: I have looked at that Standing Order. Probably Standing Order 366 is more appropriate. I ask the Hon. Mr Cameron to come back to the point of the debate.

The Hon. M.B. CAMERON: I have been on the point of the debate. I hesitate to disagree with you, Mr Chairman, because you are the authority on such matters within this Chamber, and I am sorry that the Hon. Mr Gilfillan is so thin-skinned on this issue. He is usually pretty broad minded, but he is obviously feeling pretty sensitive and I can understand that, but the situation is that we have to persuade the Hon. Mr Gilfillan—if he likes, I will name him so that perhaps he will feel more comfortable. I will use his name rather than that of the Hon. Mr Milne and perhaps he will be persuaded.

The reality is that the Committee must persuade those two gentlemen who represent the Australian Democrats in this Chamber to support the amendment—otherwise it is lost. They must accept that, if they fail to support it and fail to listen to the arguments put to them not just by me but by the people who put them in this Chamber, South Australia will lose its competitive position. Certainly, the Attorney-General has changed his mind and has made his position clear enough. He is the Government—

The Hon. C.J. Sumner: I have not had a word to say.

The Hon. M.B. CAMERON: It would be useful if we knew. We have read the papers and know that the Premier has already indicated that he is not going to entertain any change. This is the first chance that this Chamber has had of making the State competitive. It has the opportunity of bringing us into line with the other States to ensure that South Australia's financial climate is equal to those other States. The Hon. Mr Milne and the Hon. Mr Gilfillan will be making that decision. That is the situation. All honourable members on this side support the amendment and I hope the Democrats will consider their position and not try to hide behind some implied demand made of the Government in regard to a future commitment. That is irrelevant to this debate and the Bill. They know in the final analysis that it is their vote which will make the decision.

The CHAIRMAN: Before calling on the Hon. Dr Ritson, I point out that the Hon. Mr Gilfillan correctly drew attention to Standing Order 367. I have often quoted that Standing Order in this Chamber, and I suggest to members that they look at it. It is a somewhat tenuous situation because this matter was raised in the first place by the Hon. Mr Milne. Nevertheless, I do not wish to direct some member to resume his seat and discontinue his speech. Standing Order 367 provides:

> When the Chairman shall have directed a member who persists in continued irrelevance, prolixity, or tedious repetition to discontinue his speech, the member named shall not be again heard during the discussion of the question then before the Chair.

The Hon. R.J. RITSON: I wish to ask the Attorney questions and seek detail relating to the way in which the .04 per cent was struck. For example, when an insurance company decides to offer life cover to people 56 1/2 years of age with blood pressure 180/70 at a certain loading, it is not done by determining the rate first and then trying to work out how to make a profit from the premium. Rather, it does detailed statistical and actuarial studies on the life expectancy of such people, the means, the standard deviations, the expected income from the sale of premiums, the variations in volume of sales of premiums, depending on how attractive the premium is, the administrative cost and the like. I assume the same thing happens when someone makes a motor car. They do not design it and say that it will sell for $15 000 and then work out how to make it. So, I expect—

The Hon. M.B. CAMERON: I rise on a point of order, Mr Chairman. It is extremely difficult when an Opposition member is attempting to question the Attorney to have other members conducting some sort of consultation with the Attorney—

The Hon. C.J. Sumner: I understand what the member is saying.

The Hon. M.B. CAMERON: It is not appropriate.

The CHAIRMAN: My attention has been drawn to the matter. If the Hon. Mr Milne is going to discuss this matter he should find some other place to do it. The Hon. Dr Ritson is questioning the Attorney.

The Hon. C.J. SUMNER: I understand that the honourable member is questioning me. If he sits down I will answer him. I understand the question; he just winds up and gets on with it. The Opposition has been on this clause for three hours and is not getting anywhere. Members opposite told me earlier that they were not filibustering.

The Hon. R.J. RITSON: I have broad shoulders; but I do not wish to be treated with contempt.

The CHAIRMAN: Does the honourable member not wish to continue?

The Hon. R.J. RITSON: I do wish to continue.

The CHAIRMAN: Why don't you?

The Hon. R.J. RITSON: I would like the Attorney to explain to me the methodology of arrival at the figure of gross revenue expected from the .04 per cent rate. I would like him to tell me what variables were considered and within what range the actual expenditure was likely to vary from the expected expenditure; and the actuarial studies which were undertaken to assess the administrative costs to Government of administering the scheme, including administering the applications for exemption. I would like the Attorney to describe to me the studies which must have been done to assess the cost—not to Government, but to financial institutions—and which will be passed on to the consumer and therefore have some inflationary effect.

I would like him to tell me what cost to the State will accrue as based on administrative and accounting costs incurred by the financial institutions. I would like him to tell me the studies that quantify the administrative and accounting costs to businesses which would rearrange their affairs and perhaps minimise their duty, yet probably pass on those additional accounting costs to the consumers through prices for goods and services. I am sure that that work would have been done; no insurance company would issue a new policy and no manufacturer would launch a new motor car without doing that. I want to know the nature of those studies and figures which determine the striking of this rate of .04 per cent.

The Hon. R.I. LUCAS: I seek information from the Attorney, or more properly from the relevant Treasury officer.

The CHAIRMAN: The honourable member cannot question the officer.

The Hon. R.I. LUCAS: I hope that the answer will be provided by the Treasury officer through the Attorney.

The CHAIRMAN: The honourable member's question has to be to the Attorney.

The Hon. R.I. LUCAS: My question is to the Attorney, but I presume that the information will come from the Treasury officers.

The CHAIRMAN: I ask the honourable member not to be concerned with who supplies the information, but to ask the question of a member of the Council.

The Hon. R.I. LUCAS: I thank you, Sir, for your guidance. The Hon. Mr DeGaris earlier in the debate laid some figures before the Council as to the incorrectness in his view of the Treasury estimates of the revenue collected at .04 per cent. The Treasury estimated that the gross receipts from the .04 per cent rate would be $22 million. The Hon. Mr DeGaris went through his example and estimated that the gross receipts from the .04 per cent rate which is in this clause would be $32 million, and his argument was that Treasurers were always conservative, particularly Labor Treasurers.

The Hon. Mr DeGaris used some figures that he had got from the appropriate Victorian Department (I think the Stamp Duties Department or the Taxation Department), which estimated that the total collections in that State would be $80 million, and he then used a multiplier of .3. His argument was that .3 was the appropriate multiplier to be used when translating the Victorian experience to the South Australian experience. I understand that the view of the Hon. Mr DeGaris is that that is the multiplier that the Treasury uses to bring it back. The Hon. Mr DeGaris is putting an argument that the Treasurer's figures are incorrect; that is, that they are an underestimate of $10 million, or nearly 50 per cent, based on this rate of .04 per cent which is provided by this clause.

It is obviously a very important matter for the Committee to discuss because if the Hon. Mr DeGaris is right and the Treasury estimate at .04 per cent is out by 50 per cent, clearly a whole new ball game needs to be looked at by this Committee and by the Parliament. My specific questions to the Attorney are: is he confident and are his advisers still confident that the estimate that they have made at $22

million, bearing in mind the information that the Hon. Mr DeGaris has given, is correct? What multiplier do they use in translating the Victorian experience to the South Australian? My understanding of the argument of the Hon. Mr DeGaris is that we are about one-third or .3—

The Hon. L.H. Davis: Three is to 10.

The Hon. R.I. LUCAS: Three is to 10—of the population of Victoria. I would have thought that possibly there is a weakness in that argument: the size of the financial market in Melbourne compared with that in Adelaide may well be quite different from the percentages of their populations, so that a ratio of population, which may well be three to 10, as the Hon. Mr DeGaris referred to—

The Hon. R.C. DeGaris: No.

The Hon. R.I. LUCAS: Perhaps the Hon. Mr DeGaris might suggest where the ratio came from—that the ratio may not be quite three-is-to-10 as compared with the size of the financial markets. I guess that that is the closer argument because we are talking about a duty which will be levied on the total financial transactions, and more of those will be conducted in Melbourne, although not all of them. The two specific questions to the Attorney are on what I think are important matters in our discussion.

It seems that the Attorney is not going to answer my questions. That is incredible. We have information presented to this Committee from the Hon. Mr DeGaris who has had a great deal of experience in Government and is widely respected for his skills in quite a number of areas, and he is saying that the Treasury estimate at the .04 per cent rate in this clause is an underestimate of some 50 per cent. The Hon. Mr Sumner is on the record on many occasions as lauding the abilities of the Hon. Mr DeGaris with respect to financial matters.

The Hon. C.J. Sumner: Quite right.

The Hon. R.I. LUCAS: The Attorney says, 'Quite right'. The Hon. Mr DeGaris has put an argument to the Committee that the Treasurer, I presume based on Treasury advice, has underestimated the take from the financial institutions duty by some $10 million at the rate of .04 per cent.

If the Hon. Mr DeGaris is correct, there could well be a further argument for a .03 duty because the Government may well get the amount of revenue it wants from that rate. I put quite specific questions to the Attorney about this matter. He certainly cannot accuse me of wandering all over the place because I have asked specific questions on the clause.

The Hon. C.J. Sumner: I wouldn't dream of it.

The Hon. R.I. LUCAS: The Attorney says that he would not dream of doing so and I thank him very much and am comforted by that. I have asked specific and important questions of the Attorney who continues to sulk in the corner of his bench refusing to respond to those genuine questions.

The Hon. C.J. Sumner: When the debate is finished I will sum up. I want to make sure that everyone has had his say. The debate has not been restricted and I do not want it restricted—I want everyone to have his say and then I will sum up.

The Hon. R.I. LUCAS: The Attorney does not have the God-given right to have the last say in the Committee stages of a Bill, on my understanding—he might think that he does but he does not, under Standing Orders.

The Hon. C.J. Sumner: I can't get a word in edgeways.

The Hon. R.I. LUCAS: Let it be recorded in *Hansard* that that is because the Attorney has just sat there in his seat and will not respond to the questions.

The Hon. C.J. Sumner: I will wait until everyone has finished speaking.

The Hon. R.I. LUCAS: Opposition members have put specific questions to the Attorney. He agreed last night that he would respond to those questions as they were put so that we could consider his answers and ask further questions. I look forward to his response to my questions.

The Hon. L. H. DAVIS: I hesitate to rise because I thought that the Attorney-General may have had a change of heart. I have been in this Council for some four years and my understanding of the procedure of the Committee stage of a debate on a Bill is that it is to enable the free flow of information—

The Hon. C.J. Sumner: It did until you started this nonsense.

The Hon. L.H. DAVIS: It is to allow questions to be asked and answers to be given. Let no-one on the Government side say that this Bill entered the Council in a pure form. It has been desiccated in another place and further desiccated here tonight.

The Hon. C.J. Sumner: Concentrate on the .04 percent or .03 per cent duty.

The Hon. L.H. DAVIS: We are debating the duty level that is to apply, whether it is .04 per cent or .03 per cent. This is a new tax that is before us tonight and we do not know with certainty what money it will raise for the Government in a full financial year. This certainly did not apply when we were talking about licence fees in respect of tobacco, petrol and liquor or the reasonable certainty that may apply to pay-roll tax and other State taxes which have been in place for some years. We are talking about a novel taxing measure and that is why it is important.

The CHAIRMAN: We are talking about the rate of duty.

The Hon. L.H. DAVIS: That is right. That is why it is important for us to closely examine the Government on this subject to establish on what basis this rate has been set. The Opposition has an amendment on file which suggests that the rate set by the Government is too high. We are going to move that that rate be reduced from .04 per cent to .03 per cent. In particular, I want to follow through on the arguments already advanced by the Hon. Mr DeGaris and the Hon. Mr Lucas, and to ask three specific questions. I hope that the Attorney will give three specific answers to those questions because it may well be that those answers lead to further questions. First, did the Government estimate that the $22 million in revenue from this taxation measure of a financial institutions duty on the basis of experience in New South Wales and Victoria since the introduction of the tax in those States earlier this year? Secondly, does the Government concede that the Hon. Mr DeGaris's argument that if Victoria is expected to receive $80 million in a full year from a financial institutions duty at the rate of .03 per cent, it is reasonable to expect that South Australia will receive $32 million from a financial institutions duty, given that there is an approximate population ratio of three to 10 between South Australia and Victoria? Thirdly, if in fact the Government does raise more than $22 million that it claims this measure will bring into Treasury, will it undertake to reduce the rate to at least the level of .03 per cent in the next full financial year?

The Hon. C.J. SUMNER: I am pleased to see that most members of this Council have concluded their remarks after some three hours of what I can only regard as repetitious material, most of which was covered during the second reading speeches and very little of which is directed to the question of the .03 or .04 duty. I was quite happy for the Council to proceed to debate the matter in full and that has been done at great length.

I wish to make the following points: first, the calculations relating to the estimated revenue from this duty have been made by Treasury officers on the best information available to them. Any Budget estimate is essentially an estimate. The Treasury officers conscientiously assessed the effect of the duty and have taken into consideration all relevant

factors, both in South Australia and interstate, in arriving at their conclusion. I understand what the Hon. Mr DeGaris is saying and that he seems to think that Treasurers are always conservative. It may be that they tend to be conservative sometimes. However, all I can say is that $22 million is the figure arrived at by conscientious attempts on the part of Treasury officers to estimate the amount of revenue that will be raised by this duty.

The second point I make is that .04 per cent is the rate necessary to arrive at a figure that the Government believes is necessary to provide the revenue it needs to not balance the Budget but at least to correct the budgetary situation in this State—a budgetary situation that we were left with as a result of the appalling performance of the Tonkin Government. It is unfortunate that honourable members opposite fail to recognise that point. The Hon. Mr DeGaris seems to be the only one with any semblance of understanding of the State's budgetary situation. We are faced with this position and have to raise revenue. The f.i.d. is considered to be a broad-based tax which has some progressive aspects in it. It falls more heavily on those with money and assets to deposit and invest and less heavily on those with smaller amounts of money. I would have thought that members opposite, despite their predilection for looking after their mates—the fat cats in the financial community—would even then—

The Hon. L.H. Davis: What about the term deposits in building societies? They are not put there by fat cats.

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: I would have thought the Opposition would have seen the basic equity and merit of a duty such as this. The fact is that it has attempted to squeeze every last drop of political capital out of this. At 1 o'clock this afternoon I made a genuine offer to honourable members opposite to—

The Hon. R.I. Lucas: Go into hiding!

The Hon. C.J. SUMNER: Not at all—to have a full briefing from four Treasury officers. I was prepared to give members opposite open slather; any questions they wanted to ask were to be answered. Whatever they liked, in terms—

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: —of the fullest possible briefing on the clauses of this Bill and they rejected it. Members opposite know that they rejected it. I am quite happy to take responsibility and answer questions on the policy aspects of the Bill. I will do that and I have done that. Now, members opposite have been nitpicking their way through this Bill. A genuine offer was made to every one of them—the whole Chamber. Four Treasury officers were offered for a full, open frank discussion—whatever they liked. It was had to be in secret: they could have put whatever they wanted on record, but they refused. Why did they refuse? They refused because they are in here to play politics as long and as hard as they can over this issue, and they will go on into the night. They will bring Parliament into contempt by debating this issue into the small hours of the morning. What substance do they have to their questions? Mr Chairman, they know as well as I—

The Hon. L.H. Davis interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: —that if they got together with the four Treasury officers and the Under Treasurer—they can have the Under Treasurer if they like—and sat around and asked the questions they liked, having full access to the public servants in this State, they could put questions on any technical problems that they had with this Bill, and get genuine answers. But, that is not their purpose. That has become obvious since 1 o'clock today. In the past eight hours they have attempted to pull a political stunt in this Chamber, one of the worst political stunts that I have seen since I have been here. Members opposite should be ashamed of themselves.

The fact is that the questions on policy have been clear. The only debate on this clause concerns .03 per cent or .04 per cent and members opposite have rambled up and down, all over the place, on every conceivable issue on this Bill raising every irrelevancy that they could drag in—over four hours of nonsense! The fact is that I have been very restrained.

The Hon. L. H. Davis: You haven't said anything up to this point.

The Hon. C.J. SUMNER: I have not said anything because I wanted to listen to what members opposite had to say. I have listened to it and considered it. The summary is this. The Government has taken a policy decision, which is that .04 per cent is not disadvantageous to this community and that it is necessary to raise a certain amount of revenue to overcome the legacy that it was left with. The calculations of the amount of revenue have been made on the best possible advice from Treasury. The Treasury officers are not here to deceive members opposite or anyone else. It is essentially a policy issue and I trust that members opposite will now—

An honourable member interjecting:

The Hon. C.J. SUMNER: That is a second reading debate point and I would not have minded if the honourable member had made it during the second reading. The fact is that this clause is very limited in its scope. We know what it is. It has been canvassed up hill and down dale in the second reading debate in the other place and this place and now, during the Committee stage, in a quite irrelevant manner. Really, there is not a great deal more that can usefully be added.

The Hon. K.T. GRIFFIN: I wonder whether the Attorney-General is in training for the Children's Hospital play, considering the way in which he has been performing tonight.

Members interjecting:

The CHAIRMAN: Order!

The Hon. L.H. Davis: Is it a case of over-acting?

The Hon. K.T. GRIFFIN: I think that he is playing the part of a puffed-up villain. The debate on this clause is a critical one. It is not limited merely to changing a figure from .04 per cent to .03 per cent. It is related to the whole impact of the Bill—not just to the revenues of South Australia, but to the commercial and business activity of South Australia.

The CHAIRMAN: The question presently before the Chair relates to the rate. Every member has had a chance to debate the matter, and I do not believe that I could have been more generous in the stance that I have taken in relation to both sides, including the Attorney-General. At this stage I believe that every member has repeated at least three times the point that he has wanted to make. I ask now that anything that is said be relevant to the rate in the Hon. Mr Griffin's amendment.

The Hon. K.T. GRIFFIN: This is only the second time that I have spoken, Mr Chairman. It is a great pity that the Attorney-General was not more restrained in his feigned outburst. I absolutely refute that irrelevancies have been raised in the context of the consideration of this amendment. It is a key amendment to the Bill. It is all very well for the Attorney-General to say that the policy decision has been taken. We are certainly entitled to ask him questions about the policy decision and the basis on which the Attorney-General got that decision. If he does not want to answer the questions, he does not have to.

The Attorney has been adopting that attitude on a number of other amendments. If he does not want to go any further on this, all he has to say is, 'I am not answering any more

questions.' Then other people can judge the Government's attitude from that sort of response. The fact is that honourable members on this side of the Chamber are entitled to ask questions and to expect that a Government proposing a significant tax measure, the first in 10 years, will at least have done some homework about the costs of raising it, and what impact it is likely to have—

The Hon. C.J. Sumner: That is not true. The figures have been given twice on the cost of raising this revenue—

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: —and the cost to the wider community. Is that not true?

The Hon. M.B. Cameron: What about the cost to the institution? That has not been given.

The Hon. C.J. Sumner: The cost of raising it for the Government has been given twice. The Hon. Mr Griffin knows that, the Chamber knows that and the honourable member should not misrepresent the situation.

The Hon. K.T. GRIFFIN: I am not misrepresenting the situation. I am as anxious as anyone else to make progress on this Bill. I do not want to stay here until the early hours of the morning or come back tomorrow.

The Hon. C.J. Sumner: That is what it is all about. You know it and I know it.

The Hon. K.T. GRIFFIN: It is not. The Attorney-General will not answer a lot of questions. On a lot of the earlier clauses he said that he did not know, or was not prepared to answer. The position is that the Attorney-General is the Minister responsible for this Bill in this Chamber and he is the one who should publicly answer the questions and account for the policy of the Government and the reasons for it.

It is all very well for the Attorney to say that we can see Treasury officers, but debate on this important tax measure ought to be on public record. If the Attorney-General cannot answer it, then that information and attitude should be available for public scrutiny. That is what Parliament is about. The Attorney-General is one of the advocates of greater Parliamenty scrutiny of the Executive, although now he is on the Executive I think that he has changed his mind. If the Attorney-General says, 'I do not have any more information and do not know what it is all about,' we have to accept that. We do not like it, but once again it is a factor that the public of South Australia will have to take into account in determining its response to a Government that brings in this sort of thing.

The Hon. R.I. LUCAS: I agree with the Hon. Mr Griffin. There is not much point in pursuing the two or three quite specific questions that we put to the Attorney with respect of the rate of .04 per cent and the amount of revenue that will come to the Government from this rate. The Attorney has three times refused members on this side that information. We have to accept that the Attorney will not supply information as to the way in which revenue officials went about estimating the amount of revenue for the State Government from the rate of .04 per cent. All he said was that Treasury officers have done a very good job, and I do not doubt that. We are asking quite specifically how those officers went about their calculations regarding the rate of .04 per cent.

As the Chairman has quite rightly pointed out, we are talking about the rate of .03 per cent as against .04 per cent. If the Hon. Mr DeGaris's assertion is correct, namely, that Treasury is 50 per cent out and that therefore the Government does not need .04 per cent but that .03 per cent would bring in the revenue, this information is critical. Nevertheless, we will simply have to accept that the Attorney has stonewalled, sulked, and refused to provide that information.

The Hon. C.J. Sumner: I offered you four Treasury officers, for as long as you like, with all the information that exists.

The Hon. R.I. LUCAS: If the Attorney will provide me with four Treasury officers at 9 o'clock in the morning, I will be wherever he likes.

The Hon. C.J. Sumner: You can have them now.

The Hon. R.I. LUCAS: All right, now. This must be a public debate: we should not hide outside the Committee—the debate should go on the public record.

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: The officers are available. The honourable member has challenged me to make them available. There are four Treasury officers here, and they can be in the conference room in 30 seconds.

The CHAIRMAN: Order! Only one member may have the call at one time.

The Hon. R.I. Lucas interjecting:

The CHAIRMAN: I ask the Hon. Mr Lucas whether he is now accepting this invitation because, if he is, I put to him that the question he is asking may be more ably answered at that meeting. Those questions have already been asked three times in the Committee.

The Hon. R.I. LUCAS: With pleasure, I will allow this debate to continue. I have one more specific question to the Attorney on a different matter, and then I will retire from the Chamber with whatever Treasury officers the Attorney allows me to retire with.

The Hon. C.J. Sumner: Ring up the Under Treasurer and bring him in too. I offered his services at 1 o'clock. I am pleased to see that you have finally agreed.

The Hon. R.I. LUCAS: That is not in lieu of this debate.

The Hon. C.J. Sumner: It was never in lieu.

The Hon. R.I. LUCAS: That is what you suggested.

The Hon. C.J. Sumner: I have never suggested that. I did not suggest that at any stage, and you know it.

The Hon. R.I. LUCAS: You did so.

The Hon. C.J. Sumner interjecting:

The CHAIRMAN: Order! Both honourable members must be seated. Whatever arrangements honourable members want to make with Treasury officers or with anyone else can be made quite comfortably in the lobby. There is no point in their arguing across the Chamber on what arrangements will be made about some private conference. If members wish to make that arrangement, I ask them to do so outside the Chamber.

The Hon. C. J. SUMNER: I claim that I have been misrepresented. The honourable member stated that I suggested earlier that I wanted a secret conference of some kind. That is nonsense. I was prepared at 1 o'clock to make available Treasury officers or officers from anywhere else—

The CHAIRMAN: I think we all accept that.

The Hon. C.J. SUMNER: Just a minute. The offer was made in good faith to enable all members opposite to ask whatever questions they liked about this Bill. I said that whatever they wanted put on public record would be put on public record. To suggest that I was saying to the Hon. Mr Lucas that he could have a secret session is absolute nonsense. It is a misrepresentation of the position that I put. The offer still stands. The officers are available, the whole lot of them—even the Under Treasurer or anyone else that members opposite want. At a conference, members can ask whatever questions they like. I will come along and supervise in relation to the policy issues involved. That offer was made at 1 o'clock and it was refused.

The CHAIRMAN: The Attorney has made the point.

The Hon. M.B. CAMERON: The Attorney has opened up this subject once again. I do not wish to go into great depth on the issue, except to say that I think the real

problem is that the Attorney is unable to listen to the officers around him and answer the questions. That is all we want. We do not need to go off into a back room, we want the Attorney to listen to his officers and give us the answers. The Attorney is saying that he does not understand what he is being told so he cannot answer questions. All we want is for the Attorney to get up and answer the questions following advice. That was the purpose of bringing officers into the Chamber in the first place. That did not happen previously. It is of use to the Attorney as *quasi* Treasurer in this place in answering our questions. The Attorney has only to get up and answer the questions—that is all we want.

The Hon. C.J. SUMNER: I am perfectly happy to continue; I am quite happy to do that. I have answered the questions that have been put to me. I am prepared to offer the services of four Treasury officers plus the Under Treasurer, plus all Parliamentary Counsel plus the Parliamentary Counsel himself—the whole lot of them can sit out in the conference room. Away they can go for as long as they like. I will answer questions in here. The question is whether members opposite are seeking information or whether they are seeking to put on a stunt. I was prepared to accept the genuineness of members opposite before lunch today.

The Hon. K.T. Griffin: You are losing your cool, that is the trouble.

The Hon. C.J. SUMNER: I am not losing my cool. I made a suggestion at 1 o'clock, because I thought that honourable members were genuine in their request for information. Now, eight hours later, I find that very difficult to accept. Nevertheless, in the spirit of the reasonableness that I have displayed throughout this debate, I am still prepared to make available whatever Treasury officers are here, and indeed anyone else, if honourable members want to ask about any of these issues or to ask about the technical questions, so that they will be better informed. I am quite reasonable about that. There is no argument at all. I am pleased to note that the Hon. Mr Lucas has finally accepted the offer that I made.

The CHAIRMAN: I understand quite clearly what the Attorney has offered—there is no problem whatsoever. the Attorney has made that point clear to me two or three times, and he has made it clear to the Committee. I want to make my position quite clear also. I have before me an amendment moved by the Hon. Mr Griffin.

The Hon. C. J. Sumner: I agree with that.

The CHAIRMAN: The Attorney must listen. Whatever arrangements members wish to make in regard to having a conference outside this Chamber has nothing to do with me, unless members try to arrange that in this place, and I ask them to desist from that. Questions must relate to the amendment moved by the Hon. Mr Griffin.

The Hon. R.I. LUCAS: Thank you, Mr Chairman. I will leave the Attorney squirming on the hook with that last argument. My next quite specific question to the Attorney is—

The Hon. C.J. Sumner: I thought you said you were going to take up the offer.

The Hon. R.I. LUCAS: I want to ask one more question and then I will take the gentlemen outside. I want to ask the Attorney a specific question. What advice has the Government received regarding companies and businesses in Adelaide or in South Australia that are sufficiently concerned about the rate of the duty at .04 per cent (and therefore this matter is quite clearly tied to this clause) as compared to the rate of duty at .03 per cent in the other States, or nil in Queensland, that they are contemplating moving part of their business or all of their business to another State? Two honourable members have hinted that two different companies, because of the high rate of .04 per cent in South Australia, are considering their position in this State.

I understand that one company has telexed the Premier about its concern. As that was outlined in the press report, I seek specific information about whether concern was expressed over the .04 rate and the continued operation of the company in South Australia.

The Hon. C.J. SUMNER: There is no company of which I am aware that has made that point to me. Whether anyone has made that view known to the Treasurer, I do not know.

The Hon. L.H. DAVIS: In the debate in another place the Treasurer indicated that the f.i.d. legislation, if introduced earlier, could have been at a lower rate. That statement reported in *Hansard* indicates that the Government was flexible in its approach to setting the rate. In the second reading debate I suggested that it was amazing that with the introduction of a new tax which will obviously be a permanent feature of the State's taxation structure under Labor Governments, the Government should be so flexible with the initial rate set. What does the Attorney think about the Treasurer's observation? If the legislation had been introduced three months earlier, the rate could have been .03 per cent. The Treasurer's observation suggests that there is much merit in the Hon. Mr Griffin's amendment. Does the Attorney agree with the Treasurer's observation? If it is correct, the Government has a lax and loose approach to financial management.

The Hon. R.I. LUCAS: I refer to the Attorney's response to my last question. He said that he was not personally aware, but he does not have overall control of the Bill for the Government. Press reports indicate that one company has contacted the Premier. Will the Attorney have his officers obtain that information before the final passage of the Bill?

The Hon. C.J. SUMNER: True, there have been press reports, and I am willing to ascertain that information. There has been no groundswell of opinion against the legislation. I thought the Opposition was organising a groundswell last night.

The Hon. K.T. Griffin: We had nothing to do with it.

The Hon. C.J. SUMNER: That is funny—the honourable member says he had nothing to do with it. The speech of the bloke organising the demonstration last night was typed on paper from Mr Olsen's office. The radio report I heard said that there were five demonstrators and 14 members of the press on the steps of Parliament House.

The Hon. B.A. Chatterton: There were four Liberal members.

The Hon. C.J. SUMNER: Yes, and the man organising the demo had a speech prepared by Mr Olsen.

The Hon. R.I. Lucas: What's that got to do with my question?

The Hon. C.J. SUMNER: The honourable member raised the issue and asked whether there were any protests. That is one example of a protest. There may have been some other companies which are disgruntled about the rate; that is possible. Members opposite are digruntled and I suppose a few people in the community are disgruntled. I have no objection to obtaining from the Treasurer the situation relating to the protests made about the rate.

The Hon. M.B. CAMERON: I asked a question earlier of the Attorney about the telex received from Mr Cameron of the Bankers Association. It was suggested that a personal bank customer in South Australia will pay four times the amount of duty compared with that paid by a person operating a similar bank account in Victoria. Is that correct? Has the Treasurer provided an answer about those figures which are fairly startling in terms of South Australia and highlight the position which I put earlier that we will end up out of relativity with other States. In his telex he also referred to small company customers and claimed that the

total State financial duty they pay would be twice that levied on a company with similar transactions in Victoria. Have any figures been produced in response to these points raised by Mr Cameron in his telex? They are startling figures.

The Hon. FRANK BLEVINS: As the Attorney is obtaining advice in regard to an earlier question, let me tell the Leader of the Opposition that this is another preposterous question. We have sat here for two or three days listening to ridiculous questions like this.

The Hon. M.B. CAMERON: I rise on a point of order, Mr Chairman. I take exception to the Minister's comment and ask him to withdraw his statement that it is a preposterous question. I am merely asking a question relating to information provided by a very worthwhile organisation and one that will be deeply involved in providing the Government with its finance.

The CHAIRMAN: What the Minister thinks of the question is not a point of order. If he can provide an answer, he has no need for a question.

The Hon. FRANK BLEVINS: I am trying to point out that over the past three days we have had questions like this—absolutely ridiculous questions—asked in one set of words or another. They have been asked numerous times over the past three days. I see no point in perpetuating the farce, and I am quite happy for this amendment to go to a vote immediately.

The Hon. R.C. DeGARIS: In this clause I direct a question to the Attorney-General. On the figures that I have given it appears to me quite clear that the figure of $22 million is very conservatively underestimated. I am not being critical of the one who has worked out these figures at all, except to say that in my experience the figures given on a new tax are always conservative, and it is reasonable to expect that they will be. If one looks at the Victorian position for this year they will gain $80 million at .03 per cent. It appears that the figure of $22 million is somewhat inaccurate. I ask the Attorney-General whether he can inform the Council as to how that estimate of $22 million for South Australia was achieved from the .04 per cent.

The Hon. C.J. SUMNER: I have answered that question, having taken into account all the matters that the Treasury officers have taken into account, including the Victorian estimates and the experience in South Australia based on the knowledge of the Treasury officers. The honourable member has had considerable experience, and he may well be right in his assessment of the situation.

The Hon. L.H. Davis: If he is right, will the Government review the rate?

The Hon. C.J. SUMNER: Everyone knows that taxes and charges are being reviewed all the time. The unfortunate fact is that costs in the community tend to increase rather than decrease. I repeat what I said earlier: no-one on this side of the Council (and no-one in the Parliament, I suspect) has any glee in wanting to raise taxes but, unfortunately, at certain times and points in our history we are forced to do it for reasons which in this case have something to do with the previous Government's attitude to finances and to running deficits, particularly its use of capital funds.

Before this Budget we were in an absolutely desperate financial situation. Everyone knows that except, apparently, honourable members opposite. I am happy for the Hon. Mr DeGaris to talk with anyone he likes about the way in which that estimate was made. I suspect that basic to the proposition and the way that he calculated it is that one cannot sit down and do things in a scientific manner, absolutely to the last cent. He knows that: we are talking about a figure of $22 million. We cannot do that exactly, but one has to make estimates based on the best knowledge available.

Obviously, the knowledge that has been gleaned from the operation of the tax in New South Wales and Victoria is taken into account when calculating the amount of revenue that is expected to be raised: that is quite clear. Our proportion of financial transactions in South Australia is less than that in New South Wales and Victoria. Those calculations have been made and used. The Hon. Mr DeGaris may be able to put an argument that it has been conservatively estimated; if that is the case that is a point that can be made in the next debate next year. It may be right; it may be wrong; but they are estimates made on the best information available.

The Committee divided on the suggested amendment:

Ayes (9)—The Hons. J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons. Frank Blevins, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Pairs—Aye—The Hon. C.M. Hill. No—The Hon. G.L. Bruce.

Majority of 1 for the Noes.

Suggested amendment thus negatived.

The Hon. K.T. GRIFFIN: I do not intend to proceed with the next amendment on file, in the light of the issue having been already determined by the last vote.

Clause passed.

Clause 30 passed.

Clause 31—'Special bank accounts of non-bank financial institutions'.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Page 19, after line 26—Insert new subclause as follows:

(2a) A charitable organisation may make application to the Commissioner in a manner and form approved by him for approval of an account kept in the State in the name of the charitable organisation by a bank that is a registered financial institution as a special account for the purposes of this Act.

Clause 31 provides for the establishment of special exempt accounts. With the decision to grant charitable organisations exempt status, it is proposed that they be allowed to apply under this section for a special account. The proposed new clause 31 (2a) will allow them to do so. It gives effect to the decision taken by the Government in relation to charitable institutions. I do not want to rehash all the arguments. It was never the intention when the Bill was introduced into the House of Assembly to place that obligation on charitable institutions.

The Hon. M.B. Cameron: It did, in a way.

The Hon. C.J. SUMNER: It did not. It provided for rebates of any other money distributed through Community Welfare grants.

The Hon. M.B. Cameron interjecting:

The Hon. C.J. SUMNER: All this has meant an additional cost is involved in the collection of revenue, but that is what honourable members opposite want and being reasonable, considerate and prepared to accede to a number of their requests, I have moved this amendment.

The Hon. K.T. GRIFFIN: It is all very well for the Attorney-General to say that under the Government's previous scheme money was going to be paid to the Community Welfare grants system. There is no mention of that in the Bill which came to us from the House of Assembly. Even if it had mentioned that, I do not believe it was a fair and reasonable move to take money from charitable organisations and then transfer it to other organisations through the Community Welfare grants system. Is that what is going to happen? One needs to question the motives for doing that. The Bill, as it came to us from the House of Assembly, quite clearly provided that charitable organisations paid the duty now and at the end of each financial year they would

have to make application for a refund. If the Commissioner of Stamps agreed with the application then they would get all the duty back that they had paid during the previous year, less $20 per account.

There was a significant imposition upon charitable organisations as a result of that procedure as the financial institutions duty that the organisations would have paid was locked up for at least 12 months and, when the refund was applied for, $20 per account was retained by the Government. That was a significant impost on charitable organisations. I made reference to some of the costs that those organisations would have had to bear as a result of that scheme. The Liberal Party believes strongly that it is unreasonable to place this burden upon charitable organisations. In addition to those burdens, they would have had the additional burden of keeping a record of all financial institutions duty paid by them on various accounts throughout the year.

The Hon. M.B. Cameron: They have enough trouble keeping their books now.

The Hon. K.T. GRIFFIN: Yes. They would be making an application and then forwarding and processing it from there, so there were a number of significant imposts upon charitable organisations under the Government's previous scheme. I am prepared to support the concept of what the Attorney-General is seeking to do, but support it in clause 34. I will tell the Council why. Clause 31 deals with non-bank financial institutions and provides in subclause (1) that a non-bank financial institution may make application to the Commissioner in a manner and form approved by him for approval of an account kept in the State in the name of a non-banking financial institution by a bank that is a registered financial institution as a special account for the purposes of this Act.

In subclause (2) there is a provision that a bank that is a registered financial institution may make application to the Commissioner in a manner and form approved by him for approval of an account kept in the name of the bank by another bank that is a registered financial institution as a special account for the purposes of this Act. Clause 31 deals with non-bank financial institutions and with special accounts being established by registered financial institutions. Non-bank financial institutions are limited by subclause (11) and include a registered financial institution, not being a bank, a registered financial institution, being a pastoral finance company, Credit Union Services Co-operative of South Australia, Credit Union, Association of South Australia, Funds Transfer Services South Australia limited, the Law Society of South Australia, a cash delivery company, the Stock Exchange of Adelaide Limited, or any prescribed person.

In subclause (5) there is reference to a special account kept by a bank where the special account is in the name of a pastoral or finance company, so clause 31 deals with financial institutions, essentially. I suggest that it is quite inappropriate for charitable organisations to be put into this clause. I support the concept but do not think it is appropriate to put it in here. Rather I would guess that it is appropriate to deal with it under clause 34, particularly as my amendment is that clause 34 be drafted so that there is a different group of accounts being established as special accounts and thus exempt accounts. I would strongly urge the Council to not support this amendment but to support the later amendment to clause 34. I do not think there is any skin off members' noses if this amendment is defeated because, from a drafting point of view, it is more convenient to have it placed in the later clause, clause 34. Accordingly, while not opposed to the concept and principle, I oppose this amendment because I prefer to have the more appropriately drafted amendment which follows in clause 34.

The Hon. L.H. DAVIS: Victoria and New South Wales have adopted different approaches to the question of exempt accounts. I understand that in New South Wales the financial institutions themselves act as the judges of what shall or shall not be an exempt account. In Victoria the Commissioner makes that judgment as to what will be an exempt account. I believe that in Victoria there are some 60 000 certificates of exemption. I would be interested to know what number of exempt accounts Treasury has estimated will exist in South Australia when the Act is implemented.

The Hon. C.J. SUMNER: No estimate has been made of the number of institutions. In New South Wales the banks make the decisions on charitable institutions. In Victoria and in South Australia it is the Commissioner. In South Australia the banks do not wish to be under that obligation.

The Hon. K.T. GRIFFIN: I will keep talking until the Hon. Mr Milne returns to the Chamber. I think he is with the Premier.

The CHAIRMAN: I will now put the amendment. Unless the honourable member wishes to speak to the amendment I ask him to resume his seat.

The Hon. K.T. GRIFFIN: I will speak to the amendment. I repeat, for the benefit of the Chamber—

The Hon. C.J. SUMNER: I rise on a point of order. The honourable member said that he wants to 'repeat'. I understand that that is contrary to Standing Orders. He cannot get up and be repititous about a point he has already raised. I ask that you, Mr Chairman, draw it to his attention.

The CHAIRMAN: I uphold that point of order.

The Hon. K.T. GRIFFIN: The Central Mission gave figures to the Opposition which have been referred to publicly, that under the Government's previous provision the cost to that organisation would have been $6 000 and that that organisation would lose the use of that money during the time it was held by the Treasury. Minda Home indicated a figure of $4 400. The net cost to the Catholic Church, taking into account refunds, was between $20 000 and $30 000 a year, because of the number of accounts they kept through which money was paid. The Uniting Church figures were something along the same lines. Both those denominations had 1 500 to 2 000 accounts in the church organisation itself, which did not extend to schools and committees.

The Hon. C.J. SUMNER: I rise on a point of order. The honourable member is directing his attention to a matter which has already been agreed to. The honourable member is raising the question of what the Bill would have cost those charities as it was introduced. The fact is that that is irrelevant as I have moved an amendment which is before the Chair to exempt charitable institutions from the tax. The honourable member has an amendment to exempt charitable institutions. We are *ad idem*—we have the same point of view on these issues. So, for the honourable member to go back and rehash the arguments relating to what it would cost charitable institutions is irrelevant to the debate.

The CHAIRMAN: I am pleased that the honourable member has picked up something that has been said before. I thought that the Hon. Mr Griffin was trying to make the point that his amendment or your amendment should be dealt with in another clause.

The Hon. K.T. GRIFFIN: Quite obviously Minda Home, the Uniting Church and the Catholic Church are not non-bank financial institutions, a registered financial institution, and are not even akin to the Credit Union Services Co-Operative of South Australia or the Credit Union Association of South Australia. To try and put all these charitable organisations into a clause which has no bearing at all on the charitable organisations is quite ridiculous. What I was suggesting to the Council is that the scheme of the Bill would be better served if the amendment was defeated and

if my clause 34, which was a much more important and logical scheme, was adopted.

Suggested amendment carried.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Line 27—Leave out 'or (2)' and insert ', (2) or (2a)'.

This amendment is consequential on the previous amendment.

Suggested amendment carried.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 19, line 28—Leave out 'may' and insert 'shall, subject to this section,'

This amendment will help to add strength to what I believe should be the position and, that is, that the Commissioner must grant approval for a special account. There has been a lot of debate about this, whether 'shall' means 'may' or 'may' means 'shall'. There is a whole range of cases about this. As I understand the interpretation of this clause it is likely that the reference to 'may' in fact does not give the Commissioner a discretion unless the criteria are not met. To put it beyond doubt that the Commissioner 'shall' grant approval, I believe my amendment should be supported.

I also inserted in the amendment the words 'subject to this section', which makes it subject to that part of the clause which allows the Commissioner to cancel an approval if certain breaches of the conditions attaching to the special accounts are maintained. I believe, particularly in relation to charitable organisations, that there should be no doubt that if the criteria are satisfied the Commissioner must issue an approval for an exempt account. This puts it beyond doubt.

The Hon. C.J. SUMNER: I want to be clear about this. This is another of those amendments that means nothing, so the Government is prepared to—

The Hon. J.C. Burdett interjecting:

The Hon. C.J. SUMNER: There are a number of amendments that the Opposition wants to move, a large number, and the Government has been very graceful about it.

The Hon. J.C. Burdett: All you have to say is that the Government accepts the amendment.

The Hon. C.J. SUMNER: It detracts nothing, and it means nothing, so we will accept it.

The Hon. K.T. GRIFFIN: The Attorney has adopted this attitude in regard to all Opposition amendments. He has said, 'It means nothing so we will accept it'. That is a pretty snide way of accepting an amendment. The fact is that the amendment does mean something. We are making laws so that public servants and officers can administer them, and we want to make absolutely clear what their responsibilities are. There is some doubt about whether 'may' means that the Commissioner must issue approval or whether it is discretionary. I want to put beyond doubt completely what is meant. For that reason, the amendment does mean something.

Suggested amendment carried.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 19, lines 38 and 39—Leave out paragraph *(a)* and insert new paragraph as follows:

(a) is an amount received by the pastoral finance company in the course of banking business carried on by it;

(ab) is an amount received by the pastoral finance company in the course of short-term dealings;

This is the second of the amendments relating to pastoral finance companies. I have already indicated that in the two amendments we will achieve a position that is similar to that in New South Wales and Victoria with respect to pastoral finance companies. It means that pastoral finance companies as registered financial institutions are required to pay duty only on those receipts that arise in the course of banking business carried on by a pastoral finance company or received by that company in the course of short-term dealings.

If the Attorney-General is consistent with his earlier acceptance of the amendment relating to pastoral finance companies, he will accept this amendment, but in anticipation of the fact that he will again try to put it down suggesting that it means nothing, I indicate quite strongly to the Committee that, if this amendment is not carried, a significant number of the receipts of pastoral finance companies will suffer double duty. I suggest that if the Attorney holds the view that the amendment means nothing, he should go along and talk to the pastoral finance companies: he will find that, if the amendments are not carried, tens of thousands, if not hundreds of thousands, of dollars will be involved in regard to this amendment.

The Hon. C.J. SUMNER: Just to prove how reasonable I am, I accept that this amendment is not one of those that means nothing. This is a serious amendment which is consequential upon an earlier amendment, to which the Government agreed.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That might be right, but I accept that, in the context of the Committee and the Government having agreed to an earlier amendment which meant nothing, this amendment moved by the Hon. Mr Griffin is very important, and for that reason the Government is very happy to accept the honourable member's proposition.

Suggested amendment carried.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Page 20, after line 14—Insert new subclause as follows:

(6a) An amount shall not be paid to the credit of a special account kept by a bank in the name of a charitable organisation unless that amount represents moneys paid for the exclusive use of the organisation.

This is another amendment that gives effect to the Government's policy on charitable organisations. Given that charitable organisations are to be exempt, it is appropriate that the legislation will ensure that this exempt status be not used improperly. It is therefore proposed to insert new subclause (6a) which proposes that an amount shall not be paid to the credit of a charitable organisation's exempt account unless it represents moneys paid for the exclusive use of the organisation. This approach is consistent with the manner in which many of the other exempt accounts are established. As it is part of the overall policy that has already been accepted by the Committee, I would ask honourable members to agree to the amendment.

Suggested amendment carried.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Page 20, lines 28 to 47—Leave out subclause (10) and insert new subclause as follows:

(10) Where the commissioner is satisfied that an amount has been paid to the credit of a special account in contravention of this section, the commissioner—

(a) may by notice in writing given to the financial institution at which the special account is kept and the person in whose name the account is kept, cancel the account as a special account for the purposes of this Act;

and

(b) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

The insertion of new subclause (10) is for the purpose of providing that the Commissioner may be able to cancel an exempt account if the account is being used improperly. Subclause (10) empowers the Commissioner to do this. However, with the addition of charitable organisations to

the list of exempt bodies, subclause (10) in its present form would be rather cumbersome. Therefore, it is proposed to recast the subclause to give a general power to the Commissioner to cancel any exempt account in the event that an amount is paid to the credit of that account which is contravention of the provisions of clause 31. Once again, this amendment is consequential upon the policy decision that the Committee has taken to accept the inclusion of charitable organisations within the ambit of exemptions.

Suggested amendment carried; clause as amended passed.

Clause 32—'Short-term dealing account of registered short-term money market operator.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 21, line 18—Leave out 'may' and insert 'shall, subject to this section,'

This amendment is proposed for the sake of consistency and also to ensure that there is no doubt at all about the action to be taken by the Commissioner if the criteria are satisfied.

The Hon. C.J. SUMNER: The Government will accede to this request.

Suggested amendment carried; clause as amended passed.

Clause 33 passed.

Clause 34—'Trust fund account.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

To strike out existing clause 34 and insert the following new clause:

34. (1) A person, who is eligible under subsection (2) to have an account kept in the State by a registered financial institution (being a bank, building society or credit union) approved as a special account, may apply to the Commissioner, in a manner and form approved by him, for approval of the account as a special account.

(2) For the purposes of subsection (1)—

(a) a dealer in securities is eligible to have an account kept in his name that is a dealer's trust account for the purposes of the Securities Industry (South Australia) Code approved as a special account;

(b) a person who is under a prescribed statutory obligation to pay money to the credit of a trust account kept in his name is eligible to have that trust account approved as a special account;

(c) a legal practitioner is eligible to have a trust account kept in his name under Part III of the Legal Practitioners Act, 1981, approved as a special account;

(d) an agent or land broker within the meaning of the Land and Business Agents Act, 1973, is eligible to have a trust account kept in his name for the purposes of his business as an agent or land broker approved as a special account.

(3) Where an application is made under subsection (1) the Commissioner shall, subject to this section, issue to the applicant a certificate of approval of the account as a special account.

(4) Where a certificate under this section is produced to the registered financial institution at which the account is kept, the financial institution shall designate the account to which the certificate relates as a special account for the purposes of this Act.

(5) The following restrictions apply in respect of accounts approved as special accounts under this section:

(a) an amount shall not be paid to the credit of such an account kept in the name of a dealer in securities unless it is an amount that is required or permitted to be paid to the credit of a dealer's trust account under the Security Industry (South Australia) Code;

(b) an amount shall not be paid to the credit of such an account to which subsection (2) *(b)*, *(c)* or *(d)* applies unless that amount represents trust moneys received by the person in whose name the account is kept and required by statute to be paid to the credit of that account;

(6) Where the Commissioner is satisfied that—

(a) an amount has been paid to the credit of a special account in contravention of subsection (5); or

(b) the person in whose name an account approved as a special account under this section is kept, has ceased to be eligible to have the account approved,

the Commissioner—

(c) may by notice in writing given to the financial institution at which the special account is kept and the person in whose name the account is kept, cancel the account as a special account for the purposes of this Act;

and

(d) may determine a period, not exceeding one year, during which the person in whose name the account is kept is ineligible to make application under this section.

This amendment arises as a result of the passing of amendments to clause 31. The amendment that I have moved does not contain paragraph *(e)* of proposed new subclause (2) or paragraph *(c)* of proposed new subclause (5) which were contained in the amendment that I had on file. Clause 34 (1) deals with trust fund accounts and provides:

An eligible person may make application to the Commissioner in a manner and form approved by him for approval of an account kept in the State in the name of the eligible person by a bank, building society or credit union that is a registered financial institution, being an account—

(a) that is a dealer's trust account for the purposes of the Securities Industry (South Australia) Code;

or

(b) that is a prescribed trust account required to be kept under a prescribed Act,

as a trust fund account for the purposes of this Act.

The clause then deals with applications for an account to be a trust fund account under the Bill and that by virtue of the definition of 'exempt account' it would be an exempt account. The concern that I have about this clause is that, while there is reference to prescribed trust accounts to be kept under a prescribed Act, there is no indication as to what Act or trust account may be prescribed.

As I indicated in the second reading debate, it is important to specify at least some of the trust accounts and some of the Acts that require trust accounts to be kept. My amendment seeks to strike out existing clause 34 and insert a new clause 34 to include as special accounts and thus exempt accounts, trust accounts kept by legal practitioners under the Legal Practitioners Act, trust accounts kept by real estate agents or land brokers under the Land and Business Agents Act, as well as the existing dealers trust account under the Securities Industry (South Australia) Code and other prescribed trust accounts which can be dealt with under this clause. I have illustrated in some detail the consequences of not exempting specific trust accounts. There will be a reduction in regard to lawyers in the amount of money passing through trust accounts, and thus a reduction in the amount of interest paid by banks. There will a growing practice of bypassing those trust accounts and, as a result, significant sums will not pass through them and thus earn interest for the benefit—

The Hon. C.J. Sumner: We've heard that argument before.

The Hon. K.T. GRIFFIN: I am just explaining the clause.

The Hon. C.J. Sumner: You've explained it before.

The Hon. K.T. GRIFFIN: I am explaining the clause and my amendment.

The Hon. C.J. Sumner: You're repeating yourself.

The Hon. K.T. GRIFFIN: I am not. If there is a reduction in the amount of money passing through lawyers' trust accounts, there will be less interest from which Legal Aid and the legal practitioners' guarantee fund will benefit.

In addition, there may well be a prejudice to the security of the money and greater opportunity for manipulation, because there will be no audit and no record of the money. It will relieve Government revenue of some financial institutions duty, but it will be perfectly legitimate and it will certainly occur. It will also be practised by land brokers and real estate agents. This amendment will cover one other matter in relation to the combined solicitors' trust account, which is required to be kept under the Legal Practitioners Act. It is really a proportion of every solicitor's trust account with a bank that is available for investment by the Law Society. The interest goes to Legal Aid and to the guarantee

fund. When lawyers' operating trust accounts are reduced to nil, they are required to draw on the combined solicitors' trust account. When they draw on the trust account the transfer of money from that trust account to the operating account—

The Hon. C.J. Sumner: You said all this yesterday.

The Hon. K.T. GRIFFIN: The solicitor's trust account will bear financial institutions duty.

The Hon. C.J. Sumner: You said that in the Committee stages yesterday.

The Hon. K.T. GRIFFIN: I did not say that. My amendment will overcome those difficulties with respect to money passing through trust accounts. I believe that it is fair and reasonable that the exemptions be granted and, accordingly, I indicate that I will oppose clause 34 and will then move to insert a new clause.

The Hon. R.I. LUCAS: Does clause 34 (6) cover the situation in respect to liquidators to which the Hon. Mr Griffin was referring earlier in the Committee stages?

The Hon. K.T. GRIFFIN: It will not cover liquidators. It might cover liquidators if the Companies Code was prescribed and the trust account of a liquidator was prescribed. It has been made clear by the Government that it is not prepared to exclude trust accounts, either expressly or even under a clause like this.

The Hon. C.J. SUMNER: I am surprised at the honourable member's amendment. It seems that he should have had it in his first draft. Has he deleted it or has he moved it in an amended form?

The Hon. K.T. GRIFFIN: The Attorney-General was not paying attention when I gave an indication that I would oppose the clause and move a new clause in its place. The Attorney-General was not listening; I am surprised. Perhaps he was consulting with his advisers or with other people. He is not permitted to do that; he should have been paying attention.

The Hon. C.J. SUMNER: I was not consulting advisers; I was consulting Mr Milne. I apologise for that.

Existing clause struck out; new clause inserted.

Clause 35—'Government Department account.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 24, line 13—Leave out 'may' and insert 'shall'.

This is an amendment which enables us to maintain consistency.

The Hon. C.J. SUMNER: For reasons previously given, the Government will not oppose this amendment.

Suggested amendment carried; clause as amended passed.

Clause 36—'Cancellation of designation of account.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 24, line 21—Leave out 'a sweeping account, or a trust fund account' and insert 'or a sweeping account'.

The amendment is consequential on the amendments to clause 34, which delete the references to 'trust fund account' and replace them with 'sweeping account'.

Suggested amendment carried.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 24, line 28—Leave out ', a sweeping account or a trust fund account' and insert 'or a sweeping account'.

Suggested amendment carried; clause as amended passed.

Clause 37—'Returns of bank accounts.'

The Hon. K.T. GRIFFIN: I do not intend to move my suggested amendment to this clause which is on file. The issue of whether the rate should be .04 per cent or .03 per cent has already been decided by division. However, I intend to continue with my consequential amendment to lines 41 and 42, which relates to trust fund accounts. Therefore, I move the following suggested amendment:

Page 24, lines 41 and 42—Leave out these lines.

Suggested amendment carried; clause as amended passed.

Clauses 38 to 40 passed.

Clause 41—'Additional duty'.

The Hon. K.T. GRIFFIN: This clause provides for what is, in effect, interest to be paid on arrears at the rate of 20 per cent per annum. However, there is nowhere contained within the Bill a provision in respect of duty that has been overpaid. The Treasury should be paying interest. I ask the Attorney-General what is the present practice in respect of overpaid duty and by what authority, if any, interest on overpaid duty is paid.

The Hon. C.J. SUMNER: The Treasury never pays interest on amounts overpaid, and it does not intend to do so here.

The Hon. K.T. GRIFFIN: Certainly the Commissioner of Succession Duties used to pay interest. Maybe there was a specific provision in the Succession Duties Act. This is a typical Government attitude—what is good for the Government is not necessarily good for the citizen.

The Hon. C.J. SUMNER: Succession duties were abolished by honourable members opposite, so there is no interest to be paid on overpayments of succession duties.

Clause passed.

Clause 42—'Refund of duty overpaid.'

The Hon. J.C. BURDETT: I move:

Page 25, line 46—Leave out 'may' and insert 'shall'.

Clause 42 provides that where duty has been overpaid somebody 'may' refund that overpayment. My amendment seeks to change 'may' to 'shall' for the sake of consistency, as the Hon. Mr Griffin has said on previous occasions. Although I am aware of the judgments on interpretations of the words 'may' and 'shall', surely if duty has been overpaid it ought to be very apparent and clear that it must be refunded. For that reason I have moved my suggested amendment.

The Hon. C.J. SUMNER: This is another amendment that is unnecessary. Therefore, I am happy to agree to it. In *re Main Facilities Pty Ltd.* v. *the Federal Commissioner of Taxation,* 127 Commonwealth Law Reports, at 106, the Income Tax Assessment Act provides that the Commissioner may allow a company a rebate of tax if he was satisfied the taxpayer qualified under a particular provision. No less an authority than the High Court was satisfied in terms of the section that the Commissioner was obliged to allow the rebate.

The Hon. M.B. Cameron: They had to go to court to prove it.

The Hon. C.J. SUMNER: But it is now established, so there is no problem. However, in view of the co-operative attitude being adopted by the Government, I am prepared to accept the amendment.

Suggested amendment carried; clause as amended passed.

Clause 43—'Assessments of duty.'

The Hon. K.T. GRIFFIN: Subclause (2) provides:

Where financial institutions duty is assessed under this section, penal duty of an amount stated in the certificate (but not exceeding the amount of financial institutions duty so assessed) shall be payable.

I will later be addressing remarks to the objections and appeals provisions of the Bill. What I want to do is ensure that the amount of penal duty stated in the certificate is, in fact, an assessment or a decision which can be appealed. I would personally have some doubts as to whether it is adequately covered in the appeals provision. If it is not, when we get to that I would like to ensure that the matter is clarified, because the penal duty contained in the certificate issued by the Commissioner ought to be subject to objection

and appeal, and if there is any doubt at all about it I think it ought to be corrected.

The Hon. C.J. SUMNER: There is no doubt in my mind.

The Hon. K.T. Griffin: What's the advice?

The Hon. C.J. SUMNER: The advice is that there is no doubt that the position is as the honourable member has stated—that it is subject to appeal.

Clause passed.

Clauses 44 and 45 passed.

Clause 46—'Liquidator to give notice.'

The Hon. K.T. GRIFFIN: There is no difficulty with a liquidator of a company giving notice to the Commissioner. The major difficulty occurs in subclause (3), which provides that the liquidator shall not part with any of the assets of the company without the leave of the Commissioner, and that means that the Commissioner has some control over the liquidation. The liquidator is required to set aside, out of the assets available for the payment of the duty, assets to the value of the amount notified by the Commissioner as due for financial institutions duty and the liquidator shall, to the extent of the value of the assets which he is so required to set aside by the Commissioner, be liable to pay the duty. Subclause (7) provides:

> Nothing in this section—
> *(a)* limits the liability of a liquidator under section 65; or
> *(b)* affects any of the provisions of the Companies (South Australia) Code.

Subclause (6) sets out that the liquidator can retain all his costs, charges and expenses which, in the opinion of the Commissioner, have been properly incurred by the liquidator, and there priority is given to the Commissioner. I have some concern about the clause, because the Companies Code sets out a detailed list of priorities in section 441 and does not make provision for any State taxes. What the Bill is seeking to do, in effect, is slot the State Commissioner into the priority of debts provided under the Companies Code before unsecured creditors; and that means that there is less for the unsecured creditors.

I would have thought that, consistent with the policy of the Commonwealth Government, the State Government would be prepared to relinquish its priority in respect of this duty and be prepared to rank as an ordinary unsecured creditor with other unsecured creditors. As I understand it, recently the Commonwealth Government decided that it will not insist upon its priorities. I am not sure whether legislation has been passed to effect that change in policy, but it is a significant one. I remember that the Ministerial Council on Companies and Securities was generally in agreement with the relinquishing of Crown priorities. The only difficulty we had was with the Commonwealth in respect of income tax.

So, I ask the Attorney-General whether my interpretation is correct that he is, in fact, seeking to put the Commissioner of Stamps in a preferred position above the unsecured creditors of a company. If that is the case, is that not inconsistent with the Companies (South Australia) Code?

The Hon. C.J. SUMNER: No.

The Hon. K.T. GRIFFIN: Is the Attorney-General prepared to give his reasons for that conclusion in the light of my explanation of what I regard the problem to be with this clause?

The Hon. C.J. SUMNER: Yes. Clause 46 (7) (b) provides that nothing in the clause affects any of the provisions of the Companies (South Australia) Code. The Companies (South Australia) Code therefore operates and is not overridden by clause 46. What is in clause 46 is also in the Pay-roll Tax Act; the provisions have been taken from that Act. That Act was administered for three years by the Hon. Mr Griffin when he was Minister. There is no problem as far as the Government is concerned.

The Hon. K.T. GRIFFIN: The Attorney-General forgets that the Pay-roll Tax Act was enacted before the Companies Code came into operation.

The Hon. C.J. Sumner: It has nothing to do with it.

The Hon. K.T. GRIFFIN: It does. The fact that it is in the Pay-roll Tax Act does not give any weight to the argument at all. The fact that I was Minister responsible for the Companies Code for three years is again irrelevant to the consideration of this matter. The Companies Code came into force only towards the end of that three-year period. Of course, the Pay-roll Tax Act was on the Statute Book. If the Attorney-General is correct (and I do not disagree with this point of view), I suggest that clause 46, therefore, has no effect in respect of company liquidations.

The Hon. C.J. SUMNER: It may be that there is an excess of caution. Under the Pay-roll Tax Act as a result of the operation of the Companies (South Australia) Code, pay-roll tax now ranks with unsecured creditors in the same way as intended under clause 46. There is no problem.

The Hon. K.T. GRIFFIN: I am delighted to hear that it is being done out of an excess of caution. We are now enacting something partly out of an excess of caution and with the Attorney's acknowledgment that it has no effect. We might as well keep the Government Printer busy, provide a few more jobs, and include this in every—

The Hon. C.J. Sumner: I did not say that. I said, 'excess of caution'.

The Hon. K.T. GRIFFIN: But you also said that it did not override the code. The code prevailed and, therefore, because pay-roll tax ranks equally with unsecured creditors, so does this.

The Hon. C.J. Sumner: It is in the Pay-roll Tax Act and it is in this Act.

The Hon. K.T. GRIFFIN: It does not have to be because it would rank with unsecured creditors without it being in the Bill.

The Hon. C.J. Sumner: Do you want to oppose it?

The Hon. K.T. GRIFFIN: I am not opposing it, I am just making the point.

The Hon. C.J. Sumner: Well, get on with it.

The Hon. K.T. GRIFFIN: I will get on with it in my own time. I want to make sure that the Attorney-General understands what is in the Bill. Obviously, he has not looked at clause 46 before.

Clause passed.

Clause 47 passed.

Clause 48—'When duty not paid during lifetime.'

The Hon. K.T. GRIFFIN: Paragraph 48 (a) refers to trustees, and in clause 49 there is a reference to executors and administrators. The definition of 'trustee' includes executors and administrators. Is the difference in description between clauses 48 and 49, where the Commissioner has remedies, intentional or is it an error in drafting? If it is intentional, what does the Government seek to achieve as a result of that difference?

The Hon. C.J. SUMNER: Apparently it is taken from some other taxation legislation relating to pay-roll tax. There is no particular magic in the wording. If the honourable member has a proposition to put we are prepared to consider it.

Clause passed.

Clauses 49 passed.

Clause 50—'Recovery of duty paid on behalf of another person.'

The Hon. L.H. DAVIS: Obviously, as the Treasurer and Leader in this Council have already indicated, a great bulk—some 85 per cent to 90 per cent— of financial institutions duty will be collected by the banks. This clause quite properly provides that the person paying the duty is entitled to recover the amount paid, together with the costs of recovery.

Has there been any specific discussion with financial institutions regarding those costs of recovery? I can recollect that, when the financial institutions duty was first introduced in Victoria, some of the building societies, given the shortness of time between the introduction of the legislation and its implementation, were not sure what the costs of recovery were, erred on the side of conservatism and imposed $5 administrative fees on accounts, which often turned out to contain less than the fee that had been imposed.

No blame should be associated with the building societies concerned because, as I mentioned, they really did not have a chance to work out properly what the administrative costs would be. However, I would be interested to know what discussions the Government has had relating to the cost of recovery provided for in clause 50.

The Hon. C.J. SUMNER: The honourable member seems to have the wrong end of the stick. Clause 75 deals with passing on the duty. Clause 50 deals with the situation where the duty may have been paid on behalf of the financial institution by someone else, such as an agent, in which case clause 50 enables a recovery from the financial institution. That is not the situation where the duty is passed on. That is dealt with later.

Clause passed.

Clause 51—'Contributions from persons jointly liable to pay duty.'

The Hon. R.I. LUCAS: Is it the standard provision in subclause (1), so that, where two or more persons are jointly liable to pay duty, they shall each be liable for the whole duty?

The Hon. C.J. SUMNER: Yes, that would be the normal situation in business enterprise.

Clause passed.

Clause 52 passed.

Clause 53—'Objections and appeals'.

The Hon. K.T. GRIFFIN: I move the following suggested amendments:

Page 30—

Line 18—After 'Commissioner' insert ', or a decision of the Commissioner,'.

Line 19—After 'assessment' insert 'or decision'.

Line 20—After 'assessment' insert 'or decision'.

Line 21—Leave out 'to the assessment'.

Lines 26 and 27—Leave out 'or vary the assessment' and insert ', vary or rescind the assessment or decision'.

Line 35—Leave out 'or vary the assessment' and insert ', vary or quash the assessment or decision'.

With this series of amendments I want to ensure that there is a right of objection and/or appeal from not only an assessment of the Commissioner, but also decisions of the Commissioner. Under the Bill I think there are at least 11 different discretions granted to the Commissioner, some of which can have quite significant consequences. In clause 3, for example, there is a definition of an agent and that includes a person who, by order of the Commissioner, is declared to be an agent. Further on in that clause in the definition of 'financial institution' there are certain bodies which are within that definition, but the definition does not include a person declared by or under this Act not to be a financial institution.

There is also in clause 9, for example, a provision that the Commissioner may declare a corporation, which is an unofficial short-term money market operator, to be a short-term dealer for the purposes of the Act. Under clause 20 there is power for the Commissioner to make a decision to exclude certain persons from a group, and throughout the Bill there are those sorts of decision which, under the present clause 53, would not be subject to objection or appeal.

It is also relevant, I should say, in respect of exempt accounts, where the Commissioner may determine that certain criteria necessary to establish a right to an exempt account have not been satisfied. They ought to be decisions which are subject to appeal, so my amendments widen the right of the citizen in respect of objections and appeal, and I move them accordingly.

The Hon. C.J. SUMNER: The Government understands the reason for the honourable member's moving these amendments. I believe it is a very sensible amendments. It is constructive contribution to the Bill before us. We are very pleased that the honourable member is prepared to be constructive about some aspects of the Bill and, in the light of that, the Government is quite happy, very pleased, and welcomes the constructive nature of these amendments. The only thing I could say is it is a pity the same spirit did not apply to the whole of the Bill.

The Hon. K.T. GRIFFIN: There would have been a lot more amendments of a technical nature if we had had time to give proper attention to the Bill. That is quite obvious from the number of questions I have been asking. I am not satisfied with many of the provisions of the Bill but quite obviously the Government is not going to give us enough time to adequately put the Bill in proper shape.

Suggested amendments carried; clause as amended passed.

Clauses 54 to 57 passed.

Clause 58—'Proceedings for offences against this Act.'

The Hon. K.T. GRIFFIN: Subclause (4) provides that a prosecution for an offence against this Act shall not be instituted except with the authority of the Commissioner. Ordinarily, one would have expected that a prosecution would not be initiated except with the authority of the Attorney-General. Will the Attorney say why the Commissioner, and not the Attorney-General, makes the decision? After all, if there was a prosecution, I would expect the Commissioner to institute proceedings and I would expect the Attorney-General, as the principal legal officer, to be the person who would determine whether or not the prosecution ought to be authorised.

The Hon. C.J. SUMNER: That is perfectly consistent with normal practice. The Attorney-General does not institute criminal proceedings under the criminal law. For the honourable member to suggest that the Attorney should interfere with the discretion of police officers in prosecutions is a new proposition. I am very interested to hear that from him. However, I would have thought that that was contrary to the normally accepted operation. Occasionally, there are actions in which the Attorney-General's approval is required, such as under section 33 of the Police Offences Act, but not, I should add, under the Film Classification Act, where the police stand alone. Also under some consumer legislation, the approval of the Minister of Consumer Affairs is required.

Quite frankly, I find that sort of provision somewhat unnecessary. I believe that officers with statutory authority who have the administration of the Act and who are responsible for the administration of the Act ought to have that sort of discretion generally. That is what the police have. What if there was an attempt by the Hon. Mr Griffin, as Attorney-General, to ring up a police sergeant or prosecutor and say, 'You shouldn't prosecute my mate who has been picked up for drunken driving'—

The Hon. K.T. GRIFFIN: I take exception to that.

The CHAIRMAN: Order!

The Hon. K.T. GRIFFIN: I take considerable exception to that. It was totally irrelevant: it was baseless and false, and I ask the Attorney-General to withdraw it.

The CHAIRMAN: I ask the Attorney to do so.

The Hon. C.J. SUMNER: It is not a matter of withdrawing anything. I was not making an accusation.

The Hon. K.T. Griffin: Yes you were.

The Hon. C.J. SUMNER: There was no accusation at all. I said, 'What if the Hon. Mr Griffin, as Attorney-General, rang up a police officer?'

The Hon. K.T. Griffin: You were implying that I had done—

The Hon. C.J. SUMNER: No, I was not. I would be absolutely shocked. What if Mr Griffin rang up the Sergeant of Police—

The Hon. K.T. Griffin: What if you had done it?

The Hon. C.J. SUMNER: The same thing—

The Hon. K.T. Griffin: Or some of your predecessors?

The CHAIRMAN: Order! I ask honourable members to come to order. I ask the Attorney to continue with his point.

The Hon. C.J. SUMNER: The point I was making is serious. As far as the police are concerned, there would be outrage if an Attorney-General, whoever it was, rang up a police prosecutor and said, 'You shall not institute this prosecution', and did it in that sort of way. The Attorney-General certainly has the general carriage of the administration and enforcement of the law in the State. He has some kind of general authority, but, as a matter of constitutional propriety, as far as the police are concerned, and as matters of practice and custom, the Attorney-General does not interfere with police decisions to prosecute.

When the matter gets to the Supreme Court an information must be laid. That is done in the name of the Attorney-General. At that time the Attorney-General does have certain authority and he may enter a *nolle-prosequi* and decide not to proceed at that time. It becomes very much a matter for the Attorney-General to decide. To date, as a matter of practice as far as the police are concerned, they have the independent discretion to decide whether or not to prosecute. In some other matters the Minister is given specific responsibility. In other cases taxation matters are determined by the Commissioner. He may consult with Crown Law officers or with the Attorney-General, but that is not a situation where the Minister need specifically be mentioned.

The Hon. K.T. GRIFFIN: Although the Attorney-General began by saying that it was not very common at all, he gradually gave us a very long list of proceedings in which the Attorney-General's approval for prosecution is necessary. He knows that the ordinary practice in those cases, expressly provided for in the Statutes, is that a complaint comes to the Attorney-General with a provision for his signature and with a request for him to authorise the proceedings. Unless the matter is of a trivial nature, approval is given automatically. I was seeking to establish why there was a difference. The Attorney has indicated that difference and that the procedure is consistent with other tax legislation. If that is the case, I am happy to accept his response: he did not have to embelish it with all sorts of extraneous matters totally irrelevant to the answer.

Clause passed.

Clauses 59 and 60 passed.

Clause 61—'Offences by bodies corporate'.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 32, lines 14 to 18—Leave out subclause (1) and insert new subclause as follows:

(1) Where a company is guilty of an offence against this Act, any responsible officer of the company who was knowingly a party to the commission of the offence shall also be guilty of an offence and liable to a penalty not exceeding the maximum prescribed for the principal offence.

My amendment puts back in the Bill an original provision contained in the legislation when it was before the House of Assembly. However, for some reason the Government changed the provision to a form which, I admit, is commonly used in general legislation in this State but which I think is too wide for this tax measure.

When the Bill was originally introduced into the House of Assembly this provision was identical to that which applies in Victoria, and probably to that which applies in New South Wales. While the original provision merely reinforced the general law about conspiracy and aiding and abetting companies to commit an offence, I believe that my amendment embodies an appropriate principle in respect of this sort of tax legislation. The amendment seeks to make an officer of a company which is guilty of an offence also liable to conviction for an offence where the officer is knowingly a party to the commission of the offence, that is, where the officer has knowledge or a guilty intention.

The provision in the Bill before us seeks merely to provide for a company officer to be liable where he has not exercised reasonable diligence. That may be due to negligence, but that is not culpable and ought not be the basis for issuing proceedings for a statutory offence against the Act where the company has been convicted of an offence.

The fact that an officer has not done something when perhaps he should have done so, or did not know about something when he should have, should not be sufficient basis upon which to impose quite substantial penalites for a breach of the legislation by a company. My amendment is much fairer in the context of the legislation and merely puts back into the Bill the original Government provision.

The Hon. C.J. SUMNER: I understand the sentiments of the Hon. Mr Griffin in this respect. He has put quite a respectable argument to the Committee on this occasion, but it is not one that I can accept. He has made an important point in regard to the liability that rests in officers of a company involved in some offence. The Hon. Mr Griffin's amendment would provide that no matter how appallingly negligent, careless or irresponsible a company director or responsible officer is about the payment of this duty, there would be no comeback for the authorities.

The Hon. K.T. Griffin: Why include it in the Bill in the first place?

The Hon. C.J. SUMNER: As I said, it is an important point. The honourable member has made a significant point. It is an argument that one could discuss for some considerable time. However, when it comes to company legislation the honourable member has admitted that the formula in the clause is quite common.

The Hon. K.T. Griffin: It is common but not universal.

The Hon. C.J. SUMNER: True; it is not universal. The honourable member has made the point, but I cannot agree to the amendment. The points raised by the honourable member could be the subject of a sane and rational debate. In recent times companies legislation has reflected an increasing trend toward what one might describe as stricter liability. For instance, section 229(2) of the Companies (South Australia) Code imposes an obligation on an officer of a corporation to exercise a reasonable degree of care and diligence in the exercise of his powers and in the discharge of his duty. That is an obligation on an officer of a company. A similar obligation is being imposed in this clause.

This clause provides that, if reasonable diligence is not exercised in this area, an officer of a company can be held responsible. That provision exists in many legislative areas today. Basically, it means that an officer of a company cannot be held to be completely careless or negligent about his responsibilities in this respect. If he is, he is caught. Under the amendment an officer could be grossly negligent in his responsibilities and still not be held responsible. For that reason I oppose the honourable member's amendment.

The Hon. K.T. GRIFFIN: The clause is not universal in South Australian legislation. It is common, but it is not common in States like Victoria whence the original provision was obtained. True, we could have a debate about the merits of the proposition: if an officer does not and need not have known what was going on, he cannot be prosecuted.

However, if he knows or was reckless, he ought to be liable. One has to remember that, under this clause, he is

liable for the same penalty as a company, which is a substantial fine. It may be that I am not going to win this one, but I will keep raising it in appropriate cases—

The Hon. C.J. Sumner: Did you raise it in the Companies Code in Ministerial Council.

The Hon. K.T. GRIFFIN: Yes, we did. That is why we split the old section 124: we wanted to impose tougher penalties for officers who were not acting honestly. We are saying that, in the Code, Directors ought to act diligently.

The Hon. C.J. Sumner: You will have a requirement for diligence?

The Hon. K.T. GRIFFIN: Sure. In respect of a breach of that Act, if a Director or other officer was not exercising reasonable diligence or did not act honestly, the provisions of the Code could be brought into effect. As I was saying before the Attorney-General interjected, if I do not win this case, I will keep trying. I will certainly give it further attention when we are in Government because, while it may be a common provision, it does not necessarily have to apply on all occasions.

The Committee divided on the suggested amendment:

Ayes (9)—The Hons. J.C. Burdett, M.B. Cameron, L.H. Davis, R.C.DeGaris, H.P.K. Dunn, K.T. Griffin (teller), Diana Laidlaw, R.I. Lucas, and R.J. Ritson.

Noes (10)—The Hons. Frank Blevins, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Pair—Aye—The Hon. C.M. Hill. No—The Hon. G.L. Bruce.

Majority of 1 for the Noes.

Suggested amendment thus negatived; clause passed.

Clauses 62 to 68 passed.

Clause 69—'Access to books, etc.'

The Hon. K.T. GRIFFIN: I have a number of questions in respect to this clause. First, are clauses 69 and 70 intended to over-ride those provisions in the Evidence Act which provide a mechanism with respect to bankers' books?

The Hon. FRANK BLEVINS: Can the honourable member explain the questions in more detail?

The Hon. K.T. GRIFFIN: I will relate to the Attorney-General the question with respect to clause 69 again. Clause 69 provides for access to premises and to books. That would appear to extend to books even in registered financial institutions which are banks. I wonder whether the Attorney-General can indicate whether it is intended that this provision should over-ride those parts of the Evidence Act which deal specifically with bankers' books.

The Hon. C.J. SUMNER: Specific legislation relating to a particular topic generally takes precedence over other general legislation. It would be my view that that applies to clauses 69 and 70. It may be that they go somewhat further than provisions in existing legislation, but they are provisions modelled on the Victorian legislation.

The Hon. K.T. GRIFFIN: Could the Attorney-General indicate the reasons for the differences between clauses 69 and 70? Clause 69 provides:

> . . . the Commissioner or an inspector may at any reasonable time—
>
> *(a)* enter premises;
>
> and
>
> *(b)* inspect and take extracts from, or make copies of, any books in the premises that appear relevant to the assessment of duty.

Clause 70 appears to cover the same ground but entry is only on the issue of a warrant by a justice of the peace. Of course, it is correct that clause 70 authorises the use of force, breaking open and searching of anything in the premises, but to a large extent it encompasses what is intended by clause 69. Is it intended that there be any difference between the two?.

The Hon. C.J. SUMNER: Action taken under clause 70 would be potentially more detrimental in terms of citizens' rights than action taken under clause 69, which involves access to books and documents. The other clause is broader and refers to entering premises, searching, breaking open, taking possession and delivering up and seizing of any books. So, it was felt that if the law enforcement authorities proceeded to that extent, some kind of warrant was required.

The Hon. K.T. GRIFFIN: I have no quarrel with the need for a warrant—I think it is necessary—but I am anxious to obtain clarification of the reason for the distinction. Certainly, I agree that where force is to be used to enter premises and seize material a warrant should be required. It seemed to me that clause 69 was something less than that but also covered the same ground as clause 70.

The Hon. R.I. LUCAS: What recourse does a company have if it genuinely believes that the information the Commissioner wants is not relevant for the purposes of the Act? I know that under clause 70 the Commissioner has to satisfy a justice of the peace on information on oath that there is reasonable ground. If he satisfies the justice of the peace, obtains entry and gets the information and the company wishes to argue that the Commissioner ought not to have that information because it is confidential and is not relevant to the administration of the Act, what rights does the company have? What does it do?

The Hon. C.J. SUMNER: There would be general prerogative writ proceedings available to anyone aggrieved by actions taken by an officer under either of these clauses. It would mean that the actions of the officer could be brought before the Supreme Court for determination.

The Hon. R.I. LUCAS: Who holds the confidential information while the company commences proceedings? Does the Commissioner retain possession of that information until the matter is decided by the Supreme Court?

The Hon. C.J. SUMNER: There are a number of options available to potentially aggrieved persons. People who feel that urgent action is needed by way of prerogative writ to force a public official to do something, or to prevent a public official from doing something, can get before the Supreme Court at very short notice. Then, if that person has a sufficient case, he can get an interim injunction. I suppose that interim injunction by the Supreme Court would involve the books being retained by the company itself or the Commissioner of Stamps, or being secured by the Supreme Court itself, pending the ultimate determination of the issue of whether or not the Commissioner rightly had access to the records. The Supreme Court as a court of record does have broad powers in these sorts of areas. I would have thought that the option open would be by way of seeking, first of all, an interim injunction, which can be granted on all sorts of conditions and then the matter would be determined subsequently.

The Hon. R.I. LUCAS: When the Commissioner obtains the information by way of warrant is he entitled or allowed to share that information with any other Government department or officer? Under clause 11, I think, the Commissioner may delegate to any officers of the Public Service any of his powers or functions under the Act, so the Commissioner could well have officers from any number of Government departments working for him. The Woods and Forests Department, for example, might be in competition with the company whose records have been seized. Is there any provision in this or any other clause prohibiting such information being shared (I suppose that is the best way of putting it) among other Government departments?

The Hon. C.J. SUMNER: Clause 12 covers the situation of secrecy but provides that certain information may be provided to certain officers. Those officers include an officer of the Commonwealth, or of a State or Territory of the

Commonwealth, employed in the administration of laws relating to taxation, and the Commissioner for Corporate Affairs. We dealt with clause 12 some time ago. That makes the situation clear that the Commissioner is to maintain the confidentiality of those records, but clause 12 is to give effect to the sorts of arrangements that have been agreed or are still in the process of being agreed, between authorities of the Commonwealth and the States to try to minimise the avoidance of taxation.

Clause passed.

Clauses 70 to 74 passed.

Clause 75—'Passing on duty.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 39, line 30—After 'Act' insert ', in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act,'.

Clause 75 does nothing. If it was not in the Bill, there is nothing else in the Bill that would prevent the passing on of the duty. In both New South Wales and Victoria there is a more extensive clause which says not only that nothing prevents the passing on of the duty but also that nothing in any contract, agreement or other instrument made before the commencement of the Act will prevent the passing on of the duty.

My amendments are all designed to bring clause 75 more into line with the New South Wales and Victorian provisions. The amendments have the effect of varying agreements made before the date of commencement of the Act. However, many of them are long-term agreements which certainly would not contemplate a financial institutions duty being a charge on the transaction. It is reasonable that those agreements should, to the extent that it is necessary to allow the passing on of duty, be so amended and the passing on allowed.

The Hon. C.J. SUMNER: The Government does not believe that this is necessary. The honourable member seems to want to interfere with contractual arrangements that have been entered into by organisations and institutions with their clients, and people with whom they deal. I should not have thought that that situation meant a clause such as this was unnecessary. It would fall to be determined by the agreement which the institution had entered into with its client. Clause 75 provides that nothing in the Act prevents a registered financial institution from passing on the duty to its client, and that is therefore sufficient.

The Hon. K.T. GRIFFIN: Quite obviously the Attorney-General has not bothered to read clause 75, which means nothing, because there is nothing in the Bill which prevents the passing on of duty. It does nothing.

The Hon. C.J. Sumner: Do you want to take it out?

The Hon. K.T. GRIFFIN: You can, because it is irrelevant. The Government has expressed generally the attitude that this duty can be passed on. In New South Wales and Victoria there is a more comprehensive provision which allows it to be passed on.

The Hon. C.J. Sumner: You say that it is unnecessary so why—

The Hon. K.T. GRIFFIN: Clause 75 as drafted does not do anything. It just says that 'nothing in this Act prevents the passing on'.

The Hon. J.C. Burdett: It doesn't give any power to pass on.

The Hon. K.T. GRIFFIN: That is correct. If one did not have clause 75, there would be nothing in the Bill to prevent the passing on anyway. To that extent clause 75 is merely something in the nature of a 'motherhood' statement which says, 'Well, we are just reinforcing that there is nothing to prevent you passing it on.' But, the fact is that there are contracts, agreements and instruments which were entered into before the commencement of the Act and in relation to which f.i.d. has never been contemplated.

While these agreements might be short-term agreements, there is no difficulty because they can be renegotiated or rolled over, and on the renegotiation or roll-over a specific agreement can be made that the duty can be passed on or will be passed on; otherwise they would not be renegotiated or rolled-over. But, for the long-term agreements, contracts and instruments, it may be that a lender, for example, is not able to pass back the duty to the borrower, although the transaction was originally for the benefit of the borrower.

I am merely saying that if we want the clause to mean something (and I believe that it should), we should go as far as New South Wales and Victoria have gone and, provide that it can be passed on. I will read to the Attorney-General the New South Wales provision, which states:

Nothing contained in any law or in any contract or agreement or any other instrument (including an instrument constituting a trust) made before 1 December 1982—

that is the date when it came into effect in New South Wales—

between a designated person or a short term dealer and any other person, prevents the designated person or short-term dealer, for the purpose of enabling the designated person or short term dealer to pay duty as duty on a receipts return in respect of dutiable receipts received by him pursuant to the contract, agreement or instrument or to pay duty as duty on a short term dealers return in respect of short term liabilities acquired or discharged by him pursuant to the contract, agreement or instrument—

(a) from having recourse to, without being liable to make a refund of, any money the subject of contract, agreement or instrument; or

(b) from charging to or recovering from any person an amount equivalent to the amount of duty payable—

(i) as duty on receipts return in respect of dutiable receipts received by the designated person pursuant to the contract, agreement or instrument; or

(ii) as duty on a short-term dealers return in respect of short-term liabilities acquired or discharged by the short term dealer pursuant to the contract, agreement or instrument,

or both, and, to such extent as may be necessary, the contract, agreement or instrument shall be deemed to empower the designated person or short term dealer to do either or both of the things referred to in paragraphs (a) and (b).

The designated person in that instance is different terminology from that used in our Bill. It means that contracts, agreements or instruments entered into before the date of operation of the New South Wales Act are not to preclude the passing on of duty. As I said, the duty was not in the contemplation of the parties when the contracts, agreements or instruments were made.

It does not apply to agreements made after the date of operation of the legislation because the parties are then aware of it and can negotiate their own agreement. In most, if not all, cases, there will be a negotiated arrangement that the duty can and will be passed on. I am suggesting to the Attorney-General that, if we do not amend clause 75, it does not achieve what I suspect the Government wanted to achieve in respect of the passing on of duty.

Therefore, I would urge him to reconsider his initial response to my amendment, because the amendment does give the clause some work to do, and gives it work to do which is similar to what is provided in New South Wales and Victoria, and enables the duty in fact to be passed on. It does not just provide in a negative context that nothing in the Bill prevents it from being carried on, but positively enables it to be passed on, and I believe that it is an essential ingredient of this legislation that that duty should be able to be passed on.

The Hon. C.J. SUMNER: I think that I have said what I have to say.

Suggested amendment carried.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Line 34—After 'Act' insert ', in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act,'.

After line 38—Insert new subclause as follows:

(3) Nothing in this Act, in any other law, or in any contract, agreement or other instrument (including an instrument constituting a trust) made before the commencement of this Act, prevents a person from recovering from any other person with whom he has dealings an amount equal to the amount of financial institutions duty that he may be liable to pay to a registered financial institution on account of the receipt by that financial institution of moneys relating to those dealings.

Suggested amendments carried; clause as amended passed.

Clause 76—'Reimbursement of duty to charitable organisations.'

The Hon. C.J. SUMNER: I oppose the clause, which establishes the rebate system for charities. That is now being dispensed with.

Clause negatived.

Clause 77—'Depositors with unregistered financial institutions.'

The Hon. K.T. GRIFFIN: My present intention is to oppose this clause. The Attorney-General did make some comment about it being necessary as an inducement for the Commonwealth Bank to deduct financial institutions duty. I believe that, if that is the case, it ought to expressly refer to the Commonwealth Bank; otherwise it can be used in respect of other institutions, and depositors particularly. I have a very real concern that it is a bludgeon against the citizen, designed to achieve a purpose which is really no business of the citizen.

Of course, it imposes impossible obligations on the depositor. It binds the depositor in certain circumstances to lodge a return within 21 days of a deposit being made. It requires the payment of financial institutions duty by the depositor, but before the return can be lodged (or even before the depositor recognises that he or she has an obligation to lodge a return), the depositor has to determine first that the financial institution is not a registered financial institution.

Secondly, the depositor has to determine, if it is a financial institution and not registered, that it has dutiable receipts for the preceding 12 months of $5 million, or $416 666 in dutiable receipts in the preceding month. The depositor will have to ascertain that those receipts are in fact dutiable receipts, and the depositor will not have access to the records of that institution to be able to determine that position, so it is a most Draconian measure against a depositor who will not have any information or access to information that will determine the obligation of that depositor.

If it is designed to deal with the Commonwealth Bank, then let it refer specifically to the Commonwealth Bank, so that the depositors of the Commonwealth Bank know that it is that institution, and people who are depositing money with other institutions do not have to worry about it. If it has a wider impact, then perhaps the Attorney-General could indicate what that impact may be.

The other disadvantage of the clause is that it may well result in a double duty, that is, duty paid by the institution upon the receipt and duty required to be paid by the depositor. The other aspect of the clause is that regulations may be made providing for the payment and recovery of duty payable under the section. Perhaps the Attorney-General can tell us what sort of regulations are envisaged under that provision of the clause.

The Hon. C.J. SUMNER: I guess one can say that a clause of that kind is not entirely satisfactory, but we have certain constitutional arrangements in this country which mean that there is difficulty in applying this legislation to Commonwealth instrumentalities. If this clause is not in the Bill it will tend to give the Commonwealth Bank an advantage. The Commonwealth Bank will not have to register and will not therefore be liable to pay the duty. Presumably, people will bank Commonwealth and leave the other private institutions lamenting. I am sure that is not the result the honourable member would wish to achieve.

I am advised that a clause similar to this has been inserted in the equivalent legislation in New South Wales and Victoria, and was inserted therein with at least tacit agreement of the Commonwealth Bank. Although not directly, because of the obligation that it places upon an institution which is not registered, it places an obligation on the individuals who deal with that institution to carry out certain matters in relation to the payment of the duty. That, in effect, forces the unregistered national institution to comply with the legislation.

The Hon. K.T. GRIFFIN: Will the Attorney-General answer the question in respect of regulations? What sort of regulations does he envisage? Does he envisage that the regulations will in fact prescribe the Commonwealth Bank, or are the regulations designed to do other things?

The Hon. C.J. SUMNER: No, that is not the intention in regard to prescribed organisations.

The Hon. K.T. GRIFFIN: I recognise that there is some constitutional difficulty with respect to the Commonwealth Bank, but I wonder whether that difficulty is compounded if the Commonwealth Bank is specifically named in the clause rather than leaving the matter in such general terms as to impose a serious burden on the public.

The Hon. C.J. SUMNER: The Commonwealth Bank will comply with the legislation as a result of the obligations that would be placed on its customers under clause 77 if it did not comply. The Bank already complies under certain other State legislation, despite the fact that it put to us that constitutionally it may well win. In view of the fact that that support is forthcoming, albeit by some tortuous means, and given the honourable member's intense interest in private banks and their competitive position in relation to the Commonwealth Bank, he should favour this provision.

The Hon. K.T. GRIFFIN: I am in favour of a great deal of competition between banks, but it does not appear to be the policy of the Federal Government that there be much wider competition. However, that is not the issue. I certainly do not want to do anything that will prejudice the position of private banks *vis-a-vis* the Commonwealth Bank, but I still believe that this clause is Draconian in regard to the public and that the Government should investigate other ways of obtaining the compliance of the Commonwealth Bank to the scheme of the Bill rather than bludgeoning the public.

Therefore, I propose to vote against the clause and, if the Commonwealth Bank has given at least tacit support to this measure, presumably it will comply as a matter of goodwill. In the meantime, the Government can investigate other mechanisms by which the Commonwealth Bank could be bound to comply. It may be that, through its friends in Canberra, the State Government could obtain an intergovernmental agreement that would put the whole question beyond any doubt. I hope that that avenue is explored rather than imposing this Draconian clause, if in fact it is passed.

The Hon. C.J. SUMNER: That manoeuvre is very risky. I ask the Committee not to accept the honourable member's proposition. There are constitutional difficulties, but the Commonwealth Bank is prepared to co-operate in the payment of the duty as a result of the effect that this clause would have on its customers. Unfortunately, in our constitutional system it is not always possible to obtain a perfect solution to some of these issues, particularly in regard to

State taxation legislation, *vis-a-vis* the Commonwealth instrumentalities. This device has worked interstate, and it is acceptable in South Australia. I strongly urge the Committee to retain the clause as it is.

The Hon. R.I. LUCAS: Is there any likelihood that any other institution, other than the Commonwealth Bank, could be caught up in joint clauses 77 and 61?

The Hon. C.J. SUMNER: At present it is not envisaged that any other institution would be involved.

The Hon. K.T. GRIFFIN: This raises the question of the Primary Industry Bank of Australia, the Australian Resources Development Bank, and other Commonwealth instrumentalities. Is it envisaged that these instrumentalities will come under this clause?

The Hon. C.J. SUMNER: It is not anticipated that they should be involved.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

That clause 77 be struck out.

Motion negatived.

Clause passed.

Clauses 78 and 79 passed.

Schedule.

The CHAIRMAN: I understand that the Hon. Mr Griffin no longer wishes to move his suggested amendments to clauses 1 to 3.

The Hon. K.T. GRIFFIN: That is correct, Mr Chairman.

The Hon. C.J. SUMNER: I move the following suggested amendment:

Clause 4, page 43—After 'non-bank financial institution' twice occurring insert in each case, 'charitable organisation'.

This is another amendment relating to charitable organisations. Given that they will be permitted to have exempt accounts, it is consistent to allow them to apply for interim exempt accounts under the Schedule. Clause 4 of the Schedule provides for interim special accounts; the suggested amendment inserts a reference to charities so that they can take advantage of the interim concessions.

Suggested amendment carried.

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Clause 7, pages 43 and 44—

Leave out 'interim trust fund account', wherever it occurs, and insert, in each case, 'interim special account'.

Leave out 'trust fund account', wherever it occurs, and insert, in each case, 'special account'.

This amendment is consequential upon the passing of new clause 34.

Suggested amendment carried; schedule as amended passed.

Title passed.

The Hon. K.L. MILNE: I move:

That the Bill be recommitted in respect to clauses 2, 5, 7 and the schedule.

In regard to clause 2, recommittal will enable me to move that the operation of the Bill commence from 1 January 1984. In regard to clause 5, it will enable me to move for deletion of subclause (4). In regard to general transfers, I hope to strike out clause 7 and insert a new clause.

The Hon. C.J. SUMNER: These matters have been canvassed and debated. The Hon. Mr Milne could have moved his amendments when the Bill first went into Committee. We have spent a considerable amount of time on the topic to say the least. It was determined that the starting date be 1 December this year. The other options were canvassed. The honourable member could have moved an amendment at the time which might have given effect to his intention, but he did not. I do not see why the Bill needs recommitting.

The Hon. M.B. CAMERON: The Hon. Mr Milne gave notice of his intention. The Attorney has received much co-operation tonight and should take a proper attitude to the amendments adequately forecast by the Hon. Mr Milne.

Motion carried; Bill recommitted.

Clause 2—'Commencement'—reconsidered.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 1, lines 14 and 15—Leave out 'first day of December 1983' and insert 'first day of January, 1984'.

I am looking at the situation from the point of view of the banks which will handle 85 per cent of f.i.d. They may welcome the four extra weeks. For smaller businesses, building societies and credit unions, another month, even though much of it will be holidays and there will be fewer than the normal 22 working days, the extra time is essential. Here is a chance to do something to help small businesses. The $22 million estimated in collections is probably low—perhaps not $10 million low as suggested by the Hon. Mr DeGaris but more than $2 million which the Premier has referred to. I ask the Committee not to ruin Christmas for the staff of financial institutions. I say this to the Government: England expects that every man will do his duty—$2 million of it—with a smile.

The Hon. K.T. GRIFFIN: The Opposition supports the compromise. The Hon. Mr Milne has come down the middle between 1 February, which the Opposition suggested and 1 December, which the Government suggested. Although 1 January is a holiday period, it still gives financial institutions and others a better opportunity to properly and carefully prepare for the collection of this new duty.

One other observation is that 1 January 1984 is auspicious because it is the beginning of that year which, for the last few decades, has been watched with great anxiety. Perhaps the introduction of the financial institutions duty on the first day of 1984 might at least be a signal to the citizens of South Australia that they ought not to let it get any worse.

The Hon. M.B. CAMERON: I support the Hon. Lance Milne's amendment and regret that he did not see his way clear to support our amendment for 1 February. However, it is a compromise and will give some opportunity for staff to prepare. I believe that this will be at least a small step forward. I am surprised that the Hon. Mr Milne is agreeing to forego $2 million of revenue.

The Hon. K.T. Griffin: It is only $1.1 million.

The Hon. M.B. CAMERON: Or whatever the amount is. He reprimanded me severely before for trying to interfere with the finances that will be raised by this measure but, I suppose, when things are different they are not the same.

The Hon. C.J. SUMNER: The Government opposes the amendment quite strongly. It is a fairly audacious attempt to interfere with a substantial revenue Bill introduced by the Government. While we have gone through a number of clauses and argued on them and their legal effect, comprehensive information was provided to honourable members. The matter is fundamental to the revenue aspects of the Bill that the Government introduced into the House of Assembly. It passed that House and came here as a Government revenue-raising measure. I would hope that the Council would see it in that light and let the Government take responsibility for it at the appropriate time. To interfere with it is not satisfactory and flies in the face of normally accepted conventions relating to the dealings with financial measures in this place. It is fundamental to the implications of this measure. The starting date of 1 December has been debated and passed. It can be achieved by the Finance Conference of Australia because that organisation is gaining from the abolition of stamp duty. The Conference can do it and the others cannot because they do not gain in that way. It is a most extraordinary attitude. If the Finance Conference can do it there should be no reason why other

institutions cannot do it, and the amendment usurps the Government's decision that 1 December should be the starting date.

The Hon. M.B. CAMERON: I do not wish to canvass the issue much further except to say that the word 'audacious' should be directed at the Government for expecting the financial institutions in this State to be prepared at the end of next week or early thereafter, for that is a drastic change when the Government itself should have had the measure introduced in Parliament quite some time ago. The reason we are having to consider this matter of an extension at all is purely the Government's own slack behaviour in not introducing this Bill at an earlier stage.

The Committee divided on the suggested amendment:

Ayes (12)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne (teller), and R.J. Ritson.

Noes (9)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Majority of 3 for the Ayes.

Suggested amendment thus carried; clause as amended passed.

Clause 5—'Receipts to which this Act applies'—reconsidered.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 6, lines 20 to 30 (inclusive)—Leave out subclause (4).

Throughout the debate most of us have been concerned that there was no alleviation of double duty or treble duty which I think existed in a number of cases, quite intentionally. Owing to a misunderstanding of a message I received from a State manager of one of the banks, I voted with the Government to retain clause 5, subclause (4), which deals with transfers from one account to another within the same institution, involving accounts owned by the same person.

The effect of retaining this subclause means that transfers will be dutiable so that when one puts ones money into a bank one pays duty and, if one transfers that money from one account to another, one again pays duty. That seemed to me not what was intended and not desirable. For that reason, I move this amendment, which takes us back to the original definition of 'receipt' and gives us an opportunity to move to insert another provision to ensure that transfers can be made without paying double duty.

The Hon. K.T. GRIFFIN: The Opposition supports the amendment. It reflects an amendment which I moved earlier, but which was not carried at the time, relating to the crediting of accounts. The definition of 'receipt' under clause 3 includes the crediting of an account. That is covered by subclause (3) of clause 5. So, the concept of crediting an account being a receipt is not interfered with. What is interfered with is the concept of a person's account with an institution being credited with an amount from an account of the same person with the same institution, or with an institution in the same group (and 'group' in this context relates to a bank so that it deals only with a savings bank and a trading bank within the same group). As the Hon. Mr Milne has indicated, transfers between accounts of the same person with the same institution will not be subject to financial institutions duty, and that does avoid an undesirable double-dipping aspect.

It should be made clear that, if there is one account in the name of one person and another account in the name of that person and another person (that is a joint account), a transfer between those accounts will not be exempt from financial institutions duty. It is only transfers between accounts in the name of the same person that are relieved from double duty. There was some suggestion that at least one of the major banks believed it was not possible to do this, yet all the advice and information which I have received is that a fairly simple and inexpensive change to the computer programme of financial institutions will enable transfers between accounts of the same person to be quickly identified as receipts which will not attract financial institutions duty.

As the Hon. Lance Milne indicated, there is a subsequent, and to large extent consequential, amendment to clause 7 which must pass if this amendment to clause 5 is accepted by the Council.

The Hon. C.J. SUMNER: The Government opposes this amendment in the strongest possible terms. The honourable member, having voted with the Government on this point earlier today, has apparently shifted his position. After obtaining some fairly garbled information about this matter, the honourable member has decided to completely reverse the decision he took earlier—he has done a complete about face. While he certainly flagged his point of view about the starting date for the legislation and decided to recommit the clause of the Bill on that particular point, I do not think that it ought to be recommitted on that point, because the decision has already been taken and the matter fully debated. I thought that there was some merit in recommittal of that particular matter. However, for the Committee to recommit and for the honourable member then to change his point of view 180 degrees on a matter that has been fully debated means that there would never be an end to the debate on any legislation in this Parliament.

The Hon. L.H. Davis: That is ridiculous. He was concerned with the practical aspects.

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: I do not know where the honourable member got his information, but the Government got its information from the Australian Bankers' Association, the official representative of all the banks in South Australia. It has made the strongest possible representations to the Government about this matter of transfers from one account to another. They simply said that, in order for the legislation to be practically effective, as far as they are concerned there ought to be no exemptions within non-exempt accounts. On an exempt account, the duty is not payable. They can be established and easily identified, according to the Australian Bankers' Association. It is much more difficult to determine on transactions between the other non-exempt accounts. According to the banks, it is impractical to have exemptions applying as between those accounts.

That was the argument put to and accepted by this Council some hours ago. That was the firm proposition put by the Australaian Bankers' Association—not some mate of the Hon. Mr Milne's whom he has rung to get a view from. Did the Hon. Mr Milne speak to that Association? Did he ring the President? Did he speak to the Association Secretary, or did he ring somebody he knows in the banking institution?

The Hon. M.B. Cameron: Will you stop filibustering?

The Hon. C.J. SUMNER: I am not filibustering. I do not know, but I am concerned that he has apparently taken this view without taking into account the official view of the Australian Bankers' Association. If we want to make the legislation unworkable this is the way to do it. There is another reason why I suspect that on this point the Hon. Mr Milne should think again: that is, that a matter of equity, justice and fairness is involved. If someone, for instance, transfers funds from one account to another—

The Hon. I. GILFILLAN: I rise on a point of order, Mr Chairman. I suggest that the Leader speak through the Chair.

The CHAIRMAN: Thank you for the suggestion. The honourable Attorney-General.

The Hon. C.J. SUMNER: I am speaking through the Chair. The fact is, Mr Chairman, that a matter of equity and a matter of fairness are involved if within one bank a person transfers money from one account to another (the second account being a mortgage account because the person involved is paying off a loan) and, under the Hon. Mr Milne's proposition, this duty will not be payable.

However, if that person has to take the money out of his bank account and pay off a mortgage in some other institution, the duty is payable. What is the fairness in that situation? So, there are three points. First, the matter was fully debated and now the Hon. Mr Milne is deciding to have a complete about-face on the issue. Secondly, he is doing that on the basis of some discussions that he has had, but not discussions with the Australian Bankers Association, which has put its point of view to the Government. Thirdly, there is no real sense or equity in the proposition being put forward by the honourable member.

The Hon. K.L. MILNE: I have not changed my point of view. I have always had the point of view that it was unfair that transfers were not allowed without incurring duty. I was misinformed as to what the banks were capable of doing, and I have since been informed by a computer expert in the credit union area—

The Hon. C.J. Sumner: Been in touch with the Australian Bankers Association? Did you speak to Graham Lockwood? Who did you speak to?

The CHAIRMAN: Order!

The Hon. C.J. Sumner: Who did you speak to, Lockwood, the former Liberal—

The CHAIRMAN: Order!

The Hon. K.L. MILNE: —and I am informed that the credit unions can do it. If the banks cannot find a way to do it, because I am informed that they cannot—

The Hon. C.J. Sumner: Who told you that?

The Hon. K.L. MILNE: The Australian Bankers Association has never approached us at any time during this debate. In fact, I do not think they were here. I did not change my point of view: I am now putting it into practice.

The Hon. K.T. GRIFFIN: I can distinctly remember the Hon. Lance Milne saying during the debate that he supported what we were trying to do but that he had some difficulty with the practical implementation of it. I do not see that he has changed his mind on the principle; it is just a matter of how it can be put into practice. I said during the debate that it is a very great pity that the work of the Parliament should be prejudiced by what can or cannot be done on a computer.

The advice obtained from computer experts is that it can be done relatively inexpensively by merely encoding each transfer between bank accounts, with no cost to anyone. I do not know why the Australian Bankers Association says that it could not be done. It may be that it is because it wants to maintain some consistency with New South Wales and Victoria, because they operate on a national basis.

However, credit unions and building societies operate only in South Australia; they are not permitted by the legislation to operate outside the State. It may be that some building societies and credit unions do not have such a massive turnover, but they certainly have a significant turnover. A lot of them have had to computerise their operations so that they can cope with this duty at considerable cost and inconvenience to their members.

So, once again I express my support for the amendment. It can be done by building societies and credit unions, and I believe also by banks, inexpensively and relatively easily.

The Hon. C.J. SUMNER: It is disappointing that the Hon. Mr Milne made this decision after consulting a computer expert in the credit union—

An honourable member: No.

The Hon. C.J. SUMNER: That is what he said—a computer expert in the credit union, without any consultation with the banks. He has not been to the State Bank of South Australia or the Savings Bank of South Australia, which have strongly supported the position that is contained in the clause at the moment, as have all banks—the Australian Bankers Association. Will the Hon. Mr Milne say who the computer expert was?

The Hon. C.M. Hill: He doesn't have to say who it was and you know it. Don't be so silly.

The Hon. C.J. SUMNER: He may not, but he has based his decision on a discussion with an apparent computer expert in the credit union field: that is what he said. Let him tell the Committee who that person is.

Members interjecting:

The CHAIRMAN: Order!

The Hon. C.J. SUMNER: I have reams and reams of advice from the banks. The Hon. Mr Milne apparently has decided to change his mind on the say-so of someone from a credit union. He has not consulted the State Bank, the Savings Bank of South Australia, or the Australian Bankers Association.

The Hon. K.L. Milne: That is right. There is no need to.

The Hon. C.J. SUMNER: Well, the honourable member has taken the word of a unknown person from a credit union.

The Committee divided on the suggested amendment:

Ayes (12)—The Hons. J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, I. Gilfillan, K.T. Griffin, C.M. Hill, Diana Laidlaw, R.I. Lucas, K.L. Milne (teller), and R.J. Ritson.

Noes (9)—The Hons. Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, Anne Levy, C.J. Sumner (teller), and Barbara Wiese.

Majority of 3 for the Ayes.

Suggested amendment thus carried; clause as amended passed.

Clause 7—'Definition of dutiable and non-dutiable receipts'—reconsidered.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 9, after line 39—Insert new paragraph (nc) as follows:

"(nc) a receipt of money by a financial institution that occurs by reason of an amount being credited to an account of a particular person where there is a corresponding debit to another account of the same person, being an account—

(i) kept by the same financial institution; or

(ii) kept by a financial institution that is a member of a group of which the firstmentioned financial institution is also a member, both financial institutions being banks;".

This clause does what I think is the equitable thing in the case of transfers, which have been discussed at length. I do not propose to go into it again. I believe that it is putting the transfer situation certainly into the position which would suit the majority of people, particularly the small investor.

Suggested amendment carried; clause as amended passed.

Schedule—reconsidered.

The Hon. K.L. MILNE: I move the following suggested amendments:

Pages 41 and 42—Leave out clauses 1 to 3 (inclusive) of the schedule and insert new clause as follows:

1. (1) Where a person is unable reasonably to comply with the provisions of this Act requiring him to furnish to the Commissioner a return relating to the month of January, 1984, the person may, not later than the twenty-first day of February, 1984, make application to the Commissioner for an extension under this section.

(2) An application by a person under subsection (1) shall state the basis upon which the person proposes to estimates the amount of duty it proposes to pay under this Act in relation to the month of January, 1984.

(3) The Commissioner may, in his discretion, grant the extension to which the application relates.

(4) Where—

(a) a person to whom an extension has been granted pays before the twenty-first day of February, 1984, the estimated amount of duty specified in his application in relation to the month of January, 1984;

(b) furnishes not later than the twenty-first day of March, 1984, a return in accordance with this Act in respect of the month of January, 1984;

and

(c) pays to the Commissioner the amount (if any) by which the duty payable in accordance with the return so furnished exceeds the amount of estimated duty paid by the person under this section,

the person shall be deemed to have complied with the provisions of this Act relating to returns for the month of January, 1984.

(5) Where the amount by which the duty payable in accordance with returns furnished by a person in accordance with subsection (4) is less than the amount of estimated duty paid by the person under this section, the Commissioner shall refund the amount by which the estimated duty exceeds the duty payable.

(6) The Commissioner may, in his discretion, grant a further extension to a person who, having made an application under this section relating to the month of January, 1984, makes further application relating to the month of February, 1984.

(7) An extension granted under subsection (6) shall be upon such terms and conditions as the Commissioner may determine.

Since clause 2 has been amended, the date has been amended, so that amendments are necessary to the schedule. These relate predominantly to the date, all being amendments altering '1 February' to '1 January'. I have moved them in toto.

Suggested amendments carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 4, page 43—Leave out "twenty-fifth January, 1984" and insert "twenty-first day of February, 1984".

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 4, page 43—Leave out "1 December 1983" and insert "the first day of January, 1984".

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 5, page 43—Leave out "twenty-fifth day of January, 1984" and insert "twenty-first day of February, 1984".

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 5, page 43—Leave out "first December, 1983" and insert "first day of January, 1984".

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 6, page 43—Leave out 'twenty-fifth day of January, 1984' and insert 'twenty-first day of February, 1984'.

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 6, page 43—Leave out 'December, 1983' and insert 'January, 1984'.

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 7, pages 43 and 44—Leave out 'twenty-fifth January, 1984' and insert 'twenty-first day of February, 1984'.

Suggested amendment carried.

The Hon. K.L. MILNE: I move the following suggested amendment:

Clause 7, pages 43 and 44—Leave out 'December, 1983' and insert 'January, 1984'.

Suggested amendment carried; schedule as amended passed.

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a third time.

The Hon. M.B. CAMERON (Leader of the Opposition): We have reached the stage where I think that some comments are necessary about what has occurred and the end result of our deliberations during the Committee stages. Without doubt, there will be great disappointment that South Australia has been placed in a position of disadvantage in relation to other States. I refer to an advertisement appearing in the *Financial Review* of 15 November promoting Tasmania, headed 'Take a Good Look at Tasmania,' as follows:

Tasmania has the lowest level of State taxation in Australia. There is no financial institutions duty, no loan duty, no death duties and the lowest level of pay-roll tax.

The advertisement appears on page after page. Just imagine after tonight, if this Bill finally passes, what South Australia will be able to put in a similar advertisement: 'South Australia has the highest financial institutions duty in Australia.' We will not be able to boast in that regard. In fact, other States will be able to point out that we have a disadvantage, and there is no doubt that they will use that.

We now have a new tax proposal passing through this Council in an amended form. The amendments improve the legislation slightly, but they do not improve the basic problem, that is, South Australia's economic disadvantage in relation to the other States. This measure is the first new tax for 10 years. It was introduced by a Government that promised, as we all know and will keep repeating, no new taxation, but worse than that, no new taxation without an inquiry into our tax system.

The Government has completely thrown out the promises that it made at the last election on the flimsiest excuse of 'We had a deficit and we had to do it'. The Attorney-General has said that time and time again, but he was completely aware of the State's financial position before the Labor Government took office. The Attorney detailed the financial position in this Council: he went through it bit by bit, so he knew the position. Even though the Attorney was aware of the situation, he made a promise that was absolutely false. I notice that the Attorney was using information recently provided by the Australian Bankers Association. He referred to it as being the ultimate and something to which the Hon. Mr Milne should refer.

The Association has stated that, when stamp duty on cheques is added, a personal customer in South Australia will pay over four times the amount of State duty now paid by a person with a similar account in Victoria and New South Wales. Perhaps we could add to any advertisement promoting this State, 'You can come to South Australia, but it will cost you four times as much in f.i.d. or State duty to operate a personal cheque account.' South Australia not only has the highest f.i.d. but also—

The Hon. L.H. Davis: What a wonderful message!

The Hon. M.B. CAMERON: Yes. We would have to be simple to believe that other States will not use this situation as an incentive to drag people away from this State or to stop small companies from coming here. The total State financial duty will be twice that for a company with similar financial transactions in Victoria. Perhaps we could add that information to the advertisement. What a great incentive that would be! This tax has been introduced by the most deceptive Party ever to stand for office in this State. The A.L.P. went to the people hiding behind documents of deceit, one after the other. Every document that the Labor Party put out before the last election was a document of deceit.

The Government's excuse has been taken up to some extent by the Hon. Mr Milne—it is just an excuse. There is no justification for the Government's deception with the knowledge that it had (and members opposite said that they were the best informed Opposition in Australia). It would have been better for members opposite to tell the truth.

They have put it over the people of this State and the people will wake up tomorrow morning and say, 'How can we ever believe a political Party again?' Unfortunately, this sort of thing washes off and, unfortunately, Parties that are honest at election time get the same treatment from the public.

The Hon. R.I. Lucas: That is the Liberal Party, is it?

The Hon. M.B. CAMERON: People will look on us with cynicism. However much we strive to show that we are members of the most honest Party in South Australia, people will look at our Party cynically. This is a cynical exercise: it is cynical for the Government to bring in a measure that it promised it would not bring in, more particularly when it promised that it would not do such a thing without an inquiry. This is a sad day for South Australians, but it was an even sadder day when they elected this Government. It is a sad day because we have seen the passage of this Bill, even though it is slightly improved; it is a sad day because the amendment that would have ensured parity with other States was not agreed to, creating widespread disincentive.

This is the very thing that the Hon. Mr Milne has talked about so often. He can never again expect us to believe that he was dinkum about that. However, that is a matter for the conscience of the honourable member's own Party. It is not fair to direct everything at the Hon. Mr Milne because, obviously, it was a Party decision.

The Opposition does not intend to oppose the third reading. We have achieved some small improvement, and we have reviewed the legislation carefully. The Attorney almost got to the point of accusing the Opposition of filibustering, but let me assure him that that was not the case. We extended discussion in relation to a very important part of the Bill: that was only right, because the provision was vital and involved disincentives to people who might come to this State.

Most surprisingly, we reviewed this legislation at the request of the Premier. I must say that gave me great heart in regard to the future of this establishment in the hands of the Labor Party, although I would still not finally trust that Party with the future of this Council. Obviously, it is seeing more and more the value of this Council when it gets to the stage of asking us to amend its legislation—when it almost pleaded with us to amend it. The Premier sent the Bill here to be worked on and we accepted the challenge. Unfortunately, I do not believe we achieved all that we should have. The Bill needed a lot of improvement. It certainly needed improvements in regard to bringing South Australia back into competition with other States.

The Hon. R.C. DeGARIS: Although a number of amendments have been moved and passed during the Committee stages, I am very concerned that the Bill has gone through the Committee stages to the third reading still containing a provision for a duty at a higher rate than that levied in New South Wales and Victoria. During the passage of this Bill I have tried to be fair to the Government: I have supported the idea of a financial institutions tax as a broad-based tax. I have pointed out that it is not entirely the Governments's fault that taxation has risen in South Australia. Perhaps I have been more than fair to the Government.

I object strongly to the level of the duty to be imposed and I intend to express that objection at the third reading stage. I still believe that the figure of $22 million is conservative. If the Bill begins operating on 1 January, the return to the State Treasury will be at least $25 million in one year's operation, and will probably reach $30 million in the first year of operation. Members will see whether I am right or not in the estimation by referring to the figures at the end of June: if the total has reached $11 million to $12.5 million by that stage, that will prove that my estimated figures are right, and I think that honourable members will find that they will be. While I do not wish to criticise the Australian Democrats, I strongly object that the end result of the passage of this Bill and the amendments proposed to be made to it depend only on how the two Democrats vote; nothing else.

The Hon. K.L. Milne: Nonsense.

The Hon. R.C. DeGARIS: What I have said is quite true. A tax rate of 0.04 per cent will apply due to the vote of the Democrats. That situation would have been changed in this Council had the position been somewhat different. As I have said, I do not criticise the Democrats at all, but I stress that the amendments to the Bill made in this place do not do this State justice. Amendments made in this place should do South Australia justice. The only way that I can express my view on this is to call against the Bill at the third reading and I intend to do so.

Bill read a third time and passed.

SOUTH AUSTRALIAN ETHNIC AFFAIRS COMMISSION ACT AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the South Australian Ethnic Affairs Commission Act, 1980. Read a first time.

The Hon. C. J. SUMNER: I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill proposes amendment to the South Australian Ethnic Affairs Commission Act arising from the recommendations of the review of the Commission, which reported in September 1983, and from this Government's ethnic affairs policy presented at the last State election. In reporting on the structure, functions and powers of the Ethnic Affairs Commission the review recommended an expansion in the Commission's statutory objects and functions to emphasise the Commission's role in the promotion of the rights of the members of ethnic groups in the social, economic and cultural life of the community.

The Bill seeks to strengthen the Commission's role in influencing Government agencies in the appropriate design and delivery of services which serve the needs of all ethnic groups. This includes the need to consult with both the public authorities responsible for the services and the ethnic groups which are the recipients of those services. In accordance with the Labor Party's undertaking before the election last year, the Bill contains an obligation for each Government department to develop an ethnic affairs policy. The review's proposal that the Commission's existing powers to request information from Government agencies be strengthend, is reflected in a more specific statutory obligation upon public authorities to provide information requested by the Commission within a period stipulated in the request. The review found widespread dissatisfaction concerning the composition of the Commission. While acknowledging that the Minister must retain the responsibility for recommending final nominations to the Commission, the review argued for greater public involvement in determining a field of prospective nominees and for an expansion in the size of the Commission to increase the breadth of experience and enable a greater cross section of member to be nominated. The Bill proposes amendments to provide that the membership of the Com-

mission be expanded, that it should reflect a diversity of ethnic and occupational backgrounds and that likewise, the various ethnic groups are as far as practicable represented on the Commission's advisory committees.

Provision is made to enable the appointment of a full-time Deputy Chairman to complement the Chairman's role in the internal management of the Commission. Although the present Act allows for a Deputy Chairman who may be from the Commission's staff, formal provision is only made for such a person to attend Commission meetings when deputising in the Chairman's absence. (In accordance with express Government policy on ethnic affairs, in particular, the Government's policy generally, the Bill provides for a nominee of the Trades and Labour Council, a representative of the staff of the Commission and for two members of the Commission to be women.)

Clause 1 is formal. Clause 2 provides for the insertion of new definitions of 'Government department' and 'public authority'. Clause 3 repeals sections 6 and 7 and substitutes new sections. New section 6 provides that the Commission is to consist of the Chairman, the Deputy Chairman and up to nine other members. The Chairman and Deputy are to be appointed for a term of up to five years and the other members for the term of up to three years. The Deputy Chairman may be appointed from amongst the officers of the Commission. New section 7 provides for payment of allowances and expenses to the members of the Commission and for payment of a salary to the Chairman.

Clause 4 amends section 9 of the principal Act. The amendment is consequential upon the repeal and substitution of sections 6 and 7. The amendments provide that, where the Deputy Chairman is an officer of the Commission, he shall be entitled to vote at a meeting of the Commission only in the absence of the Chairman. Clause 5 amends section 12 of the principal Act. The amendment emphasises the Commission's role in fostering recognition of the rights of ethnic communities to full participation in the social, economic and cultural life of the community. Clause 6 inserts new paragraphs in section 13 of the principal Act, which sets out the functions of the Commission. New paragraph (b) describes the Commission's role in the formulation and development of policies by public authorities and in monitoring those policies. New paragraph (ba) provides that the Commission should act to ensure that services provided by public authorities are properly adapted to the needs of ethnic communities. New paragraph (bb) provides that the Commission is to keep the various ethnic communities properly informed of its work and is to consult with them in relation to the development and implementation of policy.

Clause 7 amends section 15 to ensure, as far as practicable, that the various ethnic groups are fairly represented on the advisory committees established under the Act. Clause 8 repeals and re-enacts section 22. The present provision is made rather more specific in relation to the provision of information by public authorities. In addition, Government departments are required to formulate and to review as necessary polices governing their relationships with the various ethnic groups in the community and the members of those groups.

The Hon. C.M. HILL secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

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

The Hon. J.R. CORNWALL (Minister of Health): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

This Bill sets out to remove an anomaly which has existed for some time, whereby persons employed as officers in the local government service have not been afforded the same protection against harsh, unjust, or unreasonable dismissal as is afforded employees generally in the State by virtue of the operation of section 15(1)*(e)* of the Industrial Conciliation and Arbitration Act. This anomaly has been brought about by the fact that the Local Government Act contains specific provisions in Parts IXA and IXAA for inquiries into the dismissal of officers. The continued existence of these Parts has done little to promote industrial harmony in the local government sphere, a fact which has been recognised by both the employers, represented by the Local Government Association of South Australia and the officers, represented by the Municipal Officers Association of Australia.

Both of these organisations agree that the Local Government Act is not the proper place for industrial legislation and have indicated their support for this Bill to repeal Parts IXA and IXAA and to make other minor amendments consequential upon their removal in the belief that section 15(1)*(e)* of the Industrial Conciliation and Arbitration Act is the proper section for dealing with inquiries into the dismissal of local government officers.

Clause 1 sets out the short titles. Clause 2 amends section 3 of the principal Act by striking out headings that are rendered superfluous by reason of this measure. Clause 3 relates to section 157 of the principal Act. In conjunction with the proposed repeal of Parts IXA and IXAA of the Act, it is appropriate that section 157 be amended to clarify the powers of councils to suspend or remove officers. These amendments are three-fold. First, it is proposed to strike out the word 'remove' and substitute the word 'dismiss'. This conforms with common terminology. Secondly, section 157(1)*(e)* states a truism and may be removed. Thirdly, it is considered appropriate to take the opportunity to prescribe that suspension may not affect an officer's right to remuneration in respect of a period of suspension. Clause 4 provides for the repeal of Parts IXA and IXAA. It is proposed that further actions that might have been initiated under these provisions now be dealt with under the Industrial Conciliation and Arbitration Act, 1972.

The Hon. C.M. HILL secured the adjournment of the debate.

WRONGS ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

SAVINGS BANK OF SOUTH AUSTRALIA ACT AMENDMENT BILL

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

The Hon C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the detailed explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

It amends the principal Act, the Savings Bank of South Australia Act, be removing from Section 31 the restrictions imposed by that section upon the power of the bank to grant unsecured loans or secured loans where the amount of the loan exceeds the value of the security. At present, the section provides that the amount of an unsecured loan must not exceed the prescribed maximum and, in the case of a secured loan, any amount by which the amount of the loan exceeds the value of the security must not be greater than the prescribed maximum.

The prescribed maximum is $15 000 and the bank has found that it places severe limitations upon the services provided by the bank to business enterprises. Sub-section (4) of the principal Act provides that the prescribed sum may be varied by the trustees of the bank with the consent of the Treasurer and the trustees have requested that the prescribed maximum be increased by a significant amount.

The trustees consider that growth in the commercial area of the bank's business will be severely inhibited until the present restriction in the Act is eased, as a number of reputable business enterprises in the State arrange some of their banking and merchant bank facilities on an unsecured basis. The Government believes that any major changes in the bank's business operations should be considered in the context of the present discussions about a possible amalgamation with the State Bank of South Australia. Accordingly, the matter was referred to the Merger Advisory Group which includes repressentatives of each of the two banks and of the Government. The Merger Advisory Group and the boards of both banks consider that it is desirable that the Savings Bank should not be unduly inhibited in its capacity to develop general and corporate banking business before any merger takes place. They are in favour of easing the present restrictions in the Act. Accordingly, the Government is sympathetic to the request of the Savings Bank to raise the prescribed maximum. However, in view of the very large increase in the prescribed maximum which had been requested, the Government believed it appropriate that the matter should be brought before Parliament in the form of a proposed amendment to the Act rather than simply going through the process of consenting to a variation by the trustees.

Further, the Government believes that, rather than increasing the prescribed maximum to a specific figure, it would be preferable for the restriction to be removed altogether and to give the Savings Bank wider power to conduct general banking business. This would allow the Act to reflect more closely the corresponding provisions of the State Bank Act. The trustees do not propose that a major portion of the bank's lending will be provided on an unsecured basis but they believe that there will be occasions when it will be to the bank's advantage to provide unsecured advances to companies which are clearly in an impeccable financial position. It is proposed that, in conducting business, the attitude of the Savings Bank will be similar to that of the State Bank so that the degree of risk can be kept within reasonable limits having regard to the kind of business engaged in.

Clause 1 is formal. Clause 2 amends section 31 of the principal Act by striking out subsections (3) and (4).

The Hon M.B. CAMERON secured the adjournement of the debate.

STATUTES AMENDMENT (FLOOD MANAGEMENT) BILL

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

PRICES ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

BILLS OF SALE ACT AMENDMENT BILL

Returned from the House of Assembly without amendment.

[Sitting suspended from 12.49 to 4.1 a.m.]

STATUTES AMENDMENT (FLOOD MANAGEMENT) BILL

Second reading.

The Hon. FRANK BLEVINS (Minister of Agriculture): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation of the Bill inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

Very substantial areas of the towns and cities of South Australia are subject to some risk of flooding. For some areas the chance of significant inundation is quite remote and the level of risk to life and property is acceptable. In addition, the area within the Torrens River valley in the eastern suburbs and those within the low lying flood plain of that river which hitherto were subject to unacceptable risks of flooding will be, after completion of the River Torrens Flood Mitigation Scheme, protected from the effects of all floods up to a flood of one in 200 years magnitude, an acceptable level of protection for residential areas.

However, in spite of this scheme and the progress with a number of others under the Stormwater Drainage Subsidy Scheme, there remain areas which are subject to unacceptable levels of risk to life and property. Parts of the urban area through which First, Third and Fourth Creeks run are examples. Prior to the floods of June 1981, there was only a limited appreciation of the significant flood risks in this area. The responsible councils are now endeavouring to evaluate the problem, but this work is hampered by the lack of reliable information.

This and a number of other experiences over the last few years have shown that a number of urban areas are subject to unacceptable levels of flood risk, but there is only a general indication of the magnitude of the risks to life and property. There are other areas about which nothing is known at all.

A reliable estimate of the average annual costs of flood damage, in dollar terms, cannot be made, therefore. According to one estimate, however, potential average damages for South Australian urban areas, after completion of the Torrens River scheme, may well still exceed $5 million per annum.

South Australia appears to be unique among the Australian States in not having systematic arrangements for the identification of flood risks. Unless this is remedied it is likely that unacceptable risks and costs will continue to be borne by the community in perpetuity. In fact the risks and costs are likely to increase because, without knowledge of the level of flood risks, there is nothing on which to base development controls to prevent inappropriate new development in high risk areas.

There have been attempts in the past to come to grips with this situation. The major floods which occurred prior to 1940 caused considerable damage in spite of the fact that development in the flooded areas was very much less than now. These floods stimulated *ad hoc* attempts to cope with the problems and their causes, but it was not until 1964 that an attempt was made to deal with the metropolitan problem as a whole. In July of that year, the then Premier convened a meeting of metropolitan council representatives to discuss the need for concerted action by the Government and councils. Following a series of discussions, draft legislation was prepared in 1966 for the establishment of a Metropolitan Floodwaters Control Board with wide-ranging powers over council drainage schemes. The proposed legislation, however, met with considerable opposition from councils. Subsequently, the Highways Department undertook a preliminary survey on behalf of the Government on the main drainage needs and costs within the metropolitan area. Following the survey, the Government decided that the responsibility for the preparation and implementation of drainage schemes should be with councils, either individually or, where necessary, as joint authorities.

In 1967, the Government introduced the Stormwater Drainage Subsidy Scheme. Under this scheme, in its present form, drainage works receive a 50 per cent State subsidy provided certain requirements are met. The majority of main drainage works are now constructed under this scheme.

A re-awakening in the appreciation of the magnitude of the urban flooding problem occurred as a result of investigations in respect of the Torrens River initiated by the Government in 1974. As a result, work is now proceeding on the approved River Torrens Flood Mitigation Scheme, but this scheme is designed to alleviate flooding problems on the floodplain of that river only. It will not therefore deal with other urban flood risks such as parts of the tributary creeks to the Torrens River or the numerous other flood risk areas, known and unknown, in the metropolitan area and other country towns.

Following incidences of flooding in developed areas of the Mount Lofty Ranges and in metropolitan Adelaide and representations from affected local government bodies and the Local Government Association, a Joint State and Local Government Committee was established with terms of reference to:

- Consider the adequacy or otherwise of legislation and related policies for the management of floods affecting or likely to affect urban areas of the State, and for the minimisation of risks to life and property due to flooding.
- Report, with recommendations, to the Ministers of Local Government, Transport, Environment and Planning, and Water Resources by the end of January 1982.

In undertaking its task, the Committee had the considerable advantage of having available to its expertise and experience from the State and local government. This expertise and experience was available by virtue of its membership being drawn from all areas of government with a concern for flood management, from two councils which have been faced with a wide range of flooding problems and from the Local Government Association of South Australia. This gave the committee a unique perspective not duplicated in previous attempts to come to terms with the urban flooding problem.

It came to the conclusion that there are gaps in policies and functions and deficiencies in legislation which, if remedied, would lead to improved protection of the community. The committee further concluded that the flood risks faced by the community are sufficiently severe to warrant the implementation of appropriate remedies as a high priority task.

This Bill gives effect to those recommendations of the joint committee which sought appropriate legislation:

- To provide local government bodies with powers to discharge effectively their responsibilities for the management and mitigation of floods, for floodplain and general watercourse management and for the provision and maintenance of drainage works.
- To accord the Minister of Water Resources powers to prepare and issue flow forecasts and flood predictions and to provide appropriate indemnification of the Minister.

The Government initially considered that these powers and responsibilities should all be included within the Water Resources Act, and introduced a Bill to achieve this end in May 1983.

After carefully considering subsequent submissions from the Local Government Association, the Government accepted the arguments of the Association in favour of proposed council powers and responsibilities being incorporated in the Local Government Act.

This Bill thus clearly establishes far greater power and authority for local government in the fields of watercourse and flood management and the necessary responsibility for the State Government to identify flood risks and prepare flood risk maps on which local government may base its planning. The need for these powers and responsibilities was again demonstrated by the flood event in the Barossa Valley earlier this year.

The greater powers and responsibilities to be conferred on local government are such that a landowner may be required to take action or refrain from action in respect of a watercourse adjacent to or passing through his land. The Bill therefore provides landowners with a right of appeal against any such action of a council, other than in its exercise of emergency powers.

Such appeals will be to the Water Resources Appeal Tribunal, established under the Water Resources Act, which is constituted to ensure the availability of appropriate expertise to determine questions related both to the management of surface and underground water resources and to the management of the bed and banks of watercourses and aquifers containing underground waters.

It must be made clear, however, that this Bill does not attempt to resolve the complex questions related to the drainage of rainwater run-off from one property to another. This matter is still being considered by the Government within the context of the need to upgrade the Local Government Act. This Bill deals with watercourse management and of associated flood events only.

Consequential on the amendments proposed for the Water Resources and Local Government Acts there was a need to amend the vesting provisions of the Water Resources Act to take account of the fact that the exercise of certain rights conferred on the Crown will not be limited to the Minister only. The opportunity was also taken to clarify the effect of the enactment of the Water Resources Act on common law riparian rights.

Clauses 1 and 2 are formal. Part II amends the Local Government Act. Clause 3 is formal. Clause 4 amends the arrangement section. Clause 5 provides two necessary definitions.

Clause 6 substitutes a new Part XXXV in the Local Government Act. A council is responsible for the protection of all watercourses in its area, other than those that are proclaimed under the Water Resources Act or vested specifically in some other authority. New section 635 makes it an offence for a person to obstruct a water course or to

remove rock, etc., from the bed or banks of a watercourse without the authority of the council of the area. New section 636 empowers a council to require a landowner to clear out or repair a watercourse that passes through his land. New section 637 empowers a council to cause clearing out or repair work to be done and to recover the cost from the landowner who failed to do that work when required to do so by the council.

New section 638 gives council officers and workmen power to enter any land for purposes connected with the Part, provided they give reasonable notice to the landowner. New section 639 provides that proceedings for offences against the Part cannot be commenced without the consent of the council concerned, and must be commenced within 12 months. New section 640 gives a council power to acquire land compulsorily for flood prevention purposes. New section 641 empowers a council to take action to avert danger to life or property where a watercourse in its area is in flood, or a flood is imminent. Where a person suffers loss as a result of a council's actions under this section, he is entitled to reasonable compensation from the council, except for loss that would have occurred whether or not the council had intervened. Compensation payable under this section is to be reduced by the amount of any loss the person would have suffered had the council not intervened. A council's emergency powers under this section are excluded by a declaration of a state of disaster applicable to the council's area. New section 642 gives a right of appeal to the Water Resources Tribunal against council decisions under the Part (other than decisions under the emergency powers provision).

Clause 7 re-enacts a section of the Local Government Act to cover certain matters that were included in old section 640 (2), a provision that currently appears rather inappropriately in Part XXXV. Part III amends the Water Resources Act. Clause 8 is formal. Clause 9 amends the arrangement sections. Clause 10 inserts definitions of 'council' and 'obstruction'. Clause 11 re-enacts section 6 without reference to the Minister, and also in a form that makes it clear that common law riparian rights are preserved but are subject to the super-eminent rights of the Crown as set out in subsection (1). Clause 12 effects a consequential amendment to a heading.

Clause 13 inserts a new Part IIIA dealing with watercourses and flood management. New section 40a provides that the Part does not apply to proclaimed watercourses or watercourses under the protection of councils. New section 40b defines 'appropriate authority'; the South Eastern Drainage Board is an example. New sections 40c, 40d, and 40e give authorities the same powers over watercourses under their control as councils are given under Part II of the Bill. Division II deals with flood management. New section 40f provides for the preparation of flood risk maps. New section 40g empowers the Minister to publish forecasts of the rate of flow and assessments of the likelihood of flooding in respect of a watercourse. New section 40h exempts the Crown or a council from any liability in respect of the contents of, or any omission from, a map forecast or assessment published under the preceding sections.

Clause 14 effects consequential amendments to section 64 of the principal Act which relates to appeals. Clause 15 inserts a provision in section 70 of the principal Act to empower the Minister to undertake work considered necessary for the prevention or mitigation of floods. Clause 16 gives public authorities the right to appoint authorised officers for the purposes of administering new Part IIIA. Cause 17 is a consequential amendment. Clause 18 provides that the appropriate authority may consent to a prosecution for an offence under Part IIIA.

The Hon. C.M. HILL secured the adjournment of the debate.

[Sitting suspended from 4.5 to 5.47 a.m.]

FINANCIAL INSTITUTIONS DUTY BILL

The House of Assembly intimated that it had agreed to the Legislative Council's suggested amendments Nos. 1 to 4, 6 to 9, 11 to 13, 16, 17, 19, 20, 22 to 37, and 39 to 48 without any amendment and had agreed to the Legislative Council's suggested amendment No. 21 with the following amendments:

Amendment A. Leave out paragraphs *(c)* and *(d)* of new clause 34 (2) and insert paragraph as follows:

(c) a charitable organisation is eligible to have any account kept in its name approved as a special account.

Amendment B. Leave out the words '*(c)* or *(d)*' from new clause 34 (5) *(b)*.

Amendment C. After clause 34 (5) *(b)* insert paragraph as follows:

(c) an amount shall not be paid to the credit of such an account kept in the name of a charitable organisation unless that amount represents moneys to which the organisation is exclusively entitled.

The House of Assembly intimated that it had disagreed to the Legislative Council's suggested amendments Nos. 5, 10, 14, 15, 18, and 38.

Consideration in Committee.

The Hon. C.J. SUMNER: I move:

That the amendments made by the House of Assembly to suggested amendment No. 21 be agreed to.

I have a schedule of amendments to suggested amendment No. 21 from the Legislative Council, I am dealing with the matter in the order in which it appears.

K.T. Griffin: Shouldn't we take them in order?

The Hon. C.J. SUMNER: It is up to the Council. The substantive point is the insistence by the House of Assembly that trust accounts be not exempt accounts. That is, as far as the Government is concerned, an absolutely necessary point in the Bill, which is brought back to this Council with a view to insisting that the trust accounts not be exempted.

The Hon. M.B. CAMERON: It seems that a process that is different from the normal has occurred tonight. We finished debating this Bill at 1 a.m. and normally the process, I would imagine, would be that it would then proceed to the Lower House for debate on the amendments. We sat around until 4 a.m. and absolutely nothing happened, but it was fairly obvious to all members that some sort of conference was going on between certain members.

The Hon. C.M. Hill: Behind closed doors.

The Hon. M.B. CAMERON: Behind closed doors. Certainly, no member of the Opposition was involved in this conference. This amendment, amongst others, has clearly come out of this conference. There is a procedure for discussing matters between the Houses; it is laid down in Standing Orders.

The Hon. Diana Laidlaw: And they are well established.

The Hon. M.B. CAMERON: They are very well established and have been used ever since the beginning of this Parliament and the two-House system.

The Hon. J.C. Burdett: And with great success.

The Hon. M.B. CAMERON: And with great success. Those Standing Orders go from No. 247, which deals with communications with the House of Assembly (especially by messages, by conference, or by Committees) to No. 260, on duties of the managers of the Council, to No. 262, which says that there shall be only one conference on any Bill or any other matter. I do not know how the Council can have only one conference (if a conference is decided on by this Council tonight) if there has already been one. This would

be the second one. Perhaps we have already gone past the Standing Order.

The Hon. C.J. SUMNER: A point of order, Mr Chairman. This is irrelevant. There was no conference established by the Houses. What discussion occurred between honourable members has nothing to do with the Hon. Martin Cameron. He should direct his attention to the clause.

The CHAIRMAN: I take the point of order. What the Attorney-General says is correct. The delay in the discussion by the House of Assembly has nothing to do with this Council.

The Hon. M.B. CAMERON: I am quite happy to say all this outside the Council if that is what the Attorney wants, but I make the point again that this amendment has come out of a private conference between some honourable members. Decisions have been made on official Opposition amendments without our being present.

So, we will have no opportunity now, I believe, of defining our amendments and discussing them in a proper conference between the Houses. As a matter of fact, the whole thing has just developed into a farce. The Government has decided that the Opposition does not exist, and so any discussion on those amendments, as far as we are concerned, will be a farce because the decisions have already been made at private meetings between certain members of this place. They have thrown aside this very valuable part of the Parliament, including the back bench of the Labor Party. I guess those members would be feeling the same as the Opposition feels: they are just irrelevant.

Members interjecting:

The Hon. M.B. CAMERON: People can try and shut me up if they like, but I guess we have almost finished with this Bill now. The word 'fiddle' has been used in connection with this tax Bill; it started with a fiasco, and now we see the Democrats' lamentable exit out of the whole issue. They have left the Opposition's amendment high, dry and stranded. I listened to the debate in the House of Assembly, and I know what has happened within the system. We may as well chop out this part of the Standing Orders because it is obvious that it does not mean anything any more.

The Hon. C.J. SUMNER: That was a totally irrelevant and pointless attack. The fact is that no conference was established by this House. No conference was requested by this House.

The Hon. M.B. Cameron interjecting:

The CHAIRMAN: Order!

The Hon. C.M. Hill: You set up your own.

The Hon. C.J. SUMNER: Exactly; that is right. Discussions were held, and I hope that that will bring a very rapid end to the nonsense members opposite have carried on with for the past many, many hours. The Hon. Mr Cameron is peeved at having missed another day of fun. That was the intention of members opposite: they embarked on this course of filibustering, of squeezing every little bit of political capital they could out of this Bill. They were going on with it today to set up a conference. They were going to squeeze their way through that conference as long as they could during Friday.

The CHAIRMAN: I think that the Minister is about even now regarding irrelevancies and should come back to the Bill.

The Hon. C.J. SUMNER: I was replying to the Hon. Mr Cameron's irrelevancies. That was their tactic, and Mr Cameron is now peeved because it has been thwarted by some constructive discussions between at least some members of this Parliament who wish to see this matter resolved satisfactorily. As to throwing away a valuable part of Parliamentary procedures, what we have had in this Parliament, but particularly in this Chamber, since the Opposition started discussing this Bill has been an attempt to interfere in quite a dramatic way with a Government revenue measure.

The CHAIRMAN: I must bring the Attorney back to the schedule that is before us.

The Hon. C.J. SUMNER: I agree with you, Mr Chairman. An attempt was made in quite an unprecedented manner to interfere with a revenue measure of the Government. As a result, however, of some very fruitful discussions, the Government has entered into—

The Hon. C.M. Hill: A pact—

The Hon. C.J. SUMNER: A pact—

The Hon. C.M. Hill: —with the Democrats—

The Hon. C.J. SUMNER: —yes, to try to resolve the matter. I trust that the matter will be—

Members interjecting:

The CHAIRMAN: Order! I ask the Attorney to note that we are dealing with the amendments made by the House of Assembly to suggested amendment No. 21, and I ask him to return to that matter.

The Hon. C.J. SUMNER: I agree. I am responding to the Hon. Mr Cameron's peevish comments about what he considered to be an abuse of the procedures. I am pointing out the Opposition's abuse of the procedures and indicating the Government's insistence that this issue relating to trust accounts should not be exempt from the provisions of the Bill.

The Hon. K.T. GRIFFIN: I presume that the Hon. Lance Milne and the Hon. Ian Gilfillan will support the Government on this motion. If that is the case, I am most disappointed, because what these amendments by the House of Assembly do is to remove trust accounts of legal practitioners, real estate agents and land brokers from an exempt status. This is one area of double dipping that the Democrats profess to be so concerned about. There are other areas that we will come to as we consider these amendments. I suppose that one consolation, and it is a very poor consolation, is that amendment No. 21 comes back with other amendments to bring charities within the ambit of this proposed new clause 34. I told the Attorney-General when we debated this matter that this was the best clause to bring it into but, no, he insisted on clause 31. He said that it ought to be in the same clause that dealt with the non-bank financial institutions and with registered financial institutions that were banks. However, now we have a back-down, perhaps not of a major order, but a back-down nevertheless, and an acknowledgment that I was right when we first debated it. So to that extent there is a small consolation for us in the way that this amendment comes back. The major disappointment, however, is that the Government and the Democrats will now be supporting double dipping in respect of trust accounts which are required by law to be kept, which are kept at the cost of legal practitioners and land brokers, and which deal not with their money passing through them but with the money of their clients and customers. I am extremely disappointed that—

The Hon. C.J. Sumner: Good!

The Hon. K.T. GRIFFIN: That is all right. Your time will come. Judgment day is in two years time and there are so many minuses that I am sure the electors of South Australia will remember them. In fact, we will assist them in remembering them, and this is one of them.

I understand from the Hon. Lance Milne's attitude when I addressed a remark to him that the Democrats will now support the Government on this clause. There is no point taking up the time of the Committee in calling for a division, but I express quite strongly the Opposition's disappointment and its intention to insist upon the suggested amendment.

Motion carried.

The Hon. C.J. SUMNER: I move:

That suggested amendment No. 5 not be insisted on.

It deals with the question of whether transactions between accounts of the one client with an institution should be exempt. Non-exemption is something that the Government has insisted on right from the start of these proceedings. The Government still insists upon it.

The Hon. K.L. MILNE: We will be supporting the Government on this issue because it has been explained again that these clauses are not contained in the legislation in New South Wales or Victoria (and for very good reasons) and the reasons have been canvassed by the Government twice before. We have agreed that they are logical and that they should be supported.

The Hon. K.T. GRIFFIN: This is another instance where the Democrats did express very real concern about double dipping, particularly in relation to the transfer between accounts of one person with the same institution. Again, I am disappointed that the Democrats have backed off in the light of the pressure which has been brought to bear by the Government.

The Hon M.B. Cameron: And in private conference.

The Hon. K.T. GRIFFIN: In private conference. There is a an amazing inconsistency even in the Government's attitude on this amendment and it is so difficult to believe that it is one that they accepted. What the Government accepted was a Democrat proposition that all war pensions paid throughout the State ought to be exempt.

The Hon. C.J. Sumner: You voted for that.

The Hon. K.T. GRIFFIN: We voted for it because we were being consistent in our attitude on this provision when we said that banks, building societies and credit unions can recognise transfers and transactions. What the Government is now saying is that war pensions which are transactions (they are not accounts) can be recognised and, for that purpose, can be identified as being non-dutiable, but that transfers between accounts cannot be recognised as non-dutiable. That is absolute nonsense. It really defies imagination that the Government can reach this conclusion when the same computer will do the same job.

On the one hand, it panders to the Democrats in respect of war pension (transactions and not accounts), yet it will not accept that, within the banks, building societies and credit unions their computers, if not already programmed to do so, can in fact be programmed at very little cost to recognise transfers between accounts.

The Hon. R.C. DeGaris: Are they exempt in New South Wales and Victoria?

The Hon. K.T. GRIFFIN: Transfers of accounts—no. However, that does not matter.

The Hon. R.C. DeGaris: What about the repatriation?

The Hon. K.T. GRIFFIN: No, repatriation is not, either. Because the Hon. Lance Milne and the Hon. Mr Gilfillan have indicated that they are giving their support to the Government, whilst I express the strong opposition of the Liberal Party to this proposal by the Government, we will nevertheless not take the time of the Committee in a division.

Motion carried.

The Hon. C.J. SUMNER: I move:

That suggested amendment No. 10 be not insisted upon.

This amendment is consequential upon the previous amendments on which the Committee has not insisted.

The Hon. K.T. GRIFFIN: I accept that this is a consequential amendment and accordingly will not divide on this provision.

Motion carried.

The Hon. C.J. SUMNER: I move:

That suggested amendments Nos 14, 15, 18, and 38 be not insisted upon.

These amendments are consequential upon the amendments made in relation to suggested amendment No. 21.

The Hon. K.T. GRIFFIN: That position is agreed by the Opposition. Accordingly, it supports that point of view in respect to these three amendments.

Motion carried.

STAMP DUTIES ACT AMENDMENT BILL (No. 2)

In Committee.

(Continued from 15 November. Page 1751.)

Clause 2—'Commencement'.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 1, lines 14 and 15—Leave out 'first day of December, 1983' and insert 'first day of January, 1984.'

This amendment is consequential upon the amendment to the starting date for the Financial Institutions Duty Bill, and the following amendments are consequential on this one.

Suggested amendment carried; clause as amended passed.

Clause 3—'Repeal of s.31c and substitution of new section.'

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 1, line 21—Leave out 'first day of December, 1983'and insert 'first day of January, 1984'.

Suggested amendment carried; clause as amended passed.

Clauses 4 to 6 passed.

Clause 7—'Insertion of new s.31ma.'

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 2, lines 13 and 14—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

Suggested amendment carried; clause as amended passed.

Clause 8—'Duty on instalment purchase agreements.'

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 2, line 17—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

Suggested amendment carried; clause as amended passed.

Clause 9—'Insertion of new s.46a.'

The Hon. K.T. GRIFFIN: I move the following suggested amendment:

Page 2, line 21—Leave out ', other than a cheque,'.

This amendment will abolish stamp duties on cheques. We have already debated this issue at length. We have read the telex from the Australian Bankers Association, which identifies that South Australians will be paying considerably more than their Victorian counterparts if the stamp duties on cheques remains. When f.i.d. was introduced in Victoria, stamp duties on cheques was abolished in two stages over six months, as I recall. It is appropriate that a similar abolition occurs in South Australia.

The Hon. C.J. SUMNER: The Government opposes this outrageous attack on Government revenue raising. Over $6 million would be lost to State revenue if the amendment is carried. We have had enough of members opposite attempting to destroy the Government's revenue raising base by their antics in this place over the past two days. Thankfully, they were not successful, but what they did was unprecedented.

The Hon. K.T. Griffin: There were 42 amendments, and you say we did nothing.

The Hon. C.J. SUMNER: Most of them were accepted to humour the Opposition. The fact is that the amendment would constitute an extraordinary and unacceptable attack on Government revenue, and we oppose it.

The Hon. K.L. MILNE: I oppose the amendment because, as I explained in relation to the Financial Institutions Duty

Bill, if this action is taken there will be practically nothing left in the revenue raising base of the f.i.d.

The Hon. K. T. Griffin: That's not so.

The Hon. K.L. MILNE: Yes, it is—the honourable member knows that. I understand on very good authority that the Victorians feel that it was a mistake to abolish stamp duties on cheques, and before very long I believe that we will see the rate in that State increasing to at least .04 per cent.

I think that it would be very foolish to remove this tax. The Government has already removed stamp duties worth $8 million. At least we should let the provisions of the Bill get under way and see what comes out of the matter. If the Hon. Mr DeGaris's estimate is correct, an extra $10 million in revenue will be raised. When that becomes apparent that will be the time to start talking about removing stamp duties applicable to cheques.

The Committee divided on the suggested amendment:

Ayes (10)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, R.C. DeGaris, H.P.K. Dunn, K.T. Griffin (teller), C.M. Hill, Diana Laidlaw, R.I. Lucas, and R.J. Ritson,

Noes (11)—The Hons Frank Blevins, G.L. Bruce, B.A. Chatterton, J.R. Cornwall, C.W. Creedon, M.S. Feleppa, I. Gilfillan, Anne Levy, K.L. Milne, C.J. Sumner (teller), and Barbara Wiese.

Majority of 1 for the Noes

Suggested amendment thus negatived.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 2, line 22—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

Suggested amendment carried; clause as amended passed.

Clause 10—'Amendment of second schedule.'

The Hon. K.T. GRIFFIN: As I was defeated on the recent division, I see no purpose in proceeding with the amendment that is on file in my name.

The Hon. K.L. MILNE: I move the following suggested amendment:

Page 3, lines 3 and 4—Leave out 'first day of December, 1983' and insert 'first day of January, 1984'.

Suggested amendment carried; clause as amended passed.

Title passed.

Bill read a third time and passed.

Later:

The House of Assembly intimated that it had agreed to the Legislative Council's suggested amendments.

ADJOURNMENT

At 6.50 a.m. the Council adjourned until Tuesday 29 November at 2.15 p.m.