The Hon. R. R. DOWNING: If he is the responsible officer, his name would go in!

Amendment agreed to.

Progress reported.

## ADJOURNMENT.

### COMPLETION OF GOVERNMENT BUSINESS.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [1.47]: I move:

That this House do now adjourn.

I should like to indicate to the House that it is the Government's desire to complete the consideration of the Money-lenders and Infants Loans Bill as soon as possible. I have looked at the record of previous occasions when it was necessary for this House to sit till a late hour to complete Government business. As far as possible I am endeavouring to consider the convenience of hon. members, while at the same time dealing with Government business as expeditiously as possible. It is the Government's desire to complete the consideration of the measure at the next sitting.

Question resolved in the affirmative.

House adjourned at 1.50 a.m. (Thursday).

# Legislative Council.

*Thursday 13 November, 1941.*

Government Insurance (Amendment) Bill—University Senate: Appointment of Representative of Legislative Council—Money-lenders and Infants Loans Bill—Special Adjournment—Adjournment (Income Tax Assessment: Wage Earners).

The PRESIDENT took the chair.

The opening Prayer was read.

## GOVERNMENT INSURANCE (AMENDMENT) BILL.

Bill read a third time.

## UNIVERSITY SENATE: APPOINTMENT OF REPRESENTATIVE OF LEGISLATIVE COUNCIL.

The PRESIDENT: With regard to the two motions on the business paper, I propose to follow the course adopted by my predecessor, Mr. Flowers, in 1923, when in this House two candidates were nominated for election to the Senate of the University of Sydney. On that occasion the President said that, in view of there being two notices of motion on the business paper, having for their object the filling of the vacancy on the University Senate, the subject of the two motions should be submitted at the one time. This would obviate the necessity for a second debate on the same subject, in the event of the first motion not being carried, and would also permit of the merits of the candidate named in the second motion being referred to, which would otherwise be precluded if the first motion were carried. At the conclusion of the debate the motions would be put in the order in which they appeared on the business paper, it being understood, of course, that if the first motion were carried there would be no necessity to put the second.

The Hon. W. E. V. ROBSON [4.36]: I move:

(1) That the Hon. Sir Henry Edward Manning, K.B.E., K.C., B.A., LL.B., be elected a Fellow of the Senate of the University of Sydney as the representative of the Legislative Council, in pursuance of the provisions of section 8 of the University and University Colleges Act, 1900-1937.

(2) That the foregoing resolution be communicated by address to his Excellency the Governor.

The Hon. Sir Henry Manning is a graduate of the University of Sydney in Arts and Law, and during his career of five years as an undergraduate he took a leading part in the whole of the University life. He represented the University in many branches of sport and took an active part in the Union Debating Club. He also represented his faculty on representative organisations. He has been a member of the University Senate for some four or five years, and resigned only to show his disapproval of what he considered to be a departure from some of the basic principles affirmed by this House from time to time. The Hon. Sir Henry Manning, by way of a personal explanation in this House, said:

I have forwarded to the Registrar of the University of Sydney my resignation as a Fellow of the Senate of the University.

As I was the representative of the Legislative Council on the Senate, I considered it my duty to make this personal explanation to the House. My reason for resigning from this position, which was a privilege that I highly valued, was the refusal on the part of the Senate to respond to a request made by a substantial number of Senators for an opportunity of further investigating the whole position in reference to the appointments to the Faculty of Law. That opportunity was sought in the interests of applicants who were absent upon military duty. I considered that the taking of an irrevocable step in circumstances which to me suggested that it might well be averted, left me no alternative but to offer my resignation. I then considered, and I still consider, that in doing so I was affirming principles which this House has affirmed on every occasion on which they have been before hon. members during the last few years.

Sir Henry Manning, during the time that he has been in this House, has paid ceaseless attention to the discharge of his public duties, and I am sure that all who came into contact with him in his high office of Vice-President of the Executive Council and representative of the Government in this Chamber admired the great capacity with which he discharged the duties and functions of that office and also the courtesy that he displayed to hon. members at all times in the handling of the affairs of this House. The great capacity that the Hon. Sir Henry Manning exercised in this Chamber was also displayed in the discharge of his duties as a member of the Senate of the University. I think that, having resigned on a matter of principle, he is to be admired for the action that he took, and we should show our confidence in him by reappointing him to that position. If this House confers that honour upon him, I know that he will continue to render great service as a Senator of the University of Sydney. I have the utmost pleasure in moving the motion.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [4.41]: I move:

(1.) That the Honourable George Stacher Archer be elected a Fellow of the Senate of the University of Sydney as the representative of the Legislative Council, in pursuance of the provisions of section 8 of the University and University Colleges Act, 1900-1937.

(2.) That the foregoing Resolution be communicated by Address to His Excellency the Governor.

The Hon. Mr. Archer has been one of the most respected members of this House for many years. In addition to that, he represents the views of the Government of New South Wales. I wish to make it clear that the Government has no desire to enter into a controversy as to the merits or demerits of the particular incident which gave rise to the Hon. Sir Henry Manning's resignation. That being the case, I wish to put to the House the views of the Government as to its right to representation on the Senate of the University of Sydney. There are twenty-six members of the Senate. Of those, four are appointed by the Government. The four members at present representing the Government were appointed to office in 1939 by another Government, and hold office until December, 1944. The present Government has had no opportunity of appointing any member of the Senate. The Legislative Assembly recently elected the Hon. Mr. C. E. Martin, M.L.A., to represent it, but he can only be said to be an indirect representative of the Government. Even if it were conceded that the Hon. Mr. Martin is its representative, it means that there is only one representative of the Government in a membership of twenty-six. The Government subsidises the University to a very considerable extent. The actual amount contributed by it for the year ended 31st December, 1940, was as follows: Statutory endowment £100,000; contribution from the Inspector-General of Hospitals towards the expenses of services used, £1,000; contribution towards the Board of Social Studies, £1,504 7s. 9d. In view of this it must be admitted that the Government is entitled to at least some representation on the Senate of the University. The present Labour Government has been elected by a large majority of the people of the State. It is one of the difficult problems of the majority of the people who support this Government to obtain an opportunity to take advantage of the facilities of the University. I submit to hon. members that a man of the calibre of the Hon. Mr. Archer knows of the difficulties that confront people who are less fortunate than others and less able to give their children a University education. The Hon. Mr. Archer has had a lengthy experience in the industrial movement, and has a knowledge which has been gained by years of association with trade unions. It is quite unreasonable to suggest that a Government which has been so recently returned should be in the position of having no direct representatives on the Senate to give expression to its views but only indirect representation in the person of the Hon. Mr. C. E. Martin, M.L.A. At least the Legislative Council should concede the Government its right to representation. By supporting the nomination of the Hon. Mr. Archer, an opportunity is offered the Council to give the Government at least one more representative if only in an indirect way.

I should like to add that the Government, as a Government, does not know, in intimate detail, all the circumstances that gave rise to the resignation of the Hon. Sir Henry Manning. If he disagreed with the majority views of the Senate of the University on which it cannot be said the Government had any direct representation, then at least the re-election of the Hon. Sir Henry Manning will have no material effect upon the constitution of the Senate, because its decision was arrived at during the time of the hon. member's membership. I put this to the House, not from the aspect of the particular incident that gave rise to the hon. member's resignation, but as to whether or not the Government which was recently returned by the people should be debarred from having even this opportunity of indirect representation on a body of the importance of the Senate of the University of Sydney. It will be generally agreed that the Hon. Mr. Archer, who has been nominated on this occasion, will act with dignity, and will worthily represent this Chamber. At the same time he will be able to give to the Senate some indication of the difficulties experienced in the Labour movement in securing opportunities for the children of the people to obtain a University education. With those remarks, I leave the matter to the House.

The Hon. Sir NORMAN KATER [4.48]: As a graduate of the University of Sydney, I should like to say a word or two with regard to this matter. I am ready to concede the argument of the Minister that the Government might look for additional representation on the Senate, but this is not the way to give it to the Government. The proper way to do it would be to so alter the Act that each Government, as it came into office, may appoint four members as its representatives. This is not the place to make the alteration. This, I maintain, is not a party House, as has been demonstrated over and over again. I consider that this Chamber should appoint the man that it considers will fill the position in the best possible manner. With regard to the Minister's statement respecting the education of the people that he represents, I am quite satisfied that the Hon. Sir Henry Manning will give every consideration to that representation. I am sure that the Hon. Sir Henry Manning is the right man, so far as concerns that argument. I have great respect for the Hon. Mr. Archer, and I am sorry to have to vote against him, but I cannot help thinking that the Hon. Sir Henry Manning's long experience makes him the man for the position.

The Hon. A. W. McNAMARA [4.51]: I support the motion of the Hon. Mr. Downing. I can speak in support of the nomination of the Hon. Mr. Archer as one who has known him both in the industrial movement and also in Parliament for a considerable number of years. He is held in considerable esteem within the Labour party itself and is held in equal esteem by the people who comprise the industrial movement, whose views he so frequently puts forward in this Chamber. His election to the University Senate would make eloquent in the gilded halls of that institution the aspirations of the people he represents. I agree with some of the observations of the Hon. Sir Norman Kater, that it is to be regretted that this House is asked to select a candidate to represent this Chamber on the University Senate. Hon. members will agree that the time has arrived in the working out of the destiny of the University of Sydney when some consideration should be given to the complete recasting of the University Senate, so that the views of every section of society that should be represented in that institution, might be so represented.

The Hon. Mr. Downing has pointed out that the Government, fresh from the electors, with a strongly-endorsed policy, like former Administrations makes available advances to the University, yet is unable to secure any direct representation upon the Senate itself. That proves that there is urgent need for an alteration in the method of electing members of the University Senate, and I think it might be conceded by all hon. members that the best approach to the problem would be by way of a bill to amend the control of the University and to provide a more representative basis for the selection of members of the Senate. Possibly the Government could give some consideration to the introduction of a bill designed to modernise the position and, in accordance with the tendency exhibited everywhere to bring our institutions under a democratic form of control, to give all sections of the community an opportunity to have their views reflected in the controlling body of that institution. It can no longer be said that a University education is the prerogative solely of the upper and middle classes. The University should be a place to which the children of the workingman have equal rights of access with the children of the better-circumstanced family. If we concede that right, the logical consequence is that the control of the University should lie in the hands of a body representative of the Government and of all sections of the community. The present position would not have arisen had it not been for the resignation of the Hon. Sir Henry Manning, who, peculiarly, submits himself for re-election. I do not know whether the hon. member is so learned in politics that he believes that the correct procedure, when one is defeated in a motion, is to resign and submit oneself for re-election. If he believes in that policy, it is a matter of regret that he did not do it, and that his Government did not do it, when it was in office. The resignation of the Hon. Sir Henry Manning will not in any way alter the University Senate, but it is an encouragement to every member of the Senate who may feel aggrieved when he cannot get a decision in his own way to walk out and leave the Senate, and come back to this Chamber and ask it to send him there again. Conduct of that nature is conducive to unstable administration at the University, and for this reason I support the nomination of the Hon. Mr. Archer.

The PRESIDENT: If no other hon. member desires to address the House, I shall put first the motion by the Hon. Mr. Robson.

Question—That the motion of the Hon. Mr. Robson be agreed to—put.

The House divided:

Ayes, 22; noes, 14; majority, 8.

AYES.

| | |
|---|---|
| Brooks, K. G. | Robson, W. E. V. |
| Cambridge, W. C. | Speck, E. J. C. |
| Coates, J. F. | Thompson, Richard |
| Eggins, E. J. | Tout, Sir Frederick |
| Farrar, E. H. | Waddell, Sir Graham |
| Henley, H. S. | Walder, Sir Samuel |
| Horne, H. E. | Whiddon, H. W. |
| Howie, Sir Archibald | Wragge, H. M. |
| Kater, Sir Norman | |
| Kneeshaw, F. P. | *Tellers,* |
| Mitchell, E. M. | Bassett, G. D. |
| Playfair, Lt.-Col. | Binks, A. N. |

NOES.

| | |
|---|---|
| Alam, A. A. | Maloney, J. J. |
| Culbert, J. | Mullins, G. |
| Dickson, W. E. | Stewart, J. |
| Downing, R. R. | Tannock, C. |
| King, R. A. | |
| McNamara, A. W. | *Tellers,* |
| Magrath, E. C. | Bridges, C. B. |
| Mahony, R. | Graves, J. J. |

Question so resolved in the affirmative.

The Hon. Sir HENRY MANNING [5.3]: I should like to express my gratitude to the House for the honour that has been done me and for the confidence reposed in me. I take the opportunity to express also my personal goodwill to my opponent, if he will allow me to do so.

The Hon. G. S. ARCHER [5.4]: I should like particularly to thank those hon. members who cast a vote in my favour for this highly important position. I express the utmost goodwill towards the Hon. Sir Henry Manning personally. Although I have decided views on other matters, I think it is quite a good thing that a vote should be taken in this Chamber on such an important subject, and I know that numbers of people hold the same view. The Hon. Sir Henry Manning has been good enough to express goodwill towards me, and I am sure that he would not vote against me on personal grounds. I again thank hon. members who supported my nomination.

## MONEY-LENDERS AND INFANTS LOANS BILL.

### IN COMMITTEE.

(Consideration resumed from 12th November, *vide* page 2536.)

(The Hon. G. S. ARCHER in the chair.)

Clause 5. (2) Every such application shall—

. . . . . . . . .

(c) If made on behalf of a company be accompanied by a statement showing the names of all the shareholders in the company and the share holdings of all such shareholders; and

. . . . . . . . .

(6) The court of petty sessions shall not refuse to order the issue of a licence except on some one or more of the following grounds:—

. . . . . . . . .

(h) that the applicant is a shareholder in a company which is licensed under this Act;

(i) that the spouse of the applicant is a shareholder in a company which is licensed under this Act and the applicant has not satisfied the court that the applicant is living separate and apart from his or her spouse;

(j) if the applicant is a company, that any shareholder in the company is licensed under this Act;

. . . . . . . . .

(l) that the applicant has not satisfied the court that he has not any direct or indirect financial interest in any other money-lending business in respect of which a licence is issued under this Act.

The Hon. Sir HENRY MANNING [5.10]: I move:

That paragraph (c) of subclause (2) be struck out.

I am prepared to consider an alteration of that amendment if the Minister is able to convince me that paragraph (c) is necessary. I understand from the Minister that it is essential that the names of the shareholders of a company should be disclosed in order to prevent a practice which has grown up in the money-lending business of using a "dummy" for the perpetration of some of the malpractices to which reference has already been made. I do not want to stand in the Minister's way in regard to any attempt on his part to deal with a difficulty of that kind, and I am therefore prepared to consider some modification of the amendment. I suggest to the Minister that paragraph (c) would impose an intolerable hardship on a large company if it had to keep track of all its members. Take, for instance, a company on the Stock Exchange, where shareholding varies from day to day. In respect of such a company this provision might become so burdensome as to be almost impossible of regulation.

The Hon. W. E. V. ROBSON [5.14]: I suggest to the Minister that paragraph (c) might be applied only to companies that have not more than a certain number of shareholders. I presume that he wishes to know something of the personnel of the shareholders, but that does not seem to me to be essential in the case of a large company, and particularly a company that is quoted on the Stock Exchange. It is not of much value to a court to know the individual names of all the shareholders in a large company quoted on the Stock Exchange, and the list of shareholders that it makes out to-day for the purpose of an application to the court might need to be very materially altered on the day of hearing the application. I suggest to the Minister that he might modify the clause by amending it to the effect that it will apply to a company having not more than fifty shareholders. Usually in respect of a company that is quoted on the Stock Exchange the shares are very much divided among the shareholders.

The Hon. R. R. DOWNING: That might not be the case!

The Hon. W. E. V. ROBSON: Where there are a considerable number of shareholders in a company I do not think that it would be of any advantage to make known to the court the individual names of those shareholders. I understand that the police would be entitled to see the share register of the company at any time in order to ascertain how the shares are disbursed. I think the police are entitled to do that under the Companies Act. In addition, any member of the public on the payment of 1s. is entitled to obtain a list of shareholders of any company. There is therefore no difficulty about ascertaining who the shareholders are. My objection is not to the company having to disclose the names of the shareholders, but to the extra and unnecessary work that will be involved on the part of large companies under this provision. I will not move any amendment until I know the Minister's attitude in respect of the amendment that has been moved by the Hon. Sir Henry Manning, and I hope that we shall be able to arrange for some satisfactory modification of paragraph (c).

The Hon. J. F. COATES [5.20]: I support the amendment for the deletion of subclause (c). A scheme such as the one outlined was in operation by some newspaper man about twelve months ago. He published a newspaper wherein he gave the names of shareholders and the number of shares which were held. These names were given publicity, and the Parliamentary Library Committee decided unanimously that the publication should not be included among the records of the House, and should not be placed in the library. My reason for supporting that action was that a person will be able to go to the Registrar-General's office and by paying a few shillings get a list of shareholders in a company, and might then quite easily use it for purposes that were not decent or honest. I presided at the meeting of the Library Committee which refused to have this publication in the library. Quite unconsciously the Government is doing the very thing that was considered by the Library Committee to be objectionable. In the case of a company that is quoted on the Stock Exchange, there are perhaps hundreds of its shares sold every day. A man who secures a list of shareholders from the Registrar-General's office is asked, "Can you swear to that?" and must answer "No," because it might have been altered in the last few hours. It is impossible to achieve what is aimed at by the Government. I would not have this provision applied to any company with more than fifty shareholders, or any company whose shares are quoted on the Stock Exchange.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [5.23]: I ask the House not to support the amendment by the Hon. Sir Henry Manning. If the Committee should insist on some other amendment, probably something on the lines suggested by the Hon. Mr. Robson, would be more acceptable, but not justified. First of all, hon. members should recognise that subclause (3) deals with an application for a licence. It is required under the Companies Act that the company shall send a list of shareholders once a year to the Registrar-General. Hon. members will remember that last night I mentioned the case of Gordon *v.* Street, which gave rise to the licensing of money-lenders. That was a case where a money-lender, who was trading under different aliases, induced one of his clients to go to another money-lender to buy himself out, because he represented to that person that the money-lender to whom he was indebted was a rogue or a usurer and that by taking a loan from another money-lender to repay the one to whom he was indebted, who was really himself, the unfortunate borrower would terminate his debt. That is the particular case which was responsible for the introduction of money-lending legislation in England. The files of the department disclose almost invariably that when a money-lender has a transaction that is getting "too hot" to handle, he says, "Mr. So-and-so, you are in difficulties. You have not the type of security on which I can make any further advance, but if you go down and see Mr. X, he lends money on that type of security." The unfortunate borrower goes along to Mr. X and gets a further loan to pay off the other money-lender at an additional rate of interest, whereas in fact Mr. X is in substance the same money-lender. That is the sort of thing that was responsible for the legislation in England.

The Hon. W. E. V. Robson: That is not the case that is being spoken of here!

The Hon. R. R. DOWNING: The deletion of this provision would not give the court an opportunity to consider, with the application for a licence, who were the persons constituting the company. I suggest that at least there should be submitted with the application for registration the names of the directors and officials of the company. I notice that there are further proposed amendments with respect to this matter, and the Hon. Mr. Thompson proposes to move for still further restrictions in the bill with respect to the disclosure of who constitute the company.

The Hon. Sir HENRY MANNING [5.27]: In view of the Minister's statement I ask that leave be given to withdraw my proposed amendment. I shall then be making way for an amendment on the lines suggested by the Hon. Mr. Robson, which, I understand, to some extent meets the wishes of the Government.

Amendment (by leave) withdrawn.

The Hon. W. E. V. ROBSON [5.29]: I move:

That in subclause 2 (c) after the word "company" first occurring there be inserted the words "having less than fifty members."

The names of the officials of the company could also be included.

Amendment (by leave) withdrawn.

Amendment (by the Hon. W. E. V. Robson) agreed to:

That in subclause (2) (c) the words "shareholders in the company and the share holdings of all such shareholders; and" be struck out, and there be inserted in lieu thereof the words "directors and officers of the company, and in the case of a company which consists of less than fifty members, the names of all the shareholders in the company; and"

The Hon. RICHARD THOMPSON [5.36]: I move:

That in subclause (6) (h) the words "shareholder in a company which is licensed under this Act" be struck out, and there be inserted in lieu thereof the words "director or officer of a company which is licensed under this Act, or a shareholder in a company which is licensed under this Act, and which consists of less than fifty members".

Under the provisions of the bill an applicant for a money-lenders' licence who is a shareholder in a company which is licensed under this bill may be refused a licence on that ground. It is suggested that, in the case of large companies consideration be given similar to that contained in a previous amendment. There are in such companies so many shareholders that in few if any of them would one or two shareholders be able to dictate, control, or in any way influence the policy of the company and it would be sufficient if directors or officers of the company were included on this ground. I agree with the Minister that, in the case of a company in which there are less than fifty shareholders, there should be a definite safeguard.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [5.38]: This amendment is in line with that which has just been agreed to by the Committee on the motion of the Hon. Mr. Robson. I do not see how the hardship contemplated by the hon. member will operate. The requirements at present in the bill are substantially the same as those contained in the South Australian Act. This amendment relates to the amendment that has just been agreed to. The South Australian Act makes almost identical provision with respect to licensing, both in regard to the list of shareholders being submitted and the suggestion made by the hon. member, and as this is virtually a consequential amendment, I raise no objection to it.

Amendment agreed to

(Amendment (by the Hon. Richard Thompson) agreed to:

That in subclause (6) (i) the words "shareholder in a company which is licensed under this Act" be struck out and there be inserted in lieu thereof the words "director or officer of a company which is licensed under this Act or is a shareholder in a company which is licensed under this Act and which consists of less than fifty persons".

Amendments (by the Hon. Richard Thompson) agreed to:

That in subclause (6) (j) the words "shareholder in" be struck out and there be inserted in lieu thereof the words "director or officer of".

That there be inserted in subclause (6) the following new paragraph:

(k) if the applicant is a company which consists of less than fifty persons, that any shareholder in the company is licensed under this Act;"

That there be added to subclause (6) (l) the words "otherwise than as a shareholder and in common with the shareholders in a company which is licensed under this Act and which consists of not less than fifty persons".

The Hon. RICHARD THOMPSON [5.44]: I move:

That the following subclause be added: (7) Where the Court of Petty Sessions refuses an application under this section the applicant may appeal against such refusal in accordance with rules of court to the District Court for the district in which the Court of Petty Sessions is situated. Every such appeal shall be in the nature of a rehearing.

The bill provides that there shall be an appeal to the District Court against the cancellation of a licence, but there is no appeal against the refusal of a licence. I understand that other measures of a similar nature, including the Auctioneers, Stock and Station and Real Estate Agents Act, give a right of appeal against the refusal of a licence, and I submit to the Committee that under this bill it is perfectly reasonable to give a person whose licence has been refused the same right of appeal as is given to a person whose licence is cancelled.

Amendment agreed to.

Clause as amended agreed to.

Clause 7:

. . . . . . . . . .

(2) . . . (b) No licence shall authorize a money-lender to carry on business—

. . . . . . . . . .

(ii) under any name which includes any of the following words, namely, "Australian," "British," "Commonwealth," "State," "Trust," "Trustee"; or—

. . . . . . . . . .

The Hon. J. F. COATES [5.46]: I move:—

That in subclause (2) (b) (ii) the word "Australian" be struck out.

There are companies that have never had a charge against them in many years of trading, companies held in the highest respect, who have used the word "Australian" as part of their trading name. Other companies, as the Minister repeatedly points out, have used the words "New South Wales." In the latter case the Minister argued that it would not be fair to take away the right to use words so commonly used as part of a firm's name. In that argument I concur, and it applies with equal force in regard to the word "Australian". A well-known company known as the Australian Cash Order Company has been trading for over twenty years under that name, and to prohibit the use of the word "Australian" would impair good will. The word is descriptive and does not suggest anything of a national character in regard to that firm. I ask the Minister whether such firms might not be given the right to continue to use the word "Australian," just as the Minister proposes to allow the continued use of the words "New South Wales".

The Hon. R. R. DOWNING: I did not use that argument!

The Hon. J. F. COATES: Then it must have been used in another place. The New South Wales Monte de Piete Company has traded under that name for many years, and the argument appealed to me as a logical one that there should be no interference with a company name. It is consistent to argue that firms of equally good character which have been using the name "Australian" for twenty years or more, should not be asked to drop it, even though it is quite reasonable to prohibit the use of the word in the name of a new company commencing operations.

The Hon. R. R. DOWNING [5.49]: The Committee will recollect that last night the Hon. Mr. Thompson moved an amendment to give to the Government power to grant partial exemption from the operation of the measure. The Hon. Mr. Bradley pointed out that that was one of the cases mentioned by the hon. member, and that it probably would be desirable to grant partial exemption to that company from the provisions of clause 6, relating to the name of the company. I agreed with the amendment suggested by the Hon. Mr. Thompson for the purpose of meeting a case such as the Hon. Mr. Coates suggests. I do not think it will be suggested in regard to a reputable firm carrying on business that such an action would be taken. An express provision has been put into the bill to meet such a case. The deletion of the words suggested by him would enable it to be done. My agreement to the hon. member's amendment last night was for the purpose of administratively putting into practice what the Hon. Mr. Coates suggests.

The Hon. J. F. COATES: I thank the Minister, and I am quite satisfied with his explanation!

Amendment (by leave) withdrawn.

Clause agreed to.

Clause 11. (1) Any member of the police force or any other person may at least three days before the day appointed for the hearing of an application for the issue of a licence or for the transfer of a licence . . . lodge with the clerk of the court of petty sessions a notice in the prescribed form of his objection and of the grounds thereof.

. . . . . . . . . . . . .

(4) If under this section any objection to the application has been lodged or brought before the court, the court may determine what costs (if any) shall be paid by the applicant to the objector and may order that such costs be paid; but an order for costs shall not be made against the objector.

The Hon. RICHARD THOMPSON [5.52]: This clause deals with objections to applications, and provides that any member of the police force may make objections. I move:

That in subclause (1) after the word "force" there be inserted the words "of or above the rank of sergeant".

Elsewhere in the bill is a provision for certain action being taken by members of the police, and it stipulates that this action must be taken by a member of the force who is a sergeant of police, or holds a higher rank. As the question of objections to applications is a matter of great importance, I submit that it is only fair and reasonable that if we admit in one part of the bill the desirability of confining certain powers to sergeants of police or members of the force holding a higher rank than sergeant, we should do the same here. In similar legislation in other States, there is a provision that certain action could only be taken on the authority of the Commissioner of Police. It is a reasonable amendment, and will help the fair application and the smooth working of the bill.

The Hon. R. R. DOWNING [5.53]: I do not think that the purpose of the amendment matters a great deal, because there are plenty of police sergeants to make the necessary objections. The Liquor Act and many other Acts contain provisions where objections may be taken that are of equal importance to people who are subject to objections, or inspection, as in this instance. Under the Liquor Act, objection can be taken to the licensing of an hotel, and it probably would be in some instances equally as important to the hotelkeeper as these provisions would be to a money-lending company registered under this Act, and under those Acts a police constable is permitted to make the objection.

Another thing is that it does not limit the power to the police; any person can make the objection. Unless the hon. member has any further amendment to move—I have only read his list as far as he has gone—if he feels that he cannot trust a policeman to make these objections, and that it is necessary to have somebody of the rank of sergeant, or above that rank, I do not think that it matters to the bill materially, but it would probably mean that senior officers of the police department, whose work could probably be considered of more importance, would on many occasions have to be taken from that work to deal with matters of this character.

The Hon. J. CULBERT: Any person can do it privately, so why take away that right from the policeman?

The Hon. RICHARD THOMPSON [5.55]: In view of the Minister's explanation, and the two points that he made—one, that under certain other important legislation the provision applies to all members of the police force, and the other that a policeman could do the same thing in his private capacity—I wish to withdraw the amendment.

Amendment (by leave) withdrawn.

The Hon. RICHARD THOMPSON [5.56]: I move:

That in subclause (4) the words "by the applicant to the objector and may order that such costs be paid; but an order for costs shall not be made against the objector," be struck out, and there be inserted in lieu thereof the words: "by the applicant or the objector, and may order that such costs be paid; but an order for costs shall not be made against the objector unless the court is satisfied that the objection is frivolous or vexatious".

The position under the bill is that the court may determine what costs, if any, shall be paid by the applicant to the objector, and may order that such costs be paid. But it says: "an order for costs shall not be made against the objector." There would undoubtedly be cases where it would be proper for the court to be able to assess some costs against an objector who came with some frivolous or malicious objection. I think that is a matter which could be left to the consideration of the court. I think too, that the amendment provides that the honest, legitimate objector is safeguarded, because costs can only be assessed against the objector when the court is satisfied that the objection has been frivolous or malicious, or without grounds.

The Hon. R. R. DOWNING [5.57]: I wish to explain the reason for the provision in the bill. It certainly would not be advisable to leave an objector open to costs where his objection may have been dismissed for some technical or legal reason. I notice that the hon. member has attempted to meet that by the provision "unless the court is satisfied that the objection is frivolous or vexatious." I think that meets with the general idea, and it appears that the words proposed, to limit the court's power to grant costs, will probably protect the legitimate objector.

Amendment agreed to.

Clause as amended agreed to.

Clause 12.

. . . . . .

(4) Where a court of petty sessions makes any order referred to in subsections one and two of this section, the money-lender in respect of whom the order was made may appeal against such order in accordance with rules of court to the District Court for the district in which such court of petty sessions is situated.

Every such appeal shall be in the nature of a rehearing.

(5) In any proceedings under this section the court of petty sessions may determine what costs (if any) shall be paid by the defendant to the informant, and may order that such costs be paid; but an order for costs shall not be made against the informant.

. . . . . . .

The Hon. RICHARD THOMPSON [6.0]: I move:

That there be added to subclause (4) the following new paragraph:—

"Rules of court may prescribe the manner in which, and the time within which, notice of any such appeal shall be given by the applicant, the persons to whom such notice shall be given, and the circumstances in which and the conditions under which any such notice of appeal shall operate as a stay on the order of the Court of Petty Sessions against which the appeal is made."

The subclause, as drafted, means that every such appeal shall be in the nature of a re-hearing, and the representation was that the rehearing should constitute a stay of proceedings. The amendment provides that the conditions of the stay of proceedings need to be determined by the court, otherwise it would be possible for a person to manoeuvre an extended stay of proceedings and in that way to defeat the operation of the bill.

Amendment agreed to.

The Hon. RICHARD THOMPSON [6.2]: I move:

That in subclause (5) the word "to" be struck out and there be inserted in lieu thereof the word "or".

This is a consequential amendment and provides that the Court of Petty Sessions may determine what the costs, if any, shall be.

Amendment agreed to.

The Hon. RICHARD THOMPSON [6.4]: I move:

That in subclause (5) after the word "informant" second occurring there be inserted the words "unless the court is satisfied that the information is frivolous or vexatious".

This is consequential on a previous amendment.

Amendment agreed to.

Clause as amended agreed to.

Clause 19.

(1) The following fees shall be payable under this Act:—

. . . . . . .

(b) for each licence issued to any person on behalf of a company whether carrying on business alone or as a member of a firm—fifty pounds;

. . . . . . .

(d) for each renewed licence issued to any person on behalf of a company whether carrying on business alone or as a member of a firm—twenty pounds;

. . . . . . .

The Hon. W. E. V. ROBSON [6.9]: I should be glad if the Minister would consider the advisableness of reducing the fees for licenses. Under paragraph (b) of subclause (1) for each license issued to any person on behalf of a company, whether carrying on business alone or as a member of the firm, the fee shall be fifty pounds, and I feel that that is too much. I should like to see the amount reduced. Companies are now heavily taxed both in the Federal and State spheres, and we do not want to further penalise them unnecessarily. At the present time they cannot obtain any increased margin of profit on sales, yet they have to bear all these additional expenses. I move:

That in paragraph (b) of subclause (1) the word "fifty" be struck out there be inserted in lieu thereof the word "twenty-five".

The Hon. R. R. DOWNING [6.12]: I regret that I cannot accept the amendment. Companies will have the privileges associated with company registration, and I think it is only reasonable that they should pay higher fees than do individuals.

The Hon. W. E. V. ROBSON [6.13]: A company which lends money may have several branches which do not carry on the money-lending business at all; yet those branches will have to erect signs to the effect that they are moneylenders and the company will thereupon become liable to the payment of a fee of £50. I press the amendment.

Question—That the word proposed to be struck out stand—put. The Committee divided:

Ayes, 12; noes, 15; majority, 3.

AYES.

| | |
|---|---|
| Alam, A. A. | Mahony, R. |
| Bridges, C. B. | Stewart, J. |
| Culbert, J. | Tannock, C. |
| Dickson, W. E. | |
| Downing, R. R. | *Tellers,* |
| Graves, J. J. | Maloney, J. J. |
| King, R. A. | Mullins, G. |

NOES.

| | |
|---|---|
| Bassett, G. D. | Robson, W. E. V. |
| Binks, A. N. | Speck, E. J. C. |
| Brooks, K. G. | Thompson, Richard |
| Coates, J. F. | Tout, Sir Frederick |
| Horne, H. E. | Waddell, Sir Graham. |
| Manning, Sir Henry | *Tellers,* |
| Mitchell, E. M. | Eggins, E. J. |
| Playfair, Lt.-Col. | Henley, H. S. |

Question so resolved in the negative.

Amendment agreed to.

The Hon. W. E. V. ROBSON [6.19]: I move:

That in paragraph (d) of subclause (1) the word "twenty" be struck out and there be inserted in lieu thereof the word "ten."

There is no reason why a company should pay double the amount that anyone else will pay simply for a renewal of licence.

The Hon. R. R. DOWNING [6.20]: I object to the amendment for the same reason that I opposed the previous amendment.

The Hon. Sir FREDERICK TOUT: Does the amendment mean £10 all round?

The Hon. R. R. DOWNING: Yes.

Amendment agreed to.

Clause as amended agreed to.

[*The Temporary Chairman (the Hon. G. S. Archer) left the chair at 6.23 p.m. The Committee resumed at 7.50 p.m.*]

Clause 20 (Jurisdiction of court of petty sessions in money-lending transactions).

The Hon. Sir GRAHAM WADDELL [7.50]: I ask the Minister whether the procedure set out in clause 20 will apply to pastoral companies?

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [7.51]: In reply to the hon. member's question it will be necessary for him to refer to clause 3 of the bill. It is the intention of the Government not to apply the provisions of the bill to companies that are *bona fide* carrying on the business of making advances to primary producers in respect of crops, wool, or stock.

The Hon. Sir GRAHAM WADDELL: Or the lands connected therewith?

The Hon. R. R. DOWNING: That is so.

Clause agreed to.

Clause 22. (1) No contract for the repayment of money lent by a money-lender after the commencement of this Act or for the payment of interest on money so lent and no security given to any money-lender in respect of any such contract or loan shall be enforceable unless—

. . . . . . . .

(2) The note or memorandum aforesaid shall contain all the terms of the contract, and in particular shall show—

. . . . . . . .

(e) an itemized statement of any amounts paid or payable by the borrower on account of stamp duty, or an account of fees payable to the Registrar-General; and

. . . . . . . .

The Hon. J. F. COATES [7.55]: I move:

That in subclause (1) there be inserted at the beginning of paragraph (a) the words "where the amount of money lent thereon exceeds the sum of £20."

I would point out to the Minister that a great number of cash orders amount to sums of about £5 each. Between the beginning of December and Christmas Day some of the large firms will issue cash orders of five pounds and ten pounds to the number of one thousand a day. There are many other companies that have a large turnover in the same way. If the companies have to go to all this trouble in letting out cash orders of £3, £4, £5 or £6, it will be impossible for them to carry on their business between now and Christmas. If the amount is raised above twenty pounds it will not be such a serious hindrance. The firms will be obliged to employ large staffs, at a time when labour is not readily available, and in almost every case the person who receives the document that has to be signed will throw it on the floor and, without any benefit whatever, the place will become littered with papers. For the sake of the easy running of the business between now and Christmas I ask the Minister to agree to the amendment. If any benefit would accrue from the provisions of the clause it might be worthy of consideration, but the provisions should not operate in the case of cash orders of £5, £6, £8, or even £10. If the Minister accepts the amendment, and the amount is fixed at above £20, I shall raise no further objection.

The Hon. R. R. DOWNING [7.58]: I hope members of the Committee will realise that the clause the hon. member seeks to amend is one of the most vital in the bill. The hon. member has referred to difficulties that may arise between now and Christmas. If the amendment were accepted it would mean that the class of people most in need of it would be denied the very protection that it is sought to give them. I think that there is no ground for the fears of the Hon. Mr. Coates as to the difficulty in completing such forms. Stock forms of contract would be prepared so that it would be necessary only to write in the amount of the cash order. The gravest abuses in relation to these transactions are found to have occurred in transactions involving, in their initial stages at any rate, a sum of money less than that which the hon. member seeks to exempt from the requirements of this clause. It cannot reasonably be suggested that the borrower of an amount less than £20 should not have the protection that clause 22 gives him in regard to his receiving a copy of the contract.

This clause is vital. It was designed for the purpose of ensuring that the borrower should have before him all the details of the contract, including the numerous provisions of this clause. Hon. members will readily understand and agree that one of the best features of this measure is that it will remove the frequent cause of complaint by borrowers that they did not have any knowledge of the exact terms of the contract into which they were entering.

The Hon. Sir HENRY MANNING [8.4]: The question is, wherein lies the necessity for having a contract in writing. The Minister may be able to throw a good deal of light on the clause from that angle. As I see it, it is very important to have something that can be regarded as a definite statement of the transaction. The measure strikes at four classes of transactions, those involving excessive interest, those involving excessive charges, inequitable contracts having a remedy in equity, and contracts that are harsh and unconscionable.

The Hon. R. R. DOWNING: This clause has in view the difficulty of proof!

The Hon. Sir HENRY MANNING: It is of considerable importance to know that. It strengthens the Minister's position if these things are thoroughly understood.

The Hon. R. R. DOWNING [8.6]: I am grateful to the hon. member for directing my attention to the point. Perhaps I assumed too readily that the reason was clear. The note or memorandum in writing is required so that there will be clear documentary evidence available as to the nature of the transaction, if it is necessary to reopen that transaction at any time, as provided in clause 30.

The Hon. J. F. COATES: Would a printed document pasted in a book meet the requirements of this clause?

The Hon. R. R. DOWNING: A printed contract, filled in and properly signed, if it fulfils the other requirements of the clause, is a good document. If it were pasted in the book used by cash-order firms and handed to the borrower, that would meet the requirements of the clause.

The Hon. W. E. V. ROBSON [8.7]: Does clause 23 (5) have any bearing upon this point?

The Hon. R. R. DOWNING: That deals only with the guarantee by the other spouse!

The Hon. W. E. V. ROBSON: The period within which the copy is to be sent out is limited to seven days, and I feel that that is too short a period. The clause might occasion no difficulty for a small concern making a few loans in a day, but it might be difficult for a large firm issuing a large number of loans or cash orders at the rush period of the year, to fulfil the requirements of the clause, especially as staff might be going away on holidays at the time. It is most difficult for a firm to engage competent clerks nowadays. I feel that the period could well be extended to fourteen days.

The Hon. R. R. DOWNING [8.10]: This matter has to be considered from the point of view of what will happen in actual practice. The requirements of this clause are that no contract shall be enforceable unless it has been signed by the borrower on the terms expressed. I do not see the necessity for even seven days, because I cannot visualise any moneylender or cash-order firm lending to a borrower and then, within seven days, requiring him to sign the contract. It would be a simple operation to get the second copy at the same time as the first.

The Hon. W. E. V. ROBSON: He has lent this money, but he cannot recover the money if, by some oversight, a copy was not given within seven days!

The Hon. R. R. DOWNING: The lender will have the copy of the contract. If the lender has a copy of the contract from the date the transaction is entered into, the borrower, within the period of seven days, should get a copy of the contract which the lender already holds.

The Hon. RICHARD THOMPSON: Would a carbon copy do?

The Hon. R. R. DOWNING: Any copy will do, so long as it is a copy of the agreement. It is a usual commercial practice that in all these matters a sufficient number of copies is made to meet all requirements.

The Hon. J. F. COATES: Either a carbon copy, or pasting in a book, will cover it?

The Hon. R. R. DOWNING: Yes.

The Hon. J. F. COATES: In view of the Minister's explanation, I desire to withdraw the amendment!

Amendment (by leave) withdrawn.

The Hon. W. E. V. ROBSON [8.13]: I move:

That in paragraph (e) of subclause (2), after the word "Registrar-General," there be inserted the words "or on account of legal costs".

This is a consequential amendment, following on an amendment which was put into the bill last night.

The Hon. J. F. COATES: I believe there is a definition of "legal costs." I do not know what they are. Has the Minister that information?

The Hon. R. R. DOWNING: The definition of "legal costs" was put in by an amendment moved by the Hon. Mr. Robson during last night's sitting of the Committee. I have not a copy of it at the moment, but in effect it means that scale costs can be charged in relation to any transaction or arrangement for any security with regard to leasehold properties where a loan exceeds £200.

Amendment agreed to.

Clause as amended agreed to.

Clause 23. (1) No contract for the repayment of money lent by a money-lender, after the commencement of this Act, to a borrower who is married, or for the payment of interest on money so lent, and no security given to any money-lender in respect of any such contract or loan shall be enforceable unless—

(a) (i) the note or memorandum of such contract required to be made in pursuance of section twenty-two of this Act contains a statement in writing signed in his or her own handwriting by the spouse of the borrower in the presence of an authorized witness, signifying the consent of such spouse to the loan; and

(ii) such statement is so signed by the spouse before the money was lent or the security was given (as the case may be); or

. . . . . . . . .

The Hon. RICHARD THOMPSON [8.16]: This clause applies to a case where a spouse is obtaining or guaranteeing a loan. It is necessary to obtain the other spouse's consent to that transaction, except where the sum involved is under £10. The intention of the Government is that it should not be possible for a spouse to commit the household purse, as it were, to an unduly heavy liability without the knowledge of the other spouse.

The Hon. R. R. DOWNING: The £10 was put in to cover small transactions!

The Hon. RICHARD THOMPSON: There is an obvious weakness about the clause, because one spouse, if wishing to do so, can commit the family purse for four or five sums, each just under £10, and could very soon get £40 or £50.

The Hon. R. R. DOWNING: If the hon. member will submit an amendment that will prevent that I will consider it.

The Hon. RICHARD THOMPSON: There is another important circumstance. This clause has been drafted obviously in consideration of household and personal loans. I wish now to refer particularly to business loans. A man may wish to obtain a loan for his business amounting to a sum in excess of £10, and to do this he must get his spouse's approval for the loan. I am certain it was never the intention of the Government to include business transactions in a bill of this nature. I suggest that consideration might be given to the provision in South Australia which says that the section shall not apply to any money-lending transaction or any contract or guarantee made or given in relation to a money-lending transaction where the amount of loan exceeds £50.

That would meet the position fairly. It gives protection in the case of domestic transactions, and leaves it open for business transactions over £50 to be carried out in the ordinary business way. It is not altogether fair to assume that a wife would have a proper understanding of a man's investments or of his intentions in business, and one can easily imagine that in the conduct of legitimate business he might be seriously affected. Under the Hire-purchase Agreements Bill we definitely excluded business transactions, and cover only domestic transactions from the spouse's endorsement. I hope I may be able to come to some arrangement with the Minister to include some such provision as that to which I have referred.

Clause postponed.

Clause 24. (1) If any security is after the commencement of this Act made or taken to secure the payment of any money lent by a money-lender or any interest thereon, the money-lender shall not be entitled to institute any proceedings other than for the enforcement of the security, to recover any amount payable under the contract or payable pursuant to any guarantee for the repayment of the loan or any interest thereon.

. . . . . . . . . . .

The Hon. RICHARD THOMPSON [8.21]: I move:

That there be added to subclause (1) the words "unless the contract or guarantee, as the case may be, expressly provides prominently on the face thereof that the borrower or guarantor, as the case may be, undertakes a personal liability to pay, or as the case may be, guarantees the payment of the loan and any interest thereon, and that the said liability is additional to any liability under any security taken in respect of the loan.

The clause deals with the rights of money-lenders to enforce security for a loan, and it involves the personal covenant. When the bill was presented in another place, it was clearly the intention that the personal covenant should be included, but the provision was struck out, and it vitally concerns the business community. I agree that in a transaction of a domestic nature the personal covenant might fairly be excluded, but in the interests of the business community, the borrower, if he wishes, should be able to give his personal covenant. The subject is closely allied to clause 23. I appreciate the Government's point of view, having regard to household and domestic loans, but I emphasise the necessity of providing for the continuance of a trade practice in connection with which men pledge their personal covenant in business transactions. No matter in what sphere or in what occupation a man may be engaged, the personal covenant is frequently an integral part of a transaction. I strongly urge that this trade practice which has been current for so long should be retained. It is a recognised practice in business, and is helpful to the smooth running of credit facilities in the business community.

The Hon. R. R. DOWNING [8.23]: The effect of the hon. member's amendment would be to restore the provision relating to the personal covenant, which, on further consideration in another place was struck out. I ask the Committee to bear in mind the many moneylending transactions which it is hoped will be curbed under the bill as it was presented to this House. As hon. members know, there is a class of moneylender that conducts most of his business with public servants and bank clerks, because of the security they can offer. He knows that he has a hold over them once he is able to persuade them to enter into a loan transaction. Because of the permanency of their employment, and the positions they hold, he can lend much larger sums to these public servants and bank clerks than he would be able to lend to persons in different circumstances. Because of the personal covenant the moneylender has been able to advance sums beyond the actual value of the security. I suggest that in moneylending transactions it is reasonable that the borrower and the lender should have recourse only to the security given for the transaction. Possibly, when I spoke previously I did not say all that I intended to convey, and I may have implied that I referred to purely personal loans which the bill does not interfere with. My object was to show that a certain class of moneylender, and certain other people engaged in the business, loaned amounts greater than the security offered was worth, relying on the personal covenant to recover. The Government feels that it is not desirable that the personal covenant should remain nor that there should be recourse to any security other than that given as security for the loan.

The Hon. RICHARD THOMPSON [8.26]: I appreciate what the Minister has said, but I should like him to address himself to the application of the provision to what one might call "business deals." I agree with what the Minister has said regarding household or personal loans, but loans for the commercial community are in an entirely different category. The Committee should not endeavour to smash down a common commercial practice that has grown up over the years. It is an important feature of our business community life, and we should not do the commercial community an injustice by interfering with its economic structure. I hope the Minister will consider that aspect of the question, and I should like him to inform me whether there are any good reasons why this long practice amongst the business community should be interfered with.

The Hon. W. E. V. ROBSON [8.27]: It seems somewhat extraordinary that the clause should, in effect, provide that one can only recover by realising on the security. One may have a mortgage with a guarantee by an outside person, and one would have to get one's money back by realising on that security. Otherwise a guarantee cannot be given for a refund of the security.

The Hon. E. M. MITCHELL: That is only in a moneylending transaction!

The Hon. W. E. V. ROBSON: I have known of cases where registered moneylenders have lent money at 5 per cent. I heard of one such case only the week before last. Even if there were a guarantee the moneylender would be limited entirely to the realisation of the security and the guarantee would not be worth the paper on which it was written. Therefore, in future, there will be no guarantee in respect of a loan from a moneylender.

The Hon. R. R. DOWNING: A guarantee will be necessary in the case of a loan where there is no security!

The Hon. W. E. V. ROBSON: A person who wants a loan may mortgage a piece of land and obtain a guarantee. In that case there would be two securities. If the loan is for ordinary business purposes, why should not the ordinary law enforce the right against the guarantor? I can quite understand that there should be some qualification in regard to loans for domestic purposes such as for furniture, where the loan is given on some security, but we should not tie up ordinary commercial transactions which might be entered into with a moneylender and might be made for the purpose of embarking upon some enterprise that might well warrant a loan from a moneylender. It would be contrary to all business practice to say that there could be no guarantee in that case.

The Hon. Sir HENRY MANNING [8.32]: It is important to realise that there is a big distinction between a bill regulating business transactions in respect of trade and commerce generally, and a bill of this kind, which is designed to remove certain evils in respect of moneylending. I understood from the Minister's opening remarks that one evil aimed at by this legislation was the evil whereby a moneylender with the aid of a confederate sacrificed the security of the borrower and then proceeded against him civilly for his liability quite irrespective of the security. When I looked for the reason for the cutting out of the personal liability which was in the original bill, I thought that I had found it in the fact that the moneylender was being thrown back on to the security itself, so that he could not tamper with it and deal with it in accordance with the illustrations given by the Minister in his opening speech. If that is the reason for it, then we are asked by the framers of the measure to envisage an entirely new conception of the idea of moneylending as the result of which the ultimate resort against a borrower is completely wiped out. It would, of course, apply not to past, but to future, transactions. I do not know whether it is considered that this new idea of the moneylending system is based on experience, but it ought to be considered in that light more than as one of the features of the whole relationship of business transactions in connection with trade and commerce generally. I prefer to view this feature within the narrower limits of a moneylenders' bill, and that is the way I am viewing it at present. If any light can be thrown upon the feature that I have endeavoured to put before the Committee it would certainly be helpful to me. For the moment I am in some difficulty about it because I take a view somewhat different from that expressed by some other hon. members. My views are on narrow rather than on broad lines. I think that this is an ameliorative provision for dealing with a social evil in the business community which is confined to a comparatively small part of it. I am not thinking of the legitimate cash order system, the legitimate hire-purchase system, or even the legitimate moneylending system. I am thinking only of those examples which were given by the Minister and which occurred to me to be evils for which some adequate remedy should be provided. It seemed to me that the idea was that, if we institute a new system, the remedy should be confined to the security given, and that that was one of the central features of the new provision. If I am wrong I should like to be corrected.

The Hon. R. R. DOWNING [8.38]: I am indebted to the Hon. Sir Henry Manning for his explanation and his suggestion that further consideration be given to the personal covenant provision which was deleted from the bill in another place and which the Hon. Mr. Thompson now seeks to reinsert. As the Hon. Sir Henry Manning has said, the bill is being considered as covering a wider sphere than what will probably be the case in actual fact. I have no doubt that if this bill did apply, for example, to banking houses, which deal largely in loans on security, there would be something in the viewpoint which the hon. member has put forward; but the bill is confined to a limited class of money-lender. If this provision applied to banking houses, then the difficulty referred to by the Hon. Sir Henry Manning would arise, particularly where overdrafts are given on securities and mortgage is secured on securities, but this provision does nothing more than to ensure that in the case of moneylending transactions the borrower will be protected against certain practices.

It means also that the total amount of money loaned by moneylenders under the bill on security shall not exceed the amount of the security if the moneylenders wish to be careful and prudent in the conduct of their business. I do not for one moment see how it would have the effect on the business community that has been suggested by the Hon. Mr. Thompson. The bill in its present form will give much more protection to those people whom it is intended to protect than if the amendment moved by the Hon. Mr. Thompson were agreed to.

The Hon. Sir NORMAN KATER [8.42]: Following the advice of Polonius to his son, "neither a borrower nor a lender be," I am neither a lender nor a borrower!

The Hon. A. W. McNAMARA: What is the reason for that?

The Hon. Sir NORMAN KATER: The reason for what? Does the hon. member mean the reason for the advice of Polonius?

The Hon. A. W. McNAMARA: No, the hon. member not being a borrower!

The Hon. Sir NORMAN KATER: When one borrows money from another it is a personal matter, and the individual who borrows the money is responsible for its repayment. I look on a security as quite a secondary matter. I heard of a number of cases after the moratorium was introduced of people who were well able to repay loans and interest, but who sheltered under the Moratorium Act and refused to pay. I know of instances where great hardship was caused. I cannot see why if an individual borrows money from another he should not be personally responsible.

The Hon. RICHARD THOMPSON [8.42]: I appreciate the Minister's explanation in answer to my inquiry, but I do not think the Committee realises the enormous extent of trade finance which is covered by houses outside banking houses. When the Hire-purchase Agreements Bill was under discussion in this Chamber I drew attention to the matter of the discounting of promissory notes under hire-purchase transactions. A person who discounts promissory notes always secures the personal covenant, because it enables him to make his discounting arrangements at some satisfactory rate of interest, which is conducive to increased business. Under this legislation as it stands these businesses will suffer, because they will have to be registered as moneylending houses, and that will seriously affect them unless there is some reasonable provision along the lines I have suggested. A tremendous amount of business is done every year and that will be affected if some provision is not made along the lines I suggest.

Amendment negatived.

Clause agreed to.

Clause 27. (1) Any money-lender being a company shall cause to be displayed at all times in the main public office at the authorized address of the money-lender a statement showing the names of all the shareholders of the company, and the share holdings of all such shareholders.

(2) Any money-lender who contravenes the provisions of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding twenty pounds.

Amendment (by the Hon. Richard Thompson) agreed to:

That in subclause (1) after the word "company" first occurring there be inserted the words "which consists of less than fifty persons".

Clause as amended agreed to.

Clause 29. (1) Any agreement entered into after the commencement of this Act between a money-lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money-lender of any sum for or on account of costs, charges, or expenses (other than stamp duties and fees payable to the Registrar-General) incidental to or relating to the negotiations for or the granting of the loan or proposed loan or the guaranteeing or securing of the repayment thereof shall be illegal.

. . . . . . . . . . . . .

Amendment (by the Hon. W. E. V. Robson) agreed to:

That in subclause (1) after the word "Registrar-General" there be inserted the words "and legal costs".

Clause further amended consequentially and agreed to.

Clause 39.

. . . . . . . . .

(4) Where leave to sell personal chattels is granted by a court of petty sessions under this section, the following provisions shall apply:

. . . . . . . . .

(e) an auctioneer shall not conduct any such sale if he holds any interest in the business of a money-lender or if a money-lender holds any interest in the business of the auctioneer;

. . . . . . . . . .

The Hon. RICHARD THOMPSON [8.53]: I move:

That in subclause (4) (c) after the word "auctioneer" there be inserted the words "otherwise than as a shareholder and in common with the shareholders of a company which is licensed as an auctioneer and which consists of not less than fifty persons".

The provision in the bill relates to the prohibition of auctioneers having certain interests when conducting sales of goods that have been seized under bills of sale. It is provided that an auctioneer shall not conduct any such sale if he holds any interest in the business of a moneylender, or if a moneylender holds any interest in the business of the auctioneer. The amendment is not consequential, although it is couched in the spirit of the amendments, already agreed to, and I think it is only fair that the same exemption should apply to this as to other clauses.

Amendment agreed to.

Clause as amended agreed to.

Clause 43. (1) All loans made by a money-lender purporting to be loans of money shall be made in current money, bank notes, or cheques on bankers and shall be made in full without any deduction for interest or otherwise, and no land, goods or articles of any kind whatever or things in action shall be given or supplied in or by way of barter or otherwise for or as part of any such loan.

This subsection shall not be construed so as to prevent a money-lender deducting from any loan of money any sum lawfully agreed to be paid in accordance with the provisions of this Act on account of stamp duty or on account of fees payable to the Registrar-General.

. . . . . . . . . .

Amendment (by the Hon. W. E. V. Robson) agreed to:

That there be added to subclause (1) the words: "or on account of legal costs."

Clause as amended agreed to.

[*The Deputy-Chairman (the Hon. G. S. Archer) left the chair at 8.59 p.m. The Committee resumed at 9.15 p.m.*]

Postponed clause 23:

. . . . . . . . . .

(5) This section shall not extend to or in respect of any money-lending transaction or to any contract, security or guarantee, made or given in relation to a money-lending transaction where the amount of the loan does not exceed ten pounds.

. . . . . . . . . .

The Hon. RICHARD THOMPSON [9.15]: I move:

That in subclause (5) the words "does not exceed ten pounds" be struck out, and there be inserted in lieu thereof the words "exceeds one hundred pounds".

The purpose of this amendment is to give some recognition to money-lending transactions for business purposes. The subclause as it stands will not, I consider, achieve the object for which it was framed. A borrower could obtain separate loans of £9 each in four or five places, or get some other accommodation, so defeating the whole purpose ot the provision. There is a very common and well-founded practice of borrowing considerable sums of money for business purposes. The necessity of obtaining the approval of a spouse in each case for what are essentially business loans would be an unreasonable burden on the business community. My suggested amendment is on the lines of the South Australian legislation, which specifies, however, an amount of fifty pounds. If my amendment were accepted a borrower would not need to obtain the permission of the spouse for loans over £100, which almost invariably would be loans of a business nature. I commend this to the Committee as a practical way out of a very grave difficulty.

The Hon. R. R. DOWNING [9.20]: The object of this provision was to limit the amount of money that could be borrowed without the consent of the spouse. It was felt, however, that in order to avoid irksome restriction and at the same time to limit to a reasonably small figure, the damage that could be done by a borrower, this amount of ten pounds should be specified. Whether or not it achieves its purpose, the intention of that subclause was to prevent serious financial difficulties resulting from excessive borrowing on the part of a spouse. The proposed amendment has some objections, in that it provides a possible avenue by which a borrower might be deprived of the protection that the bill is intended to afford him. Moneylenders could negotiate what would in actual fact be a loan of £15 by entering into a contract for a loan of £115, on condition that the sum of £100 was to be repaid immediately without interest.

The Hon. Richard Thompson: There is a let-out like that for every clause of the bill!

The Hon. R. R. DOWNING: The present provision prevents that possibility and, at the same time, effectively limits the extent of the financial difficulties into which one spouse can get without the consent of the other. The present provision is not open to the serious objections of the amendment suggested by the hon. member, which might be the means of avoiding altogether the requirement that one spouse should secure the consent of the other to any transaction entered into with a moneylender.

The Hon. L. W. RYAN [9.23]: I have followed the bill carefully throughout, and I think this is one of the most vital clauses. I do not subscribe to the view of the leader of the Government as to the possibility of such transactions as he mentions, in regard to the sums of £100 and £115. But I want to prevent the possibility of a person struggling on the basic wage having the opportunity of going to different moneylenders, or directly dealing with one moneylender and indirectly with several others, who possibly may all be one individual. If money is required for domestic or home purposes, what often happens is that the husband or wife will go to some moneylender and receive a pound or two. Or the husband may get a few pounds to take to the races, or his wife may get a few pounds to go to some cash order people. In a brief time they become involved to the extent of ten pounds or more, and, although that is not a large sum, they have trouble in paying it back. Whatever arrangement is made in regard to obtaining money should be made in the proper manner, the wife and the husband having a proper opportunity of understanding the position, and the same should refer to business activities. There are moneylenders who have not a place of business, and many of them are importations; they adopt various aliases, and they actually rob the business community. They use one name for five or six different businesses with the object of inducing people to go to them and pay exorbitant interest.

I thought in the first place that the purpose for which this bill was introduced was to bring about a system of equity and fair discrimination in these transactions, so that people who had a certain class of security could get financial relief, if they required it, by paying a little for it—and it is worth paying a little if a person is in need temporarily of financial assistance. I have had opportunities of knowing of the small difficulties and family disarrangements that can be caused by men and their wives dealing in these transactions, even up to the extent of only ten pounds, which, when it comes to repayment, amounts with them to a big item. I am heartily in accord with the amendment. I have some diffidence in opposing the business of the Government, but I feel so keenly on this matter that I must support the proposal provided for in the amendment of the hon. member.

The Hon. R. R. DOWNING [9.28]: Apparently, the Hon. Mr. Ryan feels that there is no objection to letting people get into serious difficulty as long as the amount is over £100. Apparently, the greater the difficulty the less objection there is to it, from his point of view. In addition to this, I suggest that the evasion that may be practised as a result of the proposed amendment would probably present serious difficulties in giving effect to the intentions of the Act.

The Hon. L. RYAN [9.29]: The representative of the Government, from his observations, has either misunderstood me or he misunderstands himself. I thought that I made my position fairly clear by saying that a person who has £100 must have some substance. I thought that the Minister would have understood that what I have in mind is that some of the persons who are dealing with these moneylenders borrow in small amounts. Sums of £2 or £3 are lent to them because the moneylender can get it back from the basic wage worker by starving him out of existence.

Question—That the words proposed to be struck out stand—put. The Committee divided:

Ayes, 12; noes, 9; majority, 3.

AYES.

| | |
|---|---|
| Brooks, K. G. | Speck, E. J. C. |
| Dickson, W. E. | Tout, Sir Federick |
| Downing, R. R. | Whiddon, H. W. |
| Eggins, E. J. | |
| McNamara, A. W. | *Tellers,* |
| Mahony, R. | Bridges, C. B. |
| Mullins, G. | Stewart, J. |

NOES.

| | |
|---|---|
| Cambridge, W. C. | Robson, W. E. V. |
| Coates, J. F. | Thompson, Richard |
| Horne, H. E. | *Tellers,* |
| Manning, Sir Henry | Binks, A. N. |
| Mitchell, E. M. | Ryan, L. W. |

Question so resolved in the affirmative.

Amendment negatived.

Postponed clause agreed to.

Bill reported with amendments; report adopted.

## SPECIAL ADJOURNMENT.

Motion (by the Hon. R. R. Downing) agreed to:

That this House at its rising to-day do adjourn until Tuesday next at 4 p.m.

## ADJOURNMENT.

INCOME TAX ASSESSMENT: WAGE-EARNERS.

Motion (by the Hon. R. R. Downing) proposed:

That this House do now adjourn.

The Hon. Sir HENRY MANNING [9.40]: Reports are circulating to the effect that the Government intends to end the session early next week, and because of that I desire to draw the attention of the Minister to a grave injustice that is being inflicted upon the wage-earning section of the community by the Income Tax Assessment Act in respect of matters to which I drew the attention of the Minister some time ago. The principal matter to which I wish to refer is that portion of the Income Tax Assessment Act, which makes provision for the assessment of income tax for the year ended 30th June, 1941. That is taken as the first year of income for the purposes of assessment of income tax under the Act. If we take the wage-earner who has been paying wages tax since 1932, and we take, for the sake of illustration, three years, starting from the 1st July, 1938, to the 1st July, 1941, then for each of those three years the wage-earner pays wages tax irrespective of any year of income. The tax is paid out of the receipts of wages for each of those three years.

The next thing is that the Income Tax Assessment Act imposes a tax in respect of the first year of income, which is the year ended the 30th June, 1941. If we take, in addition, the year ended 30th June, 1942, we find that ordinarily a person assessed under the Act would pay two years' income tax. If we take the case, however, of the wage-earner who has paid wages tax for the three years to which I have referred, he pays three years' wages tax and two years' income tax; that is, five years in all. Whereas, had the Income Tax Assessment Act not been passed, a person in receipt of wages would be paying tax for only four years. There is no answer to that position, and it is useless to say, for instance, that the year ended the 30th June, 1941, is merely a year fixed arbitrarily for the purpose of assessing the tax.

Take the wage-earner who dies after the year 1942. In that case the legal representative of the wage-earner will be called upon to pay those taxes which are arranged for under the Income Tax Assessment Act as recently passed. It is, therefore, perfectly clear that the wage-earner will be called on to pay tax twice for the year 1941. I am not dealing with any other than that year. When the Income Tax Assesment Bill was in Committee the Minister inserted an amendment for the purpose of relieving from hardship the person who was subjected to double taxation, and that amendment placed upon him the obligation, before he could obtain relief, of establishing before a board that he had been the victim of undue hardship. The man who is charged twice in the same year for income tax is told not that he need not pay and that there was a mistake in the statute, but that he must go before a board, and if he can establish a case of undue hardship he will receive some relief with respect to the money paid twice for subsequent tax and so forth, according to the language of the Act. When the Minister mentioned that, I drew his attention to the fact that it was a serious injustice, no matter whether there was any undue hardship or anything else, and that a man was entitled, no matter whether he was the greatest criminal on earth, to be charged only once for the particular year of taxation.

One would have imagined that there would have been some amending legislation introduced in order to remedy the anomaly whereby this tax is inflicted twice over on the wage-earner. What I ask the Minister to do is to make representations to the Government that in justice to the wage-earner the Government should extend the sittings of Parliament in order immediately to pass ameliorative legislation. Everything will be done as far as I personally am concerned to facilitate the passage of such remedial legislation. I urge that the Government should not close this session without dealing with this particular matter, which is an outstanding instance of double taxation. The reason why I say it is urgent is that without this remedy on the statute book the legal representatives of a deceased wage earner — there are many of these cases; I understand they total over 30,000—in order to get relief against the claim for the taxation for the year of income immediately preceding the man's death, would have to go before the board and establish that the man in his lifetime was the victim of undue hardship. This is a very important matter, and I urge the Minister to make representations in the strongest terms, so that this session will not close until legislation has been introduced to do away with that hardship.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [9.53], in reply: As I understand the Hon. Sir Henry Manning, he is quoting the case of a wage-earner who has paid wages tax, for example, during the year ended 30th June, 1940, and is now required to pay income tax for the same period.

The Hon. Sir HENRY MANNING: For **1941!**

The Hon. R. R. DOWNING: I do not quite agree with the Hon. Sir Henry Manning's deductions or with what he says with respect to the consequences of the present Act. From my recollection of the measure there is a provision that a man may appeal to the board set up under the Act for relief in case of hardship. I will certainly go into the matter the Hon. Sir Henry Manning has raised. I do not, of course, wish the House to regard that as an admission that the effects which the Hon. Sir Henry Manning says have flowed from the Income Tax Management Act have so flowed, or that they would necessarily require further consideration. I would like to say that one of the causes for that result, if such is the result, is the undue retention of a system of taxation on weekly incomes instead of yearly incomes by the Government with which the Hon. Sir Henry Manning was associated.

The Hon. Sir HENRY MANNING: But we paid the penalty for that. Why inflict the penalty now on the taxpayer?

The Hon. R. R. DOWNING: I have already said that I do not agree that a penalty has been inflicted on the taxpayer to the extent suggested by the hon. member. I assure the House, however, that if the injustice is as serious as the hon. member suggests it will receive every consideration. The hon. member mentioned the fact that there are an estimated number of 130,000 wage-earners who are affected. I should like to draw attention to the fact that approximately 130,000 wage-earners who were paying taxation during the term of the previous Government, are no longer required to pay any taxation. The chief concern of the wage-earner is the amount of wages tax, income tax or any other tax that he is required to pay, considered in terms of actual money.

Question resolved in the affirmative.

House adjourned at 9.52 p.m.

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# Legislative Council.

*Tuesday, 18 November, 1941.*



The PRESIDENT took the chair.

The opening Prayer was read.

## ASSENT TO BILLS.

Royal assent to the following bills reported:

Farmers' Relief (Amendment) Bill.
Irrigation (Amendment) Bill.
Agricultural Holdings Bill,
Hire-purchase Agreements Bill.

## INCOME TAX ASSESSMENT: WAGE-EARNERS.

### MINISTERIAL STATEMENT.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council): I wish to make a Ministerial statement with regard to the matter raised by the Hon. Sir Henry Manning on the adjournment at the last sitting of the House and the hon. member's implication that the legal representatives of 130,000 wage-earners were concerned about the matter.

The Hon. Sir HENRY MANNING: I may have said 130,000, but I meant to say 30,000!

The Hon. R. R. DOWNING: The number is immaterial so far as my statement is concerned. I think that on examination the statement of the Hon. Sir Henry Manning will be found to be baseless. The Premier made a statement on this subject when the bill was introduced in the Legislative Assembly. In addition to that, after considering the question raised by the hon. member, the *Sydney Morning Herald,* on the 16th October, in its leader on the Income Tax Management Bill, agreed that it was not double taxation. In its article it stated that Mr. McKell could be acquitted of the charge that he was attempting to levy tax twice on the same year's income. The Premier on that occasion explained that persons were required to pay tax for each financial year, and that they were not particularly concerned what year's income was used as a basis provided they did not have to pay extra tax. Take the present financial year as an instance. Income earned during the year ended 30th June, 1941, is used as the basis. That year was also used as the basis for unemployment relief tax, but not State income tax, last year. If no change had taken place weekly earnings between the 1st July, 1941, and 30th June, 1942, would have been the basis of tax for this financial year. In other words, one year has been substituted for another, and as that continues indefinitely the majority of wage-earners are unaffected. The