

**LEGISLATIVE COUNCIL.**

Tuesday, November 20, 1951.

The PRESIDENT (Hon. Sir Walter Duncan) took the Chair at 2 p.m. and read prayers.

**BRICK PRODUCTION.**

The Hon. K. E. J. BARDOLPH—Is the Chief Secretary aware that brick production in South Australia is being retarded because some brick manufacturers are unable to secure sealing-off paper and there is a shortage of firewood? Will the Government take steps to make paper available and to subsidize wood-cutters in the country, if necessary, to provide firewood?

The Hon. A. L. McEWIN—I will refer the matter to the Premier.

**CRUELTY TO PERFORMING ANIMALS.**

The Hon. E. ANTHONY—On August 22 I asked the Chief Secretary if he had examined the British Act regarding punishment of people who ill-treated performing animals, with a view to introducing similar legislation in this State. Has he a reply to my question?

The Hon. A. L. McEWIN—I will endeavour to obtain information.

**PARKING OF TRAILERS.**

The Hon. K. E. J. BARDOLPH—Has the Chief Secretary a reply to the question I asked on October 18 relating to preventing interstate trailers being parked within the square mile of Adelaide?

The Hon. A. L. McEWIN—I have a report which I will make available to the honourable member.

**CONSOLIDATION OF WORKMEN'S COMPENSATION ACT.**

The Hon. S. C. BEVAN—In view of the Workmen's Compensation Act being amended from time to time, will the Chief Secretary assure the House that during the Parliamentary recess the Act will be brought up-to-date and consolidated?

The Hon. A. L. McEWIN—The matter will be considered.

**FIRE HAZARD.**

The Hon. N. L. JUDE—In view of the serious fire hazard in the South-East I have issued instructions, as the President of the affiliated associations, to see that outlying country schools are made secure prior to the school holidays. I have suggested that the Education Department would probably welcome arrangements whereby fire control officers

should visit schools prior to the holidays and explain the serious nature of the danger to the children and teachers. I would like to feel we had the support of the Minister of Education and would welcome a statement from him on the matter.

The Hon. R. J. RUDALL—The fire hazard in this State is by no means limited to the South-East, but applies all over the State. I assure the honourable member that every step will be taken by the Education Department to bring home to everyone concerned the danger of fires. He need have no misapprehension in that regard. Concerning the cleaning of school yards, I am quite certain that the school committees, which are representative of families who live in the districts and know the fire hazards, will be only too glad to co-operate with any organization with a view to minimizing any danger in that regard.

The Hon. E. ANTHONY—Will the Chief Secretary bring under the notice of the Housing Trust the serious fire hazard that exists on the properties now held by the trust in and around the metropolitan area and see if anything can be done to safeguard residents against possible danger?

The Hon. A. L. McEWIN—I will refer the matter to the Minister concerned.

**MANNUM COUNTRY LANDS WATER SUPPLY.**

The PRESIDENT laid on the table the report of the Public Works Standing Committee on the Mannum country lands water supply, together with minutes of evidence.

**TRAVELLING STOCK RESERVE: HUNDRED OF BLACK ROCK PLAIN.**

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:—

That it is desirable that an area of approximately 70 acres of the travelling stock reserve between sections 137, 142, and 143, hundred of Black Rock Plain and the railway line, as shown on the plan laid before Parliament on June 27, be resumed in terms of section 136 of the Pastoral Act, 1936-1950, for the purpose of being dealt with as Crown lands.

**TRAVELLING STOCK RESERVE: HUNDRED OF AYERS.**

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:—

That it is desirable that section 900, hundred of Ayers, containing 17 acres which is set aside as a travelling stock reserve as shown on the plan laid before Parliament on

July 24, be resumed in terms of section 136 of the Pastoral Act, 1936-1950, for the purpose of being dealt with as Crown lands.

#### PARLIAMENTARY PAPERS.

The Hon. A. L. McEWIN moved—

That it be an order of this Council that all papers and other documents ordered by the Council during the Session, and not returned prior to the prorogation, and such other official reports and returns as are customarily laid before Parliament and printed, be forwarded to the President in print as soon as completed and, if received within two months after such prorogation, that the Clerk of the Council cause such papers and documents to be distributed among members and bound with the Minutes of Proceedings; and as regards those not received within such time, that they be laid upon the table on the first day of next Session.

Motion carried.

#### INDUSTRIAL CODE AMENDMENT BILL (No. 3).

Read a third time and passed.

#### LANDLORD AND TENANT (CONTROL OF RENTS) ACT AMENDMENT BILL.

Second reading.

The Hon. A. L. McEWIN (Northern—Chief Secretary)—This Bill make a considerable number of amendments of importance to the Landlord and Tenant (Control of Rents) Act, 1942-1950, in order to carry into effect the recommendations of the committee which recently made its report to the Government. It will be recalled that, as a result of a motion passed by the House of Assembly during last session of Parliament, the committee was appointed to inquire into the necessity or otherwise of the continuation of the Landlord and Tenant (Control of Rents) Act in its present form and to inquire into the circumstances associated with that legislation. The committee consisted of Mr. W. C. Gillespie, S.M., who was chairman, Mr. A. W. Bowden, the Public Actuary, and Miss Ruth Gibson. At its inception Sir Oscar Isaachsen was also a member of this committee but, after his unfortunate death during the progress of the inquiry, Mr. M. H. E. Mackay was appointed in his place. The committee made an exhaustive and careful inquiry into the matters referred to it and has presented an extremely well reasoned and valuable and, I might add, eminently readable report. The Government accepts the recommendations of the committee, and with the exceptions to be referred to, they are incorporated in the present Bill. In addition, some other amendments, not con-

sidered by the committee, are made by the Bill, but these are of a minor or drafting nature and do not affect the policy of the legislation. They will be referred to in some detail in due course.

The history of the present legislation is set out in full in the report of the committee and it is unnecessary to state again what is set out with clarity in the report. The report also sets out the reasons of the committee on which it has based its various recommendations and it is obviously unnecessary to repeat what is stated so clearly in the report. However, as members are aware, the existing legislation providing for the control of rents has been in force in this State since 1942 and, with minor exceptions, the basic scheme of that legislation continues to apply. Since 1942 the scope of the legislation has been extended and the legislation in its present form now deals with a number of important topics apart from rent control, and the Act now provides:—Firstly, for the control of rents of dwellinghouses and other premises; secondly, for the control of evictions from premises; thirdly, for the control of rents of caravans; and fourthly, for the control of rents of licensed premises. The committee has recommended some very important amendments to the present law relating to the control of rents and evictions but does not suggest any alteration in the law dealing with caravans or licensed premises. It may be convenient if, at present, I deal with some of the general proposals made by the committee before dealing with its detailed recommendations.

The committee has reported that it is necessary that the control of rents of dwellinghouses should be continued and the effect of its recommendations is that, in general, the existing method of rent control should be continued. However, the committee has made an important recommendation on the question of the rental standards to be applied when fixing rents. As members are aware, the existing scheme under the Act is as follows:—The Act provides, in effect, that rents of dwellinghouses are to be those prevailing at the commencement of the legislation in August, 1942. The rent may be varied by a determination of the Housing Trust on application by either party. The trust is required, under the legislation, to fix the rent according to the rental standards prevailing for that type of premises at August, 1942, and that, in effect, is the same as the rental standards of September, 1939. Although the legislation provides that rents are to be fixed according to the level prevailing before

the commencement of the war in point of fact, as I will mention later, the trust has in recent years based its rents on something more than the 1939 levels. Whether or not the rental level on which rent fixation should be based should be altered or not was, of course, one of the most important matters to be considered by the committee and that committee has recommended that rents of dwelling-houses should be fixed on the basis of the rental levels prevailing at September, 1939, plus 22½ per cent. The amendment to give effect to that recommendation is contained in paragraph (d) of clause 9. It provides that the Housing Trust is to fix rents of dwelling-houses in accordance with the general level of rental values for comparable premises prevailing at September 1, 1939, plus 22½ per cent. I wish to make it clear, however, that this does not mean that, if the clause is passed, rents of dwellinghouses will be automatically increased by 22½ per cent. In the first place, the provisions of the Act which state that any rent now in existence cannot be increased without a determination of the trust still apply, and before any rent can be increased to conform with the new basis for rental fixation there must be an application to the trust and the trust must fix the new rent. In the second place, for some time now the trust with, I may mention, the knowledge of the Government, has been fixing rents on something more than 1939 levels, and many landlords who have had their rents fixed during the last year or so have had a rent above the 1939 level. In such a case it follows that, if the landlord applies for a further fixation of rent, the trust will, of necessity, have to take into account any increase in rent which he has received in the past and in instances it will be found that a landlord has possibly already had a substantial part of the increased rent to which he is entitled under this provision. In the third place, if the owner of a dwelling-house which has been let for some years has not applied to the trust to have the rent fixed, it has been found that such a rent is in many cases appreciably above the prevailing rental levels for the same class of premises; that is, in many cases where the landlord has not approached the trust to have the rent fixed he has been charging a rent which is above the 1939 rental levels. In the event of an application being made to fix the rent of premises of this kind it will, in many cases, be found that if the landlord is entitled to any increase it will not amount to the full 22½ per cent. Thus, the general effect is that

the rental basis on which rents are to be fixed will be 22½ per cent above the 1939 levels but, I repeat, this does not mean that all rents can or will be increased by 22½ per cent.

The committee's report on business premises is given effect in clauses 4 and 9. It has recommended that where business premises are let after the passing of the Bill to a new tenant they shall cease to come within the Act either for the purpose of rent control or for the control of evictions. The effect is that if, for instance, a shop becomes vacant in the future and a new tenant takes up the tenancy, the parties will be able to make their own arrangements for the rent and there will be no control at all over the rent and the tenant will not have any of the special rights given by the legislation relating to evictions; that is, there will be complete de-control of premises of this kind and this de-control will apply to all subsequent tenancies of those premises.

As regards business premises which are now subject to a tenancy it is provided that if the existing parties enter into a new lease for two years or more this lease and any subsequent lease of the premises will also cease to be subject to control of any kind. A further provision is made that where there is a lease in existence between a lessor and lessee and they agree in writing to the amount of rent then, whether that rent has been subject to a fixation by the Housing Trust or not, the provisions of the Act relating to control of rents will not apply to that lease nor to any future leases of the premises.

Summing up, the Act will now provide, as regards business premises, firstly that all tenancies between new parties after the passing of the Act will be completely de-controlled. Secondly, that if the parties to an existing tenancy enter into a fresh lease for two years or more then the Act will not apply to that or any subsequent lease, and thirdly, that if the existing parties to a tenancy agree in writing as to the rent the Act will cease to apply to the rent of those premises and they can subsequently make any other arrangements they care to as to the rent, but the provisions of the Act as to the control of evictions will continue to apply.

Another important alteration is made as regards the determination of the rents of business premises by the Housing Trust. Although, as is apparent from what has just been said, the field for the control of the rents of the business premises will be dimin-

ished and will continue to diminish from time to time, there will still be some premises which may be subject to rent control. It is provided in paragraph (d) of clause 9 that where, in future, the rent of business premises is fixed by the trust, the basis upon which those rentals are to be fixed is to be the general level of rentals for comparable premises prevailing at the time of the rent fixation which is the result of agreement between lessors and lessees.

The effect of this is that, as regards those business premises still subject to rent control, the trust will fix rents in accordance with the rental level for the time being which is brought about by agreement of parties to leases not subject to rent control. It may be expected that the freeing from control of a substantial number of business premises will bring about some increase in the rents of this kind of premises and if the trust is required to fix the rents of business premises its rent determination will conform with the rental levels fixed by private agreement which, as before stated, can be expected to rise above those now prevailing. There are also a number of other matters dealing with the control of rents which will be dealt with later.

At this stage, however, it may be desirable to give some details as to how rent control has operated since January 1, 1943, when the present legislation came into force. Since that time until September 30 last, the Housing Trust fixed rentals in 25,387 cases, of which 23,663 related to dwellings. More than two-thirds of the applications to the trust have been made by lessors. As previously mentioned, the trend of the trust's rent fixations during the past few years has been to lift the rental levels prevailing at the time rent control was first brought into operation. This has been done gradually. During the first nine months of 1951 rents were increased in 2,636 cases of premises used as dwellings. The following table gives the percentage increases granted, the percentage being the increase of rent provided for above the rents payable before the rents were fixed.

	No. of increases.	Percentage increase on previous rent. Per cent.
Cottages . . . . .	1,972	17.9
Flats . . . . .	303	17.2
Shared accommodation . . . . .	236	20.0
Shops and dwellings . . . . .	125	27.6
	<u>2,636</u>	<u>18.6</u>

The following table also gives information as to the trend of rental fixations during the whole of the period from 1943. This table relates only to premises used as dwellings.

Year.	No. of final determinations.	No. of cases where rent increased.	Proportion of cases where rent was increased. Per cent.
1943 . . . . .	2,015	719	36
1944 . . . . .	2,181	421	19
1945 . . . . .	1,877	464	25
1946 . . . . .	2,161	934	43
1947 . . . . .	1,969	1,010	51
1948 . . . . .	2,702	1,776	66
1949 . . . . .	3,430	2,528	74
1950 . . . . .	3,694	2,767	75
1951 (to September 30,			
1951 . . . . .	3,411	2,636	77

The next important topic dealt with by the committee relates to the law dealing with the control of evictions and in this regard the committee has come to the conclusion that it is still essential to continue general restrictions on the right of an owner to recover possession of his premises, although, as it will be seen, the committee proposes some appreciable relaxation in this regard.

The committee has also recommended that there should be a relaxation of these provisions as regards shared accommodation. Under the Act at present, a landlord can only give notice to quit on one of the grounds set out in section 26n of the Act and he must comply with certain other requirements as to the period for which notice is given and other matters. The committee has suggested that, as regards shared accommodation, there should be an appreciable relaxation of this provision and its recommendations are given effect to in clause 22 of the Bill. This clause provides that, as regards shared accommodation which is subject to an existing tenancy at the time of the passing of the Bill, the lessor may give notice to quit to the lessee without specifying any ground—that is, he does not have to specify, as is now required by section 26n, that he relies upon one of the grounds in that section such as that he needs the premises for his own occupation or for a member of his family or for any of the other purposes set out in that section. A notice to quit under clause 22, however, cannot be given to a tenant in occupation at the time of the passing of the Bill unless the notice given is for not less than two months and unless at the time of the giving of the notice and during the year preceding the tenant and the landlord were the only occupiers of the

dwellinghouse and unless the landlord has lived in the house for at least 12 months and during the six months preceding the giving of the notice has not received as rent any amount which is an unlawful rent. On the hearing of the proceedings the court, if it desires, need not take into account any of the matters affecting hardship and the other things mentioned in section 26u but may make the order in accordance with the ordinary law relating to landlord and tenant. As regards this last point, the Bill does not follow the recommendation of the committee, which was to the effect that in these proceedings the court should not have a discretion in the matter but should disregard the hardship and other provisions in section 26u. As introduced into another place, the clause followed the recommendation of the committee but, as a result of an amendment which was accepted by the Government, the clause was altered to give to the court a discretion as to whether the hardship provisions should be applied or not.

As regards future lettings in the circumstances already mentioned, that is, where a person lets part of a house to one tenant but to no others, the notice to quit may be given on the same conditions as those specified except that the rent of the premises must be fixed by the Housing Trust or on an order of the local court and notice in such a case need only be given for 30 days. The practical effect of these provisions is that where a person living in a dwellinghouse chooses to let part of it to one tenant only he will, subject to compliance with the provisions of the clause, be able to give notice to quit to his tenant if for any reason, subject to the conditions of the lease, he desires to terminate the tenancy, and the court will have a discretion as to whether the provisions of section 26u are to be applied or not.

Clause 2 also applies to shared accommodation. This clause was not recommended by the committee but was introduced into the Bill by amendment in another place and accepted by the Government. The present definition of "shared accommodation," in effect, means any part of premises which is not a complete residence in itself. Thus, if under the letting of any premises any conveniences such as a bathroom, etc., are shared, those premises are shared accommodation. It was considered in another place that, in the light of the changes in the law proposed by clause 22, this definition is too wide and clause 2 enacts a new definition, the effect of which is that to constitute shared accommodation a habitable room

must be used in common. Those referred to are by no means all the amendments to the law relating to evictions which have been recommended to the committee but these other amendments will be referred to later.

The other important topic upon which alterations of the law are proposed relates to protected persons. The present definition of "protected person" in the Act is extremely wide and includes discharged members of the forces who have been discharged for five years or less, persons in receipt of pension of any kind or entitled to receive medical attention as the result of war service, family dependants of discharged members of the forces, and parents of such members. The Act provides that where proceedings are taken against a tenant who is a protected person for the recovery of the possession of the premises leased by him then, subject to some exceptions, the court is not to make an order against the protected person unless reasonably suitable alternative accommodation has been available to him or unless he has refused an opportunity of buying the premises or has sublet the premises and is residing elsewhere.

The committee has recommended important alterations of these provisions and has suggested that the categories of protected persons should be restricted to discharged members of the forces who have not been discharged for five years or more; to war pensioners, who are defined as persons in receipt of pension from the Commonwealth or any other part of His Majesty's Dominions of an amount equal to 50 per cent or more of the pension payable for total or permanent incapacity; to the wives of war pensioners who are residing with their husbands; and to the widows of any members of the forces who are wholly or partly dependent on pension paid to them in consequence of the death of their husbands on war service. It is also proposed that war service shall be limited to service during any war between September 3, 1939, and the passing of the Bill. The effect of this limitation is that, if a war were to break out, it would be necessary for Parliament to reconsider the matter and decide what, if any, special rights in this regard should be given to members of the forces in such a war. The amendments dealing with the categories of protected persons are contained in clause 33.

As introduced into another place and giving effect to another recommendation of the committee, the Bill provided that if proceedings were brought against a protected person and

the court is satisfied that, on the relative hardships as between the landlord and the protected person, the hardships favour the landlord but it is not established that reasonably suitable alternative accommodation has been available for the lessee the court may give notice of that fact to the Housing Trust and at the first reasonable opportunity at which the Housing Trust has premises available for letting under section 26 of the Building Materials Act, that is, the emergency housing accommodation, the trust is to offer the tenancy to the protected person and if he refuses the offer then the court may in its discretion make an order giving possession against the tenant. The provision dealing with this matter was deleted in another place on the general grounds that the demands made on the Housing Trust are so urgent and various that there should not be a statutory duty imposed on the trust and that, as regards its allocation of houses, there should not be a statutory preference to any particular class of persons. The Government agrees with this view and accepted the deletion of the clause in question.

In addition to the matters already mentioned the committee has recommended a considerable number of other amendments to the Act, many of which are of great importance. In addition, some other amendments are made by the Bill which are of a relatively minor character. However, the various amendments are such that it is probably necessary that each should be referred to specifically and consequently it may be desirable to refer to all the clauses so that it may be pointed out which are recommended by the committee and which are not, and the general significance of those amendments. Where an amendment has not been expressly recommended by the committee, that fact will be mentioned and unless it is so pointed out, it should be taken that the particular amendment was recommended by the committee. It should be mentioned, however, that the Bill has been drafted in close consultation with the chairman of the committee, Mr. Gillespie, and that he agrees that the amendments included in the Bill as introduced into another place and not referred to by the committee are proper amendments to be made. In most cases these amendments are of a drafting nature and are of such a kind as would not be expected to have been considered by the committee. It should also be mentioned that Mr. Gillespie is satisfied that the Bill as introduced into another place gives substantial

effect to the recommendations of the committee and that the various clauses of the Bill drafted for the purpose adequately carry out the intention of the committee. It should be understood that, in instances, the recommendations of the committee did not extend to the exact method by which they should be given effect and it was partly for this reason that Mr. Gillespie was asked to take part in the drafting of the Bill. The Government is indebted to Mr. Gillespie for the work performed by him in this regard in addition to the task carried out by him and the other members of the committee in carrying out their inquiry and compiling their report.

The following is an explanation of the clauses of the Bill which have not already been referred to. Clause 3 merely makes some consequential drafting amendments of the Act. Clauses 5 and 7 deal with the machinery of rent fixation. When the rent is provisionally fixed by the trust it must give notice of its rent fixation to the parties and later, when the rent is finally fixed, it must also give notice to the parties. Clauses 5 and 7 provide that in the notice so given, the trust is to give a break-up of the amount fixed showing which part of the rent relates to increases in rates and taxes and increased cost of maintenance, etc. Paragraph (b) of clause 7 was inserted by way of amendment in another place and was not considered by the committee but was accepted by the Government. At present, the Act provides, in general, that a rent fixation by the trust cannot be given retrospective effect. Paragraph (b) provides that a rent fixation may be given retrospective effect back to a day not earlier than one month after application was made for the rent fixation. It can be assumed that, as a result of the Bill, a large number of applications for rent fixation will be made to the trust within a short time after the Bill becomes law. Obviously, there will be some lag in dealing with a rush of applications and this amendment will give the trust power to give its determination retrospective effect where it considers it just so to do.

Clause 6 also deals with the procedure to be followed in fixing rents. Under the present Act, after notice of a provisional fixation of rent is given to the lessor and the lessee by the trust, each of them may object to the trust in writing. Clause 6 provides that when such an objection is made the party making it must give a copy of the objection to the other party who may, if he so desires, reply to the objection by notice in writing given to the trust.

It has been claimed that under the existing provisions, if either party to the lease objects to the rent provisionally fixed the other party does not know what is comprised in the objection and has no opportunity of making an answer to it. These provisions will enable this to be done. Clause 8 provides that where the local court hears an appeal from rent determinations of the trust the court is not to be bound by the ordinary rules of evidence or procedure.

Clause 9 has already been referred to but in addition to the matters dealt with earlier it gives effect to other recommendations made by the committee. The present provisions of the Act requiring the Housing Trust or the court, in fixing a rent, to have regard to increases in costs of maintenance and other outgoings, are re-drafted to make it quite plain that any increase in costs beyond that which would be incurred for the purpose of providing for maintenance, the payment of rates and taxes and other outgoings on September 1, 1939, are to be added to the rent. Paragraph (c) of the clause was not considered by the committee, but, as previously mentioned, this provision has been considered by the chairman of the committee and is considered by him to be in conformity with what should be done.

Section 21 of the Act now provides that in fixing the rent of any premises, the trust or court is to have regard to additions or improvements made to the premises by the lessee with the written consent of the lessor. It sometimes occurs that, although not obliged to do so under his lease, a lessee does work on the premises leased by him and it is obviously fair and reasonable that he should be given credit for this when the rent of the premises is to be fixed. The limitation in this provision that the consent of the lessor should be in writing is considered to be harsh and it is provided that this consent may be either express or implied. Another provision in clause 9 recommended by the committee deals with premises which, though built as a shop, have, either with or without the consent of the lessor, been used as a dwellinghouse and it is provided that, in fixing the rent of premises of this kind, the rent is to be fixed on the basis of the rent which it would command as a shop.

Section 25 of the Act provides that if the rent of any premises is fixed, no fresh proceedings for the further fixation of rent can be brought within six months except in circumstances such as where a change has occurred in the premises or an error has occurred.

Clause 10 gives effect to the recommendation of the committee that, in order that the new rental levels provided may be applied without delay as regards premises the rents of which were fixed before the passing of the Bill, fresh proceedings for a further rent fixation may be taken within three months instead of six months. Clauses 11 and 12 make drafting amendments only. These amendments were not considered by the committee, but have been suggested by the Crown Solicitor. Clause 13 also was not considered by the committee. The Act at present provides that where a caravan is let for holidays purposes the provisions of Part IIIA, under which rents of caravans are controlled, is not to apply. Part IIIA of the Act deals, not only with the rent of caravans, but with the rent of land which is used for the occupation of the caravans and the existing exemption in the Act does not extend to rent of land so used. The purpose of clause 13 is to provide that the exemption for holiday caravans is to extend also to the land used for their occupation. Clause 14 deals with the grounds upon which a notice to quit may be given. At the present time, it is a ground to give notice to quit that the lessee has been guilty of conduct which is a nuisance to neighbours. This is extended to include conduct on the part of persons residing or lodging with the lessee.

Up to 1949 it was provided by section 26n that a notice to quit on the grounds that the lessor wanted the dwelling house for his own occupation could be given only where it was reasonably required for his own occupation. In 1949 the word "required" was altered to "needed" but the word "required" occurs in other provisions of the sections such as where the premises were occupied in the course of his employment by a former employee of the lessor and are now required for occupation by another employee and the committee has recommended that in every one of these provisions the word "needed" be substituted for the word "required." A further ground for giving notice to quit is also included by clause 14, namely, that the premises, being a dwellinghouse, the lessee, by subletting or taking in boarders or lodgers during a period of six months prior to the receiving of the notice to quit or at the time of the notice to quit, is making a profit which, in regard to the rent paid to the lessor, is unreasonable.

Paragraph (c) of clause 14 was not considered by the committee and was introduced in the Bill in another place by amendment moved by the Government. The Act now pro-

vides that a ground for giving notice to quit is that the premises are occupied by the lessee in consequence of his employment by the lessor and that the premises are reasonably needed for occupation by a person employed or about to be employed by the lessor. Paragraph (c) of clause 14 provides that this ground shall be that the tenant has occupied the premises in consequence of his employment by the lessor and that he has ceased to be so employed. Under the existing provision, the ground does not exist unless, in effect, the tenant has left his employment and the lessor has a new employee ready to take the house. Obviously, the employer-lessor cannot, in the usual run of things, engage the new employee until the house is vacant and the paragraph alters this ground accordingly.

Clause 15 deals with the form of notice to quit. At present the general law is that a notice to quit must expire upon the end of a rent period but the committee has recommended that this should not apply to a notice where the lease in question is fortnightly or periodical tenancy. Thus, the effect of clause 15 is that if, say, the landlord is required to give 14 days' notice to quit to his tenant he can give notice for that period irrespective of whether it expires upon the end of the rent period or not but, of course, the full 14 days' notice must be given. Clause 16 provides that where a notice to quit is given it must bear on its face an endorsement that the lessee is not required to comply with the notice unless ordered by a court. It has occurred that some lessees, without knowledge of their legal rights, have assumed that the giving of a notice to quit must, of necessity, be obeyed and the purpose of this recommendation of the committee is to attempt to protect lessees in these circumstances. Clause 16 also repeals section 26p of the Act which the committee considers to be unnecessary. That section provides that if the lessee of any premises has applied to have the rent of the premises fixed, the lessor cannot, except with the consent of the trust, give notice to quit to the lessee on a ground such as that he needs the premises for his own occupation. Whether or not a lessor, in giving notice to quit, is prompted by the fact that the lessee has sought to have his rent fixed by the trust may be safely left as a matter for consideration by the court.

Section 26r of the Act provides that where a notice to quit is given on any ground and proceedings are subsequently taken to enforce the notice to quit, the lessor must, in the pro-

ceedings, rely on the same grounds as those stated in the notice to quit. Clause 17 carries out the recommendation of the committee that proceedings may be taken on any ground permitted by law, whether included in the notice to quit or not. Clause 18 makes an amendment which is consequential on clause 21. Clause 19 carries out a number of important recommendations of the committee for amendment of section 26u of the Act. Section 26u is the section which lays down the matters to be considered by the court in proceedings for recovery of possession of premises and among other things provides that the relative hardships of the parties are to be considered. The clause makes the following amendments. It provides that when the court makes an order for possession it may make it subject to such conditions as the court thinks fit. At present the court is empowered to refuse an order subject to conditions but not to import conditions into its order when it decides in favour of the lessor. The section now provides that, in assessing the relative hardships of the parties, the fact that the owner is deprived of the possession of his premises is not to be taken into account as a factor of hardship. This provision is repealed.

Section 26u provides that where proceedings are taken against a tenant on the grounds that he has sublet the premises the court, in general, is to make an order unless satisfied that the subletting was in the course of a business of subletting carried on by the lessee. Paragraph (c) of clause 19 provides that, in addition, this business of subletting is to be carried on with the express or implied consent of the lessor. At present the section, as amended in 1950, provides that the hardship provisions may be disregarded in cases where a notice to quit is given on grounds such as non-payment of rent or failure to observe covenants of the lease and the like. This is amended to provide that, in certain circumstances, the court is not given discretion as to whether it may disregard the hardship provisions but it is provided that the court is not to take them into account. This is to apply in cases where, as regards shared accommodation, there has been conduct which is an annoyance to neighbours or where, as regards other premises, the lessee has been guilty of an offence or the premises are being occupied in the course of his employment by a person who has left his employ and are now needed for another employee of the lessee or where the premises, being let as a shop, have been con-

verted into a dwellinghouse. Thus, in these circumstances, the tenant will lose the benefit of what might be called the hardship provisions.

A further important provision deals with the rights of protected persons. It will be recalled that in 1950 it was provided that if a person had owned the house for five years, had no other house available for his own occupation, had not sold a house since house sale controls were lifted, and gave a year's notice to his tenant on the ground that he wanted the house for his own occupation, the hardship provisions were not to apply and, in effect, the court would be required to make an order for possession. It is provided by paragraph (i.) of clause 19 that a protected person is to have rights similar to those already described except that the limitation of five years' ownership is not required. The clause makes other amendments of a minor nature recommended by the committee which do not require special attention. An amendment is made by paragraph (f) which was not considered by the committee. This provides that if any proceedings are taken for the recovery of possession of premises and it is proved that at the time of the giving of the notice to quit the tenant was in arrears with his rent, the court may disregard the hardship provisions if it thinks fit notwithstanding that the rent has been paid prior to the hearing of the proceedings. It sometimes occurs that a notice to quit is given and proceedings started against tenants who are in arrears with rent but payment of the arrears is made before the actual hearing of the case. Sometimes this occurs on two or more occasions. It is considered that any such conduct should be a matter which should entitle the court to disregard the hardship provisions.

Clause 20, which amends section 26v, was not considered by the committee. Section 26v authorizes the local court to do such things as adjourn proceedings for recovery of possession of premises, to postpone the date for execution of a warrant, to extend the period of a warrant and so on. Clause 20 provides that this power may also be exercised by a special magistrate in lieu of the matters being dealt with formally by the court. Orders of this kind are usually made by a magistrate in chambers and the amendment will authorize this practice to be followed when orders are sought under the section.

Clause 21 is of a drafting nature and gives effect to the recommendation of the committee as to the power of the court to extend the

period for which warrants for possession may be enforced. Clause 22 has been earlier referred to in detail. Clause 23 repeals section 26aa which provides that where a lessor has obtained possession of the premises by fraudulent misrepresentation the lessee can recover damages. The committee's view is that these provisions are unnecessary.

Section 26ab provides that if a lessor, who has recovered possession of premises on the grounds that he needs them for his own occupation, sells or lets the premises, he shall, except in certain circumstances, be guilty of an offence. The penalty for this offence is now fixed at £50. The committee has recommended that the penalty be £500 and this alteration is made by clause 24. Section 26ad now provides that where notice to quit is given the notice is not invalidated if rent is received within six months after the giving of the notice. This limitation of time is removed by clause 25.

Clause 26, which was not considered by the committee, amends section 26af of the Act. That section provides that where proceedings are taken against a tenant and the tenant dies, any person in possession of the premises is to have the same rights as the tenant. The section is intended to provide that in a case such as where notice to quit is given to a man who dies, his widow will, for the purposes of the proceedings, have the same rights as those of her late husband. The effect of clause 26 is to provide that this position is to apply both before and after notice to quit is given. The clause, as drafted, is similar to a provision in the Victorian Act of 1948.

Clause 27 provides that where proceedings are taken for the recovery of the possession of premises on grounds such as non-payment of rent and breach of covenant and the like, the costs of the proceedings shall be in the discretion of the court. At present the Act generally provides that no costs are to be allowed. Section 26ah provides that the Housing Trust may intervene in eviction proceedings although, of course, it is not a party to them. In point of fact, the trust has never exercised this right and the committee recommends that the section be repealed. This is done by clause 28.

Clauses 29, 30 and 31 deal with exclusion certificates. Section 26ai and 26aj provide that the Housing Trust may, in certain circumstances, give a certificate to a lessor which has the effect of providing that the eviction provisions will not apply to any lettings of the

premises in question. Clauses 29 and 30 provide that in each case the certificate given by the trust may be extended and as regards section 26aj, which is now limited to dwelling-houses in which there are not more than three residential units, this limitation shall be removed. The amendment relating to the extension of exclusion certificates was not considered by the committee.

Clause 31 deals with a legal matter arising out of the issue of these exclusion certificates and provides that, if a lessee remains in possession after the expiration of the certificate, then notice to quit may be given and proceedings may be taken within three months of the expiration of the certificate and for the purposes of the notice to quit and the proceedings, the provisions of the Act restricting the right to obtain an order for eviction are not to apply. Clause 32, which was not considered by the committee, enables the Governor to make regulations prescribing forms of notices to quit and thus to reduce, in some degree the technical difficulties associated with these documents. Clause 33 has already been referred to.

Clause 34 makes a number of amendments to section 26an of the Act. This section deals with the rights of protected persons. Paragraph (e) of the clause makes an amendment which is of some importance. As previously mentioned a protected person, in certain circumstances, cannot be evicted from his dwellinghouse unless reasonably suitable alternative accommodation has been made available to him and subsection (6) of section 26an contains a definition of what is such accommodation. This definition is struck out by clause 34 (e) as the opinion of the committee is that what is reasonably suitable as alternative accommodation can safely be left to the court instead of being defined with such particularity.

At present the alternative accommodation must be available at or after the time of giving notice to quit. It is provided that it should be considered by the court whether the alternative accommodation was available before or after the giving of the notice to quit. Under the section, a protected person, in effect, loses his protection if he has an opportunity to buy the premises in question at a fair price but has not done so. Two important amendments are made to this provision. In the first place, it is now open to doubt whether the price at which the house is offered to the protected person tenant is to be the price with vacant

possession or subject to tenancy. Clause 34 makes it clear that the price is to be the price subject to the protected person's tenancy. In the second place, the verbiage of the section is altered to provide that the court is to consider whether the protected person had reasonable cause not to accept the offer of the house.

Subsection (7) of section 26an now provides that where the lessor is a person who served abroad in any war, the provisions of the section, in general, do not apply to the lessee who is a protected person. The committee has recommended that this provision be repealed and this is done by paragraph (g) of clause 34. Section 26ao enables a protected person to apply to a court for an order giving him possession of a vacant house. Subsection (4) provides that, with certain exceptions, it is to be an offence to let the house to anyone else until the application is disposed of. Clause 35 repeals this provision as, in the committee's opinion, an order of the court, if made, can be enforced without any other sanction.

Clauses 36 and 37 were not the subject of the committee's recommendations. They deal with sections 27 and 28 of the Act which provide that it is an offence wilfully to demand rent in excess of that which is lawful to be paid under the Act or wilfully to make a false record in a rent book. The effect of the word "wilfully" is that the prosecutor must prove affirmatively that the defendant knew he was breaking the law by doing the action in question and it is provided by clause 36 that, instead of the term "wilfully," there should be substituted in each case the words "without reasonable excuse."

Clause 38 repeals subsection (2) of section 29. That subsection makes it an offence to refuse to let any premises to a person if the reason for the refusal is that the person had made an application for rent fixation under the Act. Section 30 of the Act prohibits the payment of key money. It has been found in practice that the information about this offence is rarely given within the six months which, under the ordinary law, a complaint must be laid and it is therefore provided by clause 39 that the time within which complaints may be made under this section are extended to 12 months. This amendment was not considered by the committee. Clause 40 makes a drafting amendment to section 31.

Clause 41, which was not considered by the committee, amends section 31a. This section provides that where a lessor deprives a lessee of the use of such portion of the premises or

of any furniture or goods let with the premises the court may make an order requiring the lessor to permit the lessee to have the use of the premises or furniture or goods in question. There is no sanction for the order of the court and clause 41 makes it an offence to fail to comply with its order.

Section 33 authorizes the members and officers of the trust to inspect any premises for the purpose of carrying out the Act. The committee has recommended that this power should be limited to premises which are actually the subject of a lease. This is done by clause 42 and, in addition, the trust's power to require information is extended to apply to information relating to the use of the premises by lodgers and the amounts paid by them. Section 35a of the Act provides that in certain circumstances the local court may make an order authorizing the lessor to enter the premises leased by him and to carry out repairs, etc. Clause 43 provides that the cost of any such proceedings shall be in the discretion of the court.

Clause 44 also deals with the same matter and provides that the lessor, in addition to having the right to enter the premises in accordance with section 35a, shall have the right after giving at least 48 hours' notice to the lessee of his intention so to do, to inspect the premises at any time between 9 a.m. and 6 p.m. for one hour. This right of inspection may be exercised at intervals of six months. If, without reasonable excuse, the lessee prevents the lessor from exercising these rights, the lessee will be deemed to have committed a breach of his lease. Clause 45 extends the operation of the Act for a further year until December 31, 1952.

Clause 46 provides that, if the Act is reprinted under the Amendments Incorporation Act, the sections, parts and other provisions of the Act may be re-numbered. The Act has been amended very considerably, with the result that for the purpose of numbering the sections, the alphabet has been used and re-used. This causes some degree of confusion and the legislation would be much clearer to the public if the sections and other provisions were numbered in numerical or alphabetical progression, as the case may require. It is intended that the Act, as amended by the Bill, will be reprinted at the end of the Parliamentary session and included in the annual volume of Statutes for 1951. The effect of this clause, therefore, is that in this reprint the various sections may be re-numbered with the result that references to such as section 26ab and similar references will dis-

appear and each section will have a numerical number without an alphabetical addition. The clause also enables the various cross-references in the Act to be altered in conformity with any alteration in section numbers. I move the second reading.

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

#### INDUSTRIES DEVELOPMENT ACT AMENDMENT BILL.

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

#### ROAD TRAFFIC ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 1280.)

The Hon. J. L. S. BICE (Southern)—I take this opportunity of associating myself with those who have extended a welcome to Mr. Bevan. In referring to the Royal Adelaide Hospital he selected a most appropriate subject for his maiden speech, because that institution plays an important part in connection with road traffic. I join with members who have paid tribute to the Traffic Committee which has devoted considerable time to dealing with our road traffic problems. The speech of the chairman of this committee (Mr. Pattinson) clearly indicated the immensity of those problems. I compliment him on his analytical speech in which he gave members of another Chamber the benefit of the committee's examination of these problems. I have listened with interest to the speeches already made in this House and I agree that educating the motoring public is one of our major problems. I sincerely congratulate the press on the publicity given to those speeches and I believe it will be reflected in the courtesy of motorists on future occasions.

In May last I visited the Royal Automobile Association and Mr. Bruce Boykett provided me with similar information to that disclosed last Thursday. If our motoring public would adopt the courtesy shown by the English driver many of our troubles would disappear, and pedestrians would also be safeguarded. I was rather concerned with the figures quoted by Mr. Anthony relating to traffic casualties, although I am not sure whether he mentioned the time factor in connection with those casualties. A leader in the *Advertiser* of November 5 states:—

The latest road accident figures for South Australia are more sickening than ever. In the year ended June 30 last, 197 people were

killed. A year before that there were 170 deaths on the roads. No epidemic nowadays slays on such a scale as the car, the truck and the motor cycle. Over the past 12 months they accounted, all told, for the deaths of 1,900 Australians and injury to 36,000 more. Since the war road casualties have reached a total of just under 150,000.

I do not doubt the authenticity of this statement because the press has probably conducted an amount of research in this regard, but they are alarming figures. Some members have experienced travelling on Duke's Highway. Only recently I travelled on that road from Bordertown to Tailem Bend and was staggered by the damage done to that road in the last 12 months. During the war a measure of damage was done because of the heavy transport, but the position is worse today. I am at a loss to understand why there are not more accidents. One may be travelling on what is apparently a reasonable surface and suddenly strike a pothole the diameter of the wheel. Heavy hauliers are the real culprits. The road was constructed to carry light traffic but today streams of heavy vehicles are called upon to carry freight which should be hauled by railways and boats and considerable damage is caused. Unfortunately railways and shipping are unable to cope with the freight.

I do not criticize the courtesy of the road hauliers, but a convoy of three long semi-trailers naturally causes congestion which increases when the convoy enters the Adelaide Hills. The road hauliers registered in eastern States, who carry the bulk of our goods from those States, contribute little towards maintaining these roads and this Bill will not cover that problem. I know that hauliers pay a licence fee and also have to pay a Commonwealth tax on their fuel, of which we ultimately receive a share, but increased registration fees would not affect them. However, the South Australian haulier is affected by the Bill. Similar damage has been caused to the South Road. Approximately 780 tons of building sand is carted daily from Christies North and Maslin Beach sand pits to Adelaide along the South Road, and the damage is causing the Highways Department a considerable amount of bother, particularly on the light road between Morphett Vale and Christies Beach. These people should accept a further registration fee for their heavy vehicles.

The Hon. K. E. J. Bardolph—They are not in the same category as the interstate hauliers because their lorries are smaller.

The Hon. J. L. S. BICE—No, but they do carry up to 12 tons. I have travelled behind these vehicles from Reynella to the top of Reynella hill. Oncoming vehicles are hidden but the drivers of the sand carts give a "come-on" sign and show every courtesy to the motorist. Last Sunday night, from the Lady McDonnell Hotel to the Port Noarlunga turn-off, I counted 200 cars coming down the South Road. I was travelling at 35 miles an hour and most of the vehicles were doing the same. One of the provisions of this Bill deals with glaring headlights, but I must say that in almost every instance the drivers of the vehicles I passed that night had the common decency and courtesy to dim their lights. I believe that to be a reaction to the remarks passed in this Council on Tuesday last and the publicity given them in the press: it is only by education that we can accomplish satisfactory results. Last session I believe we missed an opportunity to deal with the problem created by traffic on the cross-overs on dual highways, such as the Port Road and Anzac Highway. This Bill, however, remedies that defect and I think the solution offered should prove satisfactory.

In concluding I wish to pay a tribute to the Commissioner of Police. His idea of training motor cycle patrols to be helpful to the motorist, rather than to create a fear of the law, is a step in the right direction. I congratulate him on the good work he has accomplished in the relatively short time since his appointment and sincerely trust that he will soon be restored to full health.

The Hon. Sir WALLACE SANDFORD (Central No. 2)—This Bill consists of 27 clauses, some of them of considerable length, and deals with about 20 different matters. I understand that most of the amendments are based upon the reports and recommendations of the State Traffic Committee. Parliament and the State generally are greatly indebted to the members of that committee for the excellence of their work in helping us to solve our traffic problems, for problems they most certainly are. I do not know whether people generally reflect upon the fact that this traffic problem is something which we have seen grow from its beginning within our own lifetime. Prior to that, for thousands upon thousands of years, all traffic was drawn, in the main, by horses; when Julius Caesar landed in Britain nearly 100 years before the birth of Christ he found chariots and horses in use there, and yet within our own lifetime we have

seen a complete change come about. That there are difficulties confronting us, and that they are world-wide, was brought home to me particularly when, in our morning paper recently, I read a telegram from New York which stated that on the latest count it was calculated that the number of motor vehicles on the roads within New York City alone was over one and one-third million. The telegram went on to say that the congestion is increasing on every highway and in almost every side street of the city. When we reflect on the fact that the whole of the State of New York is only about twice as big as Tasmania, half as big as Victoria and one-eighth the size of South Australia we have the advantage of knowing that other people are faced with these problems as well as ourselves, and consequently it is to be hoped that between us all a solution may be found.

Even in such a relatively out of the way place as Adelaide—without disparaging this delightful city—we find that cars are parked or ranked in almost every street, on each side of the road, as far out as the parklands. Many people are now making it a habit to come in from the outer suburbs and park their cars under their favourite tree to get the best possible shade protection during the day, catch a tram into the city and return by the same means in the evening to their open-air garage. The urgency of the problem is also emphasized by the fact that almost every session in the last 10 years it has been necessary to amend the Act. All these things make it evident that the difficulty is not easily overcome.

The Hon. K. E. J. Bardolph—Don't you think we are only carrying out a piece-meal policy?

The Hon. Sir WALLACE SANDFORD—No. Life consists of getting experience piece-meal; we did not know as much about the job 10 years ago as we do today.

The Hon. A. A. Hoare—This is a world-wide problem.

The Hon. Sir WALLACE SANDFORD—Of course, and those who have seen the confusion which can occur in some of the cities of America, where I have again and again seen transport so mixed up that I thought it could never be disentangled—although somehow after a few minutes the motorists managed to get out of the scrum—must agree that every country is up against a difficulty which is becoming increasingly acute. Every week ships arrive from overseas bringing more trucks and cars. Our own tremendous factories

are turning out vehicles daily, and all of these vehicles must travel on the same area of urban and suburban roadways.

As earlier speakers have said, this is essentially a Committee Bill, but even after we have finally passed it in the hope that we will have got rid of most of the difficulties, I am sure that within a not very great length of time we will find some more nuts to crack. I was somewhat surprised to learn that someone had expressed a fear that one part of the Bill might encounter in this Council what was referred to as "an immovable object," meaning, I presume, that that particular feature of the Bill may not survive discussion and examination in this place. I know no grounds for such apprehension. Attention has also been drawn to the fact, I believe, that the Bill does not deal with taxi-drivers who drive at dangerous speeds, but I think the principal Act provides sufficient machinery to handle that problem. Undoubtedly accident figures are on the increase. Some interesting figures were quoted showing that motor vehicle registrations are also on the increase and consequently it is hardly to be expected that there will not be some relation between one set of figures and the other. Certain people are of opinion that motor cyclists should be more firmly controlled. After all, most of the riders of motor cycles are younger than the average member here and I suppose that when people are younger they take risks that they will not take later in life. Even making allowances for all these things I should imagine that there is sufficient protection for both drivers of taxi cabs and motor cycles, as well as other drivers.

I said a few moments ago that during the last decade more than one amendment has been made to the Road Traffic Act each year. If in the 12 months which lie ahead it is found necessary to further amend this legislation the amendments can be given effect to next session. I particularly desire to thank Mr. Cudmore for his address on this subject last week. He has recently returned after having driven along the congested roads of Europe and has seen and been able to tell us at first hand of present developments there. His emphasis on the necessity to maintain road courtesy was most timely. There is little doubt that if this can be implanted in the minds of motorists the number of accidents will decrease whilst the pleasure given to other drivers will increase. I support the second reading.

The Hon. R. R. WILSON (Northern)—There is not much room for further discussion on the Bill at this stage, although I expect there will be a lot in Committee. Generally, I support the State Traffic Committee's recommendations, which are made after hearing evidence. I compliment the chairman of the committee, Mr. Pattinson, on the most able manner in which he explained the measure in the Assembly and thus made it available to members here. A measure like the Road Traffic Act, which comes up every session for consideration must be important and I expect that for years, with the growth of our population and the increase in the number of motor vehicles, it will be brought before us for amendment. We have had the benefit of the experience of three of our members who have been overseas. I refer particularly to Mr. Cudmore who has always been most interested and active in traffic control. His speech last week was an education to us. He stressed road care and courtesy, which appear to be the only means by which the numerous accidents which occur today will be avoided.

Mr. Bice quoted some figures which I do not desire to repeat but I point out that 163,888 motor vehicles were registered in South Australia. Moreover, 19,965 licences have been issued for tractors, trailers and traders' vehicles. This figure excludes defence vehicles. The tremendous growth is shown in figures contained in the 1951 Statesmen's Pocket Year Book, issued under the authority of the Chief Secretary. The accidents for 1949-50 totalled 5,050; 2,514 persons were injured and 170 killed, a total casualty list of 2,684. I quote the figures because the Year Book shows that only 185 accidents were unavoidable. That causes me to stress the need for care and courtesy. If accidents are unavoidable it is apparently due to some causes on which the public need greater education. I agree that the large majority of motorists are courteous. Licences can be granted in South Australia to persons upon attaining the age of 16 years and the question often asked is "Is sixteen too young for a person to be in charge of a motor vehicle?" I do not think much notice can be attached to that because most drivers are careful and do their best to avoid accidents.

The habit of many motorists in putting their elbow and arm out of the driver's side of the vehicle to almost full length is the cause of much misunderstanding. It creates much confusion and many accidents could be

avoided if some steps could be taken to control it. The habit certainly affords rest for the arm and it is not unusual to see a bare arm protruding 9in. to 1ft. outside a car door. When the Bill is in Committee I shall have something to say about clause 12, which deals with commercial vehicles. It provides that no vehicle that is of a width of 7ft. or more or which carries a load 7ft. wide or more shall be on the road unless it is fitted with a mechanical or electrical device approved by the Registrar of Motor Vehicles.

The Hon. K. E. J. Bardolph—Do you object to that?

The Hon. R. R. WILSON—No, but it calls for some extension of time for the fitting of these devices because 95 per cent of interstate vehicles are 7ft. 6in. wide, the majority being over 30ft. long. A number of them have electrical or mechanical devices attached, but I am informed that they cause no end of bother and are ineffective. Drivers of motor vehicles are greatly concerned about fitting a reliable mechanical or electrical signalling device. This provision also affects many classes of producers, a number of whom own vehicles 7ft. wide and over. Much trouble will result in their complying with the provision, especially in view of the shortages of materials and manpower and I shall ask that some latitude be extended on this important matter affecting commercial vehicle owners. I have pleasure in supporting the second reading.

The Hon. K. E. J. BARDOLPH (Central No. 1)—I support the Bill. As Sir Wallace Sandford pointed out, a large number of amendments have been made to the Act. In fact, this is the seventeenth time it has been amended since 1934, indicating the growth of the vehicular traffic, other than horse-drawn vehicles, on our roads in both the metropolitan and country areas. I rise to particularly refer to the administration of the Road Traffic Act and the dual control which exists by councils, particularly the Adelaide City Council, of road traffic. I also compliment the State Traffic Committee on the work it is voluntarily doing in advising various authorities such as the Government, the Police Department, and councils and on the valuable service rendered to the State on traffic matters.

All traffic, both in the metropolitan area and the country, should be under one control. I have mentioned this previously. I am firmly convinced that traffic control should be in the hands of the Police Department. The Road Traffic Act gives it some control, but other control is placed in the hands of the Adelaide

City Council. I instance the parking of trailers and semi-trailers since the interstate road haulage companies have been sending trailers to Adelaide, where they are a menace, not only to vehicular traffic, but to tramway traffic. The Police Department has no control over these large vehicles for parking offences. The only control by the Adelaide City Council is to see that they comply with certain provisions of the Act as regards width, mechanical devices, windscreen wipers, headlights, tail-lights, and so on. Members can see them at any time of the day or night parked within the square mile of Adelaide and in some of the smaller city streets. These trailers clutter up the streets and obstruct the flow of traffic from our main arterial roads, such as Franklin Street, Waymouth Street, and King William Street. Even in front of Parliament House buses pull up at all angles between 4.30 p.m. and 5 p.m., obstructing traffic, and turn into King William Street, causing traffic difficulties.

Another point is driving tests. The Bill provides certain penalties for drunken drivers who endanger the life and limb of pedestrians. Drastic penalties for these people should be provided in the Act. Special mention has been made to this particular class of driver, whose numbers have increased in recent years. Some, driving modern high-powered motor vehicles, have become perfect speed fiends. Although they are not under the influence of drugs or alcohol they trample upon all the laws and regulations because they desire to get somewhere quickly or to beat someone to a crossing and they endanger the life and limb of other road users and pedestrians. Speed fiends are just as dangerous as drunken drivers.

The Hon. E. H. Edmonds—There are provisions to deal with them.

The Hon. K. E. J. BARDOLPH—The Act should be more strictly policed. The Police Department is to be congratulated on the work it performs but there is confusion because of dual control. The complete control of traffic is not in the hands of the Police Department. The whole of the traffic should be controlled by the Police Department. It should control the registration of motor vehicles and the issue of licences. We have to educate people to road courtesy but in South Australia a person does not have to undergo a driving test before obtaining a licence. In New South Wales and Victoria they have to undergo a test in traffic before they obtain their licences.

The Hon. E. H. Edmonds—Those States have a big percentage of accidents.

The Hon. K. E. J. BARDOLPH—Yes, because they also have people using the roads who disregard all rules and regulations. In South Australia a person has merely to fill in a form as to what should be done in certain circumstances and he can obtain a licence if he is over 16. Before a person can drive a passenger train he has to undergo a driving test even though the train is on tracks.

The Hon. F. J. Condon—Do you suggest the age limit for obtaining a licence should be 30?

The Hon. K. E. J. BARDOLPH—No, but I suggest it should be 18. Some youths have no knowledge of the power placed in their hands.

The Hon. Sir Wallace Sandford—It is the same in England.

The Hon. K. E. J. BARDOLPH—From the dissertation given by Mr. Cudmore it is obvious there is more road courtesy in England. Presumably they conduct driving tests before issuing licences.

The Hon. F. T. Perry—A new licensee has an "L" on his car.

The Hon. K. E. J. BARDOLPH—That would indicate that the driver has not had much experience on a road. Mr. Bice mentioned the number of accidents and deaths which occurred last year. In this morning's *Advertiser* there is an article which states:—

Fifteen people were killed and 248 injured in accidents on our roads last month. There were 748 accidents compared with 761 in September when a similar number of people were killed and 335 injured. Police statistics published yesterday show that in the metropolitan area last month two motor cyclists, two cyclists, a driver of a vehicle, and a pedestrian were fatally injured. Those injured in the city and suburbs were 49 motor cyclists, 35 passengers (motor cycles and cars), 28 pedestrians, and 10 drivers of vehicles.

Although the figures for October show a decline, the overall number of accidents and deaths is increasing from year to year and something will have to be done to remedy the position. It is to be hoped that the introduction of this Bill, on the advice of the Traffic Committee, will provide a continuance of the steps already taken for the preservation of people who use the roads. Mr. Wilson referred to the width of trailers and lorries. The Act states that there must be a clear and unobstructed view on either side of a vehicle but country members know that many of the interstate transport vehicles are so wide that

it is impossible to see on either side of them. The Act should be rigidly enforced in that regard. Some weeks ago when returning from Murray Bridge I was forced to pull off the road into a ditch to avoid an interstate trailer which was travelling at approximately 45 miles an hour. If two trailers of similar width were to meet on the road there would be a calamity. I appreciate the efforts of the Traffic Branch of the Police Department and of all those who are attempting to minimize the number of accidents which occur on our roads. I support the second reading.

The Hon. W. W. ROBINSON (Northern)—From year to year the Road Traffic Act is reviewed and amendments are inserted in an endeavour to effectively control road traffic. Despite those endeavours the number of casualties and fatalities is increasing. That is due to some extent to the increased volume of traffic. As a member of the Traffic Branch of the Police Department said to me, "Notwithstanding all attempts to reduce accidents, unless people are prepared to carry out the rules of road courtesy there will be fatalities." In this morning's *Advertiser*, under the heading of "Australia's High Accident Rate," there is an article which reads:—

Australia has an average of one motor vehicle to every family, according to an Australian Road Safety Council report. On a population basis, only the United States and New Zealand has a greater number of motor vehicles than Australia. A reportable accident occurs in Australia every 10 minutes, a road casualty every 15 minutes, and a road fatality every four and three-quarter hours. Although motor cycles represented only 5 per cent of traffic, they caused an average of 34 per cent of fatal road accidents.

During the last year there has been a noticeable improvement in road courtesy in South Australia which has been brought about to some extent by the co-operation of members of the Police Force. They have been most helpful and encouraging to those using the roads and have endeavoured to keep traffic moving. There has been a greater observance of the signs which must be given by motorists. I was surprised when I studied the figures to see that fatalities had increased by 27 over last year. In 1949-50 there were 170 fatalities as compared with 197 during 1950-51. In a debate of this nature we should discuss what may be considered the primary cause of accidents and statistics seem to indicate that speed is the major cause. During 1949 a commission in America investigated the position

and their report was that the greatest number of accidents occurred on straight level roads.

The South Australian Police Commissioner's report for 1949-50 shows that of the 170 persons killed during that year no fewer than 82 met their deaths on straight roads. I have also extracted some interesting statistics from the report of the Queensland Commissioner of Police for this year. This shows that there were 34 fatalities at intersections, 127 on straight roads, 10 on bends and curves with the view obscured, and 23 where the view was open. All this indicates that the major cause of accidents is excessive speed. In age groups, motor drivers in the 17 to 29 age group were responsible for 79 fatalities and 1,563 injuries, and for motor cyclists the 21 to 29 age group were responsible for 556 accidents, 31 fatalities and 304 injuries. Speed heads the list in all records as the chief contributing factor in road accidents.

This Bill proposes a 100 per cent increase in the registration fees of diesel engines. That is justified in as much as dieselene is free of import duty, whereas petrol carries an impost of 11½d. a gallon. Originally dieselene was used mostly for stationary engines about the farm and factory, but today a great percentage of heavy transport vehicles have diesel engines and it is only right that they should contribute something towards the maintenance of the roads they are doing so much to destroy. In passing, it is of interest to note the conditions which brought about the great increase in road transport by heavy vehicles; it is attributable more particularly to the lack of shipping and the slow turn-round of vessels. I believe that the two men employed on every vehicle transporting 20 to 30 tons of goods from as far away as Newcastle could be better employed in loading and unloading ships, for interstate vessels are capable of carrying some 8,000 tons of cargo and their better employment would lessen the traffic on our roads. I suggest that we are adopting a rather short-sighted policy, for it is costing us enormous sums to maintain our roads—more in some instances than the cost of constructing a railway.

I believe that the solution of many of our problems lies in the better education of the public and in this respect we are greatly indebted to the press for the manner in which it constantly brings the subject under the notice of the people. This almost annual discussion of road traffic brings out the major points in relation to accidents, and the press is playing an important part in educating the

people to their responsibilities. I well remember that last Easter, prior to the races at Oakbank, the press for several days stressed the value of courtesy and, notwithstanding the enormous volume of traffic during that race meeting, there was not one fatal accident. We might well copy the slogan adopted in Great Britain, "Show your sense and not your speed and remember that courtesy is one of the highest virtues a driver can possess." I support the second reading.

The Hon. S. C. BEVAN (Central No. 1)—The debate on this Bill has covered considerable ground and I would like to commend members of the State Traffic Committee on the work they must have done, in a purely voluntary capacity I understand, in bringing these amendments before this Council. I wish to touch on only one or two points, the first being the question of the drunken driver. I agree most heartily with Mr. Condon when he stated that severe penalties should be inflicted upon this class of offender. A driver under the influence of liquor loses self-control and judgment—in fact, everything it is necessary to have in full measure when driving a motor vehicle. What aggravates the danger is the fact that many of these drivers are using old model cars which are, perhaps, not as roadworthy as they should be, and even when the drunken driver becomes alive to the danger and attempts to avoid an accident the car will not respond. We read in the press almost daily reports of persons charged with drunken driving and the offence appears to be becoming more prevalent. We should, therefore, do everything that lies within our power to stamp it out. Another class which should be severely dealt with is the callous hit-and-run motorist. In full possession of his faculties he tears along our highways merely, apparently, for the love of speed. If he hits a person, instead of showing a little humane feeling and stopping, he puts his foot on the accelerator and clears out. I would impose the most severe penalty on this type, for quite often a life could be saved if the offending motorist stopped and offered aid or sought medical attention for the victim.

It has been my privilege to visit every State, as well as some countries overseas, and whilst in London last year I was forcibly impressed by the lack of dented mudguards and twisted fenders such as we see every day in South Australia. Despite the volume of traffic in London the traffic control seems much simpler than it is in Adelaide, and I was greatly

impressed by the way in which the highways are cleared. I had the rather unique experience which I promised myself would not occur again, of attempting to cross Piccadilly Circus at other than a pedestrian crossing, contrary to advice which had been given me. I thought the road was clear, but in a moment I found myself in the midst of four lanes of traffic and how I escaped is still a mystery to me. I did not see one road accident in London or in Paris during the brief period I was there. I spent six weeks in Geneva and did not see a road accident there, nor did I see a really intoxicated person in any of those countries. Possibly, therefore, an alteration of our liquor laws might offer the solution to the drunken driver problem. In the countries mentioned one can secure liquor after the evening dinner; for instance, in London until 10.30 p.m. and in Geneva until 2 a.m., notwithstanding which I did not see one intoxicated person. I think this speaks volumes for their liquor laws. Perhaps it would pay us, some time in the near future, to examine our own laws in the light of overseas experience, and possibly thereby eliminate drunken driving, which is, I think, to a large extent attributable to the rush drinking between 4 and 6 p.m. Another individual whom I would like to see more stringently dealt with is the person who steals a car and uses it. On a number of occasions individuals have stolen cars and driven them when they have not held a driver's licence. Frequently passengers might be in the car, not knowing that it was stolen. A large number of accidents have resulted through drivers using stolen cars. A report appears in today's *News* of an accident at Gawler. The driver of the car had stolen it, but a young couple who were passengers in it were unaware of that fact. In some cases the courts take a most lenient view of this offence.

The Hon. R. J. Rudall—They have tightened up a lot lately.

The Hon. S. C. BEVAN—Some of them have. When these people appear in court pleas for leniency are made and often only light fines are imposed. These people, whether it is their first or last offence, should be severely dealt with. In many cases the driver of the car is only concerned about speed, which usually results in an accident before he is apprehended. Apparently these offences will continue until such time as these persons are more severely dealt with.

The National Safety Council has attempted to educate the public generally in the observ-

ance of our traffic laws. One vital point in this matter is the short right-hand turn. I feel that this turn, as applying in our city streets, has been a great success. Motorists, however, require to be educated in this matter by traffic control officers at street intersections on the outskirts of the city, who should instruct them how to enter and keep in proper traffic lanes. This difficulty is particularly noticeable at the intersection of Grote Street and West Terrace. Every night of the week, when motorists get a signal from the traffic control officer to go through, they have to pass across two lanes of traffic to get into position to make the right-hand turn. One of these nights there will be a serious accident at this intersection. The practice does not only apply to motorists, but to riders of push bicycles. We should instil into road users the principle that is adopted in Sydney where, if road users do not keep in their traffic lanes, they soon know all about it. The practices adopted here can only add to the existing road dangers.

Clause 27 gives the right to the Commissioner of Police or the Registrar of Motor Vehicles to refuse to licence a motor vehicle until such time as it is put in a roadworthy condition. It is a very wise provision. Because of the acute shortage of motor vehicles today many old machines are on the road. Innumerable cases have been brought to notice where these old vehicles have continued merrily on their way because the brakes were useless. Steering gears, rods and pins are frequently found to be worn, drivers cannot control their vehicles in emergencies, and a collision usually results. If this matter is attended to many accidents will be eliminated, as the vehicles must pass a roadworthy test before being placed on the roads. An article appears on the front page of today's *News* about a serious accident at the Gepps Cross level railway crossing. The driver's wife was carried along in the twisted wreckage of the vehicle for 500 yds. in front of the engine. The accident might have been caused because the vehicle was in an unroadworthy condition and when the driver sensed the danger he could not prevent the accident. If power is vested in some authority to see that vehicles are roadworthy it should go a long way towards eliminating the frequent road accidents with which we are faced today. I hope that clause 27 will be given effect to and support the Bill.

The Hon. A. A. HOARE (Central No. 1)—I have not had any international experience of road accidents or traffic control, but I have

travelled a lot in Australia. I have been to Western Australia on three occasions and as far north as Cairns in Queensland. I have travelled between Adelaide and Canberra on numerous occasions. All these places have different hotel closing hours and I have yet to learn that any State which has 6 p.m. hotel closing has fewer accidents than a State which has 10 p.m. closing. Accidents occur in South Australia early in the morning, at mid-day, in the afternoon and during the night through drunken drivers. These persons are being constantly prosecuted for driving vehicles whilst under the influence of intoxicating liquor, some of them as many as three times. It is not hotel closing hours that result in fewer accidents. If men want drink they will get it and they are not responsible for their later actions. That danger applies all over the world.

Broadly speaking, the people in England are no more sober than those in Australia. One of the principal dangers is speed. Some people, when they enter a motor car, do not appear to have sufficient time to live to reach their destination. Most of them ask "How long will it take to get there?" They never seem to take any interest in the scenery along the road. When I had a car I never drove at more than 35 miles an hour as I wanted to see the beauty of the countryside and not race through townships at speeds between 40 and 70 miles an hour. Drunken drivers are the cause of many road accidents which would not have happened had they been sober. If a man is not cured by a fine he should be gaoled.

The Hon. E. H. Edmonds—His licence should be taken away.

The Hon. A. A. HOARE—That has been tried but if people still offend the period of disqualification should be extended. We are endeavouring to find a way out of a serious problem which is troubling not only South Australia but the world. There have been cases where doctors driving cars have been involved in accidents and have not stopped to see what has happened to the person they knocked down. I remember a case which happened a few miles from Gawler when a doctor knocked a man off his bicycle and drove on. The doctor went to a house and drank whisky and when the police came and told him the cyclist had been killed he said that he had not seen the bicycle which had no red light showing on it. The police picked up the bicycle and spun the back wheel and the red light showed. That is a terrible state of

affairs but perhaps we may be able to discover something to lessen the number of accidents. Whether legislation will create more sober drivers has yet to be proved. Let us hope we will find a way out and set an example to other States and to the world. One member suggested that faulty brakes were a cause of accidents. People should be compelled to have their brakes examined to see that they are in a fit and proper order which will enable a vehicle to be stopped within a specified distance.

The Hon. F. J. Condon—What about dazzling lights?

The Hon. A. A. HOARE—They represent a definite danger, not only to other drivers but to pedestrians crossing roads. The Bill should be seriously considered and studied well. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—“Mode of computing registration fee.”

The Hon. A. L. McEWIN (Chief Secretary)—I move the following suggested amendment:

To insert after “vehicle” in the third line of paragraph (b) “other than a motor tractor registerable at a reduced fee under paragraph (10) of this paragraph.”

By clause 4 of the Bill it is provided that the registration fee for a diesel-engined vehicle will be twice the fee for a petrol engined vehicle of the same power-weight. The Government has been asked that this increase in fee shall not be applied to primary producers’ tractors registrable at quarter rates under this principal Act. In view of the relatively small amount of running which these tractors do on public roads the Government considers this request justified.

The amendment therefore exempts such tractors from the increase in the registration fee. I think the Committee will appreciate that when the matter of diesel-powered engines was first considered it was in relation to fast moving heavy laden vehicles rather than farm tractors which do not travel at high speeds and are seldom on the roads. The amendment is to remove that particular type of vehicle from the legislation.

Suggested amendment carried.

The Hon. A. L. McEWIN—I move the following suggested amendment:—

After “fee” in the fourth line of paragraph (b) insert “for every registration

thereof effected after the commencement of section 4 of the Road Traffic Act Amendment Act, 1951.”

This amendment provides that the increased registration fee for diesel-engined vehicles will apply only to future registrations. This is the meaning of the clause as drafted, but some persons have been afraid lest the clause should be used as a justification for demanding an additional fee for the registrations which are now current. To remove any such apprehension the amendment provides expressly that the new rate of fee will only be chargeable on registrations effected after clause 4 of the Bill comes into operation.

Suggested amendment carried; clause as amended passed.

Clause 5 passed.

Clause 6—“Concessions to incapacitated ex-servicemen.”

The Hon. A. L. McEWIN—I move to add the following paragraph:—

(c) By adding at the end thereof the following subsection:—

(4) The registrar shall not grant a registration under this section if the effect of so doing would be that the same person would at any time have more than one vehicle registered at a reduced fee pursuant to this section.

This amendment has been drafted at the request of the Treasurer. Clause 6 was inserted in the Bill by a private member in another place and was accepted by the Government with an intimation that it would be necessary to ask Parliament to include certain restrictions in the clause. The matter dealt with is that of concessions to incapacitated ex-servicemen. By section 10b of the principal Act it is provided that an ex-serviceman who is totally and permanently incapacitated, or is blind, or has lost a leg or foot, or receives a repatriation pension of at least 75 per cent for injuries to his powers of locomotion, will be entitled to register a vehicle for his own personal transport at half rates. The effect of clause 6 of the Bill is to extend the operation of the clause so that the concession will be available to all persons who are temporarily totally incapacitated. The Government does not object to the extension so long as the principal object of the clause is adhered to, that is, that the concession shall be used to facilitate the provision of personal transport for incapacitated ex-servicemen. But it has been found in some cases that the same owner has registered more than one

vehicle at the same time at the concessional rate, and that some of the vehicles registered are ordinarily used by persons other than the incapacitated ex-servicemen. The Government desires that this mis-use of the clause shall be restricted to the extent that a person will only be allowed to have one vehicle at a time registered at the concessional rates. The amendment proposed by the Government is for this purpose.

Amendment carried; clause as amended passed.

Clauses 7 to 11 passed.

Clause 12.—“Mechanical signals on wide vehicles.”

The Hon. R. R. WILSON—I referred to this clause in my second reading speech but I have since discussed it with the chairman of the Traffic Committee and the Parliamentary Draftsman and they are of opinion that a mechanical device which would comply with the requirements of the Registrar of Motor Vehicles could be made by any handy man. In view of that I do not wish to press my objection any further.

The Hon. A. L. McEWIN—It appears that the majority of trucks of up to three or four tons capacity have trays 7ft. in width, and while loaded only to that width it would not be necessary to have this additional contrivance. If drivers extend their arms properly they should be able to indicate to oncoming traffic their intention to turn right, but for wider vehicles something more conspicuous is needed than two or three joints of a finger. There would not appear to be any difference of opinion as to the necessity of having, on wider loads, signals which can be observed and the question resolves itself into the ability of truck owners to provide mechanical devices. I understand that motor accessory distributors say that, although they are not opposed to this provision, mechanical devices are not available in all cases and that most electric signals in use are not reliable. The answer to that is that a mechanical device can be simply made by almost any handyman.

The Hon. F. T. PERRY—It is not so visible at night.

The Hon. A. L. McEWIN—I do not know whether the honourable member has radio-active fingernails which light up his hand at night, but a white-painted signal is probably more observable than a human hand protruding from a dark sleeve.

The Hon. F. T. PERRY—There are electric signals which operate when the brake is applied and they should be accepted. I have been pulled up by a policeman for not making a “stop” signal at night because I knew that my car was equipped with this rear stop signal, and it seems to me that they should be deemed sufficient indication that a car is stopping.

Clause passed.

Clauses 13 and 14 passed.

Clause 15—“Driving while drunk or under the influence of drugs.”

The Hon. C. R. CUDMORE—I move to insert the following new paragraph:—

(g) After subsection (1) of section 48 the following subsection is inserted:—

(1a) In determining whether an offence is a first, second, third or subsequent offence within the meaning of subsection (1) of this section, a previous offence for which the defendant was convicted more than five years before the commission of the offence under consideration shall not be taken into account, but a previous offence for which the defendant was convicted within the said period shall be so taken into account, whether the conviction took place before or after the passing of the Road Traffic Act Amendment Act, 1951.

This amendment deals with the question of second offences and does two things. In the first place, it puts some limit on the interval between the first and second offences. Under the law as it stands a person can be convicted if, whilst under the influence of intoxicating liquor or a drug, he occupies a driver's seat and attempts to put a motor vehicle in motion. In general I approve of the amendment we are making in this Bill, that in a very bad case a person should be sent to gaol for a first offence. In this we are following other countries and I think it is necessary, but I do not think it should be applied in respect of offences which are not very bad. A person in this category might commit a first offence when he was a youth and 20 years later he may again be convicted, and in those circumstances would be automatically sent to gaol. There ought to be a time limit and I suggest it should be five years.

The Hon. A. L. McEWIN—I think we all agree that in principle there should be some time limit. The only debatable question is what the interval should be. I have no direction from Cabinet on this point. If the honourable member made it seven years I would not dispute it, for I could not submit any argument in support of a longer period. Nevertheless this measure sets out deliberately

to tighten up the law in respect of drunken driving and I do not desire to accept something which will break down that principle.

The Hon. F. J. CONDON—On the second reading I said that I would depart from my usual attitude concerning heavy penalties. The Minister must realize that there are very stringent penalties in the Bill. I think the amendment fair and reasonable and consequently support it.

The Hon. F. T. PERRY—Why does the amendment refer to “third and subsequent offences?” That seems to be anticipating the very thing we are trying to stamp out.

The Hon. C. R. CUDMORE—In the principal Act penalties are set out for first, second, third and subsequent offences. I have consulted the Parliamentary Draftsman and I concur with his view that it is necessary to express it in this way to conform to the language of the principal Act. I regard the five-year period as reasonable as any person who has been convicted once will know that if he offends again within that time he will be sent to gaol.

Amendment carried; clause as amended passed.

Remaining clauses (16 to 27) and title passed.

Bill reported with amendments and suggested amendments; Committee's report adopted.

#### HOSPITALS ACT AMENDMENT BILL.

Returned from the House of Assembly with an amendment.

#### CATTLE COMPENSATION ACT AMENDMENT BILL (No. 2).

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

#### MINING ACT AMENDMENT BILL.

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

#### SUPERANNUATION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 15. Page 1283.)

The Hon. F. J. CONDON (Central No. 1—Leader of the Opposition)—The reason for the introduction of this Bill is the decreased value of money. The measure deals with pensions of ex-members of the Public Service, railway employees, and teachers in the Education

Department. The rates were last adjusted in 1948, the pension unit being increased by 25 per cent. Adjustments are now proposed to meet the many advances in the cost of living and provision is also made to increase employees' benefits and contributions. When superannuation was first introduced it was on a fifty-fifty basis, but now three-quarters of the amount is paid by the Government and one-quarter by contributors. Pensions and contributions will be increased on December 1 by one-fifth. This provision will apply to all pensions in force on the last day of this month. Those who have served the State for years will not be called upon to pay any increased contribution, but those who remain in the service have three months in which to decide whether their units will be increased from £32 10s. to £39. This is entirely different from what members of Parliament are called upon to pay under the Parliamentary Superannuation Act, 1948.

Clause 4 provides that if circumstances arise which are not provided for by law the Superannuation Fund Board may give a direction as to what is to be done, but it must be consistent with the Act. It will have power to deal with all cases which will cause hardship. Clause 5 enables contributors to take up additional units to which they were entitled, but of which they did not avail themselves. Clauses 6 and 7 increase pensions and contributions by 20 per cent, but the employee need not elect to pay for increased benefits. Reserve units must be paid for at increased rates or may be surrendered. Under clause 12 pensions are also payable to the widow and children of a pensioner and clause 13 provides for benefits for children of female contributors and pensioners. Pensions are payable to orphans under the age of 16 years on the death of a female contributor or pensioner.

Pursuant to section 66a of the Superannuation Act of 1926-1949 an arrangement was made for the transfer to the South Australian Superannuation Fund Board of the assets and liabilities of the Public School Teachers Superannuation Fund as a result of which the following expenditure was incurred:—Purchase of annuities from the South Australian Superannuation Fund Board for retired subscribers and their dependants, £19,899; surrender value of policies paid to subscribers, £3,894. The realization and distribution statement shows that the total accumulated funds on January 1, 1950, were £23,970. Members of the fund who decide to increase their pensions will bene-

fit under this Bill. In dealing with this legislation, which will improve the position of public servants generally, members should consider increasing the benefits under their own superannuation scheme. They pay a much higher premium rate than contributors to any State or Federal superannuation fund. I support the second reading.

The Hon. E. ANTHONY (Central No. 2)—I regard this legislation as a generous act on the part of the Government to its public servants. South Australia is the latest State to increase superannuation benefits for which public servants have waited a long time. The news that the Government is at last acceding to a request to increase pensions will be welcomed by those who over the last few years have had a tough time because of the steep rise in prices and the inflationary trend. It has to be borne in mind that when most people entered the fund salaries were low, particularly for the teaching profession, and people did not have an opportunity to save. This will bring a grain of comfort to them in the later years of their lives and will enable them to face up to the trend of the times. The Bill makes a number of useful innovations to the old Act. In 1948 the rates were reviewed and the units of pensions were increased from £26 10s. to £30. Owing to the rapid decline in the value of money those pensions do not represent anything like the value the public servants thought they would get when they first entered the scheme.

When the Government undertook this scheme the idea was that the employees should contribute 50 per cent and the Government 50 per cent but when the matter was reviewed it was discovered that the State contributed three-quarters of the amount and the employee one-quarter. This Bill will increase the unit to £39 and the contribution will be increased by one-fifth. Notwithstanding this adjustment the Government will be paying the lion's share of the contribution. The public servant has the right to reject the increased benefits. If he elects to take the increased units he must pay increased contributions. Consideration is being shown to the widow. In the present Act provision is made for beneficiaries of widowers but some widows have joined the service and contributed for superannuation and the Bill provides that where there are children they will benefit. The Bill is a generous attempt to meet the pathetic circumstances in which some retired public servants find themselves and I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Transitional direction."

The Hon. C. R. CUDMORE—New clause 22a takes a form I have never seen before, and provides:—

If in connection with the alteration of pensions, benefits, or contributions pursuant to the Superannuation Act Amendment Act, 1951, circumstances arise which are not provided for by this Act or by that Act, or any doubt or dispute arises as to what should be done, the board may give directions not inconsistent with this Act or that Act as to what shall be done; and any such direction shall be of the same validity as if the matters therein provided for had been provided for in this Act.

This clause goes much further than the usual clause which gives power to make regulations not inconsistent with an Act. Regulations have to be looked at by somebody but nobody can look at this and the board can give directions and they will have the same validity as if the matter had been included in this Act. I would like to be satisfied that this clause, which seems so simple, is absolutely necessary, because it is unusual and gives rather arbitrary powers to the board.

The Hon. A. L. McEWIN (Chief Secretary)—I think the answer is that the provisions of the whole Bill are unusual. Provision is made for employees to take out additional units. What happens nowadays in connection with superannuation fund benefits is that they are considered in association with social service benefits. Certain rights are given which enables the board to deal with matters which require decision.

The Hon. E. Anthony—It applies only to emergency cases.

The Hon. A. L. McEWIN—Yes. You cannot cover everything. Parliament attempted to set everything out in the Landlord and Tenant Act and as a result it was a complex measure which did not prove an administrative success. The same position arises here. The Parliamentary Draftsman stated:—

Clause 4 enables the Superannuation Board to deal with any special problems which may arise in connection with the alteration of pensions and contributions. Although the general principles of these alterations are clear and have been carefully worked out, many complex problems will necessarily arise in practice as a result of special circumstances affecting particular employees. It is impossible to foresee all of these and it is most desirable that the board should be able to deal with them as they arise and give a binding decision.

It is designed to give the board sufficient power to administer the arrangements of the individual employees in accordance with what has been laid down in the Act. I do not think it is a matter which can be dealt with in a practical way by statute.

The Hon. E. ANTHONY—Members are entitled to an explanation of what appears to be a complex clause. It is designed to give the board a certain amount of discretion in emergency cases. A man may not take his additional units of pension but after consideration may want to and the board has the right to let him, notwithstanding that he may be overdue in making an election.

Clause passed.

Clauses 5 to 7 passed.

Clause 8—“Repeal of sections 29 and 30 of principal Act and enactment of other provisions.”

The Hon. F. T. PERRY—I understood that the rate of contribution would be raised by one-fifth, but this clause provides that the Government, by regulation, can alter that contribution to any amount. Is that what the clause means?

The Hon. A. L. McEWIN—Clause 8 provides for the increased contributions to be paid by the Government. These involve complicated arithmetical calculations which are difficult to express in words and difficult to follow when so expressed. It is provided by the clause that they shall be prescribed by regulations under the Act. As the regulations have to be recommended by the board as well as approved by the Government, all interested parties will have the opportunity to satisfy themselves that they are in order.

The Hon. F. T. PERRY—Does it imply that any alterations to contributions in the future will be made by regulation? If this clause does only what the Minister says in regard to this Act I am satisfied, but it does appear to me that it enables the Government to alter contributions by regulation without amending the Act.

The Hon. A. L. McEWIN—A regulation cannot in any way violate the principal Act. The Bill is merely an amendment to the Act and any regulations made under it must conform to the Act.

Clause passed.

Remaining clauses (9 to 17) and title passed.

Bill reported without amendment, and Committee's report adopted.

## MAREEBA BABIES HOSPITAL LEASE BILL.

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

Second reading.

The Hon. A. L. McEWIN (Northern—Minister of Health)—The main object of this Bill is to enable the Minister of Health to grant a lease of the Mareeba Babies Hospital to the Adelaide Children's Hospital Board, and it arises out of the desire to use the maximum hospital beds available in the metropolitan area, particularly those for children. Mareeba Babies Hospital has about 65 beds, of which the daily average occupied is 32; I think the largest number on any one day has been 39, which means that practically only 50 per cent of the bed capacity has been used. The hospital is a Government building under the control of the Royal Adelaide Hospital Board. Royal Adelaide Hospital is an institution for adults and it has never been considered proper to associate a babies hospital with an adult institution. That, however, was not the compelling force in making this arrangement; in view of the shortage of bed accommodation it was considered that these unused beds should be brought into use. The board of the Adelaide Children's Hospital was consulted as to whether it would be willing to take over the management of Mareeba and an affirmative reply was received. The Crown Solicitor then expressed the opinion that it would not be possible to lease the institution to another body except by an Act of Parliament. Child polio convalescents occupy up to 35 per cent of the bed capacity of the Adelaide Children's Hospital and, with this additional accommodation, the Children's Hospital Board can alter its rules, which at present place a limit of six years on the age of children who can be accepted at Mareeba, and allow them to take children up to, say, 12 years of age. I make it clear that that is only my interpretation of what can be done and not necessarily what will be done. However, it is obvious that such a course would relieve the pressure on the Children's Hospital.

The Hon. K. E. J. Bardolph—Will the Children's Hospital take over the care of the babies at Mareeba?

The Hon. A. L. McEWIN—They will take over the whole thing under the aegis of the Government; it will mean that some financial provision will have to be made to assist the Children's Hospital's finances.

The Hon. F. J. Condon—Will the Children's Hospital Board make any contribution in the way of rent for the lease?

The Hon. A. L. McEWIN—The Government is already generously supporting the institution and if it accepts this further obligation the Government will have to increase its assistance.

The Hon. F. J. Condon—No-one objects to that.

The Hon. A. L. McEWIN—The matter of a lease is merely a question of conforming to the law. The Mareeba building has wide verandahs and balconies which could be very economically enclosed with louvre windows and provide accommodation for further convalescent beds.

The Hon. K. E. J. Bardolph—What would be the capacity then?

The Hon. A. L. McEWIN—I have not gone into that in detail. Probably the verandahs and balconies would take a score of beds, but I am not going to be dogmatic on that. This is a worth-while measure, which has the support of the Adelaide Children's Hospital Board, and I move the second reading.

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

#### ADJOURNMENT.

At 6 p.m. the Council adjourned until Wednesday, November 21, at 2 p.m.