LEGISLATIVE COUNCIL.

Tuesday, October 6, 1953.

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

QUESTIONS.

WHEAT MARKETING LEGISLATION.

The Hon. F. J. CONDON—From press reports I gather that the Minister of Agriculture has been instructed to have a Bill drafted to validate the agreement which has been arrived at by three States in respect of wheat marketing. In its preparation will the Government consider the interests of the flour milling industry, which is in an even worse position today than hitherto, or will the Bill deal only with the interests of wheat farmers?

The Hon. A. L. McEWIN—The relationship and interests of the milling industry have been in the forefront of all discussions on wheat marketing legislation and I assure the honourable member that full cosideration has been given to it by the Ministers of the three States which have been striving to reach agreement. I understand that the Parliamentary Draftsman is now preparing the Bill which will be introduced, I hope, this week.

LEGISLATIVE COUNCIL CEREMONIAL.

The Hon. K. E. J. BARDOLPH—Recently we adopted the title of Usher of the Black Rod for our Sergeant at Arms. During the Royal Opening will he wear ceremonial dress and will consideration also be given to provision of a mace in this Chamber?

The Hon. A. L. McEWIN—So far as I am aware the new title does not involve any alteration in either the position or dress of the holder of that office. The use of a mace in this Chamber will not be adopted.

CONVEYANCE OF SCHOOL CHILDREN.

The Hon. E. ANTHONEY (on notice)—

1. What is the approximate saving to the Education Department of the closing of classes VI. and VII. grade schools to offset the annual cost of the conveyance of children to higher primary, area, or high schools?

2. What is the total cost to the department of providing transport for school children since the inception of the scheme?

The Hon. R. J. RUDALL—The replies are—

1. It is not possible to give actual figures, but the policy was dictated by a desire to give better educational facilities in the country.

2. £1,210,458.

AMENDMENT OF STANDING ORDERS.

His Excellency the Governor returned a copy of amendments to Standing Orders adopted by the Legislative Council on September 22, 1953, and approved by him in Executive Council on September 24.

STATE BANK ANNUAL REPORT.

The PRESIDENT laid upon the table the annual report and accounts of the State Bank for the year ended June 30, 1953.

OPENING OF PARLIAMENT BY THE QUEEN.

The PRESIDENT laid on the table the following report of the Standing Orders Committee dealing with new Standing Order No. 14A in connection with the opening of Parliament by Her Majesty the Queen next year:—

14A. When the opening speech is delivered by the Sovereign in person—

(*a*) the message to the House of Assembly mentioned in Standing Order 8 need not be sent and the Speaker and Members of the House of Assembly may be admitted to the Legislative Council Chamber without any such message:

(*b*) Standing Order 5 shall apply as if the words "the Sovereign" were substituted for the words "the Governor or the Commission representing him":

(*c*) Standing Order 6 shall apply as if the words "the Sovereign" were substituted for the words "the Governor" and "His Excellency":

(*d*) Standing Orders 12 and 14 shall apply as if the words "Speech of the Sovereign" were substituted for the words "Governor's Opening Speech":

(*e*) subject to the preceding paragraphs, the procedure set out in these Orders shall apply as when the Opening Speech is delivered by the Governor.

The Hon. A. L. McEWIN (Chief Secretary)—I move—

That the report of the Standing Orders be adopted.

As a result of a letter from the Private Secretary to Her Majesty, consideration has recently been given to the question whether any alteration of laws or Standing Orders is necessary in order to enable Her Majesty to open Parliament. There is no doubt about the legal

power of Her Majesty to perform this function in person. Her powers in the matter are at least as great as those of His Excellency the Governor, because in opening Parliament His Excellency is acting as the representative of Her Majesty. If, therefore, the Governor has the power—which no one disputes—so also has Her Majesty, and no alteration of the law is required. But as regards the procedure to be followed when Parliament is opened by the Sovereign in person, there is nothing at present laid down in the Standing Orders. It is obviously desirable that this matter should be clarified and it is for this reason that the Standing Orders Committee has recommended the amending Orders now before honourable members. In the main the effect of the amendments is to provide that the procedure on the opening of Parliament by Her Majesty will be the same as when the Governor performs this function. There is, however, one minor difference. In order that Her Majesty shall not be kept waiting while the Speaker and members of the House of another House are summoned, it is proposed that they may attend in the Legislative Council without any message being sent. The new Standing Orders also make it clear that the Address in Reply to Her Majesty's Speech may be delivered to the Governor. This is in accordance with the arrangement which has been made in connection with all State Parliaments which are to be opened by Her Majesty during her visit.

The Hon. F. J. CONDON (Leader of the Opposition)—I second the motion. I am sure that the new Standing Order will be welcomed and appreciated by all members.

Motion carried.

AGENT-GENERAL ACT AMENDMENT BILL.

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

PUBLIC SERVICE SUPERANNUATION FUND ACT AMENDMENT BILL.

Read a third time and passed.

WEIGHTS AND MEASURES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 30. Page 835.)

The Hon. F. J. CONDON (Leader of the Opposition)—This is a small Bill but it affords members an opportunity of expressing opinions about the revenue statement for the Weights and Measures Branch. I appreciate the early submission of the Auditor-General's report because normally we have to wait until later in the session. This gives members an earlier opportunity to study the workings of various departments. Electric pumps, originally used for petrol, are now used for kerosene, diesel fuel and lubricating fuel and that is one of the reasons for the Bill. Parliament should take some action about the issue of licences for petrol stations. Recently, service stations have mushroomed and large amounts have been paid for their purchase. Ultimately, somebody will fall by the wayside. Fourteen years ago the annual licence fee was 10s. 6d. but no limitation is now proposed and the Governor will have power to increase the amount. The Bill also enables action to be taken by all States to secure uniformity in the packaging of certain goods in relation to net weight. That will afford the purchaser some protection. For the year ended June 30, 1953, the amount received for fees for testing standards was £296, the licence fees for petrol pumps £2,071 and for weighbridges £1,549, a total of £3,916. However, expenditure during that period totalled £6,296. Today many departments do not meet their working expenses and it is time the Government seriously considered the position. We will not always be able to obtain assistance from the Grants Commission and if taxing powers were returned to the State we would not be able to meet these deficiencies unless certain fees were raised or taxation increased. The Government has lagged in this regard because the working expenses of departments have increased in the last 14 years. No attempt has been made to make up that deficiency. This department is only a small one, but the same position exists in others, and I think should be reviewed. Travelling expenses of inspectors, running expenses, depreciation of motor vehicles, and office expenses amounted to £2,072, and there was a deficit for the year of £2,380, which has to be provided from general revenue. Last year the Harbors Board, which has been a profit-making concern, showed a deficit of £124,284, and to meet this increased charges have been provided for in the Budget. We should not leave it too late to bring our Government departments up to the mark but should tackle the problem by degrees.

The Hon. F. T. Perry—Why single out this department?

The Hon. F. J. CONDON—We have to start somewhere. I am concerned as much about the

finances of the Government as any other member, and I say that the time has arrived for us to consider these matters.

The Hon. E. ANTHONEY (Central No. 2)—Mr. Condon has raised a very important question, something which he quite often does, in pointing out that it costs twice as much to collect the revenue as the revenue is worth. This Bill rectifies that position in one regard in as much as there will be increased fees for inspecting petrol pumps. I agree with Mr. Condon that it is time the public realized they must pay for services, because we cannot go on being a Father Christmas to it. This matter is a small one, but a big principle is involved. The Bill deals with a few administrative matters and is an indication of the march of time. There was a time when petrol sellers dealt only in the sale of petrol, through hand pumps of course, but today they are also selling lubricating oils, kerosene and diesel oil, all of which are going through pumps which have to be licensed. This Bill provides for increased licence fees and there is also a provision to deal with goods from other States, such as breakfast foods and so on, which are packed in containers which do not indicate to the general public the quantity they contain. As a result of a meeting of interstate people who are interested in this matter it was resolved that a uniform practice should be adopted so that the purchaser would know the weight of the contents of each container. The Bill makes it incumbent upon people to stamp the packages to that effect. It is a very important amendment and should commend itself to all members.

I agree with the comments made by Mr. Condon on the multiplicity of petrol pumps which are dotting the landscape and consider it is time something should be done to restrict their numbers. Although I am in favour of freedom of trade, surely there must be a limit. It is rather remarkable that the oil companies are asking for increased prices for their commodities and at the same time are offering fabulous prices for these tiny petrol stations. I know from my own experience that thousands of pounds were paid for a station which originally cost only a few hundred pounds, so I wonder if it is a *bona fide* business. I understand these pumps are inspected annually.

The Hon. F. T. Perry—Is 10s. 6d. an annual fee?

The Hon. E. ANTHONEY—Yes. I am informed that the inspectors can cover the State in one year, although sometimes it is necessary to make a second inspection. All pumps are carefully inspected and certified correct or otherwise by the inspectors.

The Hon. K. E. J. Bardolph—If any report is received they also make another inspection.

The Hon. E. ANTHONEY—Yes, if a pump is not working satisfactorily.

The Hon. F. T. Perry—Still for the sum of 10s. 6d.?

The Hon. E. ANTHONEY—Yes, no extra charge is made for the second inspection. The legislation on that matter should be tightened up to make this department a paying concern. The department has no expenses other than staff and travelling expenses and it is wrong that it should cost £6,296 to collect £3,916.

The Hon. K. E. J. BARDOLPH (Central No. 1)—I agree with the provisions of the Bill and the comments of the Leader of the Opposition, but there is another angle—the standard of goods. Recently I purchased a pair of child's school shoes for £3 3s., but the heels were just nailed on. If we propose to protect people against incorrect weights and measures, some provision should be made with regard to standard of goods sold to them.

Bill read a second time and taken through Committee without amendment. Committee's report adopted.

CONSTITUTION ACT AMENDMENT BILL (MINISTERS).

Adjourned debate on second reading.

(Continued from September 30. Page 835.)

The Hon. N. L. JUDE (Southern)—It is only right that, on being presented with an amendment to the Constitution, this Council should give it the most careful scrutiny. The provisions of the Bill, which deals with the enlargement of Cabinet, should be even more carefully scrutinized because on three occasions this Council has rejected somewhat similar legislation. I realize, as every other member must, that the pace at which we live in these modern days, apart from the quite obvious increase in population, places a far greater onus on anyone in authority. Notwithstanding that increase in pace we know quite well that, although the span of life has been considerably increased, the human body has not yet been supercharged, and until it is I cannot see how the same number of men can be expected to handle the volume of business presented to them today. I recall that the Premier said,

prior to the elections, that Government departments must be more directly accountable to Parliament, and on that I am sure all members will agree, but I have been wondering why the Premier chose to emphasize the position in regard to the Highways Commissioner in this regard. It seems to me that members of this Chamber should give very careful regard and continual consideration to the fact that there are other major departments that have powers almost equal to those of the Highways Department, and if we are to approve an alteration of the Constitution in order to bring one large department more closely under the eye of Parliament and more directly accounted for by a specific Minister it is rather necessary that we should show some consistency and see that many of those bodies which are under boards or trusts are treated in exactly the same manner.

I am not making any reflection on the way any of those other bodies are conducted at present. I am treating this subject impartially when I suggest that if we are to have a Minister for one large department, to be consistent members should give thought as to whether other bodies should be treated in a like manner. It should be remarked that the present Government has been in office for 14 years and despite the fact that we have gone through probably some of the most trying years of our history it has never been suggested by the present Leader of the Government that we should increase the personnel of Cabinet, yet he does so now when we would hope that many of the minor departments would be closed down and others should be decreasing in the scope of their operations. I appreciate the increase of population both by natural means and by immigration, but the time at which this Bill is introduced is not very consistent with natural requirements, and it seems to me that it should have been done some years ago; if it is necessary now it was even more necessary then. I have turned over in my mind the rather limiting factor that has been placed upon a Liberal and Country League Premier in providing that one of his new Ministers shall be in this place.

The Hon. E. Anthoney—There is no compulsion about it.

The Hon. N. L. JUDE—I beg to differ. I believe it could be possible to have both of the new Ministers in this place, but as I interpret the Bill, one of the new Ministers must be in the Assembly. This has disadvantages as well as advantages. It is only natural that the so-called popular House should want as many Ministers as possible, but if the Premier were allowed to place all his Ministers, except two, in the House of Assembly it might be subject to political thought in the future. I do not think it would be desirable, so I tend to come down on the side of a distinct prescription in the Bill as to where the Ministers shall be placed. The matter receives my favour even more when I consider the disadvantages the Legislative Council sometimes has to work under with only two Ministers. We are all aware of the burden placed on the other Minister when one falls sick or has to attend conferences in other States. Members will recall that some little time ago the Chief Secretary was sick for a considerable time, which left only one Minister in this Council for weeks on end; the addition of another Minister will assist in solving that problem.

I feel I should also comment on what I consider to be the duties of Ministers.. I have always felt that a Minister should be a person who proclaims and enunciates the policy of the Government. He should also inform the elected representatives of the people of the developments and possible hindrances to that policy. He should introduce legislation to conform with the Government's policy and he should be prepared to reply to members' criticisms of it. Apart from that Ministers have to control their very considerable departments. These things combine to constitute a severe task, and one which must take up the larger part of their time in fulfilment, so I want it recorded that I never have believed that it is the duty of Ministers to attend dozens of minor functions throughout the length and breadth of the State. This may, of course, seem to some degree politic by all shades of thought and I would be rash to deny some need for it. I still contend that it is wrong. This tendency should be decried by all members as often as possible and all of us could assist by not expecting administrative heads of Government to deal with the minor problems that overzealous members often concern them with at very short notice. Ministers would then have time to deal with major matters more thoroughly instead of with a host of petty matters and their work would not be so onerous. I support the second reading.

The Hon. S. C. BEVAN (Central No. 1)—I shall not delay the measure by referring to

the various aspects mentioned by other members. The debate has been illuminating and interesting, and I was particularly interested in the history of Parliament since its early days as related by Mr. Bardolph. This is a small measure, but is extremely important. Mr. Cudmore suggested that the Bill is the fulfilment of part of the policy stated by his Party during the recent State elections. The policy enunciated by the Australian Labor Party at the last elections was also to increase the number of Ministers from six to eight although perhaps not for the same purposes as in the Bill. Ministers have an enormous amount of work and should receive some relief. There have been great increases in the functions of various Government departments, because of the advancement of the State, and there has been increased pressure of work on Ministers. In recent years great strides have been made in our educational system and the Minister of Education has a full-time job administering the Education Department without the increased burden, as Attorney-General, of administering other departments. The Chief Secretary is in the same category. Apart from their Ministerial duties they must devote considerable time in the various constituencies. Their job entails a seven-day working week.

I was surprised that no provision has been made for any increases in Ministerial salaries. Although two additional Ministers will be appointed the salaries will remain the same. Because of the duties they are called upon to perform they deserve more recognition. Some departmental heads receive higher salaries than the Ministers to whom they are responsible. That is an anomaly and the time is opportune for the Government to realize the position and to consider increasing Ministerial salaries. I agree that assistance should be provided for the Leader of the Opposition in this Chamber. His duties are considerable, but he receives no more consideration than ordinary members. To some extent the appointment of two additional Ministers will relieve the burden of the present Ministers and afford them some relaxation to which they are justly entitled. The Government should recognize their worth and fix their salaries accordingly, then justice would be done. I agree with Mr. Condon that recognition should be given to metropolitan members and that they should be represented in the Ministry. I support the Bill.

The Hon. Sir WALLACE SANDFORD secured the adjournment of the debate.

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

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

The Hon. A. L. McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time.

The Landlord and Tenant (Control of Rents) Act was enacted in 1942 and has since been amended from time to time. It will be recalled that in 1951 very extensive amendments were made to the Act as a result of recommendations by the committee appointed by the Government to inquire into the operation of the legislation. Its principal purposes are well known, namely, to provide for the control of rents or dwellinghouses and the control of evictions during a period when the supply of dwellinghouses is insufficient to meet the demand. In addition, it provides for the control of the rents of caravans, the control of the rents of and eviction from business premises and the regulation of the rents of hotel premises. The Act also specially provides for protection of those ex-servicemen who come within the definition of protected persons in the Act. It has been the practice for the legislation to be reviewed annually by Parliament and its operation extended from year to year. The Act now provides that it is to continue in operation until December 31, 1953.

The rate of house building in South Australia is now very satisfactory. During the last financial year, 9,007 dwellings were built as opposed to 7,715 during the previous financial year. This rate of building is bringing about a considerable improvement in the housing position but there is still a housing shortage and the Government considers that it is necessary to continue for the time being the existing controls over rentals and evictions so far as most dwellinghouses are concerned. Clause 19 therefore continues the operation of the Act for a further 12 months until December 31, 1954. However, the Government proposes that there should be a substantial diminution of the control provided by the Act. As has been previously stated, the Act now provides for the control of the rents of and the control of evictions from both dwellinghouses and business premises, although in some respects the degree of control now exercised over business premises is somewhat less than that exercised over dwellings.

It is proposed by the Bill to remove all control over business premises, that is, both

control over rents and over evictions. The Government is of opinion that the time has arrived when premises of this class can be freed from control. One result of the removal of the building controls formerly provided by the Building Operations Act has been that shops are now being freely built and there is, of course, now no legislative restriction placed upon the construction of any kind of business or other premises. The Bill therefore deletes all reference in the Act to premises other than dwellings and the effect is that, as regards leases of business premises, the law applicable will be the ordinary law of the land apart from the Landlord and Tenant (Control of Rents) Act. That Act will, in future, only apply to dwellinghouses and caravans. However, it should be noted that section 4 defines dwellinghouse to include premises of which a substantial part is used as a dwelling. Thus, premises such as a shop and dwelling are included in the definition of dwellinghouse. It follows that the Act will still apply to this kind of premises but it is provided by clause 6 that, where the rent of the part of the premises not used for residence, such as a shop, is required to be fixed, the rent to be fixed by the Housing Trust or the local court in respect to the shop part of the premises is to be based upon the general level of rents of comparable premises which are the result of agreement, that is, the ordinary current rental value of shops fixed without control. Thus, whilst it is considered that there should be general control of premises such as shops and dwellings, in practice the rent of the shop portion will conform with rent levels established without control.

Part VII. of the Act provides a measure of control over the rents of hotel premises. In conformity with the proposal for the removal of control over business premises generally, it is proposed by the Bill to repeal these provisions. The result is that the Act will cease to apply to hotel premises and, as will be the case with other business premises, the law relating to the leasing of hotel premises will, in future, be the general law only. Whilst it is considered by the Government that, in general the existing statutory control over the rents of and evictions from dwellinghouses should be continued, the Government proposes that there should be some important relaxations of these controls. As regards the control both of rents and evictions the following alterations are provided by the Bill.

In the first place, it is provided that the Act is not to apply to any lease made after the passing of the Bill of any house the erection of which is completed after the passing of the Bill and which has not been used for the purpose of residence before such passing. It follows that a new dwelling will not be subject either to rent control or eviction control and, if a person builds a new dwelling, he will know that he will not be subject to any of the restrictions now imposed by the Act. In the second place, it is proposed that, where a dwellinghouse has not been let at any time between September 1, 1939, and the passing of the Bill, the Act will not apply to any letting of the whole house entered into after such passing. The object is to provide that, if a house is not now let and has not been let since September 1, 1939, it can be brought by the owner into the letting field without being subject to any of the restrictions imposed by the Act. It will be noted that this exemption only applies to the letting of the whole house. Experience has shown that rent exploitation of tenants has been more serious where parts of houses have been let than where the whole of houses have been let and therefore the effect is that, where parts of these houses are let, the rents will be subject to rent control. The effect of the existing provisions of sections 54 and 55 is largely to free lettings of parts of dwellinghouses from the control over evictions provided by the general provisions of the Act.

In the third place, it is provided that where the landlord and tenant of a dwelling, after the passing of the Bill, enter into a lease in writing for a term of three years, the Act is not to apply to the lease. The effect is that, if the tenant is given the security of a written lease for three years or more, the parties will be left to make their own arrangements and the provisions of the Act, both relating to rents and to evictions, will not apply to that lease. As regards the control of evictions from dwellings, a further number of important relaxations of the law are proposed.

Section 42 provides that a notice to quit in respect of premises to which the Act applies may only be given on one or more of the grounds set out in that section. Some additional grounds for giving notice to quit are provided for. It is made a ground to give notice to quit that the premises are reasonably needed for the occupation of a person employed or about to be employed by the lessor. At present, the lessor of a house situated on an agricultural property has the right to give a notice to quit on similar grounds, but it is proposed by the Bill to make this ground

available to any lessor who desires to house an employee in a house owned by him. In any subsequent proceedings taken to recover possession of the house, the court would take into account the matters set out in section 49 and which are usually referred to as the hardship provisions.

Another new ground for giving notice to quit is that the lessee has, without the consent or approval of the lessor, not personally resided in the premises for a period of at least six months. It has been reported that some tenants have ceased to reside in the houses let to them and have left in occupation persons usually described as caretakers. The lessor has had suspicions that there is really a subletting without his consent but cannot obtain proof. The new ground is therefore prescribed to meet such a case. It is provided, however, that in any subsequent court proceedings the court is to consider whether the lessee had reasonable grounds to be absent from the premises.

At present section 42 provides as a ground for giving notice to quit that the house in question is reasonably needed for occupation as a dwelling by the lessor or by a married son or daughter of the lessor. It is proposed to delete the word "married" in the provisions in question. A son or daughter of the lessor who is not married may be equally in need of housing as a married son or daughter. For example, a son or daughter may be a widower or widow with children. This extension of the ground provided by section 42 does not affect the application of the hardship provisions where the notice to quit is given under that section and the respective hardships of the tenant and the person for whose occupation the house is sought will be a matter for consideration by the court.

Section 45 of the Act now provides that if a person buys a tenanted house or otherwise becomes the lessor, he cannot give notice to quit on the grounds that he needs the house for his own occupation or for a member of his family until after the lapse of 12 months from the time he became the lessor. It is proposed by clause 8 that this period will be 6 months instead of 12 months. Subsection (6) of section 49 provides that where a person has owned a house for 5 years and he complies with certain other conditions set out in the section, he may give the tenant 12 months' notice to quit on the grounds that he needs the house for his own occupation. Under these circumstances the court, in eviction proceedings, is not to consider the hardship provisions and, in effect, the tenant must go. It is proposed by the Bill to alter this provision to 2 years' ownership but leaving unaltered the requirement for the giving of 12 months' notice to quit to the tenant. This provision was first enacted in 1950. Its purpose was to provide that, where an owner had owned his property for a substantial period, he could give notice to quit to the tenant but that notice should be for a period very much in excess of the usual period. No cases of hardship arising out of this provision have been brought forward and it is considered that no real hardship should accrue from the alteration proposed. Under the new amendments the tenant will still have to be given 12 months' notice and this period should be sufficient to enable him to secure other accommodation or, if he is so disposed and is able to do so, to undertake the building of a house for himself.

Somewhat similar provisions to section 49(6) is contained in section 55 which contains provision for the recovery of possession of a house for occupation by an employee of the lessor. Amendments similar to that made to section 49(6) and reducing the required period of ownership from 5 to 2 years are made by the Bill to section 55. A further amendment is proposed to subsection (6) of section 49 which is in conformity with the policy of an amendment proposed to section 42 which has been previously referred to. As before mentioned, subsection (6) of section 49 provides that a lessor who has owned a house for a period of five years, which under the Bill will be reduced to two years, can give 12 months' notice to quit to the tenant on the ground that he needs the house for his own occupation and the hardship provisions do not apply in any subsequent proceedings. The Bill proposes to extend this provision to the giving of a notice to quit on the ground that the house is needed for occupation by a son or daughter of the lessor. The existing limitations imposed by subsection (6) will still apply, namely, that the lessor does not own another house which was reasonably available to the son or daughter and has not, since September 22, 1949, that is, the time when land sales controls were lifted, sold a house which at the time of sale was reasonably available for occupation by the son or daughter

A further provision dealing with the right of a lessor to obtain possession of a house is contained in clause 12. It is provided that

where, at the time of the giving of the notice to quit, the lessor offers to the lessee the tenancy of a comparable house, the court, in any subsequent proceedings is not to apply the hardship provisions and is, in effect, to make an order in favour of the lessor. However, the clause provides that the lessor must satisfy the court that the accommodation provided in the alternative premises offered to the lessee by the lessor is reasonably comparable with that provided in the house occupied by the lessee, that the rents of the two houses are reasonably comparable and that the house offered to the lessee is situated at a place reasonably convenient to the needs of the lessee. It is provided by the clause that section 45 shall not apply in the case of a notice to quit given under the clause. Section 45 provides that where a house subject to a tenancy is purchased by a person, he cannot give notice to quit to the tenant on the grounds that he needs the house for his own occupation or for a member of his family, until after a lapse of 12 months from the time of purchase. This period is, of course, proposed to be reduced to six months by the Bill. In the circumstances contemplated by clause 12 where the lessor is prepared to make available to the lessee a house comparable to the one he is occupying, it is considered that the limitation imposed by section 45 should not apply.

To sum up, the Bill provides that business premises, other than premises used partly as dwellings, are to be entirely freed from control and placed outside the provisions of the Act. As regards dwellings, there will be a substantial relaxation of controls. New dwellings will be freed from control and the Act will not apply to the lease of the whole of a dwellinghouse which has not been let at any time since September 1, 1939. In addition, a three-year lease agreed to by a landlord and tenant of any dwelling will be outside the Act. The relaxation of control in all these instances applies to all the provisions of the Act both those relating to rent control and those imposing restrictions upon obtaining possession of premises. In addition, the provisions of the Act restricting the right of a landlord to give notice to quit to his tenant and to secure possession of the premises are substantially modified. The various amendments of the Act to give effect to these proposals and to make consequential amendments of the Act are contained in clause 3 to 8 and 10 to 15 of the Bill.

The other clauses of the Bill deal with a number of minor matters. Section 46 provides that, in proceedings to recover possession of premises, the lessor may rely on a ground other than that stated in the notice to quit. Section 74 provides that a notice to quit given in accordance with the Act terminates the tenancy but it has been pointed out that, in the circumstances provided for in section 46, there has not been such notice to quit. Clause 9 therefore provides that, if a court makes an order for possession in accordance with section 46, it terminates the tenancy.

Section 100 prohibits the payment of a premium or key money on the grant or assignment of a lease. Clause 16 provides that this is not to apply to the sale of goods comprising stock in trade. It is common practice when a tenant goes out of a business carried on, say, in a shop and dwelling, to sell the stock to the incoming tenant and, obviously, the section was not designed to prevent such as this being done.

Section 105 authorizes an inspector of the Housing Trust to require a lessor or lessee of any premises to which the Act applies to give information as to such matters as the rent of the premises. Clause 17 extends this provision to former lessors and lessees. When a complaint is made to the trust that an unlawful rent is being charged, it is often necessary to obtain information from the former lessor or lessee to ascertain whether or not an offence has been committed.

Clause 18 is ancillary to clause 4, under which certain leases of dwellings are placed outside the ambit of the Act. Clause 18 provides that, if in any legal proceedings evidence is given that premises are let for the purpose of residence, the premises shall be presumed to be premises to which the Act applies unless sufficient evidence to the contrary is given. Whether or not a house comes within the exemptions provided by clause 4 will frequently be only within the knowledge of the lessor. For example, clause 4 proposes to exempt from control a future lease of a house which has not been let at any time between September 1, 1939, and the passing of the Bill. If it were considered that an unlawful rent was being charged for any house, it would obviously be extremely difficult, if not impossible, for any person other than the lessor to establish whether or not the house had been let at any time during the period in question. Consequently, the clause provides

that, if evidence is given that the house is let at the time of the alleged offence, the onus will be on the lessor to show that it comes within the exemption given by clause 4. The policy of clause 18 is, of course, in accordance with the general rule laid down by section 56 of the Justices Act which provides that a complainant is not required to prove an exception, but that such a matter may be proved by the defendant.

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

ADJOURNMENT.

At 3.23 p.m. the Council adjourned until Wednesday, October 7, at 2 p.m.