LEGISLATIVE COUNCIL.

Tuesday, December 1, 1959.

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

QUESTIONS.

PRICE OF WHEAT.

The Hon. F. J. CONDON—Owing to the increased price of wheat announced today can the Minister representing the Premier give any information regarding negotiations between the Premier and the Prime Minister on this subject, as in other States it has been increased by 4d. a bushel as against 7d. a bushel to millers in South Australia?

The Hon. C. D. ROWE—Application was made to the Federal Government by the State Government for assistance in bringing wheat into the Adelaide division, but the Commonwealth did not agree to this request. The Australian Wheat Board notified its intention to charge an increased price for wheat sold for home consumption. For wheat for use by flour millers for export it was suggested that it could be most cheaply brought from Victoria, but as the millers have stated that Victorian wheat is of very low quality and unsatisfactory for milling purposes a somewhat higher charge will have to be paid by the South Australian consumer to enable the flour mills to be maintained. The Prices Commissioner has made a new order, effective as from today and published in the press, increasing the price of mill offal and flour, but investigations into the operations of the Wheat Board are being continued. A further statement will be made when the investigations are completed, but they may take some time.

COMMONWEALTH FUNDS FOR EDUCATION.

The Hon. K. E. J. BARDOLPH—On November 3, in view of a statement by the Minister of Education, I asked the Chief Secretary a question regarding the lack of funds for school buildings and equipment for the State school system. Has the Attorney-General a reply today?

The Hon. C. D. ROWE—The suggestion will be considered when the agenda for the next Loan Council meeting and Premiers' Conference is being arranged.

GIFT OF WHEAT TO PAKISTAN.

The Hon. F. J. CONDON—I notice from the press that the Federal Government once again has made a gift of wheat to Pakistan. Will the Attorney-General draw the Premier's attention to this matter and ask him to take it up with the Federal Minister for External Affairs and urge that it would be more creditable if the gift were in the shape of flour so as to provide employment in the milling trade?

The Hon. C. D. ROWE—I shall be pleased to take up the matter with the Premier.

ATTACKS ON SHEEP BY DOGS.

The Hon. L. H. DENSLEY—Some time ago I drew attention to damage caused to sheep by dogs and asked that some action be taken in relation to registration fees for Alsatian dogs. Has the Minister a reply?

The Hon. C. D. ROWE—The question whether registration fees for Alsatian dogs should be increased is one of Government policy. Registration fees for Alsatian dogs or bitches are fixed by the Alsatian Dogs Act, 1934-1949, at £2 per annum. Those for dogs of all other species are fixed by the Registration of Dogs Act, 1924-1947, at 10s. for male dogs and 15s. for bitches. It is suggested that greater vigilance on the part of councils in impounding any dog found at large would be more beneficial in reducing the likelihood of damage than an increase in the registration fee.

CHAIR OF MENTAL HEALTH.

The Hon. F. J. CONDON—On November 3 I asked a question regarding the establishment of a Chair of Mental Health at the Adelaide University. Is the Attorney-General able to give a reply today?

The Hon. C. D. ROWE—The Government does not subsidize particular faculties. An overall subsidy is provided and the university decides upon the method of its expenditure.

PRICES ACT AMENDMENT BILL.

Read a third time and passed.

MOTOR VEHICLES BILL.

Second reading.

The Hon. N. L. JUDE (Minister of Roads)—I move—

That this Bill be now read a second time.

This is a consolidating and amending Bill dealing with the administrative parts of the law relating to road traffic. By "administrative

parts'' I mean the registration of motor vehicles, licensing of drivers, and third party insurance—the matters which are administered in the department of the registrar. The main object of the Bill is to improve the form, arrangement and clarity of the law, but some amendments are also proposed. The Bill was drafted by Sir Edgar Bean and in drafting it he worked in close consultation with the Registrar of Motor Vehicles, Mr. Kay, and some of his capable and experienced senior officers:—Mr. Prince, the Deputy Registrar, Mr. Newman, Chief Clerk, and Mr. Pittman, the Supervisor of Registration, all of whom are experts in the branches of the law dealt with in the Bill.

The Bill is the first major instalment of the general revision of the traffic laws which the Government has decided to proceed with. Shortly after the work of revision began, the Registrar of Motor Vehicles pointed out the advantages of having a separate Act setting out the provisions administered by his Department. A Bill for an Act of this kind, it was thought, could be prepared in time for introduction this year and would enable him to make more rapid progress with the improvement and simplification of the procedures in his office, and also to prepare a badly-needed new code of regulations. The Government agreed to the Registrar's suggestion and this Bill is the result. Besides consolidating the law, it contains some amendments of principle which the Government desires to submit for the approval of Parliament.

I will deal with the main features of the Bill in the order of the clauses in which they occur. The first matter is in clause 3 which deals with repeals. It is proposed to repeal all the sections of the Road Traffic Act which are reproduced in this Bill and, in addition, to repeal the whole of Part III which provides for the licensing of horse-drawn vehicles. The Government has decided to discontinue this licensing system. The net revenue derived from horse-drawn vehicles, after allowing for administrative expenses, is now so small that financially the system is no longer justified. Every year the number of horse-drawn vehicles decreases, and it is not to be expected that the licence fees would again produce any appreciable contribution towards the upkeep of roads. As a factor in road safety, the licensing of horse-drawn vehicles has no value. Horse-drawn vehicles will, of course, continue to be subject to the general rules of the road and this is all that is required in the interests of road safety.

Clause 5 of the Bill contains the definitions. In connection with this clause I would draw attention to the definition of ''primary producer'' which is of importance because of the special rates of registration fees applicable to certain classes of primary producers' vehicles. This definition sets out the existing interpretation of ''primary producer'' a little more fully than is done in the existing Act and makes it clear that primary producers are those who carry on primary production as a business and as principals, and also includes share-farmers who work under written share-farming agreements otherwise than as servants. Another important matter in the interpretation section is a declaration in subclause (4) of clause 5 that the Bill applies to vehicles engaged in interstate trade so far as the Constitution permits. A subsequent clause provides that vehicles engaged solely in interstate trade will be entitled to registration at an annual fee of £1. The High Court has held that we cannot charge these vehicles the normal registration fees imposed on other vehicles. But the court has not held that we cannot require them to carry number plates and registration labels. Nor has it been held that the States cannot require the drivers of vehicles engaged in interstate trade to obey reasonable rules for the regulation of traffic on roads. It is proposed, therefore, to declare that interstate vehicles will be subject to this Bill. If they are duly registered in other States they will be permitted under proposed regulations to enter South Australia as visiting motorists by virtue of such registration. If, however, an interstate trade vehicle is not registered in another State it will be required to register in this State. The Government has no reason to believe that provisions for registration of the kind proposed in this Bill are unconstitutional and it is obvious that such provisions are well justified. It is a most unsatisfactory state of affairs if a vehicle can lawfully be driven on a road without bearing any means of identifying the owner. If vehicles are not readily identifiable it is difficult to enforce against them the laws as to overloading or speed limits. The officers concerned with the administration of these laws have, in fact, been considerably embarrassed by the fact that some vehicles carry no names or number plates at all.

The next Part of the Bill deals with the registration of vehicles. The general duty to register will remain as at present, but some alterations are proposed in the provisions as to exemptions and permits. By clause 11 it is

provided that motor vehicles may be driven without registration in the course of training members of fire fighting organizations and transporting such members to or from training, and also for the purpose of taking measures for preventing, controlling or extinguishing fires. At present it is permissible to use unregistered vehicles for actual fire fighting but not for training fire fighters, or preparing fire-breaks. The concessions provided for in clause 11 have been asked for by representatives of voluntary fire-fighting organizations. It will be noted that no exemption from insurance is proposed.

Another new concessional provision is included in clause 12 which, among other things, enables farmers' unregistered tractors to be used on roads within 25 miles of the farm for drawing farm implements. A similar concession is now extended to self-propelled farm implements which, however, may also be driven without insurance within the area mentioned. Up to the present time neither trailer bins constructed for attachment to harvesters for the collection of grain in bulk nor grain elevators have been included in the definition of farm implements. It is proposed that in future both trailer bins and grain elevators will be included in this definition.

A small alteration of fees is made by clause 17 which relates to special permits granted by the Registrar for journeys by unregistered vehicles not normally used on roads. At present a fee of 5s. is charged for these permits; but in some cases the duration of the permit and the length of the journey and the size of the vehicle are such that the permit-holder obtains an exemption from registration fees amounting to a substantial sum. It is proposed that the 5s. fee will, in future, be the minimum, and that the Registrar shall be empowered to charge for these permits fees up to a maximum of one-twelfth of the annual registration fee. It is intended that the actual fee in each case will depend upon the period of the permit, the length of the journey, and the nature of the vehicle.

The next topic is the scale of registration fees. No substantial alteration is proposed in this scale of fees but there are one or two minor changes. Under the present law the horse power of a vehicle driven by an internal combustion engine depends, among other things, upon the number of cylinders in the engine. However, some vehicles have two pistons in one cylinder so that one cylinder does the work of two and, as a result, the number of cylinders does not give a true measure of the horse power. It is proposed in the Bill that in future the horse power will depend on the number of pistons, and not on the number of cylinders. Another small alteration proposed in the registration fees is in connection with motor tricycles and motor trivans. These vehicles, under the present law, are in a class by themselves, and however large or powerful such a vehicle may be, the registration fee never exceeds £5. It is proposed that in future these vehicles will be subject to the general scales of fees for commercial and non-commercial vehicles. This will not make any appreciable difference to three-wheeled vehicles under 25 power-weight, but those in excess of 25 power-weight will pay the same fees as four wheeled vehicles of the same power-weight, and this will involve an increase.

In clause 31, which deals with the vehicles entitled to registration without fee, two changes are proposed. In future, motor ambulances operated by a municipal or district council, or by a non-profit making body will be automatically granted free registration without a special application being made to the Treasury in each case. Additionally, dam-sinking machinery will be registered without fee. Clause 35 extends the permissible uses of primary producers' tractors registered on payment of one-quarter of the normal registration fees. Under the present law these vehicles can be used for taking produce from the producer's holding to a port or railway station, or to a town not more than twelve miles from the primary producer's holding. It is proposed to extend the twelve mile limit to fifteen miles and, in addition, to permit the tractors to be used for taking produce to any depot for packing, processing or delivery to a carrier, whether such depot is at a port, railway station or town or not.

Clause 38 sets out the rules for concessional registration fees for incapacitated ex-servicemen. Under the present law these registrations are not transferable. It is proposed to make them transferable from one incapacitated ex-serviceman to another. It is also proposed that upon the death of an incapacitated ex-serviceman the registration will not become void, as at present, but may continue in force for the benefit of the members of his family or other persons, subject to payment of the balance of the registration fee.

Clauses 48 to 53 deal with what are now called registration discs, stickers or cards. In

future these articles will be known as registration labels, which is a standard term used in other States to describe them, and is appropriate to describe both windscreen stickers and cards. A new clause is proposed enabling the Registrar to issue permits for vehicles to be driven before the issue of registration labels, when it is necessary to obtain further information in order to calculate the proper registration fee. Another new clause enables members of the Police Force to issue permits to drive without registration labels, where the labels are lost or destroyed or not delivered after being issued.

The rules as to cancellations and transfers of registration are set out in clauses 54 to 61. Some amendments of the law are proposed in these clauses. At present there is no general right for a registered owner to surrender the registration of his vehicle at any time and obtain a refund. However, there is no reason why people should not be allowed to surrender registrations freely so long as proper precautions are taken to destroy the registration label which is the ordinary indication to police that a vehicle is registered. It is proposed in clause 54 to give motorists a general right to have registrations cancelled whenever they so desire. It is also proposed to simplify the procedure on transfers. By the present law the onus of notifying the Registrar of the transfer of a vehicle and of having the registration transferred or cancelled is placed on the transferor. This has not been satisfactory in practice because usually it is the transferee who is really interested in getting the transfer registered. Often the transferor gives incorrect particulars of the name and description of the transferee. The Bill will place a duty on the transferee. If an application for cancellation of the registration is not made within 14 days after the transfer, the transferee will be required to make an application to the Registrar for the transfer of the registration to himself. The duty of the transferor will be modified. At present he must give a notice of transfer in all cases. It is proposed in the Bill that where an application for cancellation of the registration is made, no other notice of transfer need be given by the transferor.

The next group of clauses, 62 to 71, deals with traders' plates, and provides for some additional concessions. In the first place it is proposed that when general traders' plates are issued to a company, any director, manager or authorized employee of the company may drive a motor car or utility bearing such plates for any purpose at all except carrying goods or passengers for hire. At present individual traders and their partners have a general right of using general traders' plates on cars and utilities but no similar right is given to companies. The Bill will remedy this disparity.

Another new provision respecting traders' plates is that it will be permissible for a person who buys a motor vehicle at a time when the Registrar's office is closed to use general traders' plates on the vehicle until the close of the first day of business after the sale. Representatives of the automotive industry have informed the Government that persons who buy vehicles on Saturday mornings often desire to take delivery immediately and use the vehicles during the weekend, and that it would facilitate trade if dealers could legally make their general traders' plates available for this purpose. This matter has been fully investigated and recommended by the Registrar.

Part III of the Bill consolidates the law as to drivers' licences with some small changes. The Bill removes the present doubt as to whether a licence to drive a motor cycle authorizes a person to ride or drive a three-wheeled vehicle. The better opinion appears to be that the holder of a motor cycle licence is entitled to drive only bicycles with or without sidecars, and it is proposed to state this expressly in the Bill.

Another provision (Clause 81 (2)) widens the power of the Registrar to dispense with written examinations of applicants for licences. It is proposed that in any case where special circumstances make it unreasonable to require an applicant for a licence to pass a written examination, the Registrar may dispense with the examination and issue a restricted driving licence to the applicant. Such a licence would provide that the holder would be entitled to drive vehicles only within a defined part of the State. In the pastoral areas of South Australia there are numerous employees who are competent drivers but who are not able to pass written examinations. A lot of them very seldom come into closely settled areas, but they can be safely trusted to drive vehicles in the outer areas and it would be an unnecessary hardship to deny them this right through illiteracy or the inconvenience of examining them.

Clauses 87 to 98 contain the law as to the disqualification of drivers and the suspension of licences so far as that law is administered

by the Commissioner of Police and the Registrar. The provisions as to disqualification and suspension of licences which are administered by the courts are not included in this Bill as they are tied up with the general law of road traffic and will be dealt with in the Bill on that subject.

Part IV is almost entirely a consolidation of the provisions relating to third party insurance. The complex sections of the principal Act have been broken up, arranged in more logical order and, in some cases, redrafted for the sake of greater clarity. There are three new clauses, namely, clauses 116, 117 and 121.

Clause 116 provides for claims against nominal defendants in case where death or bodily injury has been caused by negligence in the use of uninsured motor vehicles. Clause 117 is designed to enable recovery of damages against an insurer or the nominal defendant in cases where the insured person is dead or cannot be served with process, or the identity of the vehicle cannot be ascertained. Clause 121 prevents third party insurers from cancelling policies without the approval of the Registrar. If a third party insurance policy is cancelled and no policy is substituted the registration of the vehicle becomes void and, of course, the public loses the protection afforded by the policy. It is therefore essential that some control should be exercised over cancellations of insurance. In providing for this, clause 121 gives effect to a voluntary arrangement which is already being carried out by insurers.

Part IV also contains an amendment of the law which exempts the Crown and the Municipal Tramways Trust from the obligation to take out third party insurance policies, but requires them to give cover to drivers of their vehicles and pay damages to injured persons to the same extent as an insurer under a third party policy. The present provisions have worked satisfactorily, except in one respect. If a joy rider or a thief or any other unauthorized person unlawfully uses a vehicle owned by the Crown or Tramways Trust and injures anyone, he gets the benefit of the free insurance provided by these authorities. It is not unreasonable that when a publicly owned vehicle is unlawfully used the injured person should be able to make a claim against the public authority, which is in the position of an insurer; but it is not reasonable that the person who unlawfully uses the vehicle should altogether escape liability. It is therefore proposed in clause 100 to insert a new provision to the effect that if the Crown or the Tramways Trust pays out money in respect of a claim for death or bodily injury caused by a person unlawfully using a vehicle, the Crown or the trust shall have a right to recover the amount paid from such person. This amendment, of course, will not affect employees of the Crown or trust lawfully using the vehicles of their employer. They will continue to be protected.

Part V contains supplementary provisions relating to such matters as legal procedure, regulations and offences. It is desirable that I should draw the attention of members to clause 142, which lays down a general rule that a person who causes or permits another person to driver a motor vehicle in contravention of the Bill will be guilty of an offence. The principle of this clause is embodied in a number of separate sections of the present Act, but there is a lack of uniformity in the language used and some inconsistency in the application of the principle. In the interests of consistency as well as justice it is desirable that there should be a general rule such as is embodied in clause 142. The clause penalizes only those who are in some way blameworthy.

In the preparation of a Bill of this kind a number of verbal alterations are necessarily made in the course of re-arranging and clarifying the provisions. It would not be possible to explain every one of these changes without wearying members with interminable detail, which would add little to an understanding of the substance of the Bill. If, however, any member has any question or doubt about the effect of any alteration in language or otherwise I should be very pleased to obtain a full report on it for him.

I have pleasure in commending the Bill to the Council.

The Hon. S. C. BEVAN secured the adjournment of the debate.

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

In committee.

(Continued from November 26. Page 1878.)

New clause 2c—"Provisions for recovery of possession of shared accommodation to be leased in the future."

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

2c. Section 54 (2) of the principal Act is amended by striking out paragraph "iv" thereof.

The purpose of this amendment is to make it unnecessary for a fixation of rent by the Housing Trust in any case where there is shared accommodation in a dwelling between a landlord and a tenant. Section 54 gives the right in those circumstances to the landlord to give two months' notice to quit to the tenant without stating any reason. The general effect of the other parts of the section is to make it obligatory upon the tenant to go, provided the the requirements of the section have all been complied with, one of which up to date has been that the Housing Trust should fix the rental of the tenant. The effect of that has been to render section 54 practically useless and has inflicted hardship upon landlords as a result.

The Hon. K. E. J. BARDOLPH—Mr. Chairman, we do not know who the mover of a certain amendment is.

The CHAIRMAN—The honourable member asks who is moving it. The Hon. Mr. Potter is moving it.

The Hon. K. E. J. BARDOLPH—On a point of order, we are kept very strictly to the Standing Orders of this Council. An amendment has been circulated without the name of the intended mover.

The CHAIRMAN—That amendment is to clause 3, but we are now considering new clause 2c.

The Hon. K. E. J. BARDOLPH—This amendment has been circulated, and I want to know who is moving it.

The CHAIRMAN—The honourable member may ask a question when we come to it, but not now; maybe in a minute.

The Hon. C. D. ROWE (Attorney-General)—This new clause 2c seeks to amend section 54, which deals with the recovery of possession of shared accommodation. Subsection (1) reads:—

Notwithstanding section 42, but subject to this section, the lessor of premises to which this Act applies being shared accommodation in a dwellinghouse, may give notice to quit to the lessee of those premises under any lease made after the passing of the Landlord and Tenant (Control of Rents) Act Amendment Act, 1951, without specifying any ground therein.

Section 54 also says that no such notice shall be given except subject to five conditions, the fourth of which is the one affected by this amendment. It reads:—

IV. The rent payable for the premises shall have been fixed by a determination of the trust or an order of a local court.

Section 54 gives to the lessor of shared accommodation the right to give notice to quit to the tenant in certain cases and, in effect, the tenant must go. Among the conditions is that contained in paragraph IV of subsection (2), which provides that the rent of the premises must have been fixed by the trust. Section 54 was enacted as the result of a recommendation by the 1951 committee of inquiry headed by Judge Gillespie. The section was provided to enable a lessor to get rid of an undesirable tenant who had rooms in the same house, but paragraph IV was inserted to make it clear that the lessor exercising this right should not be an exploiter, and thus the rent must be that fixed by the trust or the local court.

However, since 1951 (when the section was enacted) various provisions have been enacted to enable the parties to a lease to agree upon the rent payable without any control under the Act, and I therefore think that the necessity for paragraph IV has probably passed. I have looked carefully at this matter and feel that paragraph IV is one which by virtue of the amendments made to the Act since 1951 loses its effect. Therefore, I am prepared to agree to the amendment.

New clause inserted.

New clause 2d—"Recovery of possession of premises in certain cases."

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

2d. Section 55c of the principal Act is amended by adding the following subsection thereto:—

(7) A notice to quit pursuant to this section may be given by or on behalf of a body corporate being the lessor of any dwelling house on the ground that possession of the said dwelling house is required for the purpose of facilitating the sale of the dwelling house and the provisions of this section shall apply *mutatis mutandis* to any such notice to quit given by a body corporate.

This amendment arises from the following circumstances. Section 55c as it at present stands enables a six months' notice to quit to be given by a lessor where he requires the property to facilitate its sale. By a recent judgment given in the local court it was held, and in my opinion rightly held, that this section applied not to a body corporate but only to a natural person. It is therefore only a natural person who can give six months' notice under section 55c to quit for the purpose of obtaining the dwelling house for sale. Quite a number of dwellinghouses are owned by corporations, and although I would like to see

them have the same rights as persons under section 55c to give notice to quit both for sale and for requiring the property for their own use, I have confined the amendment to the purpose of sale. I think they should at least have that right.

The Hon. C. D. ROWE—Section 55c among other things enables notice to quit to be given in order to facilitate the sale of a house. For some time there has been doubt in the minds of legal persons as to whether that right existed only in the case of individual persons or in the case of a body corporate. The decision given in, I think, the Local Court of Adelaide held that the law as it stands does not include a body corporate. I can see no reason why a body corporate should not have the right to get possession of a house for the purpose of sale in the same way as an individual, and I am therefore prepared to accept the amendment.

New clause inserted.

Clause 3—"Restrictions on certain lettings of dwellinghouses."

The Hon. F. J. POTTER—I move—

To insert in line 1 after the figure "3" the figure "(1)."

I do not disagree with the explanation given by the Attorney-General on clause 3, and I do not wish to move an amendment to subsection (1) but wish to add an amendment which was circulated to members only a few moments ago and concerning which Mr. Bardolph asked who was the mystery man sponsoring it.

The Hon. K. E. J. BARDOLPH—On a point of order! It is not a question of a mystery man, but one of adherence to Standing Orders. I refer you, Sir, to Standing Order No. 134 which says that every amendment must be in writing and signed by the mover. This amendment has been circulated without any signature, and it is a question of the conduct of our business according to Standing Orders.

The CHAIRMAN—Standing Order No. 134 does not apply as that refers only to procedure in full Council. Certainly there is no need to give notice of amendments in Committee.

The Hon. K. E. J. BARDOLPH—I take the point that this amendment is not before the Committee as there is no indication of who is the mover. In my 18 years' experience in this place it has been customary for the mover to affix his name to an amendment, according to Standing Orders.

The CHAIRMAN—Any member can bring an amendment before the Chair, whether it is in writing or not.

The Hon. K. E. J. BARDOLPH—It is in conflict with Standing Orders.

The CHAIRMAN—The honourable member is not correct, otherwise every amendment would have to be in printing or in writing, and I have known even the honourable member to put forward amendments of which we have not even had a copy.

The Hon. K. E. J. BARDOLPH—With the greatest respect, Sir, you are in error. I have always asked, when submitting an amendment at short notice, the Minister to move that progress be reported in order that the amendment may be circulated. I have never attempted, as you imply, to do something on the lines to which I am objecting now.

The CHAIRMAN—Then the honourable member is the only one in this place who has never done it. The fact remains that we are in order. Members have helped the Committee by giving notice of amendments they want to move, but as far as I am concerned anyone can move the amendment which is in the name of Mr. Potter.

The Hon. C. D. ROWE—Mr. Potter first circulated a printed amendment to section 55d subparagraph (*b*) (1), but he has subsequently circulated this further amendment which I think is in substitution for the one originally printed, and not an addition as he stated just now. The amendments deal with two matters. Firstly, section 55d provides that where notice to quit is given to facilitate a sale of a house and, after the tenant vacates the house is not sold, certain consequences follow. Subsection (3), as amended in 1957, now provides that if the house is sold and the purchaser lets it within 12 months after the sale he is to give notice of the letting to the Housing Trust. The amendment proposes to delete subsection (3). As the subsection now stands, it seems to me that it serves little purpose. Its present intent is totally different to its intent when the subsection was first enacted. I agree that subsection (3) could well be repealed.

Secondly, section 55d provides that, after notice to quit is given to facilitate sale, if the house, after possession being given up by the tenant, is not sold within three months after possession being given up, the lessor is to offer a further lease to the original tenant at the same rent as the previous lease. If the previous tenant does not want the lease, then

any other lease of the premises is to be on the same terms as the previous lease. The amendment of Mr. Potter is presumably intended to cover a case where a lessor owns two attached cottages and desires vacant possession of both to facilitate their sale, but the tenants do not vacate at the same time. As it is drafted, the amendment of Mr. Potter would provide that, where the lessor owns two attached cottages and gives notice to quit to facilitate sale, the provisions of subsection (1) which set out the conditions of any future lease if the tenant vacates and the landlord does not sell, will not apply. These provisions, namely, paragraphs I to III are, in effect, the only operative parts of section 55d so that, as the amendment stands, the section will virtually cease to operate in such a case. Thus, whereas in the case of a single house the rent of a new lease if the house is not sold must be the same as the previous lease, under the amendment, if there are two cottages in issue, and if after the tenants go (as they must under section 55c), the landlord does not sell he is free to get whatever rent he can for the cottages. If this is what is intended, I suggest that the amendment be not accepted. If it is considered reasonable that the time after which the landlord of attached cottages must sell after getting possession from his tenants should run from the time the last tenant gives up possession, then the amendment should be framed accordingly. I would point out, however, that section 55d was enacted to prevent abuse of section 55c. It was found that some landlords were giving notice to quit under section 55c in order to facilitate the sale of the house in question. When the tenant vacated, as he was obliged to do under the section, it was found that the house was not sold, but re-let at an enhanced rent. It was to prevent this misuse of section 55c that section 55d was enacted.

As the amendment has been re-drawn it reads:—

> Where two or more attached dwelling houses are the property of the same lessor, the period of three months referred to in paragraph (*c*) of subsection (1) of this section shall commence to run from the time when the last of the lessees concerned delivers up possession.

The effect of that is that if the lessor has premises which consist of two flats and he wants to repossess for purposes of sale, the time of three months shall run from the time when vacant possession of the whole is obtained. If that is what Mr. Potter intends I am prepared to accept his amendment.

The Hon. F. J. CONDON—It appears to me that, under pressure, the Government is backing down, because an attempt is being made to introduce into this legislation now something that has been attempted on many other occasions. This Bill was considered in another place at considerable length, but because it does not suit some people they want to whittle it down further. Some landlords have taken advantage of the situation and will do anything to get rid of their tenants. I object to that. In my opinion this amendment gives them further opportunities and I enter my protest.

Amendment carried.

The Hon. F. J. POTTER—I move—

In line 5 after "lessee" to insert new subclause (2) as follows:—

(2) Section 55d of the principal Act is amended by striking out subsection (3) thereof and substituting the following new subsection—

> "(3) Where two or more attached dwelling houses are the property of the same lessor, the period of 3 months referred to in paragraph (*c*) of subsection (1) of this section shall commence to run from the time when the last of the lessees concerned delivers up possession."

Amendment carried; clause as amended passed.

Remaining clauses (4 and 5) and title passed.

Bill reported with amendments.

The Hon. Sir ARTHUR RYMILL—I move that the Bill be recommitted for the purpose of considering new clause 2aa by substituting the figure "60" for "40" in section 21 (2).

Motion carried. Bill recommitted.

New clause 2aa—considered.

The Hon. K. E. J. BARDOLPH—On a point of order, in view of the decision of the Council I refer to Standing Order No. 127. This Council decided against an amendment moved by Sir Arthur Rymill that the word "ninety" should be inserted in the place of the word "forty." Standing Order No. 127 reads:—

> No question shall be proposed which is the same in substance as any question or amendment which during the same Session has been resolved in the affirmative or negative unless the resolution of the Council on such question or amendment shall have been first read and rescinded. This Standing Order shall not be suspended.

The CHAIRMAN—I draw the honourable member's attention to Standing Order 298. What he advocates would be all right if it had not been for the fact that the Bill was recommitted. Standing Order No. 298 reads:—

> No new clause or amendment shall at any time be proposed which is substantially the

same as one already negatived by the Committee, or which is inconsistent with one that has been already agreed to by the Committee, unless a recommittal of the Bill shall have intervened.

I rule that the Hon. Sir Arthur Rymill is in order.

The Hon. Sir ARTHUR RYMILL—I move to insert the following new clause:—

2aa. Section 21 (2) is amended by substituting the word "sixty" for the word "forty."

As honourable members will see, this is a modification of an amendment I tried previously to introduce. I thought it right that I should put in the figure I did when I moved for an increase from 40 to 90, but this House thought otherwise and I bow to the decision. I thought, however, that, holding the views I did, it was my duty to see whether some other in-between figure would not receive the favourable attention of this House. The amount which was added to the 1939 rent was increased in 1957 to 40 per cent, but since then we have had 2 rises in the basic wage, one of 5s. and another of 15s., and in addition we have recently—a few days ago—since my amendment was previously put, had a decision in the Margins Case and it seems that the ordinary wage earner will receive a further increase, the amount of which is not yet clear, but which it seems might be something of the order of the last increase. This has happened since this amount of rental was last fixed and I do put it to honourable members that some increase at least is justified in view of that, quite apart from any other consideration. If we do not do something now—and that is why I have taken the opportunity of having the Bill recommitted—the landlord has to wait another 12 months before he can get anything. As I quoted in the debate on the Prices Act the basic wage in 1939 in South Australia was £3 16s. In 1959 it was £13 11s. which, on my figuring, is the 1939 rate plus 256 per cent. That is what the basic wage earner has received and it is 3½ times what he got in 1939. Under this Act the landlord is getting not the 1939 figure plus 256 per cent, but the 1939 figure plus 40 per cent. I do suggest that it is the duty of this House to see, in so far as it can, that some degree or some measure of increase is meted out to the landlord. Honourable members expressed the view that 90 per cent was too much, and I bowed to that decision, and now I give members the opportunity of voting on the question of adding another 20 per cent instead of 50 per cent which would make the landlord entitled to 1939 rates plus 60 per cent, whereas the basic wage earner, in contrast, is getting 1939 rates plus 256 per cent.

The Hon. C. D. ROWE—The Committee has considered a number of amendments to this Bill and as far as I am able to I have endeavoured to give them full and proper consideration, but this amendment has been brought to my notice only within the last hour and as we dealt with this clause last week I thought it was finalized, and I would not be called upon to consider the matter again. In the circumstances I ask the Committee to report progress so that I may have some opportunity of considering in detail the implications of this amendment.

Progress reported; Committee to sit again.

SUCCESSION DUTIES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 25. Page 1814.)

The Hon. F. J. CONDON (Central No. 1)—In 1952 the Succession Duties Act Amendment Bill had my support, but on that occasion the second reading was opposed by five members, three of whom are with us today. The Hon. Mr. Rowe, then a private member, in Committee moved a new clause as follows:—

The amounts and rates fixed by this Act shall apply in relation to the duty, becoming chargeable not later than December 31, 1953.

Therefore the principles enforced immediately before the commencement of this Act were again coming into force. The amendment was defeated by one vote. The Bill introduced by the late Attorney-General (The Hon. R. J. Rudall) had as its main purpose to increase the rate of succession duties pursuant to Government policy to maintain a balanced budget. The Government will far from attain that in 1959-60. In 1951-52 the amount paid in succession duties was £1,081,000, and 7 years later the amount was doubled, reaching the figure of £2,144,857. If this Bill passes the second reading stage an amendment will be moved, because I believe this is a piece of class legislation.

The Hon. N. L. Jude—What is long service leave?

The Hon. F. J. CONDON—It is not superannuation. This Bill bestows a privilege on a certain section of the people and benefits only a limited number. It has no concern for a person in secondary industry and I term it class legislation. It has been said that this is

most desirable legislation, but that is only a repetition of what is said on any legislation that concerns primary production. Why should not the ordinary person receive the same consideration as a primary producer? Unless the Government is prepared to extend the same privileges to other sections of the community I shall oppose the third reading. This State has enjoyed 12 good seasons and there is always a limit as to how far we can go in giving concessions. Other sections of the community have incurred increased charges for hospital treatment, water rates and charges, and for other services. It is true, of course, that land values have become inflated on business properties and other property, but if Parliament is not prepared to give consideration to other sections of the public I shall oppose this Bill when it goes into Committee.

The Hon. L. H. DENSLEY (Southern)—Following the remarks made by the Leader of the Labor Party I say that the Bill introduced in 1952, although it raised the amount of duty to about double that previously charged, did at the same time reduce the amount of exemption on succession duty payable. Many people, particularly the poorer class of people, benefited by the increased exemptions that were then granted. Until 1952 the exemption provided was £500, but the 1952 Act, to which the honourable member referred, raised the exemption to £2,800. Therefore, it will be seen that although the duty was raised in that year, it was not at the expense of the small man. Again, in 1954 there was another lift in the exemption rate to £3,500, which again brought the people who own their own homes free of succession duty, but there was no relief to those on the higher scale. Therefore I think I can assert that the remarks of Mr. Condon do not hold water. In 1955 there was much comment throughout the country, because three successors died within a short time, and three succession duties had to be paid; consequently it broke up that estate entirely. Where there are two deaths within a year or so, the result is about the same. In 1955, after much consideration, the Government saw the need for amelioration and provided that where the death of a successor was within the first year of the deceased there would be a fall in the amount of duty by 50 per cent, after the second year 40 per cent, after the third year 30 per cent, after the fourth year 20 per cent, and after the fifth year 10 per cent. That did meet the position to a large extent where there were two or three deaths fairly quickly in the one succession. The Government deserves some thanks for that, because it offset what happened earlier when rates were increased for those in the higher income bracket.

This Bill relates particularly to primary production and provides some rebates where land has been used for primary production for a longer period than five years prior to the decease of the owner and where it is left to the widow, widower or a relative of the deceased. Many farming properties are run as family concerns, and consequently it has become very hard on people who perhaps have carried on as farm labourers for a long period with the idea of taking over the property, and especially when it is remembered that they are often employed on fairly low wages; and on the death of the father or mother, when succession duties have to be met, they have no cash available for the purpose. This Bill will be of considerable benefit in retaining our farming properties. Where a person has spent a lifetime working a property he is better qualified to carry on primary production on it than if the property is sold to someone who has not the same experience either in primary production or on the particular property. However, sometimes such a person is able to take over a property because of the inability of the successor to find the necessary funds to pay succession duty. I welcome the extension and think it will be advantageous to primary producers. It is not a light job to take up scrub land and bring it to full production. Obviously, profits made over a period are ploughed back into the holding and the value of the land is built up; and those to whom I have referred have helped to do this, often without wages, and have contributed in no small measure to the building up of the value of the land. It therefore seems unjust that they should have to provide succession duty on an equity they themselves have helped to produce, and in the hope that they would be the ultimate owners. I feel it is a very good measure which will give some relief to these people. The rate of rebate is limited to 30 per cent on the smaller estates and it falls to 14 per cent on the larger estates. I am not prepared to argue whether that is just, but it is good to be able to give something to these people, and I am therefore happy to support the measure in that regard.

Another amendment applies to succession duties when an amount is contributed to an educational institution or to institutions which look after the sick and afflicted. That there should be total relief from succession duty in

these cases is very desirable. One can say without hesitation that the value of primary producing land has increased exorbitantly in recent years, quite apart from the value of the production from that land. Therefore, there is a good case for the amending Bill, and I consider that the Council can well accept it as introduced. I do not say that there is not a case for lower succession duties in other directions, but this Bill applies particularly to primary producers. One condition provided in the Bill is that the person concerned must have owned a primary producing property for a period of five years prior to his death. I think that this leaves a little uncertain the qualifications which are necessary before that benefit can be obtained. It would appear from my reading of the Bill that it applies only to a person who is not a shareholder of a company or a part tenant of a particular property. Whether this is the intention of the Bill I do not know, but I assume it means that a person, having received the benefit of reduced taxation and thus has had his cut, cannot have it the second time. In that case, I am prepared to accept it.

An undertaking must be given that a particular holding will continue to be carried on for primary production. As far as I can see, no period is provided for that particular requirement. It is provided that no rebate shall be allowed unless the Commissioner is satisfied that the land used for primary production in respect of which the application for rebate is made is of such a size and in such a condition and the circumstances are such that the said land is capable of being used for the business of primary production. I think it would be desirable to have a period stated for which the land would be used. I assume that if a successor died and the requirements could not be fulfilled it would be desirable to have a particular term mentioned so that people will know where they are in regard to this legislation and the beneficiaries will not have to fight it out with the Commissioner. I should like the Minister to tell us what is intended by that clause. I support the Bill and thank the Government for the attitude it has adopted.

The Hon. K. E. J. BARDOLPH (Central No. 1)—I agree with the sentiments expressed by Mr. Condon that this in effect is class legislation. I have never listened to so much political perfidy as I have on this occasion, when one remembers that in 1952 certain members opposed similar legislation and yet today, because it relates to certain interests, are wholeheartedly in support of it. Members of my Party are prepared, and always have been prepared, to assist primary producers, and history will record what has been done by my Party in this regard. My Party is not denying the right to the people covered by the Bill having some form of protection, but if there is to be an extension of these privileges to one section of the community, it should also be extended to all sections.

The Hon. G. O'H. Giles—What about the 40-hour week?

The Hon. K. E. J. BARDOLPH—The honourable member is very young in the political tooth yet, but after he has been running around in the political paddock for a time he will realize what my Party has done for the economy of the country and for primary producers. Mr. Condon has placed on the file an amendment providing for benefactions in succession duty to apply to every section of the community, which includes those with a small amount of this world's goods as well as those with a larger amount. I hope that the Minister in charge of the Bill will move for an adjournment of the debate on motion, or if it reaches Committee that he will ask that progress be reported so that honourable members may be fully cognizant of the implications of the amendment, and also of the implications of the Bill as it now stands, which puts it in the category of class legislation.

The Hon. Sir FRANK PERRY (Central No. 2)—The many amendments proposed seem to indicate that the purpose is to extend to others the rebates proposed in this Bill.

The Hon. K. E. J. Bardolph—You don't object to that, do you?

The Hon. Sir FRANK PERRY—No, I rather favour it if the conditions are suitable. As members of Parliament, we cannot think of our own financial position. It would be a mistake for anybody to consider this question from that point of view. We must deal with it as it affects primarily the State, making it as fair as possible to those to whom we are applying this form of taxation, which has never been satisfactory. It can happen that a man who saves money and preserves his assets, in one fell swoop can lose a slice of his possessions to the Government. That is not justice. When money is left, it should be spread among the family or those to whom the testator desired to leave it, at the same time benefiting the State. Beneficiaries are objecting to this legislation,

for the taxation is high. Consequently, over the years many schemes of providing against estates being cut up and money going entirely to the State or Federal Governments have been evolved. It is possible to insure against the long-standing method of levying taxation on death. One can form a company; one can divide one's assets before death. If that is done under State legislation 12 months prior to death or under the Commonwealth legislation three years prior to death, the provisions of this Act do not apply. Consequently, there are known ways of lessening the effect of heavy taxation on large estates, except perhaps in the case of sudden death by accident. This legislation has been called class legislation, but I do not regard it as such.

The Hon. K. E. J. Bardolph—I said it was in the category of class legislation.

The Hon. Sir FRANK PERRY—I do not so regard it. As I understand it, this Bill seeks to keep intact the estate of a primary producing family that has established a farm and seeks to carry it on.

The Hon. K. E. J. Bardolph—What about a family business, too?

The Hon. Sir FRANK PERRY—I think even family businesses are much more easily handled through the Probate Office than are land transactions.

The Hon. K. E. J. Bardolph—No they are not.

The Hon. Sir FRANK PERRY—I think so. Any dealing with land is something fixed; it cannot be altered.

The Hon. K. E. J. Bardolph—But a business can be whittled away.

The Hon. Sir FRANK PERRY—Yes, but that can be provided for in the valuation on which probate is applied for, whereas with land in most cases the beneficiary has to rely on the valuation put on it by a licensed valuator.

The Hon. C. R. Story—A fictitious value.

The Hon. Sir FRANK PERRY—There are various methods. When land is valued, it is not its productive value that is always taken into consideration; it is the price that somebody is willing to pay for it, and that price is often governed by sales made in various localities, which are considerably higher than the valuation made for the purpose of rounding off a block or a farm or acquiring something for one's sons, or selling it. Consequently, more is paid than the actual productive value. For that reason the valuation placed on the land of primary producers is always too high. In many cases too much is paid for it and fictitious values are arrived at not only for probate but for that pride of acquisition that many farmers and graziers seem to acquire.

It is a pity that this type of legislation is necessary because it savours of the primary producer, of whom we have heard so much in this House as a favoured section of the community, receiving another benefit denied to other sections of the community. As regards probate, these land values are often not as closely related to primary production as they should be. Therefore, I am prepared to support this Bill though I should like to see a period of time inserted. The Bill says simply that the intention of the beneficiary must be made known. One's intention may be good but may alter in three or six months. Therefore, I think a period of time should be stated, so that it should be known that this rebate is only for the purpose of carrying on estates for primary production. The Bill should provide for a period of years to elapse before sales can be made after rebate is claimed. Generally, I support the Bill.

The Hon. F. J. POTTER (Central No. 2)—I support the second reading. We ought to be grateful that we have in this State the principle of succession duties rather than the principle of estate duties which is adopted by the Federal Government and, I think, by nearly all the other State Governments. As Sir Frank Perry has said, it is possible to insure against probate and succession duties. That is obvious to all. If a person goes into the office of any insurance company in Adelaide that wants to sell a probate policy, he will be shown a little printed table of the comparative duties that are paid in South Australia and in other States. These companies have offices in every State and want to sell probate policies throughout Australia. A significant feature of this table of comparative duties is that the duty on large estates is considerably lower in South Australia than it is in any other State, but the duty on some of the smaller estates is higher here than in other States. In the fairly near future, the Government will have to consider raising the limit in certain selected cases. I realize

that the question of succession duty and taxation generally is difficult, and it is said that hard cases make bad law but, if ever there was a hard case, it is the case of a widow left with young children under, say, 14 years of age. Under the provisions of the Succession Duties Act, as they stand at present, a widow with children under 21 years of age is allowed an exemption of £3,500 free of any duty. I suggest that at some time in the future the Government should consider lifting that limit by adding £500 for every child left under 14 years of age, because widows with young children suffer considerably from the imposition of succession duty.

The Hon. F. J. Condon—Why not do it now?

The Hon. F. J. POTTER—I know of a recent case where a widow was left with four young children. The husband had died at an early age. He lived in a house that was left to him by his father; consequently, it was in his name. There was no joint tenancy, and it frequently happens that that is so. The widow inherited that property, and there was in addition a small insurance policy. Everybody knows today that any old crib of a house is worth £3,000 or £3,500. I have known that valuation put on houses many years of age. A situation may arise where a young widow is left with a house worth, say, £3,500. In addition she may have an insurance policy of £1,500, making a total estate of £5,000. Suppose she has four young children to support. That widow would have to pay £275 out of the £1,500 insurance policy in succession duties, and I suggest it would be fair and decent if some sliding scale of rebate were allowed in such cases. I am not an expert in this matter. I do not pretend to be able to work out what such a sliding scale should be, but I think that, particularly in view of the slowly rising cost of living and the fall in money values, the question should be looked into in the near future.

This Bill has my support because it will give some measure of relief to people who are making a very real contribution to the welfare of the State and its overseas earnings. If anything, I would suggest that the Bill probably does not give very much relief to very many people, because it expressly exempts any land in which the deceased had an interest as a shareholder in a company or as a member of a partnership. It seems to me that there are not many farmers who are not in partnership with their wives, or who have not formed small companies for the purpose of carrying on an agricultural holding.

The Hon. C. D. Rowe—Not often is land part of a partnership.

The Hon. F. J. POTTER—I agree, but I think the opposite applies when companies are formed and, indeed, in most of those cases, one of the prime reasons for the formation of the company is that the land should be owned by the company. Therefore it seems to me that the benefits that will be given by this measure may be somewhat restricted. Time and experience alone will tell.

Now I wish to offer one or two small criticisms of the Bill. Firstly, I am not very happy about section 55h (2) which makes it obligatory for the Commissioner to be satisfied as to how the beneficiary intends to use the land in future. Provision seems to be made for some declaration of intention, but I do not see why a person should not make a declaration today that he intends to continue to use the land for primary production, and a few months later say, "That was my intention at the time, but now I have formed a different intention." That is something that the Commissioner will have to watch very carefully if there is to be a proper carrying out of the intention of the Bill.

My next criticism is of the formula for obtaining this rebate. In principle wherever it is possible to state an enactment in clear langauge it is a very good thing for those who have to administer it. As a matter of interest I tried out section 55 (2) (*b*) on three legal friends and they got five different answers in ten minutes. I will say that once one gets the knack of it it does not seem so bad, but the wording is not easy to follow. It is a real mathematical problem, and I can imagine quite a few members of my profession having to scratch their heads for a while.

I support the Bill. It provides a concession to persons in circumstances of real need, but I would urge that at the bottom of the scale there is at least the case of the widow who is deserving of some sliding scale of exemption in excess of £3,500 where she has young children under the age of, say, 14 years.

The Hon. S. C. BEVAN (Central No. 1)—At the outset I indicate my opposition to this Bill. I have been very interested in members' comments on it, and apparently Mr. Potter has

tried very hard, without success, to interpret the Government's intention. I was under the impression that there was a clause in the Bill requiring that land which was the subject of rebates should continue to be used for primary production for some period after the concessions were made, but on closer examination I find that there is nothing of that kind, and I agree with Sir Frank Perry that, in view of the present day inflation of land values, there should be some prohibition. Without this, land which was the subject of rebates could shortly afterwards be sold for subdivision at considerable profit.

The Bill does not go far enough. It gives protection to one class—the primary producer. It appears that we are legislating all along the line for concessions to the primary producer and do not consider other people who are in much needier circumstances. I do not want to be over critical, but let us consider some of the concessions we have made to the primary producer. He gets a concession on motor vehicle registration. He receives another concession in freight rates, and now it is proposed to give him a concession in succession duties. Other members of the community do not get this treatment.

The Hon. N. L. Jude—The big truck operator does.

The Hon. S. C. BEVAN—The Minister is always squealing about how his railways are losing, but despite that we make concessions to certain business people. I realize that the primary producer is the backbone of the State, and he is entitled to all he can get. I say that unreservedly. However, we should not single out this one small section to the detriment of others who are in far worse plight. Mr. Potter cited the case of the young widow with dependent children. When speaking on the last occasion we had an amending Bill on this subject before us I expressed the same opinion and also gave similar illustrations. As Mr. Potter said, a valuation of £3,500 is not at all unusual for an ordinary type home of considerable age. If a person has been careful during his working life and has accumulated a bank balance, a motor car and other assets, those things are taken into consideration when he dies and it does not take many assets to reach a value of £3,500. The Hon. Mr. Bardolph intimated that he intended moving amendments to this Bill which would provide the very thing the Honourable Mr. Potter has mentioned. I suggest that Mr. Potter will have ample opportunity to support these amendments and to give effect to what he desires. This House will see whether his words were mere lip service to make a case for somebody else.

The Government obviously realizes that the primary producer's position is nothing like that of the ordinary worker or the people engaged in small businesses. When the clauses are examined we find such expressions as "where the total succession duty exceeds £20,000," "where it exceeds £20,000 and does not exceed £40,000" and "where it exceeds £40,000 and does not exceed £100,000." The Bill contemplates giving concessions where the value of the estate reaches £100,000. I know that estates can be worth large sums because of a rise in land values. If a property has been subdivided into building blocks the land value may be extremely high and perhaps something should be done in a case like that. Perhaps the valuation should be taken on an agricultural land valuation. The implements owned by a primary producer may considerably increase the value of his estate, but if concessions are to be given this House should look at the community as a whole and it should not just pick out one section.

I hold the opinion, and I have held it for many years, that the estate of a person has been built up through his own efforts and from the income which he has been able to earn. He has paid taxation on those assets in the form of income tax assessed on income earned throughout his lifetime. He may have denied himself many amenities in order to provide for his old age and to build up a bank balance to provide for his wife. This form of taxation is a "double issue" taxation which is levied on him when he dies. His estate is then valued and his widow or family are levied again. It becomes an expensive business to die these days and I am very much afraid of what will happen when my time comes. I do not know how my wife will get on. I am not able to make provision for her. I have paid duty on all my possessions and have to make sacrifices to own my own home and to have a motor car, which is necessary to perform my various duties. I paid sales tax on that car, but if I died tomorrow my family would have to pay further taxation on it, and that is unjust. If we are to give concessions we should consider the whole community to see whether we can give concessions to those deserving cases referred to by the Hon. Mr. Potter. The proposed amendments, which have

been distributed to honourable members, will do what I am suggesting, and I hope when we are discussing them that honourable members will prove their *bona fides*. I oppose the Bill.

The Hon. C. R. STORY (Midland)—I rise to speak on the Bill because I hate succession duty, but I support the Bill as it does tend to water down present succession duties. The Honourable Mr. Bevan spoke along very much the same lines as I shall speak along. He is not happy about the Bill, but I feel that this Bill is at least going some of the way to alleviate succession duties. I agree that this is a ghoulish form of taxation and one which I have always felt militates against thriftiness. Anybody who tries to provide for himself and his children gets it in the neck, but these amendments do seem to be bringing this taxation back towards reality.

Primary producers need some consideration. This Bill is to provide for a genuine primary producer; the man who is running his farm as a principal and not as one who has set up a company which would give him a lot of opportunities to make some provision for succession duties. The formation of a family company can do a lot to save the ultimate beneficiaries a good deal in the way of succession and death duties, but this Bill provides for a genuine farmer who may have had a property for many years which, in all probability, has been built up by his own family. Often such a farmer just gets the overdraft off his back when he gives up the unequal struggle. His wife is then placed in the position of having to get an overdraft with which to pay succession and death duties. I know of many cases where men have worked hard to develop their land and to bring it to a reasonable producing capacity. When they die their wives are not capable of carrying on. While the husband was alive he was able to make a good thing of the property, but the widow, having to find £5,000 to £6,000 for succession duties, finds herself back in debt and feels it is more than she can cope with. This Bill will do a lot to keep people on the land and, after all, it is our main purpose to keep primary production going.

Some doubt has been raised as to whether or not there should be a time limit on the period allowed after death and after the property has been passed on to the beneficiaries. Clause 55h (2) reads:—

No rebate shall be allowed under this Part unless the Commissioner is satisfied that the widow, widower, descendant or ancestor as the case may be, intends to use the land for primary production. The Commissioner may for the purposes of this section require the widow, widower, descendant or ancestor, as the case may be (or the guardian of any descendant being a minor) to make a declaration of such intention and may require any further statement, declaration, or information which he may deem necessary.

I think in all probability a person will be required to enter into a very firm undertaking that he does intend to carry on the property for the purposes for which it was exempted from the provisions of this Bill. I am still of the opinion that a time limit should be inserted to make certain that no chicanery should occur with this provision and so that the concessions should not be taken advantage of. This is a great concession and it is one which I feel will be extended to other forms of secondary industry and to other forms of business. This is a first leg, and I am extremely pleased to support the measure. I hope it gets the full support of the Council.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Arrangement of Act."

The Hon. K. E. J. BARDOLPH—I move—

To strike out "Land used for primary production" and to insert "Property used in respect of business."

The amendment is self-explanatory and it makes the section an all-embracing one. Instead of embracing only those engaged in primary production it extends the concession to all who use property in respect of any business and honourable members will be aware of the fairness of the amendment because we are informed from time to time that this is a beneficent Government which does not legislate on a class basis but for the benefit of South Australia generally. I submit that my amendment is in line with the desires and wishes of the people of this State.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I am afraid that I must oppose the amendment because I do not subscribe to the honourable member's reasons. Members of the Opposition have referred to this as class legislation, but I point out that it was introduced following upon a statement in the Premier's policy speech at the last elections regarding the difficulties that had arisen because of the increasing value of land and because of the effect of succession duties. I never heard one word of opposition to the proposal from the Labor Party during the campaign. Primary

producers are not a privileged class. Cannot it be said that rent control is class legislation? I cannot understand Mr. Bardolph's thinking on this question. There is no comparison between broad acres in the country and a suburban block where a place of business has been established. Is not the Commonwealth Arbitration Commission's award referred to in Saturday's press class distinction?

The Hon. K. E. J. Bardolph—No, it was a determination by the Commission.

The Hon. Sir LYELL McEWIN—But it favours a class. Today primary producers are selling lambs for a third of what they received last year, but a high valuation is placed on their land, and to meet succession duties they must find their money from nowhere. They cannot make it out of their properties. The object of the amendment is to defeat the Bill.

The Hon. K. E. J. Bardolph—No, it is not. It is to extend the concession to everyone.

The Hon. Sir LYELL McEWIN—I hope that the amendment will not be accepted.

The Hon. F. J. CONDON (Leader of the Opposition)—I repeat what I said in my speech on the second reading:—

This Bill bestows a privilege on a certain section of the people and benefits only a limited number. It has no concern for a person in secondary industry, and I term it class legislation.

I am amazed at the attitude of certain honourable members who will vote against this amendment. I have in mind the Honourables Mr. Densley, Mr. Melrose, Sir Frank Perry and the Attorney-General. Their attitude today is different from what it was in 1952. When pressure was brought on them then they had to submit. That is what has been done in this case. I hope that the amendment will be carried. It will not take anything away from what the Government proposes. It is only intended to give to other people the same rights and privileges as are proposed for primary producers.

The Hon. K. E. J. BARDOLPH—I was surprised to hear the lame excuse submitted by the Chief Secretary in regard to the Premier's policy speech and his reference to the fact that members of the Opposition did not take umbrage at it. I have vivid recollections of that policy speech and, like every other policy speech of the Premier, it was very vague. Now that the details of that portion of his speech have been put before the Council in the form of a Bill, members of my Party are entitled to seek an amendment of the Government's proposal. I hope the amendment will be accepted.

The Committee divided on the amendment:—

Ayes (4).—The Hons. K. E. J. Bardolph (teller), S. C. Bevan, F. J. Condon and A. J. Shard.

Noes (14).—The Hons. Jessie M. Cooper, L. H. Densley, E. H. Edmonds, G. O'H. Giles, A. C. Hookings, N. L. Jude, Sir Lyell McEwin (teller), Sir Frank Perry, F. J. Potter, W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Majority of 10 for the Noes.

Suggested amendment thus negatived; clause passed.

Clause 4 passed.

Clause 5—"Second schedule."

The Hon. K. E. J. BARDOLPH—I move—

After line 1 to insert the following paragraphs:—

(*a*) by striking out the phrase "Not exceeding £3,500" in paragraph 1 thereof and inserting in lieu thereof the expression "Not exceeding £6,000";

(*b*) by striking out the line "£3,500-£4,500 .. .. 20 per cent of the excess over £3,500" in the said paragraph 1 thereof;

(*c*) by striking out the line "£4,500-£20,000 .. .. £200 plus 15 per cent of the excess over £4,500" in the said paragraph 1 thereof and inserting in lieu thereof the line "£6,000-£20,000 .. .. 15 per cent of the excess over £6,000";

(*d*) by striking out the expression "Not exceeding £1,500" in paragraph 2 thereof and inserting the expression "Not exceeding £6,000";

(*e*) by striking out the line £1,500-£3,000 .. .. 10 per cent of the excess over £1,500" in paragraph 2 thereof;

(*f*) by striking out the line "£3,000-£10,000 .. .. £150 plus 12½ per cent of the excess over £3,000" in paragraph 2 thereof and inserting in lieu thereof the following line:—"£6,000-£10,000 .. .. 12½ per cent of the excess over £6,000";

As I indicated earlier, clauses 4 and 5 are the two major ones. I think I have said enough to indicate the position with present values. For instance, a widow may through bereavement be a victim of penury and, under the present provisions of the Succession Duties Act, she would be compelled to pay money that she cannot have. If we exempt up to £6,000, we come somewhere near present-day values. As Sir Arthur Rymill said recently, the value of money has depreciated by about two-thirds since 1939. This amendment will meet the doubts expressed by Mr. Potter, who was not prepared to support the whole amendment but

who realizes that some sections of the community need protection when death strikes in a home. This amendment does not prevent the primary producer benefiting fully under the provisions of the Bill. His concessional rates as proposed are still conserved. On a broad basis members of this Committee can, without any loss of political prestige and without being afraid of deflecting from their own Party policy, vote on this amendment and thus provide the necessary concessional rates for landholders.

The Hon. Sir LYELL McEWIN—This is similar to a previous amendment, in as much as it provides a general exemption and goes beyond the purpose of the Bill. This is going into another field altogether, and will mean loss of revenue. I ask that the amendment be not accepted.

The Hon. F. J. POTTER—Although sympathizing with parts of this amendment, I shall not support it because it is ridiculous for this House now to suggest an amendment of this sort when the Budget has already been prepared and the whole taxation policy has been worked out by Cabinet. The mere altering of figures does not solve the problem I was putting before the House. It is a question not only of altering figures but of giving exemption to a widow or widower left with young children. The schedule that the honourable member seeks to amend gives an exemption of £3,500 to a widow or a child under 21 years of age. In my experience and that of others, where there are young children under, say, 14 years of age, it is very rare for a father to leave them some specific property. In that case he invariably leaves all his property to his wife. Therefore, when he dies, in many cases she is not being granted an adequate rebate, when young children are left in her charge.

The answer is to provide a sliding-scale whereby a certain addition to the statutory rebate of £3,500 is made for each child under, say, 14 years of age. Merely to strike out figures and substitute others is not the way to tackle it. I hope the Government will consider my method later. Although I agree in principle with the amendment, I cannot support it.

The Hon. K. E. J. BARDOLPH—I have never witnessed so many Dr. Jekylls and Mr. Hydes. On the one hand, the Chief Secretary indicates that this amendment if carried will mean a loss of revenue, but he attempts to flagellate the Opposition because we say that this legislation without the amendment is in the category of class legislation. He has let the cat out of the political bag by saying that this amendment will denude the Treasury of revenue. Then, on the other hand, there is Mr. Potter who agrees in principle with the amendment but, in order to salve his political conscience, says there should be a sliding scale. There is nothing to prevent him from submitting an amendment to this Bill on the lines indicated in the speech he has just made. He also indicated that it would virtually be politically improper for this amendment to be carried now because the Government had already had its Budget prepared and its taxation proposals had already been formulated. My answer is that, if the carrying of this amendment is improper, it would also be improper to carry the Bill as it stands. For the life of me, I cannot analyse the reasoning adduced by some members who oppose this amendment. Our one desire is to ensure that there shall be an equal distribution of the concessions to all sections of the community, and more particularly that the widows and those bereft of breadwinners who may leave some small properties shall have the same concessions as those blessed with a more abundant measure of the world's goods.

The Hon. Sir LYELL McEWIN—I do not know what the honourable member bases his figures on, but the foundation of the case was that £3,500 represented a house. That was to make sure that a widow started off at least with a house.

The Hon. K. E. J. Bardolph—That would be worth £6,000 now.

The Hon. Sir LYELL McEWIN—If the honourable member says that the value of a house has increased from £3,500 to £6,000, he will have to change his attitude towards rent control.

The Hon. A. J. Shard—You do not suggest that £3,500 is the maximum for a house today?

The Hon. Sir LYELL McEWIN—I am saying that £3,500 was the basis for these figures. If the honourable member wants to alter that, then he should change his attitude towards rent control. He cannot have it both ways.

The Hon. K. E. J. BARDOLPH—The Minister has attempted to draw a red herring across the discussion by saying that the value of a house was fixed at £3,500. I would not suggest that the values have gone up: the fictitious values have risen. The Minister reads

from the Statute "£3,500." I make bold to say that one could not purchase such a house today for under £6,000. On rent control, I remind the Minister that my Party is not in Government: his Party is. Whatever credit or discredit may be attached to rent control, his Government has to bear full responsibility. It is useless for him to attempt to drag in any side issue about rent control that is not under discussion, mixing it up like a potpourri. I hope the amendment will be carried.

The Hon. L. H. DENSLEY—It is well to remember that we increased these concessions up to £3,500 in 1952 and 1954, and at the same time raised the succession duty on the balance of the estate. Therefore, we have already given very great relief to estates in this category while greatly increasing the duties on larger estates. We are only now bringing some of them down proportionately to what we did in 1952 and 1954. I am sure that Mr. Bardolph has not made out a case for this amendment.

The Committee divided on the amendment:—

Ayes (4).—The Hons. K. E. J. Bardolph (teller), S. C. Bevan, F. J. Condon and A. J. Shard.

Noes (14).—The Hons. Jessie M. Cooper, L. H. Densley, E. H. Edmonds, G. O'H. Giles, A. C. Hookings, N. L. Jude, Sir Lyell McEwin (teller), Sir Frank Perry, F. J. Potter, W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Majority of 10 for the Noes.

Suggested amendment thus negatived; clause passed.

Title passed.

Clause 4—"Interpretation"—reconsidered.

The Hon. Sir FRANK PERRY—I move—

In proposed new section 55h (2) after "production" to insert "for a period of five years."

I do this because it seems to me not quite fair that this provision should be left so wide open. The whole spirit of the Bill is to relieve certain cases of hardship in the farming community, but if it is open to subterfuge on the part of beneficiaries it is wrong. I mentioned this aspect in my speech on the second reading but no explanation was given by the Minister. If the Government opposes the amendment it should offer some satisfactory explanation in the absence of which I ask the Committee to accept my proposal.

The Hon. Sir LYELL McEWIN—This aspect was considered when the Bill was being drafted, but it was deemed impracticable to enforce a time limit. Under the interpretation "Land used for primary production" means land as to which the Commissioner is satisfied that it has been used during the whole of five years . . . exclusively for the business of primary production." This is a qualifying period. The amendment would involve two things in dealing with an estate; either you would have to select the full amount and hold it out, in which case there would be no benefit to the estate, or on the other hand, it would have to be policed which would involve many administrative problems. The Commissioner must satisfy himself. He can obtain declarations and may require further statements or information. He must assure himself that it is the intention to continue to use the land for agricultural purposes. Sometimes, such as in the case of another death, there might be very good reasons for not carrying on for another five years.

Amendment negatived; clause passed.

Bill reported without amendment and Committee's report adopted.

HOSPITALS ACT AMENDMENT BILL.

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

The Hon. Sir LYELL McEWIN (Minister of Health)—I move—

That this Bill be now read a second time.

This Bill does two things. Clause 3 amends the provisions of the principal Act by empowering the Governor by regulations made on the recommendation of the Director-General of Medical Services to fix rates of payment for the maintenance of patients in public hospitals. At present the Director-General can fix rates but only on a daily basis. The Government has been advised that this means that a uniform flat rate must be charged to all in-patients. The amendment will enable the fixing of daily, weekly, or other periodical rates and the fixing of different rates under differing circumstances. The amendment will also empower the fixing of a special rate in special circumstances in individual cases. However, in the future, rates will be fixed by regulation and not by the Director-General by administrative action.

Under normal circumstances people would expect to pay higher rates for intermediate or private accommodation than for public ward accommodation and there seems to be no good reason why all the rates should be the same irrespective of the type of accommodation provided. There seems to be likewise no good reason why the same rate should be paid in respect of all accident victims whether covered

by compulsory third party insurance or not. Public hospitals are supported by the general public through governmental or local governmental or direct private contributions and, while they do of course perform an important public service, it appears to the Government reasonable that they should be conducted in accordance with reasonably sound business practices. If all are to be charged alike there is the serious risk that the rates fixed will be unnecessarily high. For this reason it is the view of the Government that the power to fix differential rates proposed by this Bill should be given.

The other matter covered by the Bill is an addition to the existing provisions of the principal Act empowering the remission of amounts payable for the maintenance of patients, which will make it clear that the power may be exercised from time to time in respect of the same debt. An opinion obtained by the Government some years ago suggested that once the Director-General had exercised his right to remit in respect of one debt, as for example by partial remission, he could not subsequently exercise his powers again in respect of that debt—for example by writing off the whole debt. The present amendment is designed to clear up any doubts on this point.

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

EIGHT MILE CREEK SETTLEMENT (DRAINAGE MAINTENANCE) BILL.

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

The Hon. C. D. ROWE (Attorney-General) —I move—

That this Bill be now read a second time.

By arrangement with the Commonwealth Government an area in the vicinity of Eight Mile Creek was developed and improved by the Government under a scheme for War Service Land Settlement, and thereafter the land within the area was allotted to settlers in accordance with that scheme, each settler receiving a holding under perpetual lease. The development and improvement of the area in question included the provision of a drainage system without which the land in that area could not be successfully cultivated or brought into a state of production. The drainage system is essential for preserving the area in a state of production, and its maintenance and upkeep has been undertaken by the Government on the understanding between the Government and the Commonwealth that when the rentals for the holdings are finally fixed, an appropriate charge would be made on each settler, in respect of his holding, as a contribution towards the maintenance costs of the drainage system.

A charge of that nature could be added to the rental of a holding as long as that holding is the subject of a lease, but recently the two Governments decided to permit war service settlers to freehold their holdings upon certain conditions and, if and when this right is exercised, it would not be appropriate to recover that contribution by way of rental in respect of the freehold land, and it would not be fair on the remaining settlers to recover the contributions only from them for a service which benefits all the holdings in the area. It is felt that the fairest means of raising the contributions would be to levy a rate on all the holdings in the area irrespective of the nature of the tenure, and the object of this Bill is to declare the responsibility for the maintenance of the drainage system to be a State responsibility, and to confer power on an authority to declare and levy a rate in order to raise the contributions from landholders and occupiers of holdings in the area.

Clause 2 of the Bill contains the interpretations necessary for the purpose of the Bill. The definitions of "drainage works" and "drains" are designed to restrict their application to works and drains constructed by or on behalf of the Crown and such other watercourses as are included in the drainage system. A "holding" is defined so as to apply to a holding allotted in the first instance to a settler under the War Service Land Settlement Scheme, whether a change of tenure has occurred since allotment or not. A "landholder" is defined so as to catch up the owner of land within the area whether the land is held under lease, licence or agreement, or in fee simple. All other definitions in the clause are self-explanatory.

Clause 3 imposes on the Minister the duty to maintain the drainage system in a proper state of efficiency while the expenses connected therewith are payable out of moneys to be provided by Parliament. The clause also provides for moneys derived from the drainage rate provided for by the Bill to be paid to the Treasury. Clause 4 imposes on the Director of Lands the duty to declare and levy an annual drainage rate in order to raise moneys which the Minister considers to be a sufficient contribution towards the cost of maintenance of the drainage system.

Clause 5 (1) provides that in order to determine the drainage rate—

(*a*) the average annual expenditure to be incurred on such maintenance should be determined by the Director, and

(*b*) the Land Board must make and lodge with the Director a valuation of the land (exclusive of structural improvements) comprised in each holding within the area.

Clause 5 (2) provides that in making a valuation the board may consider reports of competent persons, and requires the board to submit a written report with each valuation, setting out the matters taken into consideration in arriving at the valuation. The board's valuation (which is subject to appeal) and its report are to be served on the landholder or occupier of the holding in question.

Clause 6 confers on landholders and occupiers served with the valuations a right of appeal on the grounds stated in that clause. The earlier requirement that the board should furnish with each valuation a report setting out the matters taken into consideration in arriving at the valuation is designed to enable an appellant to specify his grounds of appeal. Clause 7 provides that an appeal must be made in the first instance to the Minister and from a decision of the Minister to the local court. Clause 8 deals with the machinery provisions relating to an appeal to the Minister. Clause 9 deals with the machinery provisions relating to an appeal to the local court. Clause 10 in effect is an interpretation measure which defines the valuation of a holding for a rating period where the original valuation has been varied on appeal.

Clause 11 (1) imposes on the Director a duty to declare the annual drainage rate in respect of each rating period, and sets out the matters to be taken into consideration in determining the rate and the maximum rate that could be imposed on any holding. Clause 11 (2) requires the Director within 14 days of the declaration of the rate to cause a notice of the rate so declared to be served on the landholder or occupier of each holding. Clause 12 sets out when the rate is payable and when it is recoverable for the first year of a rating period and for any succeeding year of that rating period. Clause 13 provides for interest to be added to overdue rates, with power to the Minister to remit the whole or part of that interest in cases of undue hardship.

Clause 14 (1) specifies the Director or a nominee of the Minister as the person to whom rates are payable and by whom they are recoverable. Clause 14 (2) declares that unpaid rates are a charge on the land, and clause 14 (3) specifies from whom the rates are recoverable. Clause 15 invokes the aid of section 95 of the Waterworks Act and the Crown Rates and Taxes Recovery Act where rates and interest under this Bill are unpaid on the one hand or overdue for not less than three years on the other. Clause 16 provides that the liability for and the right to recover rates are not suspended by appeal, but where on appeal it appears that an excess amount has been paid by way of rates, that amount must be forthwith refunded. Clause 17 contains necessary regulation making powers.

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

SCHOOL OF MINES AND INDUSTRIES ACT AMENDMENT BILL.

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

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

Its objects are to alter the title of the institution hitherto known as the "School of Mines and Industries of South Australia" to the "South Australian Institute of Technology," to alter the constitution of the council of that institution and to make the necessary consequential amendments to the School of Mines and Industries Act, 1892-1934. The School of Mines and Industries of South Australia, which was established and incorporated under the principal Act, has for many years pioneered a large number of professional courses ranging from diploma standard to those of apprentices and skilled tradesmen. Now, however, with the co-operation of the Education Department and agreement with the University, the Council of the School of Mines will be able to concentrate on instruction in the higher professional fields while much of its work in the sub-professional fields will be gradually taken over by the Education Department. In the course of its development and by agreement with the University the School of Mines has discontinued its course in mining although the higher professional courses in metallurgy, mineral dressing and chemical technology and other technological courses are still retained.

The Government believes that the institution is especially well fitted to produce the type of professionally trained man that industry needs today and will need in the future in

such large numbers, and that the great industrial development that lies ahead of this country will make heavy demands on all our teaching institutions, and the teaching resources of the University and the School of Mines will therefore be taxed to their fullest capacity. The Government accordingly feels that the status and function of the school should be defined so as to correlate its work with that of the University, the latter providing courses culminating in the degree of Bachelor of Engineering used by persons who undertake research work or hold semi-technical and administrative positions while the school provides courses leading up to the degree of Bachelor of Technology, which are useful to departmental managers on the technical side, field engineers and other technical officers and to persons of the technical or experimental officer type who are engaged in field work.

For these reasons it is considered that the alteration of the school's title from "School of Mines and Industries of South Australia" to "South Australian Institute of Technology" would more properly describe its activities and be more in keeping with the present and future functions of the school. The Bill also proposes to alter the constitution of the council by increasing the number of members from 12 to 15 and the quorum of the council from 5 (out of 12) to 6 (out of 15) members. This will enable the council to be more representative. Other modifications of the principal Act are proposed in order to deal more efficiently with the school's status and functions.

Clause 3 postpones its commencement to a day to be fixed by proclamation. This will enable all necessary action to be taken before the new legislation is brought into operation. Clause 4 amends the long title of the principal Act to accord with the objects of this Bill. Clause 5 amends the preamble for the same reason. Clause 6 contains the necessary interpretations for the purposes of the Bill. Clause 7 amends section 4 of the principal Act—(*a*) by a consequential amendment to that section, and (*b*) by reconstituting the council and renaming the school on and after the appointed day. Clause 8 repeals section 5 of the principal Act which is no longer operative.

Paragraphs (*a*) and (*b*) of clause 9 make two consequential amendments to section 6 of the principal Act, and paragraph (*c*) adds two new subsections to that section. Paragraphs (*a*) and (*b*) of new subsection (2) require all members of the existing council to vacate their appointments on the appointed day, and provides for the reconstitution of the council on that day with 15 members who are to be appointed and hold office for such period not exceeding three years, in each case, as the Governor specifies when making each appointment. Paragraph (*c*) of the new subsection (2) will ensure that five members of the reconstituted council will retire each year in rotation. Paragraph (*d*) of that subsection provides for the filling of a casual vacancy on the council. The new subsection (3) contains provisions of a consequential nature which arise out of the change of name and constitution of the council.

Clause 10 clarifies section 10 of the principal Act. Paragraphs (*a*), (*b*), (*c*), and (*e*) of clause 11 are consequential amendments; paragraphs (*d*) and (*f*) strike out two obsolete provisions; paragraph (*g*) is consequential upon the repeal of section 5 by clause 8.

The Hon. K. E. J. BARDOLPH secured the adjournment of the debate.

DENTISTS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from November 26. Page 1868.)

The Hon. K. E. J. BARDOLPH (Central No. 1)—I support the second reading. The legislation governing dentists dates back to 1931, when virtually there was no registration of dentists, but those who had qualified at certain universities were entitled to practice; also those working as dental operators with a qualified dentist. In 1931 about 30 or 40 dental operators asked the Government to provide for their registration and thus give them official status. A post-graduate course was provided for. These men had to qualify by actual operative work such as the extraction of teeth and other surgical operations associated with dentistry. Since 1931 the dental profession has travelled a long way along the road to efficiency. The amending Bill tidies up the existing legislation by deleting reference to dental operatives, dental apprentices and other definitions that were necessary when the 1931 Act was passed. The Bill enlarges the definition of the practice of dentistry. There has been much advancement in the science and technology applying to the profession of dentistry.

The Bill does not deal with the question of radiography of human teeth and jaws, or anaesthetics. It is true that in the practice of dentistry most of the anaesthetics are given by

a doctor. The Bill sets up a disciplinary committee. If a dentist is considered to have been culpable of infamous conduct a complaint is lodged with the Dentists Board, which has power to inflict a penalty. The chairman of the proposed committee shall be a qualified legal practitioner of five years' standing and another member of the board shall represent the faculty of dentistry at the University. This is because it has been claimed that the Dean of the Faculty of Dentistry is not always available when board meetings are held. The committee shall comprise five members, who will be appointed on the recommendation of the Dental Board. Should a registered dentist die, the Bill provides that his practice may be continued for not more than 12 months or any longer time approved by the board to enable the personal representatives to sell the practice. No unqualified person can be registered as a dentist. Three dental companies were registered in 1931 and it was clearly defined in the 1931 legislation that those three companies were to be the only ones registered. I understand that three are still registered. The amending Bill will prevent these companies from employing persons who are not duly qualified dental practitioners. I have much pleasure in supporting the Bill.

The Hon. Sir FRANK PERRY (Central No. 2)—The Bill is introduced to give dentists a little more status in their field of operations, brought about because of the increase in the number of dentists. When the original Bill was introduced there were slightly more than 200, but I understand there are now about 309. The profession of dentistry was not so well accepted then as it is now. Operative dentists were engaged in the profession prior to 1936, but did not have the training that it is claimed modern dentists require. The Bill provides for a wider field of activities than was the case under the original Act, and that is wise. In certain professions which deal with health and the amelioration of suffering, such as those of dentists, doctors and nurses, registration is provided for and also examinations that must be passed before a person can be registered. The Bill provides for a disciplinary committee to which the board may refer matters relating to unprofessional conduct, or any differences of opinion in the profession. The board felt that it could not act as judge and at the same time lay a charge against one of its members. Generally the Bill is satisfactory. I know that honourable members do not desire the limiting of people's activities, but in dealing with health, we override that and provide for some restraint and control where necessary. The amendments widen the activities of registered dentists and limit those of others, but this is done to safeguard the health of the community. One outstanding feature of the Bill relates to the Universities of Malaya, Malta and Pretoria, whose degree of dentistry will be accepted here. No harm will be done in accepting the Bill and therefore we are justified in supporting it.

Bill read a second time.

In Committee.

Clauses 1 to 29 passed.

Clause 30—''Regulations.''

The Hon. Sir FRANK PERRY—Is the power contained in subclause (*c*) (f2) supervised by anybody or is it left entirely to the board to make its own rules and regulations?

The Hon. Sir LYELL McEWIN—That will be covered by regulation, which means that it will be examined by the Subordinate Legislation Committee, so there is protection there if the honourable member fears that these powers may be used for purposes of prevention or restriction.

Clause passed.

Remaining clause and title passed.

Bill read a third time and passed.

MANNINGHAM RECREATION GROUND ACT AMENDMENT BILL.

The Hon. N. L. JUDE (Minister of Local Government) brought up the report of the Select Committee, together with minutes of proceedings and evidence.

Report received and read. Ordered that report be printed.

THE REPORT.

The Select Committe to which the Legislative Council, on 10th November, 1959, referred the Manningham Recreation Ground Act Amendment Bill 1959, has the honour to report:—

(1) The Committee met on four occasions and inspected the site of the Recreation Ground.

(2) The Committee invited evidence by advertisement in the daily press and *The Northern Suburbs Weekly*, as a result of which one person appeared before the Committee. The following witnesses were examined:—Dr. W. A. Wynes, Parliamentary Draftsman; Mr. H. H. Tyler, Town Clerk of the Corporation of Enfield; and Mr. F. A. J. Thompson of Keith Avenue, Manningham.

(3) The Committee is of opinion that the Bill will defeat the basic principle of the original trust by enabling certain portions of the land to be leased to a person, association

of persons or incorporated club, and so withdrawing the land from public use.

(4) The Committee finds that, while the accounts have been meticulously kept, funds which should have been applied to the purposes set out in section 4 (2) of the original Act No. 2297 of 1936 have been applied in the development of buildings on the land not associated with the original intention of the benefactor, or authorized by the Act approved by Parliament.

(5) The Committee feels, therefore, that it has no alternative but to recommend that the Bill be withdrawn.

The Hon. N. L. JUDE moved—

That the Bill be withdrawn.

Motion carried; Bill withdrawn.

ROAD TRAFFIC ACT AMENDMENT BILL.

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

The Hon. N. L. JUDE (Minister of Roads) —I move—

That this Bill be now read a second time.

It contains some amendments of the Road Traffic Act which the Government has decided to proceed with immediately, without waiting for the consolidating and amending Bill dealing with road traffic generally. Most of the clauses in the Bill relate to the conduct and management of traffic on roads, and are based on recommendations made to the Government by the State Traffic Committee and the authorities concerned with the administration of the traffic laws. Some of the amendments were in last year's Bill which lapsed, but the speed limit provisions which were in that Bill are not included in this Bill. I will explain the clauses in their order.

Clause 3 deals with the effect of orders made by the court disqualifying defendants from holding and obtaining drivers' licences. Under the present law it is commonly accepted that an order disqualifying a driver operates immediately it is made, so that if a defendant has driven himself to the court by motor car and is disqualified by the court he cannot lawfully drive himself home. This does not matter so much in the city, but in the country it can be very awkward. Magistrates on a number of occasions have felt embarrassed by having to make orders which rendered it difficult for the defendants to return home, and have asked that the law should be altered so that they will be able to suspend the operation of an order of disqualification for a period that is reasonable in the circumstances. Clause 3 of the Bill will enable this to be done.

Clauses 4 and 5 deal with the offences of unlawfully driving and unlawfully interfering with motor vehicles. At present the principal Act provides that unlawful driving and unlawful interference are two separate offences, and prescribes different punishments for them. For the offence of unlawfully driving a motor vehicle, the defendant can be sent to gaol for a period up to 12 months for a first offence and two years for a second offence, and ordered to pay compensation. For unlawful interference there is no power to order imprisonment or compensation but merely a fine not exceeding £50. The Government has been asked to introduce legislation combining these two offences into one section. It has been pointed out that the offence of unlawful interference with a motor car, is often quite as serious as unlawful driving, and there is no good reason for having different penalties. Moreover, the damage done by unlawful interference can be as serious as the damage done by a joy-rider, and it is logical that there should be power to order compensation in both cases. Clauses 4 and 5 of the Bill accordingly combine the offences of unlawful driving and unlawful interference so that they will both have the same penalty and consequences.

Another amendment in clause 4 is a provision that complaints for unlawful driving or unlawful interference can be laid at any time within two years after the commission of the offence. At present, the time limit for proceedings for these offences is six months, but it often happens that an offender is not discovered until more than a year after the commission of the offence. The proposal to extend the time limit from six months to two years is not unreasonable when one considers that unlawful use of a motor vehicle is akin to larceny and that there is no time limit on prosecutions for larceny. Clause 6 empowers courts to disqualify drivers who drive vehicles carrying loads in excess of the weights prescribed by the Act in cases of second or subsequent offences. Overloading is today a common offence notwithstanding the substantial penalties imposed, and the Government considers that the penalty for disqualification might act as a greater deterrent. The maximum period of disqualification proposed is twelve months. However, certain safeguards have been inserted to cover drivers without knowledge and special provisions made to cover owners who are not drivers. Clause 7 enables members of the Police Force and inspectors appointed under the Road Traffic Act

and persons in charge of ferries to question drivers of vehicles as to the nature or constituents of the loads on their vehicles, and to ask questions for the purpose of enabling an estimate to be made of the weight of the vehicle or its load. Heavily laden vehicles nowadays are often covered with tarpaulins, and it is not easy for those who are charged with the enforcement of the law to tell by inspection whether the load on the vehicle is likely to exceed the limit or not. Moreover, when large vehicles are on ferries it is important that the ferrymen should know the nature and approximate weight of the load.

Clauses 8 and 9 make some consequential amendments to the principal Act, the need for which has been overlooked in the past. Their object is to make it clear that members of the Police Force have the same powers as inspectors under the provisions of the Road Traffic Act relating to the weighing of vehicles and their loads. Clause 10 inserts definitions of "intersection" and "junction" in the principal Act. Over the years different definitions of these words have been placed in different sections of the Act, and it is desirable that they should now be made uniform as a preliminary to the simplification of the law. The definitions proposed in the Bill are to the same effect as those recently adopted in the Victorian Traffic Regulations, and are similar in principle to those of other States except Western Australia. The effect of the definitions, put shortly, is that an intersection is the area within lines adjoining the corners at a place where roads cross each other, and a junction is a part of a road within the prolongation of the boundaries of another road which adjoins it. Much thought has been given to these definitions by traffic engineers and numerous alternatives have been considered. No conceivable definition is completely satisfactory for every place where roads cross or meet, because of the varying angles and the varying number of roads concerned, but it seems that the definitions in the Bill have the fewest defects. The new definitions will have an effect on a subsequent clause relating to speed limits at intersections, which I will explain later.

Clause 11 provides for the Highways Commissioner to control the erection of traffic light signals. Under the present law all councils have power to erect these signals. Without in any way questioning the competence or good intentions of the councils, it must be pointed out that the lack of overall control is leading to differences between traffic lights which is embarrassing to motorists, and which will increase unless something is done to secure uniformity. Clause 11 provides for a scheme of control of light signals, similar to the control exercised in connection with traffic islands and roundabouts. A council which desires to erect lights must give notice to the Highways Commissioner. If the Highways Commissioner approves the council can proceed to erect the lights; if the Commissioner does not approve or imposes any conditions which are unacceptable to the council, the council will have a right of appeal to the Minister of Roads. The Minister must hear the appeal and his decision will be final. The clause also empowers the Commissioner of Highways to direct councils to alter any traffic lights or sequence of lights for the purpose of securing uniformity or improvement of the signals. Any directions by the Commissioner on this subject are also appealable to the Minister of Roads.

Clause 12 sets out in detail the rules indicated by the lights used in traffic control light signals, and repeals the existing code of rules. Nowadays, when new types of traffic control signals are being introduced from time to time it would probably be better to have all these details in regulations, and at some future time it may be found possible to do this. However, the meaning of the various light signals has been laid down in the Act since 1944. Since then there have been developments which make it necessary to alter and amplify the provisions. Illuminated arrows have been used in a way not contemplated before, and there is at present nothing in the rules which explains the meaning of arrows. Moreover, when the present laws were enacted there were no traffic lights at places other than intersections or junctions, and in consequence no provision has been included in the Act to explain the duties of motorists approaching light signals at places between intersections and junctions. It is necessary that these matters should now be provided for and, in addition, some provision has to be made to ensure that the "Don't Walk" signal, such as is erected near the Adelaide Railway Station, will have legal effect. Clause 12 therefore re-states the rules indicated by light signals with the alterations and additions necessary to bring it up-to-date. I do not think it is necessary to mention all the details of the clause. It has been submitted to the Traffic Engineer of the Highways Department and

to the Town Clerk and engineers of the Adelaide council and it is regarded by them as a correct statement of the meaning of the lights. Clause 13 is a consequential amendment, striking out a provision rendered unnecessary by reason of the new definitions of intersection and junction.

Clause 14 makes additions and alterations to the present law relating to pedestrian crossings in order to enable school crossings to be established in accordance with the recent recommendations of the traffic committee. The basic thing in the committee's recommendation was that a special form of pedestrian crossing should be available for use at or near schools, and that these crossings should operate only while flashing lights were turned on. When a school crossing is in operation it will be the duty of motorists to give right of way to all pedestrians on the crossing and if a flag with the word "Stop" is exhibited it will be compulsory for motorists to stop, and not enter the crossing until the flag is withdrawn. The traffic committee also recommended, both as regards school crossings and ordinary pedestrian crossings, that when a vehicle was stopped at a crossing for the purpose of giving way to pedestrians, no other vehicle should be permitted to overtake it. At schools where these special school crossings are not established the committee recommended that the present practice of exhibiting a "school" sign which implied a speed limit of 15 miles an hour should continue to be in force.

Clause 15 provides that vehicles and animals entering a road from private land must give way to all traffic on the road and a contravention of this provision will be an offence.

Clause 16 deals with the speed at intersections. The Act at present prescribes a speed limit of 25 miles an hour at intersections, but contains a special definition of "intersection" which has been narrowly interpreted. The definition is that an intersection for the purpose of this speed limit is a place where two roads *completely* cross each other. It has been thought that if a road which crosses another road is wider on one side of the road which it crosses than on the other, there is not a complete crossing within the meaning of the section, and therefore not an intersection. Even if the interpretation I have mentioned is right in law, it is not a good traffic rule and it is proposed that the speed limit of 25 miles an hour should apply to every place which falls within the definition of intersection, although one or other of the roads concerned may not be the same width on each side of the intersection. Clause 17 provides for a speed limit of 15 miles an hour past works in progress on roads. It declares that authorities carrying out works on roads may, with the consent of the Commissioner of Police, place signs on the road indicating a speed limit of 15 miles an hour at places where work is going on, and the speed limit so indicated will be binding on motorists.

Clause 18 provides that the Registrar may approve of special types of devices by which a vehicle may be attached to another for towing. When an approved device is used the requirement that an additional man must be on the towed vehicle will not apply. This clause was in last year's Bill. Clause 19 enacts a general rule that vehicles are not to park or rank within 15 feet of junctions and intersections. For some time local governing bodies have been advocating a general rule of this kind which they say is necessary for safety at intersections and junctions, but cannot satisfactorily be brought into existence on a uniform basis by by-laws or traffic signs. After a considerable amount of discussion, extending over years, the traffic committee finally came to the conclusion that there was a case for this amendment and recommended it to the Government. Clause 20 is a provision that was in last year's Bill providing a maximum height of 14 feet for vehicles and their loads. This type of law has been found necessary for the protection of overhead cables and other structures, and is regarded as necessary by various traffic authorities. The rule will not apply to trolley buses and, in addition, the Registrar of Motor Vehicles may grant exemptions in special cases.

Clause 21 proposes to grant additional exemptions to fire brigade vehicles, ambulances, and police vehicles. Under the present law these vehicles are exempt from speed limits and other provisions of the Act. The Government has recently been requested to submit amendments to Parliament providing further exemptions from the sections of the Act dealing with the following matters, namely:—

(*a*) the 20 miles per hour speed limit for vehicles approaching railway crossings;

(*b*) the provisions as to the mode of making right turns;

(*c*) the duty to move to the left when signalled by an overtaking vehicle;

(*d*) special speed limits on bridges;

(*e*) opening doors of vehicles so as to cause danger.

These exemptions are similar in principle to those previously granted and the Commissioner of Police has reported in favour of them. Clause 22 alters the law as to vehicles remaining stationary on bridges. The circumstances in which a vehicle is permitted to be stationary on a bridge are widened, but a duty is placed upon the driver as well as the owner of the vehicle to remove it without unnecessary delay. In the enforcement of the Act it has been found necessary to have a clause of this kind placing responsibility on the driver.

In conclusion I might mention that Australian road traffic laws are now undergoing a close scrutiny by the Road Traffic Code Committee set up by the Commonwealth. The committee is doing a good deal of work for the purpose of securing a much greater degree of uniformity in traffic laws throughout Australia. Its members are competent and experienced men, from all States, and it is to be expected that it will achieve a substantial measure of success. Its recommendations will be given full consideration in the preparation of the consolidating and amending Road Traffic Bill for the next session of Parliament.

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

ADJOURNMENT.

At 6.03 p.m. the Council adjourned until Wednesday, December 2, at 2.15 p.m.