LEGISLATIVE COUNCIL.

Wednesday, September 22, 1954.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2).

The Hon. N. L. JUDE (Minister of Local Government), having obtained leave, introduced a Bill for an Act to amend the Local Government Act, 1934-52. Read a first time.

PRISONS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 21. Page 641.)

The Hon. C. R. CUDMORE (Central No. 2) —This measure is somewhat rare as it is the first amendment of the Act since 1936. That indicates the effectiveness of the working of the Act up to this time. This is simply a short amending Bill and, therefore, in the ordinary course would not be a matter for much debate on the second reading, but it does, to my mind, introduce an unusual and interesting feature. In explaining the Bill the Minister said:—

First the Bill validates the regulations made under the Act providing for the payment to prisoners of money for credit marks, and of bonuses and gratuities. It has recently been pointed out that there is no authority for these regulations in the principal Act, though payment has been included in the Estimates.

We have, in the past, sometimes pointed out the dangers of Government by regulations about which Parliament was not aware. It reminds me of the story, quoted in this House on previous occasions, of the high Government official returning from India and being driven past Parliament House during the evening. He asked his driver, "What is that place with all the lights?" "That is Parliament House. The House is in session" replied the driver. "Good Lord!" said the official, "Does that nonsense still go on?" That was the mind of the super-bureaucrat who desired to run the show without Parliament interfering in any way. On the other hand, we have, at times, rather eulogized the use of regulations as against the direct method of Government by proclamation. It is very interesting to find that in this measure we have a frank admission that regulations can get through without anyone discovering that there has been no power to make them. It is principally on that point that I intervene in this debate. I generally agree with the observations of my learned friend, Mr. Rowe. He is usually right, but this time I cannot agree with him because this is one of the rare occasions upon which, when listening to the Minister explaining the Bill, I felt that we were not being given the information to which we were entitled. I think his opening comments that the Bill was to validate regulations which have been made might have been amplified. His advisers might have drawn attention to what the regulations were. Some of us have had an opportunity, since the introduction of the Bill, of examining the regulations. I had the same feelings about his reference to the provision in the Coroner's Act. There was simply no explanation, except that it was not necessary.

The Hon. Sir Lyell McEwin—The honourable member is only indicating to the House that even legal people here do not agree.

The Hon. C. R. CUDMORE—That is a very poor drag across the trail. Nevertheless, what I said is true. The Minister's advisers could have supplied more detailed information and it is only on that point that I do not agree entirely with Mr. Rowe. I sometimes do not agree entirely with Mr. Condon and I do not agree with what I have read in Hansard of his speech yesterday, because it seemed to me that he was claiming that this Bill was conferring benefits upon the ordinary man in gaol. That is hardly so; it only confers a direct benefit upon those serving life sentences. In general, and in regard to the general benefits that have been conferred by regulations upon prisoners, this Bill only puts the matter in order and approves what has been going on for the last 18 years, because these benefits were conferred by regulations in 1936. At that time, as those who were in the Chamber then realize, there was no set authority to examine regulations to see whether or not they were desirable and should be allowed. Some members will remember that there was a type of unofficial voluntary sub-committee on this side of the House that attempted to examine regulations thoroughly. It was the old story about everyone's business being nobody's business, so in 1938 we established a Subordinate Legislation Committee, a statutory body whose duty it was to examine all regulations. It is of course obvious that this committee was not in existence when these regulations were made and therefore could not examine them.

The Hon. Sir Lyell McEwin—The honourable member has had 18 years to do so.

The Hon. C. R. CUDMORE—Yes, everybody is to blame, I quite agree. Now we are going to validate what has been going on all the

time. That is not my point, however; my point is that the regulations we are now going to validate were amended on July 21, 1949 or 11 years after the Subordinate Legislation Committee was set up. Why was it not discovered at that stage that they were not legal? There was in fact no power under the Act, but I do not blame the committee, although when the regulations were amended in 1949 it was in existence. With all respect for what Mr. Rowe said, I believe the main regulations involved are 83 to 93; those to which he referred dealt only with crooks but the others deal with prisoners by and large. However, the Subordinate Legislation Committee did not discover any illegality when the amendments were made. That committee receives a certificate from the Crown Solicitor that regulations are made in conformity with the Act, and when that is received obviously the committee does not look into the question any further. This I understand is how the matter works, although I stand to be corrected on all these ideas. As the regulations were made in 1936 and it is only now that somebody has discovered there was no right to make them, we are only dotting the I's and crossing the T's. The regulations have worked very well. However, I think the Government, or possibly the Attorney-General and the Crown Law Department, might examine the position to see whether we could not plug the hole that is obviously there and ensure that it cannot happen in future that regulations that are not justified by the Act and have no authority from Parliament can be acted upon for 18 years. The rest of the Bill is entirely a matter for Committee. I am very much in favour of the suggestion that we should have some power to release life prisoners on licence. I also feel that the general provisions in the Act relating to wilful damage and offences by prisoners, which have been in existence since 1869, are worth revision and reconsideration after this long period. I have pleasure in supporting the second reading of the Bill.

The Hon. N. L. JUDE secured the adjournment of the debate.

MARKETING OF EGGS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 21. Page 644.)

The Hon. E. ANTHONEY (Central No. 2)—I know that the passage of this Bill requires expedition so I will not take very much time discussing it. As members know, this legislation was introduced more or less as a war measure and like in much other legislation of a similar nature, the producers, finding it difficult not only to market but to export their eggs, under a good deal of stress decided it would be better to have a board under which their products would be better looked after and whereby they would have what we have been pleased to call an orderly marketing scheme under which the consumers would also benefit by getting a better product. I think it can be said that the board has resulted in a better product being sold because most people will admit that eggs purchased today by the housewife are more reliable in quality and standard.

The Hon. F. J. Condon—Not now that the producers cannot obtain bran and pollard.

The Hon. E. ANTHONEY—I know that it is difficult for them to obtain bran and pollard, and because it is very expensive the cost of eggs is high. All these boards have that effect.

The Hon. F. T. Perry—The eggs are no better, it is only the grading?

The Hon. E. ANTHONEY—I suppose the quality would have something to do with the grading. All these boards have the effect of making the product either very scarce or both scarce and dear so that I am, from conviction, largely opposed to the setting up of boards at all. However, I understand that the abolition of this board suddenly would cause a good deal of dislocation in the industry so I am not suggesting that it should be abolished outright, but I would seek the co-operation of members in shortening its life. This Bill simply re-enacts the principal Act and therefore in ordinary circumstances the board will go out of existence after another three years. In Committee I will ask members to agree to shortening its life by one year. There is little else to be said. We had to do under war conditions what ordinarily we would not have done and therefore we agreed to setting up boards of all sorts, but one by one we have found that they are not functioning well. We saw by yesterday's press that the Potato Board has been a failure and it looks as though it may have to be abandoned —and the sooner the better in my opinion.

The Hon. F. J. Condon—Did not a recent ballot of growers decide to carry it on?

The Hon. E. ANTHONEY—I think so, but I would say that most of these boards were not set up by the Government merely for the sake of doing it but as a result of pressure by industries concerned which said in effect, "We cannot manage our own affairs and we ask you to set up a board."

The Hon. F. T. Perry—That is under exceptional conditions.

The Hon. E. ANTHONEY—If I were asked for a suggestion I would say that the industry would be far better off if it ran its business on co-operative lines. Where co-operative companies are well managed they are successful.

The Hon. E. H. Edmonds—Would you do away with the Tariff Board, too?

The Hon. E. ANTHONEY—I am a free trader and always have been and would like to see all these things wiped out. I know perfectly well that there are difficulties, but that is my honest opinion. If we could have free trade under private enterprise it would be better for the country. I am opposed in prin ciple to boards and in Committee will move for the curtailment of the time that this board will operate.

The Hon. C. R. CUDMORE (Central No. 2)—My general views on boards are pretty well known. I believe that the fewer we have the better. As Sir Wallace Sandford said, it was made very clear in 1941 that this was to be a war-time measure and was to last only during the war and for six months thereafter. Now we have heard from some honourable members how well it has done and it has been damned by faint praise by one or two people. Some are enthusiastic about it but I am not. However, I realize that there must be difficulties in the transition stage between Government control and a return to private enterprise. By way of interjection I drew attention to the fact that the British Government had ceased to buy these things in bulk and had left it now to private enterprise in England and I asked what effect that would have on us. This is more or less the same position as has arisen with other products which the Government has controlled, such as jute, for example, and it takes time to adjust these matters. Therefore, I am quite prepared to support the Bill for a limited period but not for the three years suggested. I think it would be better now to see how far private enterprise can be adjusted to take the matter out of the Government arena and we should not make it a formal three years as though we proposed to leave it stand on the Statute Book forever but should extend the life of the board for one or two years. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Period of operation of Act."

The Hon. E. ANTHONEY—In order to carry out the opinion I expressed on the second reading I move—

To strike out "fifty-seven" with a view to inserting "fifty-six."

The Hon. Sir LYELL McEWIN (Chief Secretary)—Members have had a fortnight to consider this Bill. It was known that the Act expired at the end of this month, but now at this late hour it appears that the purpose of the adjournment of the debate was to alter the term of the Bill. To me this is a trivial and petty approach to such a measure. All I have heard in favour of the amendment has been very little; simply that it was a war-time measure and that we should get away from it and let private enterprise deal with the matter. I would have expected some similar argument from the advocates in relation to other more important matters. We have reached a stage when everything is tied to an Australian standard of conditions and our primary industries must rely on some organized system for the handling of their products, although in many instances they have been out-priced overseas. That is not the fault of primary industry which does not complain about subscribing to the Australian standard of conditions, but it is that standard which has brought about a cost structure over which it has no control. It amazes me that members should endeavour to restrict the activities of one minor board which, however, is essential to the standard of living of our people. There are other boards, such as the Tariff Board, which they have not attacked. I am surprised that such a petty and frivolous amendment should have been suggested and I ask the Committee not to accept it.

The Hon. F. J. CONDON—If members were prepared to guarantee a price of 14s. a bushel for home consumption wheat for five years they should be prepared to permit this legislation to operate for three years. I oppose the amendment.

The Hon. Sir WALLACE SANDFORD—I made my position clear when speaking on the second reading. I said that I was inclined to think that two years would be adequate but that I did not want to jeopardize the passing of the Bill and consequently supported the measure. What the Chief Secretary has said is all too true and I do not see that anything would be gained by reducing the period. I thought a period of two years was sufficient but I was prepared to agree to the three-year period and by this I will stand.

The Hon. E. ANTHONEY—I cannot follow the logic of members who say that they think it is time this board expired but then agree to it continuing for a further three years. Many members have expressed their opinions about boards and some prefer socialistic legislation. However, when an opportunity arises to shorten the life of a board, some members will not do so. The Chief Secretary said this was a trivial and frivolous amendment, but what else can a member do! I said that I did not want to be unfair to the board or to the industry by opposing the Bill because I realize much confusion would result if the board were to immediately cease operations. I cannot, however, understand why members should object to the principle of the amendment. I do not like boards of any type and the community would function better without them. This board was originally established for the duration of the war and six months after.

The Hon. K. E. J. Bardolph—Don't you think that farmers want the board to continue?

The Hon. E. ANTHONEY—That is questionable. If a ballot were taken of the poultry industry it might reveal that there was not unanimity about the continuance of the board. The Chief Secretary asked why I attacked this board and not something bigger as, for example, the Tariff Board. I realize that tariffs have made a great difference to primary and other industries and if an opportunity arises I will have something to say about the Tariff Board. It is almost time industry began to get on its own feet because it is quite capable of managing its own affairs. If members are sincere in their desire to abolish boards they should support this amendment, which is a gesture towards that end.

The Hon. R. R. WILSON—The board has given general satisfaction to the producer and the consumer and to lessen its period of operation by one year would not have much effect. We should remember that the gross value of production from 1948 to 1953 was £973,000.

The Hon. E. Anthoney—Would it have been less had there been no board?

The Hon. R. R. WILSON—I remind the honourable member of what happened before the board was established. It has been said that eggs were sold for 2½d. a dozen, but I have sold them for 2d. a dozen and had to buy goods to their value from the store; that was my only means of disposing of my eggs. I am sure that neither the producer nor the consumer wants to return to those days. The board has seen fit to send men to the country to assist farmers to produce better eggs. I wholeheartedly support the proposal that the board should continue for another three years.

The Hon. F. T. PERRY—The question of boards controlling industry should be examined and I support Mr. Anthoney's attempt to reduce the period of the operation of this Bill.

The Hon. Sir Lyell McEwin—Do your remarks apply to all boards?

The Hon. F. T. PERRY—Yes. I think it is time it was considered whether compulsory Government control was in the interests of the public. I agree that this board has acted in the interests of the producer. I remember when it was established. The purpose was to reduce the number of eggs coming to the market when eggs were plentiful. The longer a board is in operation and develops new proposals, the longer it exists. It seems to me that we are permitting too much control of industries by boards that have the authority of compulsion.

The Hon. K. E. J. Bardolph—You never thought that when you were the chairman of the Board of Area Management during the war.

The Hon. F. T. PERRY—That has nothing to do with it. In war-time we had to adopt irksome means which nowadays are not in the interests of the community.

The Hon. Sir Lyell McEwin—Do you suggest the Electricity Board should be abolished,

The Hon. F. T. PERRY—Different boards have different functions. The Electricity Board has for its purpose the production of as much electricity as possible. I do not suggest that the motive of every board is wrong but the time has arrived when we should consider whether certain boards should continue to operate. They are all right when prices are rising, but useless when prices are falling. An instance of that is the Potato Board to which adverse references have recently been made in the press.

The Hon. Sir Lyell McEwin—Do you suggest that legislative controls are the only controls?

The Hon. F. T. PERRY—I suggest that there should be co-operation between producers and the general community to operate without the compulsion which arises from the establishment of boards. The Egg Board has made the position much better for the poultry farmer, but I think it has made it worse for the consumer. There is a controlled price fixed from time to time that nobody can justify because nobody knows how it is fixed; we have to accept it. I agree that there should be a reduction of the period of the board's operation. I do not attack the board as such

but the time has arrived when we should examine the effect these bodies are having on our every-day lives and on industry and the public. I therefore support the amendment.

The Hon. C. R. CUDMORE—As I have already indicated I favour the amendment. On September 8, by way of interjection during Sir Wallace Sandford's speech, I said:—

Would it not be a good idea to extend it for a year only to see the effect?

He replied that he thought a reasonable thing would be to extend it for two years rather than three. There is therefore no surprise about the amendment in view of my suggestion of one year instead of three. In 1941, as some members will recollect, the original Bill went backwards and forwards between the two Houses and we had very long debates on it here. Many amendments were suggested by the House of Assembly on whether we were to treat this board as something to be introduced permanently. We rejected some of the amendments of the House of Assembly and eventually that Chamber accepted our suggestions. I will vote entirely on the principle that we should not accept the board as a permanent part of our economic life. I am quite prepared to extend its operation for a period to see whether in the meantime arrangements can be made for private enterprise to take the matter over and for us to go back to where we were before the war, as has been done in England and here in other industries.

The Hon. F. J. CONDON—If any industry wants protection it is the poultry industry because it is not able to procure bran and pollard with the result that eggs are not of the quality they were a few months ago. We are prepared to assist other industries that can protect themselves far better, so why should we not protect an industry that is struggling? We have not challenged the life of other boards, yet this afternoon we are picking out this body. I oppose the amendment.

The Hon. E. ANTHONEY—It is not a question of picking out an industry; this is the first industry that has come before us on which we have had a reasonable chance to debate this angle. Surely in two years some scheme can be devised to manage the industry without a board. It is about time we all realized that we would be better off without board control.

The Committee divided on the amendment.

Ayes (5).—The Hons. E. Anthoney (teller), C. R. Cudmore, A. J. Melrose, F. T. Perry, and C. D. Rowe.

Noes (11).—The Hons. K. E. J. Bardolph, J. L. S. Bice, F. J. Condon, J. L. Cowan, L. H. Densley, E. H. Edmonds, N. L. Jude, Sir Lyell McEwin (teller), W. W. Robinson, Sir Wallace Sandford, and R. R. Wilson.

Majority of 6 for the Noes.

Amendment thus negatived.

Clause passed.

Title passed. Bill reported without amendment and taken through its remaining stages.

LOCAL GOVERNMENT ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 21. Page 643.)

The Hon. C. D. ROWE (Midland)—As mentioned by previous speakers the Local Government Act is a difficult one, because it contains a large number of sections which by virtue of changing circumstances require the attention of Parliament almost every session. The amendment contained in this Bill has become necessary because of a judgment given by the Full Court in the case of the Corporation of Campbelltown *versus* Johnson. Briefly, the facts are that section 319 provides that a council may recover from an occupier the cost of making a road to the extent of 7s. a foot of frontage to the road. Section 328 provides in the same way for the recovery of the cost of making a footpath up to an amount of 1s. 6d. a foot. Section 424 provides that a council may borrow money by way of loan or debenture for the purpose of carrying out these works. Apparently, councils have followed the necessary procedure of securing the consent of the ratepayers to raise a loan and when it has been raised they have proceeded to construct roads and footpaths for which they have in due course rendered accounts to the ratepayers concerned for the proportion due by them in respect of their frontages. Apparently, that procedure went on for some time until this case came before the Supreme Court and subsequently the Full Court, when the defendant made two contentions. The defendant's answer to the plaintiff's claim was in these terms:—

(1) In order to . . . recover under s. 319 the corporation must resolve before carrying out the works to exercise . . . the special power of recovery conferred by the section.

That is to say, the contention was that if they were going to recover from the ratepayers they must resolve to do so before actually

carrying out the work. The judgment on this point was in these terms:—

First the council is given the power to borrow on debentures—i.e., to raise money on fixed or long-term loans—for permanent works and undertakings, either (1) upon the security of a special or separate rate (s. 423), or, (2) on the security of the general rates (s. 424).

In the case of a loan on debentures, the Act prohibits borrowing beyond a total fixed by reference to the proceeds of the special or separate rate or of the general rates, as the case may be. The work or undertaking must be specified. The specifications must be published, and the consent of the ratepayers obtained to the money being borrowed for the specified purpose.

Taking these provisions as the background to s. 319, I am unable to feel any doubt with respect to the bearing of that section. The council's power to do the work—to form and pave, etc.—is given by s. 314. This section—s. 319—gives the right to claim and recover the expenses incurred in doing the work. I cannot accept the defendant's proposition that, in order to recover, the council must resolve to exercise its powers under this section before the work is commenced. I agree with Mr. Piper that the council must be expected to consider the question of ways and means before it authorizes the expenditure, and this may be important later, but I can see nothing in the section which requires the council to come to any final decision before the work is completed and the cost can be ascertained. On the other hand I cannot accept Mr. Norman's suggestion that the section gives the council the right to do the work, and to leave its claim against the owner in abeyance, to be enforced whenever the council sees fit, i.e., in years to come. It seems to me that the natural meaning of the words—"the council may carry out . . . the works . . . and recover the cost"—is that these things can be done as a single or continuing transaction. I can see no reason why this meaning should not be accepted, and every reason why it should. I think that it is the natural meaning, and, apart from that, the right is to recover from the 'person, appearing in the assessment book as the owner of the property' at the time of the completion of the work, and to hold that this right can be kept, as it were, in cold storage, would lead to very unreasonable results.

So that on the first contention raised by the defence, namely, that if it were to recover under section 319 the corporation must resolve before carrying out the works to exercise the special powers of recovery conferred by the section, the court held that it was not compulsory for the council to make that decision.

The Hon. F. J. Condon—Does that give the right to hundreds of other people to claim?

The Hon. C. D. ROWE—Unless something is done to amend the Act I think that will be the position. Two relevant arguments were submitted to the court by the defendant and this legislation, as I understand it, is an attempt to get over the difficulty which has arisen from the court's decision. The position therefore is that it is not obligatory on the councils to elect before doing the work to recover from the ratepayers.

The second argument was that the plaintiff, having borrowed money with the consent of the ratepayers for carrying out the work on the security of the general rates by means of debentures and having expended the money in executing the work, is precluded from recovering the cost under section 319. That is the real point in the case and on it the court agreed with the defendant's contention and said, in effect, that the principle of the Act is that the money must be expended for the purpose for which it is borrowed, and if the council had power to borrow money and to expend it on this work and then to recover from ratepayers afterwards it would mean that it would have power to borrow money for one purpose and use it for another and that could lead to undesirable practices. The final decision then is that the council has an alternative: either it can recover the cost of making roads from ratepayers and meet the cost in the first instance out of its general revenue, or it can do the work by raising loans on debentures. If this judgment stood it would mean that there would be a very considerable reduction in the amount of works done by corporations and the Government had to consider that matter. It decided, and I think correctly, that the way to meet the position was to bring in this amending Bill to provide that councils in the first instance can raise money by way of debentures to carry out this work and, secondly, when the work is completed they can, within a period of six months of the completion of the work, recover from the abutting landowners a proportion of the cost of such work.

The Hon. F. J. Condon—The Government is not usually in favour of retrospective legislation when I have anything to do with it.

The Hon. C. D. ROWE—I will have something to say on that later. All that this Bill does on the point I have been discussing is to provide that the council shall have power to borrow money by way of debentures and subsequently to spend it for the purpose for which it was raised, and then to recover portion of the cost from the ratepayers concerned. There is only one alteration in respect of the amount which can be recovered. The Act provides that councils can recover from ratepayers on each side of the road an amount of 7s. a foot for the making of roads. In this Bill it is proposed to increase that to 10s. a

foot and in view of the general increase in costs I do not think there can be any real objection to it. The important point to remember is that the money can be recovered only in respect of new construction; it cannot be recovered in respect of work which is in the nature of repairs.

The Hon. F. J. Condon—Cannot people who have paid this moiety recover it?

The Hon. C. D. ROWE—I take it they would stand in the same position as the defendant in this case.

The Hon. K. E. J. Bardolph—In effect this amendment is to prevent those who have already paid from making a similar claim to Mrs. Johnson.

The Hon C. D. ROWE—It is not only to do that but to validate what apparently we all thought was the position. Councils have worked on the assumption that they were doing what Parliament intended when they used this procedure to raise money and then recover, but we now find that the law is not what we thought it was and I feel that this attempt to put it in order is correct. The Bill does not provide for any increase in the amount which can be recovered for the forming of footpaths, which still remains at 1s 6d. a foot. The other point is that the Bill provides that notice of the work and of the intention to recover must be given to ratepayers within six months of completion of the work, which gets over the possibility that anybody may buy an allotment of land and receive an account some time afterwards for work that has been completed without realizing that they had responsibilities in that direction. I am unable to see anything in the Bill to which reasonable objection can be taken. Finally I would draw attention to a sentence which appears at the end of the judgment which I think should be of interest to all members, namely:—

And, finally, if—as the practice seems to be—a decision adverse to the local governing authority leads to an application for an amendment of the statue, I suggest, for the consideration of those whom it may concern, that the proper solution may be to insist upon the council doing what in reason and justice it ought to do, namely, determine whether the work is or is not to be done at the cost of the adjoining owners, before it incurs the expenditure. It is, perhaps, a counsel of perfection to suggest that the owners should have notice of the council's intention, and an opportunity of opposing the proposal. Whilst I appreciate and respect the opinion of the learned judge it seems to me it would be going too far for us to suggest to councils that they must give notice to ratepayers of work they propose to do and get their consent to it before proceeding. As in the case of Parliaments, once a council or corporation is elected power must be left in its hands. Mr. Cudmore referred this afternoon to the making of regulations which are subsequently found not to be in accordance with law. I think it can be said that people who have the power to make regulations are in the same category as members of Parliament. That is to say, they are all capable of making mistakes, and apparently in drafting section 319 Parliament thought it was doing something which it did not do and it has taken this judgment to put us on the right path. While I agree in principle with Mr. Cudmore, we are all human and subject to human errors, but it does seem peculiar that we should have had two instances of it before us this afternoon.

The Hon. E. ANTHONEY (Central No. 2)—It seems very odd that after all this time somebody has awakened to the fact that what councils have been doing is illegal. I do not know of a previous case, but I daresay there must have been previous challenges by people who have objected to the charges made by councils for making roads.

The Hon. K. E. J. Bardolph—This is not a challenge but an assertion of people's rights.

The Hon. E. ANTHONEY—Exactly. Councils have power under the Act to make roads and then charge abutting owners a moiety of the cost, the remainder being met out of general revenue or by borrowing money, and I do not think councils ever dreamt that those were alternatives but that one was complementary to the other. In order to carry out road construction, which is much more expensive today than ever before, councils are compelled to borrow money and to do so have to go through a long rigmarole; first, they have to get the consent of the ratepayers, which is no easy matter, and then it is laid down that the security has to be on the general rates of the district.

The Hon. F. T. Perry—Don't they have to define the work to be done?

The Hon. E. ANTHONEY—That is so. A plan of work has to be posted somewhere in the council's chamber where everybody can see it. It all has to be open and above board. It is the only means that councils have of carrying out construction works. Surely it is right for a council to expect the benefited party to make some contribution to constructional costs? That has normally been accepted by ratepayers. However, a ratepayer has

challenged the right to claim and the court has held that the council has been acting invalidly. It is clear that this is the only way the Government can overcome the difficulty. If the law remains as it is many people who have already made contributions to councils for road-making will have the right to take legal action the same as Mrs. Johnson did.

The Hon. F. J. Condon—How many years could they go back?

The Hon. E. ANTHONEY—I do not know. I think it would be limited to new works and they could not appeal in respect of old works.

The Hon. K. E. J. Bardolph—This Bill provides for the exemption of Mrs. Johnson.

The Hon. E. ANTHONEY—Yes, but if it is not passed it will be legal for other persons who have paid their moieties to take action.

The Hon. K. E. J. Bardolph—Should they not have the same rights as Mrs. Johnson?

The Hon. E. ANTHONEY—I do not suggest they should not, but it would cause great confusion and result in monetary losses to councils.

The Hon. F. J. Condon—Would you consider all retrospective legislation on the same basis?

The Hon. E. ANTHONEY—This is not retrospective legislation. It refers only to works in progress or recently completed. The Bill permits ratepayers a longer period in which to meet their contributions and increases the road moiety from 7s. to 10s. a lineal foot. This is, as far as I can see, the only means by which the Government can overcome this dilemma which confronts councils and I support the second reading.

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

EVIDENCE ACT AMENDMENT BILL.

The Hon. Sir LYELL McEWIN (Chief Secretary), having obtained leave, introduced a Bill for an Act to amend the Evidence Act, 1929-1949. Read a first time.

ADJOURNMENT.

At 3.22 p.m. the Council adjourned until Tuesday, September 28, at 2 p.m.