LEGISLATIVE COUNCIL.

Tuesday, October 2, 1956.

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

QUESTIONS.

FREE LENDING LIBRARIES.

The Hon. Sir ARTHUR RYMILL—I ask leave to make a brief statement with a view to asking a question.

Leave granted.

The Hon. Sir ARTHUR RYMILL—Last year the Government showed its interest in the provision of municipal free lending libraries throughout South Australia by passing the Libraries Subsidies Act. Unfortunately, the opportunities offered have not been availed of, and as nearly a year has elapsed since the Act was passed it seems that the Act in its present form is not achieving the desired result. As South Australia remains the only State without such facilities will the Government consider the desirability of amending the legislation on the lines which have proved successful in the other States?

The Hon. Sir LYELL McEWIN—The Act is administered by my colleague, but as the question involves consideration of legislation the matter will have to be considered by Cabinet to which I will refer it and let the honourable member have the information as soon as possible.

HENLEY BEACH-GRANGE RAILWAY LINE.

The Hon. F. J. CONDON—Following the petition containing over 700 signatures that I presented to the Minister of Railways last Tuesday from the Henley and Grange districts opposing the closing of that section of the line, will the people interested have an opportunity to tender further evidence?

The Hon. N. L. JUDE—By advertisement and notices the people were invited to give evidence on this project and some did so. The committee has presented its report and I am not prepared to say at the moment whether the the matter can be reopened. Cabinet will consider the report placed before it and members will have an opportunity to peruse it.

DEPUTY PRESIDENT OF INDUSTRIAL COURT.

The Hon. A. J. SHARD—I ask leave to make a brief statement with a view to asking a question.

Leave granted.

The Hon. A. J. SHARD—On May 22, when speaking in the Address in Reply debate, I drew the Government's attention to the necessity of appointing a Deputy President of the Industrial Court. In reply the Minister was good enough to say, on May 24, "Prior to the honourable member's remarks the Government had considered this matter and it proposes in the not too distant future to appoint a Deputy President of the Industrial Court." The position in the court has worsened since that date, and President Pellew has intimated to the parties concerned that he will devote the whole of his time from today to the State living wage case. Consequently all other questions before the court will have to wait until that case is concluded. As the living wage inquiry will occupy some weeks, is the Government in a position to make the appointment in the near future? If it has not reached a decision will it expedite consideration of the matter and have the appointment made as soon as possible?

The Hon. C. D. ROWE—The Government has decided to appoint a Deputy President and is most anxious that the most suitable applicant shall be appointed. The matter is having my constant attention and the appointment will be made as soon as possible, but I cannot say that it will be in the very near future.

RAILWAY ACCIDENTS.

The Hon. K. E. J. BARDOLPH—At the last sitting of this Council several questions were asked of the Minister of Railways in connection with recent accidents. Has the Minister, in fulfilment of the promise he made to this Council, a report to submit this afternoon?

The Hon. N. L. JUDE—I thought I made it quite clear that I did not consider it necessarily my duty to present any specific railways report on the matter. However, a report is available and I will let the honourable member peruse it if he wishes.

REMISSION OF COUNCIL RATES.

The Hon. F. J. CONDON—In connection with the Local Government Act Amendment Bill will the Government consider giving councils power to remit rates in necessitous cases?

The Hon. N. L. JUDE—This matter was considered last year by Cabinet when considering the Local Government Bill for submission to Parliament, and it will receive the same consideration if the Government intends to reopen the Act this year.

LEAVE OF ABSENCE: HON. C. R. CUDMORE.

The Hon. E. ANTHONEY—I move—

That one month's leave of absence be granted to the Hon. C. R. Cudmore on account of ill-health.

I am sure that members all regret the circumstances that necessitate this motion, and that they all express the hope that Mr. Cudmore will soon be restored to health and able to return to his Parliamentary duties.

Motion carried.

HEALTH ACT AMENDMENT BILL.

The Hon. Sir LYELL McEWIN (Minister of Health), having obtained leave, introduced a Bill for an Act to amend the Health Act, 1935-1955. Read a first time.

STAMP DUTIES ACT AMENDMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time.

The Bill gives effect to the proposal of the Government that the stamp duty on cheques shall be increased from 2d. to 3d. This increase is one of the several measures proposed by the Government in order to keep its deficit within manageable limits. It is estimated that it will produce £105,000 in a full year and about £80,000 during the remainder of the current financial year. The explanation of the clauses of the Bill is as follows:—

Clause 3 makes a consequential amendment by which a reference in the principle Act to a duty of 2d. is altered to a duty of 3d. Clause 4 alters the line in the Schedule to the principal Act fixing the duty on "bills of exchange, cheques, orders payable on demand, coupons or interest warrants." These documents are all chargeable with duty at the rate of 2d. at present, and the amendment raises the rate to 3d.

Clause 5 provides that the Act will apply to all cheques and other like documents drawn or made after December 3, 1956. This day has been selected after consultation with interested parties in order to give the Government, the banks and the public sufficient time to alter cheque forms and print and distribute the stamps which will be required. Clause 6 deals with an administrative matter. Under the present law the Commissioner of Stamps is not allowed to impress a document with a stamp unless the amount of the duty represented by such stamp is first paid to him in cash. However, to bring the new rate of duty into force as proposed in this Bill it will be necessary immediately to impress a penny stamp on a very large number of duty paid cheque forms held by the banks on which the duty would not normally be paid until after the books had been issued to customers. It is therefore desirable that the Commissioner of Stamps should be authorized to place impressed stamps on these forms and collect the duty represented by such stamps subsequently at the time when the duty on the cheques would normally become payable.

In the opposite direction, some of the banks concerned are not prepared to have cheque books impressed until it is known that this legislation has been approved by Parliament, so it is desirable that we deal with it quickly so as to give a longer time to facilitate this work. We had the previous experience of imposing an additional 1d. tax on cheques, and found it a cumbersome affair. I commend the Bill for the consideration of members in view of the need for increased revenue.

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

WATERWORKS ACT AMENDMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time.

The object of this Bill is to remove limits fixed by the principal Act on the minimum water rates which may be charged under the Act. At present the principal Act enables the Minister of Works to fix minimum water rates, but provides that the Minister may not fix a minimum rate in excess of 5s. for vacant land to which water is not laid, and 15s. for other land. These limits were fixed in 1932. They are no longer appropriate. Since 1932 the cost of supplying water has been increased greatly by general increases in costs and the cost of pumping water from the River Murray.

There have been many examples in recent years where the laying of a water main has increased the value of vacant land tenfold. It is felt that those who benefit from such enhancement should contribute more towards making the supply available, especially when the average cost nowadays of laying a main past a vacant block is approximately £50. Also a minimum rate of 15s. where a property is connected to a main is not in proportion to the value of the water supply to the owner of the property.

In the circumstances, the Government has decided to remove the limits fixed by the principal Act, and to leave the amounts of minimum rates to be fixed by the Minister. As the Minister has under the principal Act an unfettered discretion in fixing ordinary water rates, it is reasonable that he should also fix the minimum rates at such amounts as appear appropriate. It may be mentioned that there is no limit under the Sewerage Act on the minimum rates which the Minister may fix for the Adelaide drainage area, so that this Bill will give the Minister similar powers to those he exercises under the Sewerage Act. The Bill will not affect rates payable during the present financial year, but will apply to rates payable in succeeding years.

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

HOUSING AGREEMENT BILL.

Second reading.

The Hon. Sir LYELL McEWIN (Chief Secretary)—I move—

That this Bill be now read a second time.

The purpose of this Bill is to authorize the State to be a party to the Housing Agreement which has been proposed by the Commonwealth after a certain degree of consultation with the States. The authority to execute the agreement on behalf of the State is contained in clause 2, whilst the agreement itself is set out as a schedule to the Bill. The agreement has been approved by the Commonwealth Parliament in the Housing Agreement Act, 1956, of the Commonwealth. During the past 10 years, Commonwealth assistance for housing has been provided under the Commonwealth and State Housing Agreement. The term of that agreement has expired and the present agreement now contains the terms upon which the Commonwealth is prepared to assist the States in the housing field.

The new agreement is to continue for five financial years, including the present year, and it provides that the old agreement, although it expired earlier, is to have operation up to June 30, 1956, after which date the new agreement comes into force. The new agreement is drafted on the basis that it will be entered into by the Commonwealth and all the States. However, if any State or States abstain from executing the agreement, it will operate between the Commonwealth and those States which do execute the agreement. The agreement provides that, during the five financial years of its operation, the Commonwealth will make advances to each State for the purposes of the agreement. The amount to be allocated to a State is to be that agreed upon between the Commonwealth and the State or, failing agreement, to be such sum as may be allocated by the Commonwealth from loan funds made available to the Commonwealth by the Loan Council under the loan programme for that year.

Under the Financial Agreement the Commonwealth can, if it so requires, take for its use a proportion of the loan moneys raised for any financial year. The effect of the agreement is that the housing loans made by the Commonwealth will come from the amount of the loan money which the Commonwealth could take in the particular financial year. The amount advanced to a State in any financial year is to be divided into two parts. One part is to be used for the erection of dwellings by the State, and the other part is to be used for the financing of home builders and paid into a fund called the Home Builders' Account. During the first two years of the agreement, 20 per centum of the State's advance is to be paid into the Home Builders' Account, whilst during the last three years of the agreement, 30 per cent is to be so paid.

A full explanation of the provisions relating to the Home Builders' Account will be given later, but it will be seen that, assuming the amount allocated to the State remains constant, there will, of necessity, be a diminution of the funds available for rental housing. During recent financial years the State has received £3,600,000 under the Commonwealth and State Housing Agreement and this amount has been utilized by the South Australian Housing Trust in its programme of rental houses. For the current financial year the same amount, namely, £3,600,000, has been allocated, but of this 20 per cent, namely, £720,000, is to go into the Home Builders' Account. In the last three years of the agreement, the amount to be paid into the Home Builders' Account, based on a total allocation of £3,600,000, will be £1,080,000. This diversion of funds from the rental programme must, of course, bring about a reduction in the number of rental houses which can be built. However, it is hoped that the Housing Trust will be able to expand its house sales programme and keep its total production of houses at a rate more or less equivalent to its present rate of production.

The agreement provides that during the first two years of the agreement interest is to be paid by the States at the long term bond

rate less ¾ per cent, if the long terms bond rate does not exceed 4½ per cent and less 1 per cent if the long term bond rate exceeds 4½ per cent. Thus, at the present long term bond rate of 5 per cent, the interest rate under the agreement for this and the next financial year will be 4 per cent. For the last three years of the agreement the interest rate is to be that agreed between the Commonwealth and the States or, failing agreement, at the rate fixed by the Treasurer of the Commonwealth, but it is not to exceed the long term bond rate less ¾ per cent.

The interest rate charged by the Commonwealth under the old agreement was 3 per cent. It is obvious that the increase in the interest rate must substantially affect rents to be charged for houses built under the agreement. If a house is built costing £2,500, an amount of £25 a year must be included in the rent to meet the increase in interest charges from 3 per cent to 4 per cent. However, the alternative to loan money under the agreement at 4 per cent is loan money raised at the long term bond rate of 5 per cent and, without any doubt, 4 per cent money is to be preferred to 5 per cent money. Advances to the States are to be repaid to the Commonwealth over 53 years by instalments of principal and interest. Thus, the repayment of these advances does not come within the scope of the Financial Agreement, and the Commonwealth escapes the obligation imposed by the Financial Agreement of providing a sinking fund contribution of 5s. per cent. However, this method of repayment of housing loans by the States also applied under the old agreement.

The agreement goes on to provide that the State may use for the erection of dwelling that part of its annual advance which is not committed to the Home Builders' account. Certain restrictions are placed upon the State. Whilst flats may be erected, they must not exceed three storeys in height except by agreement between the Commonwealth and the State. Land resumed by the State is to be acquired on just terms. This provision has no application to South Australia as the Housing Trust has no power of compulsory acquisition. Money advanced under the agreement is not to be used for shops or works other than those required for the erection of dwellings, or for purposes such as water or electricity supply, normally the function of public utilities.

The Commonwealth has also imposed the condition that, of the total houses in the annual programme, 5 per cent are to be allotted for the accommodation of serving members of the navy, army or air force. However, the Commonwealth is to advance an amount equal to one-half the cost of these houses, which is to be applied for the purposes of further houses for serving members of the forces. It follows, that, if the annual programme otherwise provides for 1,000 houses, the forces may take up to 100 for their members, but the Commonwealth is to make an additional loan equivalent to the cost of 50 houses, thus expanding the total programme to 1,050 houses, of which 100 go to the forces. It is expected that, during the present financial year, at least 80 houses will be bespoken by the services.

The reason for this provision is that the forces are finding lack of housing for serving members a great detriment to recruitment. It is common for members of the forces to be transferred from one place to another, and a serviceman who applies for a house to a housing authority often finds that by the time he has seniority on the applicants' list to justify the allotment of a house to him, he has been moved to another State. This disability of servicemen has for same time been recognized in South Australia and it has been the practice of the Housing Trust to allot houses to servicemen taking into account the fact that they cannot, by the force of circumstances, attain the seniority required from other applicants. Thus, this provision of the agreement will not affect the South Australian position materially and, I may mention, in this State the view has been taken that the housing of these servicemen is a responsibility to be undertaken.

The agreement provides that these houses for servicemen may, at the option of the State, be let to the Commonwealth and by the Commonwealth to the servicemen, or be let direct by the State to the servicemen. In this State it has been decided that the Housing Trust will let its houses directly to the servicemen and preserve its direct relation of landlord and tenant. The agreement, as did the old agreement, provides that, in letting houses, there is to be a preference to ex-servicemen. This, of course, accords with the practice followed by the Housing Trust for many years. It is provided that a State may, on such terms as it thinks fit, sell houses built by it. It is provided that where a purchaser purchases under the Commonwealth War Service Homes Act the purchase price is, in effect, not to be paid to the State but the loan indebtedness of the State is to be reduced by its amount. A provision similar to this was included in the old agreement.

The last provision of the agreement relates to the Home Builders' Account into which, as previously mentioned, is to be paid 20 per cent of the total loan allocation to the State during the first two years of the agreement and 30 per cent during the last three years. The money in the Home Builders' Account is to be applied by the State in making advances to building societies and other institutions approved by the Commonwealth Minister. The details of the scheme are left to be worked out between the Commonwealth and the particular State. This comes about from the different circumstances arising in the different States. In some of the Eastern States, the building society movement is very strong and plays a leading part in financing home building. There is a great number of societies, many being terminating societies and they have been used to a great degree as the channel through which finance is made available to home purchasers and home builders.

In South Australia, however, the number of building societies is small. They are permanent societies and, in most cases, they have been established for very many years. The general principle upon which they operate is that the loans they make are almost entirely provided from funds created by the savings of their members. Thus, whilst the building societies in this State have operated efficiently and with considerable benefit to many, the provision of finance for home building has been made predominantly through other channels. Government assistance for home purchase has been made through the operation of the State Bank and the Housing Trust and by means of guarantees provided under the Homes Act. Very large sums have also been lent on mortgage by the Savings Bank, the Commonwealth Savings Bank and the Superannuation Board. Consequently, under the arrangements to apply in South Australia, the Commonwealth has recognized the conditions obtaining in South Australia and has approved of the building societies mentioned in the Homes Act and the State Bank as institutions to which loans may be made.

The Commonwealth arrangement is that the advances to building societies are to be limited to one-third of the mortgage loans made in the previous year from their funds, exclusive of loans made from advances from the Home Builders' Account. On present scale operations of the building societies, they would be entitled to take up advances to approximately £120,000 a year. A further amount of £100,000 a year is to be held in reserve for any other building societies which may be formed and approved but, if not taken up, this and any amounts not taken up by the existing societies will go to the State Bank as will the balance remaining in the Home Builders' Account.

The terms of the arrangement are to the effect that advances to building societies and other institutions are to be made at an interest rate not exceeding ¾ per cent more than the agreement rate of interest, that is, 4¾ per cent at present. The advances are to be repayable in instalments over a period not exceeding 31 years. Repayments of these advances are paid into the Home Builders' Account which will, accordingly, operate as a revolving fund. The societies and institutions are to use their advances for mortgage loans which can be up to 90 per cent of the value of the security but are to have terms not exceeding 31 years. The rate of interest on these mortgage loans is not to exceed 1½ per cent more than the agreement rate of interest, that is, 5½ per cent at present. The mortgage loans are to be made on new dwellings to the extent of at least 80 per cent of the funds available. Other matters, such as the maximum mortgage loan and the security to be given to the State by societies and other conditions relating to mortgage loans are left to the State.

Clause 3 provides authority to the Treasurer to make loans from the Home Builders' Account to building societies and other approved institutions, and authorizes those societies and institutions to accept these advances. Clause 4 authorizes the Treasurer to make advances to the Housing Trust of the part of the sums advanced to the State by the Commonwealth which are not to be paid into the Home Builders' Account, that is, the moneys which will be used by the Trust in its ordinary rental housing programme. In addition, clause 4 authorizes the Treasurer to make the payments to the Commonwealth which are required to be made both under the present Housing Agreement and the old Commonwealth and State Housing Agreement. These payments to the Commonwealth are to be made by the Treasurer from repayments made to him by the Housing Trust or from the moneys in the Home Builders' Account.

Thus, the effect of clause 4 is to give standing authority to the Treasurer to pay to the Housing Trust the amount which, under the agreement, is contemplated to be used by the Trust for its housing programme. Clause 3 already provides authority for the Treasurer to make advances from the Home Builders'

Account to building societies and other institutions. In addition, clause 4 gives standing authority for the Treasurer to meet the obligations imposed on the State to make payments of principal and interest to the Commonwealth under both the new and the old agreements. These obligations are to be met from the repayments from the Housing Trust and from similar credits in the Home Builders' Account.

In the past, the formal authority for these purposes has been given in the Public Purposes Loan Act. It is considered that it is more appropriate for this authority to be provided in the Bill which creates the liabilities. Thus, the general effect of the agreement is that the Commonwealth undertakes to provide loan money for housing at a rate of interest lower than the long term bond rate. The greater part of the money so advanced will be available for State housing whilst a proportion is to be set aside for housing loans. Whilst in some respects the agreement is not entirely suited to South Australian requirements, it will provide some substantial advantages and the Government is of opinion that it will be of benefit to the State to become a party to the agreement.

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

LAW OF PROPERTY ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 18. Page 579.)

The Hon. C. D. ROWE (Attorney-General)—There was only one point raised during the second reading debate on this Bill to which I think I should reply, and that is the point raised by Sir Arthur Rymill as to whether the Bill should apply to an appointment which has been made by deed before the passing of the Bill and which has not yet come into effect. The Bill at present applies to any appointment made after the passing of the Bill and any appointment made under a will executed before the passing of the Bill if the testator dies after the passing of the Bill. The honourable member argues that if an appointment made by will before the passing of the Bill is to be so validated, it would be reasonable to validate an appointment made by deed before the passing of the Bill where the appointment has not yet come into effect. I am of opinion that there is a substantial difference in principle between interfering with an appointment made by will where the testator is not yet dead and an appointment made by deed in the circumstances mentioned by the honourable member. A will before the death of the testator does not take effect in any way. An appointment by deed, however, if it does not vest property in possession immediately it is executed, does, nevertheless, immediately confer a vested or contingent interest on some person. To some extent, at least, it takes effect immediately. I do not think that the Government should interfere with such existing dispositions of property—even if invalid, as in the case suggested by the honourable member—unless it is certain that there will be no unjust or unexpected result.

Careful consideration was given during the preparation of this Bill to the question how far, if at all, it could safely be made retrospective, and the point raised by the honourable member was considered. The scheme adopted in the Bill represented the limit to which it was clear that the Bill could safely be made retrospective. I point out that no attempt was made when this legislation was first adopted in England to make it apply to appointments which had already been made. Indeed, the legislation was not even made applicable to previously executed wills in the manner provided by the Bill. I have conferred with the Parliamentary Draftsman and he feels that there is not sufficient evidence to show that the suggested amendment would not, in some circumstances, work an injustice and therefore I feel that on balance it would be wise to leave the Bill in its present form.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (MOTOR PARKING).

In Committee.

(Continued from September 19. Page 634.)

Clause 2 "Enactment of Part XXIIIA of principal Act."

The Hon. K. E. J. BARDOLPH—I move:—

Before paragraph (*a*) of new section 475b insert the following paragraph—

(aa) be submitted to the Joint Committee on Subordinate Legislation for consideration.

The purport of my amendment is to place in the hands of the Subordinate Legislation Committee the power which, if the Bill is passed in its present form, will be conferred on the Adelaide City Council. As the Bill stands these regulations could be in operation for nine or 12 months if Parliament was not called

together. Even then it would be an outside body submitting a by-law to Parliament. The Subordinate Legislation Committee was set up to do the very thing that the Minister is suggesting should be taken from Parliament.

The Hon. Sir Lyell McEwin—Do you mean that it has power to disallow?

The Hon. K. E. J. BARDOLPH—The amendment will give it the power contained in this Bill. It will submit reports to Parliament and Parliament can allow or disallow the regulations. It is much better to give that power to a Committee of Parliament than to an outside body not responsible to Parliament; that is the kernel of my amendment.

The Hon. Sir Lyell McEwin—How is the by-law promulgated in the first place?

The Hon. K. E. J. BARDOLPH—By the council. The Subordinate Legislation Committee will not institute regulations, but the regulations will be submitted to it.

The Hon. Sir Lyell McEwin—Before going to the Governor?

The Hon. K. E. J. BARDOLPH—Yes, and it can either endorse or reject the by-law.

The Hon. Sir Arthur Rymill—In other words, it could prevent its coming before Parliament.

The Hon. K. E. J. BARDOLPH—No, it must submit a report to Parliament.

The Hon. Sir Lyell McEwin—You want it to replace Cabinet?

The Hon. K. E. J. BARDOLPH—I do not want to take any executive power away from the Minister; indeed, I would give him more. All I desire is to retain to Parliament the powers at present proposed to be given to the Adelaide City Council.

The Hon. N. L. JUDE (Minister of Local Government)—I am somewhat surprised that the honourable member should try to take away some of the powers of Parliament and vest them in the Subordinate Legislation Committee. He is virtually giving the Subordinate Legislation Committee the power of veto. A by-law may be submitted to the Governor only after it is approved by the Subordinate Legislation Committee not Parliament. I am certain that this Committee will not agree to that and I ask members not to support the amendment.

The Hon. F. J. CONDON—When speaking on the second reading I raised my objection to handing over the powers of Parliament to any other body, and it was generally admitted that I was correct. Every other council has to submit by-laws to Parliament before they can come into operation, but here it is proposed to delegate powers to the Adelaide City Council to introduce by-laws and do what they like. Perhaps six months later it will be submitted to Parliament after the Council has incurred considerable expense in erecting meters and in other costs. Parliament might turn around and say that because the council has gone to this expense it has to be supported. Sir Arthur Rymill was reported in the press as having said at the Adelaide City Council that he was opposed to placing the council's administrative staff in the hands of the proposed Taxi Control Board. He said that this was an entirely new principle, and could mean that the town clerk and his staff could be under the direct control of an outside authority. That is what this Bill will do, and it is not consistent. I would rather oppose the third reading than agree to hand over Parliament's powers to outside bodies.

The Hon. S. C. BEVAN—I support the amendment. Powers will be delegated, not only to the Adelaide City Council, but to other municipal bodies. If we delegate powers we might as well close Parliament and allow those bodies to make all their own laws. The amendment only asks that this Bill shall contain the same provisions relating to by-laws as the rest of the Act. I do not see any reason for a departure from that principle of the Act. It is ridiculous to suggest that this amendment is an attempt to by-pass Cabinet or the Subordinate Legislation Committee.

The Hon. Sir ARTHUR RYMILL—As the Bill is at present drawn, it will ensure that the proposed by-laws come before this Parliament at some time or another. It provides that the by-law can come into operation when passed by the council concerned, but must come before us for review. The amendment provides that if the Subordinate Legislation Committee vetoes any Bill it will not come before us, which means that the duties of Parliament would be handed over to that committee. The amendment defeats the very thing Mr. Bardolph wants to strengthen.

The Hon. K. E. J. BARDOLPH—The Minister's remarks show that he has not studied the amendment, which provides that, irrespective of what the report of the committee is, the matter must come before Parliament. I want the committee set up by Parliament to consider whether it accepts the recommendations of councils, not an outside body to do these things.

The Hon. E. ANTHONEY—The only difference between this and any other provision is that these by-laws will come before us in the same way as regulations. However, they will still have to come before Parliament.

The Hon. K. E. J. Bardolph—They will not.

The Hon. E. ANTHONEY—They will, just like every other regulation.

The Hon. A. J. SHARD—Parliament would be taking a retrograde step if it delegated its powers to an outside body. There is no reason why the Adelaide City Council should be given any preference in this matter. That or any other council could make a by-law that could be totally unacceptable to the community yet could be in operation for eight or nine months before Parliament had the right to consider it. From my short experience on the Subordinate Legislation Committee I have good reasons for doubting the wisdom of delegating powers. One council has been seeking to introduce a by-law, but the committee's view has been quite different from that of the council. If that council had power to make a by-law it would be now in operation. In the present matter we could have a repetition of the mistake the city council made in relation to one-way traffic in Rundle and Hindley Streets.

The Hon. N. L. JUDE—I was somewhat surprised that the Leader of the Opposition led his colleagues up a lane. He got right away from the amendment when he spoke on whether he would or would not have by-laws reviewed by Parliament before enactment by the City Council. That is not the point of the amendment at all; it is to place this matter firstly before the Subordinate Legislation Committee. If that committee wishes to throw it out, the matter would not come before us, because the committee would have the power of veto. Mr. Bevan said that the by-law could become law without being referred to the Subordinate Legislation Committee, but I point out that this matter is regulated by Standing Orders, which state that:—

It shall be the duty of the committee to consider all regulations. If the regulations are made whilst Parliament is in session, the committee shall consider the regulations before the end of the period during which any motion for disallowance of those regulations may be moved in either House. If the regulations are made whilst Parliament is not in session, the committee shall consider the regulations as soon as conveniently may be after the making thereof.

The Hon. S. C. Bevan—Do you mean that all these regulations have to come before us?

The Hon. N. L. JUDE—Yes.

The Hon. S. C. Bevan—Aren't you contradicting what you said in your second reading speech?

The Hon. N. L. JUDE—The honourable member evidently misunderstood the position. In the second reading speech I said that this was a matter of urgency. There is no suggestion that the by-laws will not come before the House in due course, but occasionally there might be a slight lag and they would be inoperative for a little time. Would it be reasonable to expect the council to make by-laws that might not have a minute's life? The point laboured by the Opposition is that this matter will not come before the House at all. I am positive that honourable members, jealous of the powers of this Council, would not allow the Subordinate Legislation Committee to have the power of veto without the matter first being referred to the Council. Therefore, I ask the Committee not to support the amendment.

The Hon. F. J. CONDON—I have been consistent in my attitude towards the position, and was supported by Sir Arthur Rymill. The Bill is different from anything we have done before, giving any council the right to introduce a by-law forthwith. I have never said that it would not come before Parliament, but my complaint was that it would come before Parliament six or eight months after it had been passed by the council. That is why I object to delegating powers to an outside body. It is a question of the rights and privileges of this Council. If members give this power away, they will regret it, because they will be voting powers to an outside body. Parliament is expected to rise early next month, and as soon as it did so the Adelaide City Council, for instance, could pass a by-law and do what it liked under the terms of the Bill, and we would probably be asked next June or July to agree to what it had done. Where have we done that before?

The Hon. N. L. Jude—In the Road Traffic Act.

The Hon. F. J. CONDON—We have not done anything similar before. We have always protected the interests of Parliament, but will not do so on this occasion unless the amendment is accepted.

The Hon. K. E. J. BARDOLPH—Section 675 of the Local Government Act provides that every by-law shall be laid before both Houses of Parliament, but it is very significant to read the powers given to municipal councils to make by-laws under new section 475a. New section 475b provides that every

by-law made under new section 475a shall, after it has been certified as provided by section 674 of the Act, be submitted to the Governor for confirmation. That section provides that every by-law shall, after being passed, be submitted to the Crown Solicitor for his opinion. If he is of opinion that it is within the competence of the council to make, and is not contrary to or inconsistent with the Act or the general law, he shall give a certificate accordingly, and unless a certificate is given the by-law shall not be laid before Parliament as provided by section 675. This section provides that every by-law shall be laid before both Houses of Parliament. I cannot understand the misconstruing of the points put forward by the Opposition, and the Minister opposing the amendment when he has full power under the sections of the Act I have read.

The Hon. Sir FRANK PERRY—The Bill gives a council authority to install parking meters. The only authority a council has is to decide the street in which meters shall be placed, their location, fix the charge, and the penalty. Having given a council that authority, we should at least have some trust in it to give effect to that authority. In guarding the rights of Parliament, the Government insists in the Bill that any by-law touching on the position must be approved by the Governor. I take it that it would first be examined by Cabinet before being sent to the Governor. The by-law would also have to be published in the *Government Gazette.* If the City Council, for instance, went against the wishes of Parliament in the matter, at its next sitting it would disallow the by-law.

The Hon. Sir ARTHUR RYMILL—I must refute Mr. Condon's assertion as to what I had said. What I did say about the provision was that it was unusual, but I never said it was unprecedented, because my knowledge does not extend so far. As the Minister has pointed out, I do not think it is without precedent. As to whether the powers should or should not be delegated to a council, or whether a by-law should or should not go before Parliament, I might point out that the Adelaide City Council has many powers similar to those mentioned in the clause which do not have to come before Parliament.

Under new section 475a a council has power to appoint meter zones in public streets. Under the present traffic by-law the City Council has power to appoint zones of various kinds without any reference to Parliament. This also applies to the fixing of fees and other things, so there is nothing unprecedented about it. The City Council and other councils no doubt have more extensive powers than the clause contemplates. Although it is unusual in its form, it is a proper one for the exercise of this type of power. If a council wants to place parking meters in its streets, and there is some urgency about it, it should not have to wait up to nine months before it can do it. I oppose the amendment.

The Hon. F. J. CONDON—I am not opposing the City Council introducing parking meters in its streets, but the introduction of a by-law without the authority of Parliament. If we are going to do it in this instance, we should not deny anyone else the right to do the same thing.

The Committee divided on the Hon. K. E. J. Bardolph's amendment.

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

Noes (14).—The Hons. E. Anthoney, J. L. S. Bice, J. L. Cowan, L. H. Densley, E. H. Edmonds, N. L. Jude (teller), Sir Lyell McEwin, A. J. Melrose, Sir Frank Perry, W. W. Robinson, C. D. Rowe, Sir Arthur Rymill, C. R. Story, and R. R. Wilson.

Majority of 10 for the Noes.

Amendment thus negatived.

The Hon. N. L. JUDE—I move—

In the first line of new section 475c (2) after "may" to insert "in pursuance of any such by-law."

The intention of this amendment is to make it quite clear that any resolution passed by the council shall refer to a specific by-law and not be general. It is therefore felt desirable to alter the wording to read:—

The council may, in pursuance of any such by-law, from time to time pass any such resolution.

It is a further clarification which I think members will desire.

The Hon. F. J. CONDON—Will councils need a two-thirds majority or an absolute majority to rescind a resolution?

The Hon. N. L. JUDE—A two-thirds majority.

Amendment carried.

The Hon. K. E. J. BARDOLPH—I move to insert the following subsection in new section 475g:—

(4) No such car park, parking station, garage or other place shall be constructed or provided in any parklands.

When this Bill was before us last week I said that I did not wish to cast any reflection on the Adelaide City Council or any other council in whom the control of parks and gardens is vested. I speak on a matter of principle, because I think that every member realizes there is a great responsibility on our subordinate bodies in this regard. I pay a compliment to members of councils. Their effort is voluntary, and they devote a lot of time and energy and give the community the benefit of their skill and training. I appreciate the actions of the Minister in accepting the Opposition's amendment on this occasion.

The Hon. E. ANTHONEY—I had an amendment on the file on similar lines to that of the honourable member and the Minister, and I am thoroughly in agreement with the principle stated by Mr. Bardolph.

The Hon. N. L. JUDE—As the Committee will have noticed, my amendment is very similar to Mr. Bardolph's and also to the one Mr. Anthoney had circulated. I feel that as they are all similar we can be gracious enough to accept Mr. Bardolph's amendment, but I would like the Committee to consider the addition of certain words at the end of it.

The Hon. Sir FRANK PERRY—Will the passing of this Act mean that the city council is precluded from making any car parks in the parklands? Parliament should not preclude that from being done. If we hope to develop or improve parking and transport facilities within our city we must make some use of our parklands for that purpose. That is being done on the banks of the River Torrens, where a garden or park is being developed and trees planted. It is a very great improvement in the area, and is used for the purpose of parking cars close to the Adelaide Oval and the tennis areas.

The Hon. N. L. JUDE—That is the reason for my indicated addition to Mr. Bardolph's amendment.

Paragraph (24) of section 669 gives municipal councils power to make by-laws for appointing any portion of any public street, road, or place, or parklands, reserve, or public square within the municipality to be used as a stand for vehicles. To clarify the position I indicate that I propose to move to amend the amendment by adding:—

Nothing in this subsection shall affect the powers of the council under paragraph 24 of section 669 of the Local Government Act.

The Hon. Sir ARTHUR RYMILL—Mr. Anthoney gave notice that he intended to move to insert at the end of new section 475g (1):—

But if any such car park, parking station, garage or place is provided on park lands no building shall be constructed in connection therewith.

I believe this would be acceptable to the Minister, and it seems to me to be a direct and simple way of saying what everyone in this Chamber wants to say. If Mr. Bardolph's amendment is carried, and we also have the extra words suggested by the Minister I know it would take me and others a long time to work out what the clause means. I would prefer to say straight out in precise words exactly what we mean. I know that the body that controls the parklands would welcome Mr. Anthoney's amendment, because it would be a protection for everyone for all time.

The Hon. N. L. JUDE—In view of the rather conflicting opinions on the verbiage of the amendments, I think it would be desirable for the three movers to confer. For that reason I move that progress be reported.

Progress reported; Committee to sit again.

ADJOURNMENT.

At 3.45 p.m. the Council adjourned until Wednesday, October 3, at 2 p.m.