

LEGISLATIVE COUNCIL.

Tuesday, February 12, 1957.

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

QUESTIONS.

JOINT COMMITTEE ON CONSOLIDATION BILLS.

The Hon. K. E. J. BARDOLPH—Prior to the adjournment before Christmas I asked the Attorney-General whether he would consider calling together the Joint Committee on Consolidation Bills. Has he done anything further in the matter?

The Hon. C. D. ROWE—It is having my consideration, but I am unable to make any further statement at this stage.

BRIDGE ACROSS THE RIVER MURRAY.

The Hon. C. R. STORY—Can the Minister of Local Government intimate the terms of reference to the Public Works Standing Committee concerning a bridge over the River Murray at some point?

The Hon. N. L. JUDE—The committee was asked to inquire and report upon the following questions:—

1. Whether it is expedient to construct a bridge across the River Murray at or near Blanchetown for the purpose of taking road traffic across the river.

2. If not, whether it is expedient that a bridge should be constructed at or near any place other than Blanchetown for the purpose of serving the same or substantially the same areas as the abovementioned bridge.

3. If the answer to question 1 or 2 is "yes" then—

(a) What is the most suitable site for such a bridge;

(b) What type of bridge is most suitable.

RAILWAY ACCIDENTS.

The Hon. K. E. J. BARDOLPH—What steps have been taken by the Railways Department to prevent the frequent occurrence of railway accidents, and has the Minister any report to make concerning the recent fatality on the Henley Beach line when a utility truck was smashed by a train?

The Hon. N. L. JUDE—Replying to the first part of the question, I point out that statistically South Australia is far more free of accidents than any other railway system in the Commonwealth, although that does not necessarily make for any virtue. From time to time I have given what I think were adequate explanations of the various accidents

that have occurred, including the three in the former part of the session. As regards the latter part of the question, so far I have had no report as it takes a few days to reach me, but it is quite obvious that the traffic lights were in full working order and that other people observed them. Why this particular unfortunate person chose to drive over the crossing I do not know.

AMENDMENT OF COMMONWEALTH CONSTITUTION.

The Hon. C. R. CUDMORE (on notice)—Will the South Australian Government take the initiative in calling an early conference or convention of representatives (Parliamentary and otherwise) of the States only, without the Commonwealth, in order to attempt to reach agreement on what alterations to the Australian Constitution the States as a whole consider desirable and will support?

The Hon. C. D. ROWE—The matter will receive consideration.

LOCAL GOVERNMENT ACT AMENDMENT BILL (MOTOR PARKING).

Returned from the House of Assembly with the following amendments:—

No. 1 (Clause 2, new Section 475). At the end of paragraphs (c) insert "and may, if the Governor thinks proper, be confirmed by the Governor."

No. 2 (Clause 2, new Section 475b). At the end of new subsection 475b insert the following new subsection:—

(5) Notwithstanding subsections (1) to (4) inclusive of this section, when the council first makes by-laws under section 475a in pursuance of the powers conferred by paragraph III or paragraph V of section 475a then the provisions of subsections (1) to (4) inclusive of this section shall not apply with respect to such by-laws but, whether the by-laws contain in addition, provisions made in pursuance of paragraphs I, II or IV of section 475a or otherwise, the provisions of section 675 and the other provisions of Division I of Part XXXIX shall apply with respect to the by-laws. The Provisions of subsections (1) to (4) inclusive of this section shall, however apply to all subsequent by-laws made by the council under section 475a.

No. 3 (Clause 3, new Section 475g). Strike out subsection (4) of new section 475g and insert in lieu thereof the following new subsection—

(4) This section shall not authorize the council to construct or provide on any parklands any garage, building of any kind, petrol pump or similar structure or to enclose any parklands so as to prevent access thereto by the public.

Consideration in Committee.

Amendment No. 1.

The Hon. N. L. JUDE (Minister of Local Government)—A casual reading of the section in the Act leads people on occasions to believe that when a by-law under the Act is submitted to the Governor for confirmation he has no discretion but to confirm it, and because of that view the amendment makes it clear that when a by-law is submitted to the Governor he will have a discretion as to whether it is to be confirmed or not.

The Hon. Sir ARTHUR RYMILL—I believe that this matter was the subject of an eminent legal opinion, and that opinion was that it was all right in the respect to which the Minister referred, but that it was still desired that the matter should be clarified. I am all for clarification, although I must say that I agree with the legal opinion expressed, because I doubt whether a Bill in general terms like this one could take away the constitutional discretion which the Governor is allowed to exercise. I believe that what is proposed now was intended by the Council in the first place, and I therefore support it.

Amendment agreed to.

Amendment No. 2.

The Hon. N. L. JUDE—The ordinary rule relating to by-laws is that they must be tabled for 14 sitting days in Parliament before coming into force. New section 475b provides that, as far as parking meter by-laws are concerned, the rule to be followed is to be that provided in the Acts Interpretation Act for regulations generally, namely, that the regulations come into force on making but are subject to disallowance within 14 sitting days after they are tabled in Parliament.

The amendment proposes a compromise. It provides that the first by-laws made by any municipal council relating to parking meter fees or penalties for offences are to be subject to the ordinary rule for council by-laws, that is, they will not come into force until they have been tabled for 14 sitting days. As regards subsequent by-laws the amendment provides that the provisions now in the Bill will apply, namely, the by-laws will come into force on making but be subject to disallowance within 14 sitting days.

The effect of the amendment is that, if a council wishes to install parking meters, it must make its by-laws setting out the fees to be paid and the fines which may be imposed and must, in effect, obtain Parliamentary approval to its by-laws before it can commence to implement them. It can be expected

that the first by-laws will set the pattern for the council and that subsequent revisions of the by-laws will be such that it will be sufficient if the by-laws are subject to disallowance by Parliament to the same degree as regulations are. I commend the amendment to honourable members.

The Hon. F. J. CONDON (Leader of the Opposition)—The Council should have agreed to what the Opposition submitted when the Bill was before it. The amendment does not go far enough and will leave the position open to the things we complained about earlier. We took the stand that Parliament was handing over to councils certain powers which none else had, and we thought that the usual procedure should be followed and that all regulations should first be approved by Parliament. Under the amendment Parliament will have a grip on councils in the first place, but thereafter they will be able to do what they like.

The Hon. E. ANTHONY—The first by-laws will have to come before the House in the ordinary way. When a municipal body installs parking meters it will have to make certain charges, and if Parliament is not in session it would be held up for months before a by-law could be made. When a regulation is made it comes into force straight away, but is still subject to disallowance by Parliament. I cannot see any harm in that; it facilitates councils in carrying out this important work.

The Hon. Sir ARTHUR RYMILL—This amendment alters only portion of the Bill as passed by this Council originally in respect of the first by-laws made by councils, and after that the new procedure will obtain. Mr. Condon opposed this procedure altogether, but he went a good deal further than his colleagues in the House of Assembly suggested. This procedure is a good and proper one because under the present method a council could well be held up for nine to 12 months before introducing some desirable change. I think the by-law passing power as originally passed by this House was a good one. This House is usually jealous about fees, but I feel that in the main councils can be trusted; nevertheless, the Government naturally wishes to keep a grip on such things, and I cannot see why it should not.

Under the Bill as passed by this House originally a council could have fixed fees and installed parking meters to charge those fees. Parliament might have seen fit to alter the fees and thus the meters would have had to be

altered at great expense. The procedure in the amendment is a good one because no council would make and act on far-reaching amendments that it felt Parliament would not accept. It would be asking for trouble if it did so, as it could involve itself in a great deal of expense. Will the Minister inform me whether the term "subsequent by-laws" in this new subsection includes an amendment to the first by-law?

The Hon. C. R. CUDMORE—This is the first time I have read this amendment and I immediately wrote after "subsequent by-laws" the words "or amendments to by-laws" because that seems to me to be obviously what was intended. Surely it was intended that in the matter of fees the general set-up should be in a form that everyone could have a look at, because alteration of fees is one of the things most likely to crop up. However, a council might cancel a by-law *in toto* and bring in another by-law, so it seems necessary that it be clarified.

The Hon. N. L. JUDE—Mr. Condon expressed some fear with regard to increased fees being subject to a somewhat lengthy delay before being dealt with or disallowed. His amendment drew the attention of Parliament to the fact that when by-laws are submitted to the Governor for confirmation it should not necessarily be taken for granted that they will go immediately before the Subordinate Legislation Committee in the usual manner. The Government's policy is to clarify that position by seeing that there will be a first look at a by-law before it enters the House if it is felt that the by-law departs from the intentions of Parliament. In answer to Sir Arthur Rymill and Mr. Cudmore, I say quite emphatically that the amendment refers to the subsequent by-laws, and there is not the slightest doubt in the opinion of the Government that any by-law—for instance, to raise a fee from 6d. to 1s.—would be a new by-law and subject to the consideration suggested by the amendment; in other words, it would have to be tabled.

The Hon. F. J. CONDON—What is being done now was to a certain extent proposed on a previous occasion. This amendment does not go far enough. When I moved an amendment to deal with this matter only Labor members supported it. We are still opposing this matter, although we accept the Assembly's amendment because it is an improvement to the Bill.

Amendment agreed to.

Amendment No. 3.

The Hon. N. L. JUDE—The new section authorizes a municipal council to establish, on land owned by the council or on land under its control, off-kerb parking facilities such as car parks, garages, etc. Subsection (4) of the new section provides that, if any such facilities are provided on parklands, no building or petrol pump is to be erected and the land is not to be enclosed so as to prevent access by the public. As drafted, this subsection is somewhat obscure. The amendment therefore proposes to substitute a new subsection which is expressed in clearer language but which is designed to achieve the same purpose. The subsection proposed to be substituted for the existing subsection provides that the section will not authorize the erection of any garage, building of any kind, petrol pump or similar structure on parklands or authorize the council to enclose parklands so as to prevent access by the public.

The intention is that parklands may be used for car parks only but that the council is not to erect on the parklands obstructions such as buildings, petrol pumps, etc. It is not a departure from the present Act to permit a municipal council to use portions of the parklands as car parks. Paragraph 24 of section 669 provides that a municipal council may make by-laws for such a purpose and may fix charges for the use of such car parks, and this power has been exercised by some councils.

I need only refer to the facilities provided at the Adelaide Oval and the Showgrounds on special occasions. I remind honourable members of the tremendous advantage which accrued when facilities were provided at the recent Olympic Games in Melbourne. This is virtually only a drafting amendment and I commend it to members.

The Hon. C. R. CUDMORE—Subsection (1) of new Section 475g says—

Any municipal council may construct and provide on land vested in or leased by or otherwise under the care, control, or management of the council, and may manage car parks, parking stations, garages and similar places . . .

There seems to be a complete contradiction in subsection (4) which reads:—

If any such car park, parking station, garage or other place is provided on parklands, the land comprised therein shall not be enclosed so as to prevent access by the public and no building, petrol pump, or similar structure shall be constructed in connection therewith,

I do not understand it.

The Hon. K. E. J. BARDOLPH—I agree with the point raised by Mr. Cudmore. Honourable members will recollect that when the

Bill was before this Council last year I had several amendments on the file, one of which in substance contained subsection (4), prohibiting the erection of buildings on parklands. It appears that subsection (1) has been nullified by the amendment, because members know that certain lands are vested in municipal authorities. The parklands for instance, are vested in the Adelaide City Council by an Act of Parliament. I agree with Sir Arthur Rymill that we should have clarification wherever necessary. I think this is very confusing, because section 475g quite definitely gives power to councils to provide car parks on land under their control. The Minister should obtain a proper opinion to enable us to determine the issue.

The Hon. Sir ARTHUR RYMILL—I agree with some of the views expressed. The matter should be clarified because it is some time since the Bill was debated in this Council. Mr. Bardolph moved the amendment which added subsection (4) to section 475g which it is now sought to amend. That subsection says this:—

If any such car park, parking station, garage or other place is provided on parklands, the land comprised therein shall not be enclosed so as to prevent access by the public and no building, petrol pump, or similar structure shall be constructed in connection therewith. The proposed amendment is to substitute the following:—

This section shall not authorize the council to construct or provide on any parklands any garage, building of any kind, petrol pump or similar structure, or to enclose any parklands so as to prevent access thereto by the public.

I may be pardoned for not understanding the difference, because I suggest that possibly no other member of this Council could tell me what the difference is. The Minister has said that it is a drafting amendment, but he has not told us what evil this new amendment sets out to cure. At a cursory glance I am afraid I cannot see the slightest difference from the existing subsection, but the matter is rather complicated and unless the Minister can clarify the position immediately progress should be reported.

The Hon. N. L. JUDE—I can well understand our legal friends making a point of this, and as a layman I agree that the verbiage may be somewhat confusing. In section 475g (1) there is no specific reference to parklands—and that is what the Committee has been so keen to protect—whereas the new section refers specifically to parklands. However, if the Committee is concerned about the verbiage

I am quite happy for the sitting to be suspended so that I can see if the matter can be further clarified.

Sitting suspended from 2.58 to 4.25 p.m.

The Hon. N. L. JUDE—As I said before, this is merely a drafting amendment. At least one part of the verbiage has been improved. The original subsection (4) provided:—

If any such car park, parking station, garage or other place is provided on parklands, the land comprised therein shall not be enclosed so as to prevent access by the public and no building, petrol pump, or similar structure shall be constructed in connection therewith.

The Parliamentary Draftsman points out that from his angle as a draftsman he found it was somewhat unsatisfactory. Although it provides "If any such garage is provided," the last two lines include "no building shall be constructed in connection therewith," implying that a garage has been constructed. The intention of the Council was that no building should be constructed on parklands or leased lands, and that is in direct contradiction of the original subsection. For that reason the Parliamentary Draftsman said that it could be improved. The amendment inserted by the House of Assembly read:—

(4) This section shall not authorize the council to construct or provide on any parklands any garage, building of any kind, petrol pump or similar structure or to enclose any parklands so as to prevent access thereto by the public.

Virtually, that was the amendment moved by Mr. Bardolph earlier in the session, and all the Government has done is to improve its verbiage. I therefore ask the Committee to accept the amendment.

The Hon. Sir ARTHUR RYMILL—I thank the Minister for his explanation, which makes it clear to me that the new wording has no implications. Apparently, there is the opinion that the new wording is an improvement in draftsmanship. I can see no difference. I support the amendment.

Amendment agreed to.

STATUTES AMENDMENT (PUBLIC SALARIES) BILL.

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

The Hon. C. D. ROWE (Minister of Industry)—I move—

That this Bill be now read a second time.

It provides for increases in the salaries of some public officers whose remuneration is fixed by Act of Parliament. Honourable

members are aware that on August 21 last year the Public Service Board made an award applying to public service salaries from £1,126 to £3,526, and prescribing a scale of general increases ranging from £10 to £350. The Government did not agree with the award and, as allowed by the Public Service Act, referred it back to the board for further consideration. The board, however, by a majority adhered to its previous decision and, in due course, the Government gazetted the award and is now paying the rates which it prescribes.

There are, however, four officers whose salaries are fixed by Statute and who cannot share in the general increase until the relevant Acts of Parliament are amended. These officers are the Agent-General, the Auditor-General, the Public Service Commissioner and the Commissioner of Police. Their salaries were last fixed in 1955. Since then there have been cost of living increases amounting to £26 a year and the general increases of last year which, in the case of the salaries of these officers, would amount to £350 a year—a total of £376. It is accordingly proposed in this Bill to increase the salaries of the officers whom I have named by

£376 a year each, as from July 1, 1956. Thus they will receive substantially similar treatment to that accorded to public servants who are governed by the board's award.

The Bill also contains a provision relating to the salaries of the Commissioner of Highways, the Railways Commissioner and the Deputy Commissioner of Police. The salaries of these officers are by law required to be fixed by the Governor and not the Public Service Board. The Government considers it just that they should now receive increases based on the last scale laid down by the board, with retrospective effect to July 1 last. In order to carry this proposal into effect, it is necessary to include in the Bill a special provision empowering the Governor to make retrospective alterations of these salaries. This provision is in clause 7. An appropriation of money for payment of arrears of salary under the Bill is made by clause 8.

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

Sitting suspended from 4.40 p.m. to 5.20 p.m.

ADJOURNMENT.

At 5.22 p.m. the Council adjourned until Wednesday, February 13, at 2.15 p.m.