LEGISLATIVE COUNCIL.

Wednesday, September 25, 1957.

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

QUESTION.

ACCIDENTS WITH SEMI-TRAILERS.

The Hon. K. E. J. BARDOLPH—Has the attention of the Minister of Roads been directed to the numerous accidents on our main highways caused by hauliers not having their loads or cargoes properly secured, and can he say what action, if any, the Government can take in order to protect the travelling public in this matter.

The Hon. N. L. JUDE—Legislation already exists which protects the public against loads falling off through not being properly secured. There are occasions on which loads might slip or cargoes move after even the most careful checking, due to unforeseen circumstances. I believe this occasionally occurs when drivers overshoot corners. I will bring the matter to the notice of the authorities who may perhaps be able to make a check on the position.

LEAVE OF ABSENCE: HON. E. H. EDMONDS.

The Hon. Sir FRANK PERRY moved—

That three weeks' leave of absence be granted to the Hon. E. H. Edmonds on account of ill-health.

Motion carried.

LONG SERVICE LEAVE BILL.

Adjourned debate on the motion of the Hon. C. D. Rowe (Attorney-General)—

That this Bill be now read a second time—which the Hon. F. J. Condon had moved to amend by deleting all the words after "be" with a view to inserting "withdrawn and redrafted to provide for three months' long service leave after ten years' continuous service."

(Continued from September 24. Page 750.)

The Hon. S. C. BEVAN (Central No. 1)—I oppose this measure and support the amendment moved by Mr. Condon. I oppose the Bill for several reasons, and it is hard to say which is the most vital. In the first place this measure belies its name as it is not long service legislation at all but merely provides for an additional week's annual leave, something that the trade union movement has been advocating for a long time. To forestall them we now have this piece of legislation which, to say the best for it, is close to a political three card trick and should enter into wedlock to obtain some semblance of respectability. I would like to traverse some recent history leading up to the introduction of this Bill. The eastern States had already passed legislation providing long service leave to all employees in those States, whether they were under the jurisdiction of the Commonwealth Court or the State tribunals. This legislation was not acceptable to the employers who considered the States had no jurisdiction over any employees working under an award of the Commonwealth Court and therefore appealed against the legislation to the High Court, which ruled that the legislation was valid. The employers then appealed to the Privy Council, still contending that the High Court was wrong in its judgment.

In the meantime the Trades and Labor Council in this State at a deputation to the Premier requested that he introduce legislation providing long service leave to all workers in South Australia. The Premier replied that he would await the outcome of the appeal to the Privy Council as it would be foolhardy to pass legislation if it were found that the State had not the jurisdiction over all the workers in the State. At that stage that was accepted by the Trade Union movement in this State. The Privy Council upheld the validity of the Victorian Act, giving among its reasons that the Commonwealth Government had not legislated for long service leave and that as the Arbitration Court had not determined the question the Victorian Act was valid in respect to those workers under Federal awards.

This does not mean that the Commonwealth Court has no jurisdiction in relation to long service leave in the future. In fact just the opposite obtains, and if the Commonwealth Court adjudicates on this question and includes provision for long service leave in Federal awards, these awards will then override State jurisdiction. It can be seen that the decision does not debar the Commonwealth Court from adjudicating on the question of long service leave at any time in the future. After the Privy Council gave its decision the Trades and Labor Council again requested the Premier to legislate for long service leave in this State providing for 13 weeks' leave after 10 years of continuous service with one employer, but failing consideration of this, at least employees in this State should be granted long service leave under the same conditions as the employees in the other States, as this would be a step in achieving uniform conditions throughout the Commonwealth.

Had the Premier acceded to this request he would have contributed largely to social progress and would have been particularly involved in achieving uniform and just long service leave throughout Australia. He stated that the matter would be referred to Cabinet and that the Trades and Labor Council would be notified later of the decision, which is the usual practice. Instead of this, however, the Premier's answer to the deputation was published in the press, something quite unprecedented in this State. Usually the Trades and Labor Council receives an official reply to requests of deputations, but on this occasion the first that the Labor movement heard about it was the report in the *Advertiser* that the Premier intended to introduce legislation for long service leave in the form of the Bill now before us. What has been the reaction to this so-called long service leave legislation? Very few persons outside of Government supporters desire it in its present form. The trade unions do not want it.

The Hon. Sir Frank Perry—There are quite a lot who do.

The Hon. S. C. BEVAN—Very few, and before I resume my seat I will attempt to prove the correctness of my statement.

The Hon. Sir Arthur Rymill—But they will take it if the Bill is passed.

The Hon. S. C. BEVAN—Will they have any alternative? The employers' reaction against it was to apply to the Commonwealth Court for an award governing long service leave, serving their log of claims on 22 registered unions, thereby purporting to create an interstate dispute.

The Hon. Sir Frank Perry—That was not done by South Australian employers.

The Hon. S. C. BEVAN—It was left to the employers of this State to institute proceedings in the Commonwealth Court.

The Hon. Sir Frank Perry—Not in the first instance.

The Hon. S. C. BEVAN—I say it was, and it was done on a national basis.

The Hon. Sir Frank Perry—That's it.

The Hon. S. C. BEVAN—But it was left to the South Australian employers to start it off.

The Hon. Sir Frank Perry—There was a lot of pressure before that happened.

The Hon. C. D. Rowe—No-one objects to an employer going to the court.

The Hon. S. C. BEVAN—No, but what I am pointing out is that there was no movement by any employers to approach the court prior to the introduction of this legislation. They certainly objected to the legislation in operation in other States because they considered that the State had no jurisdiction over any employer working under a Federal award. That was the basis of their appeals to both the High Court and the Privy Council, but both tribunals unheld the validity of the legislation on the grounds that the Commonwealth Government, through the Arbitration Court, had made a decision on this question.

As I have pointed out earlier, in the event of the Commonwealth Court determining long service leave the State Acts would become void in relation to those employees working under Federal awards, and because of the traditional opposition of the employers to the unions and the importance to the unions of the action of the employers the matter was referred to the A.C.T.U. by the unions concerned who from then on have acted on behalf of the trade unions.

Let us examine briefly the principal long service leave conditions under State legislation and the employers' log of claims. They are as follows:—

Legislative Entitlement—

(*a*) Thirteen weeks after each 20 years' service.
(*b*) Previous service retrospective for entitlement.
(*c*) Pro-rata leave granted after 10 years' service.
(*d*) Superannuation schemes must be proved more beneficial than long service leave.
(*e*) Absences through disputes not to break continuity of service.

Employers' Claim—

(*a*) Eight weeks after 25 years' service and no additional leave for further service.
(*b*) Service only retrospective from 1947.
(*c*) No pro-rata leave to be granted.
(*d*) Superannuation or insurance schemes to off-set any leave due.
(*e*) Any ban, strike or limitation of work, or any absence from work without permission from the employer to break continuity of service.

This attempt to deny unionists their entitlement as determined by the highest tribunal was coupled with a refusal to comply with the Privy Council decision. Such actions necessitated unions making moves by way of prosecution in Courts of Petty Session and, as in the Printing Trades case, the Court decided that workers under Federal Awards were entitled to long service leave enacted by State legislation. The matter was called before the Arbitration Commission on Thursday, July 11, 1957. The Commission was notified that the unions did not consider

they had been properly summoned to attend these proceedings and indicated they were attending entirely out of courtesy to the Commission. Further the attendance of the organizations did not indicate that they conceded an industrial dispute, within the meaning of the Constitution, existed between the unions and the employer organizations in respect to long service leave. These submissions raised doubts as to the jurisdiction of the Commission, and it was asked to rule—

(1) That these proceedings are not a hearing within the meaning of Regulation 25 and that the Union appearances are not representation within the meaning of section 61.

(2) That if a date is fixed for the hearing of the alleged dispute, the employer organizations shall serve on the Unions alleged to be parties to the alleged dispute copies of a summons substantially in accordance with Form 3.

(3) That at the hearing of the alleged dispute, the employee organizations alleged to be parties shall have the right to advance any argument or evidence as to why they should not be bound by any award in this matter.

The employer representatives at this proceeding indicated that the principle they desire to claim is that a Federal industry which is subject to a Federal Award should be regulated on a Federal basis, therefore there should be some uniform procedure, as far as the different industries permit, with regard to long service leave, in place of the different prescriptions applying in all six States. It was then submitted by the employers that the Commission should direct or indicate that it believes that under the Act the parties should confer in an endeavour to settle this matter. The employers, it was stated, were prepared to go into the conference room to negotiate on the basis that employees shall be entitled to 13 weeks' long service leave, or payment in lieu thereof, after 20 years' continuous service, whether before or after the commencement of the award; and also that employees who had completed 10 years, but less than 20 years' service shall, subject to appropriate safeguards for both employers and employees, be entitled to pro-rata leave if their employment is terminated in circumstances with regard to which the employers are prepared to confer with the unions.

The employers then submitted that where a State Act exists, they will meet the proposition of 13 weeks' long service leave, or payment in lieu thereof, after 20 years of service with the one employer, and that where no State Act exists, as in South Australia, the employers would want to confer with the unions as to how the question of past service should be cleared up. The President of the Commission then stated:—

The Commission reserves the right to the unions on the points raised by Mr. Deverall and adjourns these proceedings to a date to be fixed by the parties after consultation with me; such date not to be before September 16 next.

Even under the Commonwealth Arbitration Act, employers' representatives intimated to the unions that they were prepared to accept the principle of long service leave of 13 weeks after 20 years, with pro-rata leave after 10 years, and retrospectivity for the whole of the period.

Sir Frank Perry—But four States have that now.

The Hon. S. C. BEVAN—I admit that, but these other aspects come into it that tie up this State in these negotiations.

The Hon. Sir Frank Perry—But we have more influence with the A.C.T.U. than the unions.

The Hon. S. C. BEVAN—If you have it is time the unions did something about it. Of course, that is not correct; the employers have no influence with the A.C.T.U. They might have more influence than I have on a personal basis, because I am only an infinitesimal part of the A.C.T.U.

The Hon. Sir Arthur Rymill—You have less after yesterday, haven't you?

The Hon. S. C. BEVAN—No, I have more. On July 15, 1957, the employers submitted a memorandum to the unions as a basis of discussion as follows:—

(1) That employees shall be entitled to 13 weeks' long service leave or payment in lieu, after 20 years' continuous service with one employer, whether before or after the commencement of the award where State Acts exist, and where they do not, would be prepared to discuss the question of past service.

(2) That employees who have completed 10 years but less than 20 years' continuous service with one employer shall, subject to appropriate safeguards for both employers and employees, be entitled to *pro rata* leave if their employment be terminated in circumstances which justify *pro rata* payments with regard to which the applicants are prepared to confer with the unions.

It is obvious, of course, that by reason of the nature of the dispute and the date of service of the log, the application cannot affect the legal rights to which employees who, at the time the log was served, had completed 20 years' service, were entitled under any State Act.

The unions replied that they were prepared to confer on the subject matter of long service leave, but they did not accept such discussions

as being in any way part of an industrial dispute, or that any conclusions will be in settlement of an alleged dispute, nor are any prevailing long service leave rights to be restricted.

The conference was held in the Victorian Chamber of Manufactures board room on Wednesday, 14th August, where it was agreed that the employers would leave the question of whether any code agreed upon as a result of these discussions should be made a Federal award and the unions would set aside for purposes of these discussions consideration of their policy of State legislation and it conforming to any agreed code of long service leave.

The Hon. Sir Frank Perry—Are you trying to prove that is better than this Bill?

The Hon. S. C. BEVAN—It is a lot better, as I hope to prove during my address. I am pointing out the objections of the employers in this State to this legislation.

The Hon. C. D. Rowe—If this Government agreed to accept what the A.C.T.U. asked, you would not accept that. You cannot accept it.

The Hon. S. C. BEVAN—I do not agree that I cannot accept it, and I will try to prove that what the Labor Party believes in is 13 weeks' leave after 10 years, which this legislation should provide. Employers in South Australia have joined in these discussions, which are still proceeding, and are desirous of reaching agreement with the unions apparently on the same lines as the Victorian Act. Already agreements have been entered into between the unions and employers in this State on the basis of the Victorian Act, giving full continuity and retrospectivity of service. All that is necessary now is to have the agreements signed.

The Hon. Sir Arthur Rymill—For how much leave?

The Hon. S. C. BEVAN—Thirteen weeks, on the same basis as the Victorian Act. Agreement has been reached between the metal trades' employees, the British Tube Mills and Stewart and Lloyds Ltd. This Government has always prided itself on not lagging behind other States and having uniform legislation, yet when the Premier was asked to introduce uniform legislation in this matter he adopted a dog in the manger attitude. There is absolutely no uniformity in this matter. There are letters in existence that prove what I have been saying in relation to these negotiations, and if it had been possible for the representative of the A.C.T.U. and the Trades and Labor Council to meet employers, it is likely that total agreement would have been reached, at least in relation to the metal trades' employees.

The Hon. E. Anthoney—What made it impossible for them to meet?

The Hon. S. C. BEVAN—Last week the full interstate executive of the A.C.T.U. met, and this week the A.C.T.U. congress is in session. It was impossible to meet either last week or this week and that is why the parties did not meet. They were requested to meet last week. The only thing that has not given us absolute finality in this State to reach agreement on long service leave is the length of retrospective service.

The Hon. Sir Frank Perry—That applies to only a section of the community.

The Hon. S. C. BEVAN—It will be a big section of the community. The result is that we will have a half a dozen different long service leave conditions prevailing. When uniformity is reached on long service leave with employers under Federal jurisdiction approximately 50 per cent of employees in this State will be under it. There will be employees working under State awards under this Bill, and approximately 50 per cent of employees, those under Federal awards in this State, will operate under agreements reached by the unions themselves. There will be other employees where the unions and the employers themselves have reached agreement on long service leave, because they are hoping that their agreements will be exempt from this legislation. The result is that there will not be much uniformity in this State.

I have attempted to point out the reactions on a Federal basis to this legislation. Sir Frank Perry in his speech yesterday emphasized the benefits granted by the courts over the years and suggested that the unions should have applied to the courts for long service leave and the various Governments should not have interfered in industrial matters. The honourable member would be more interested in the Federal jurisdiction.

The Hon. Sir Frank Perry—I resent that.

The Hon. S. C. BEVAN—I do not want to be unfair, but what I said was in all sincerity. I meant to convey that the honourable member's industrial interests are under the jurisdiction of the Commonwealth Arbitration Court, and therefore his interest would be centered more on a Federal basis on this question than a State one. Naturally on an industrial basis the honourable member does not want this legislation. The metal trades industry does not want it, and that is why it is negotiating at the moment to finalize its agreements. That is what I attempted to

convey. The honourable member in his speech yesterday impressed me as being totally opposed to this Bill.

The Hon. Sir Frank Perry—You should read my speech again. Anyone who has examined this Bill must know that certain sections of the community will benefit.

The Hon. S. C. BEVAN—I do not deny that the honourable member said that this Bill benefited a considerable number of employees in this State. He went to some pains to say that even those who were not members of unions would be covered, and also laid considerable emphasis on the fact that it should not be a matter of State or even Federal legislation but should be determined by the Commonwealth or State industrial tribunals. When he made that statement it occurred to me that the unions should have approached the Commonwealth Arbitration Court for long service leave and not waited until the State had done something in the matter. After all, that was the tribunal they should have gone to. In actual fact, they did do this and the matter was adjudicated upon. In 1950 an award was made by a commissioner for long service leave in the milling industry. It only needs one employer, no matter how small, to raise an objection and he can lodge an appeal. There was a hullabaloo over that decision and it was claimed that the commissioner had overstepped his jurisdiction but the commissioner contended that he had every right to write long service leave into the Milling Award, and he did so.

One or two others went to the court, but with the amendment of the Commonwealth Act it was decided that the only authority that could deal with the matter was the Full Court of the Arbitration Court which today is known as the Arbitration Commission. One of the reasons given for the rejection of long service leave was that it was in fact a lessening of the standard hours and the court was not prepared to do this. The unions knew that it was useless going to the Commonwealth Arbitration Court as at present constituted, so they kept away from it. Surely anyone can grasp the significance of that. What are the unions to do about it? They kept away and waited until the States themselves took action in the matter.

If the employers were so anxious to go to the Commonwealth Arbitration Court they could have done so. They have traditional opposition to the unions and do not offer social reform, so they did not go to the Commonwealth Arbitration Court. When, however, they were faced with this legislation they went to the Commonwealth Arbitration Court and we have seen what has transpired. I suggest the right thing for the employers to do was to approach the industrial tribunal. If the States themselves have absolutely no rights in industrial legislation, under that argument our industrial legislation must go by the board, and the State Industrial Code and workmen's compensation must be rescinded. I suggest that the honourable member does not object to the Commonwealth Government legislating on industrial matters. This is about the only country in the world that enforces compulsory arbitration, and it is done per medium of Commonwealth legislation. Does the honourable member advocate that this Act also should be rescinded so as to allow a system of collective bargaining to operate as is the case in the U.S.A.?

The Hon. Sir Arthur Rymill—Do you think compulsory arbitration should be abolished?

The Hon. S. C. BEVAN—I am not advocating that, but Sir Frank Perry said yesterday that this should have gone to the court.

The Hon. Sir Frank Perry—I must have been very ambiguous in my statement if you thought that.

The Hon. S. C. BEVAN—The honourable member laid considerable emphasis on the fact that the State should not enter this field.

The Hon. Sir Frank Perry—State Parliaments should not, but the States could.

The Hon. S. C. BEVAN—What else does the honourable member think I am referring to?

The Hon. Sir Frank Perry—The State courts.

The Hon. S. C. BEVAN—I thought I made it clear that I was referring to State Parliaments.

The Hon. Sir Frank Perry—I said I preferred State courts to State Parliaments.

The Hon. S. C. BEVAN—We must be consistent. If the State Government does not legislate upon any industrial matter it should all go by the board.

The Hon. Sir Frank Perry—But they appoint the tribunals.

The Hon. S. C. BEVAN—Of course they do, and of course they introduce legislation dealing with industrial matters.

The Hon. F. J. Condon—Who gave employees 13 weeks after 10 years' service?

The Hon. S. C. BEVAN—The Governments themselves.

The Hon. C. D. Rowe—I do not think any one has done that.

The Hon. S. C. BEVAN—No? Don't public servants in this State get 13 weeks after 10 years' service? I turn now to some of the clauses in the Bill in order to bring under the notice of members reasons for some of the reactions that I have spoken of. The matter that I wish to refer to under clause 3 is also dealt with in clauses 10 and 11. Under clause 3 (1) there is a definition of "ordinary pay" and in subclause 2(a) we find:—

Where no ordinary time rate of pay is fixed . . . the ordinary time rate of pay shall be deemed to be the average weekly wage earned by him during the 12 months immediately before the commencement of the period of leave for which the worker is to be paid.

and under subclause (b):—

Where no normal weekly number of hours is fixed . . . the normal weekly number of hours of work shall be deemed to be the average number of weekly hours worked by him during the period referred to in paragraph (a).

Throughout the Bill we find the term "awards, determinations or registered agreements," so the Bill is apparently drafted on the basis of industrial awards, determinations or agreements. The term "ordinary pay" is used in clause 10, and clause 11 (1) states:—

Where an employer, as part of a workers' ordinary remuneration, provides for the worker or members of his family any benefits being board, sustenance, lodging or . . . the employer shall if the worker so requests continue to provide such benefits for the worker . . . during any period while the worker is on leave under this Act.

What happens in relation to his ordinary pay if the employee goes away for a week's holiday? A very considerable number of employees in South Australia have no award or determination, not because there is no union to cover their calling, but because the Industrial Code debars them, and they are under a contract of hiring. It is a common practice for an employer to contract with his employee to pay him so much a week plus keep. For example, £13 a week and board and lodging to the equivalent of £3, a total of £16 a week. When the time comes to take his long service leave what does he receive? The employer can say, "Your ordinary pay is £13 a week and that is all I will pay you" and there is nothing in this Bill to say that he cannot do it.

The Hon. Sir Arthur Rymill—Why not move an amendment?

The Hon. S. C. BEVAN—Employees of subsidized hospitals are excluded from obtaining an award or determination by the Industrial Code. A considerable number of them live in and in a number of cases when they go away on annual leave the only remuneration they are paid is the ordinary wage which they have been drawing week by week less their board and lodgings, and that is what would happen under this Bill.

The Hon. E. Anthoney—It would be easy to put that right by an amendment.

The Hon. S. C. BEVAN—It could be done. Attention was drawn to it in another place, but apparently an amendment was refused. Clause 6 deals with the right to long service leave. It defines the amount of long service leave an employee is entitled to, which is one week after seven consecutive years' service with the one employer and one week for each complete year thereafter. This principle is impossible in large industries, as the whole of an employer's establishment would be disrupted by a continuous absence of employees on leave. Further, the period of the leave conflicts with the principles already adopted by some employers and unions in this State, such as that in regard to all State Government employees who are entitled to 13 weeks after 10 years' service. This is the minimum in the Public Service, and it cannot be taken until an employee applies for it. Further accruing leave can only be taken because of invalidity or on reaching the retiring age.

Railway employees receive three months long service leave after 10 years' service with nine days for each year in excess of 10 years, with a maximum of 12 months. This is not a right of the employee, but a privilege granted, as the regulation says long service leave may be granted. This is held over the employees and if an employee is dismissed he can lose all his accumulated leave. The principle is definitely wrong as an employee, having qualified for his leave, should be granted same because he has earned it for service. Further this leave can only be taken on retirement despite the accumulation of leave unless there are circumstances such as illness where an employee has used up all his sick leave, or some approved absence, such as a trip overseas, whereby the Commissioner could grant a portion of long service leave to the employee.

Employees of local governing bodies have long service leave entitlements. The following is the provision relating to employees of country corporations and councils:—

(*a*) The employer shall grant to employees three calendar months' paid long service leave after completion of 10 years continuous service, at the average weekly rate of pay he has received for the 12 months immediately prior to the taking of such leave.

(*b*) On the termination of any employee's service for each complete year of such service after 10, further paid leave shall be granted to the extent of one-tenth of the long service leave stated in paragraph (*a*) hereof.

(*c*) This clause shall come into effect on and from 1st April, 1950.

(*d*) If an employee's services are temporarily dispensed with for a period not exceeding three months, the employer and the employee may mutually agree that continuity of service shall, for the purposes of this clause, be regarded as unbroken.

I played a big part in obtaining long service leave entitlements for employees of the Adelaide City Council. As president of the Trades and Labor Council I led a deputation to a committee of that council, and I received a letter from the Town Clerk setting out the conditions upon which the council would grant annual leave and long service leave to its employees. That letter stated:—

That two weeks annual leave of absence be granted to all employees up to and including the fifth year of continuous service, and that three weeks be granted for the sixth and subsequent years of continuous service. Service prior to this date to be taken into account in computing the amount of annual leave to be granted. That long service leave of three months be granted after 10 years continuous service, and that for each completed year of service thereafter, nine calendar days be granted, with a maximum of one year's long service leave after 40 years of continuous service. This long service leave privilege not to be operative until November, 1960, except by retirement through invalidity or at the age of 65 years. A further proviso to be that, if, after November, 1960, applications for long service leave prove embarrassing to the council, the latter in its discretion may defer applications for a reasonable period not exceeding 12 months.

The Brighton, Marion, Glenelg and Enfield councils grant three months leave after 10 years' continuous service, the West Torrens council three months after 10 years, and an annual leave entitlement of three weeks after 12 months' service. The Prospect, St. Peters, Woodville, and Hindmarsh councils grant two months' long service leave after 10 years' service, and the Mitcham council six months after 20 years. The Unley, Thebarton, and Burnside councils provide three months' leave after 15 years' service, and Port Adelaide grants similar leave, but this council has other amenities. It provides that labourers and road workers, excluding gangers, shall be entitled to 7½ to 10 per cent, in accordance with length of service, in addition to their wages; all others receive 5 to 7½ per cent. There is provision also for *pro rata* payment to employees leaving the council's service. We see that practically all municipal bodies grant 13 weeks' long service leave after 10 years' service. An agreement is also in existence between the oil companies and the unions which provides for 13 weeks leave after 20 years' continuous service, exclusive of annual leave but inclusive of public holidays falling during the leave. Under that agreement, if the employee after 20 years' continuous service dies without having taken his leave, payment of 13 weeks' pay is made to his personal representative. This agreement has been in operation since July 1, 1955. Here again we see that the private employer is giving something altogether different from what the Government is proposing under this Bill.

Other similar agreements are in operation. For instance, there is an agreement between the Gas Company and the union under which employees receive six months' long service leave after 20 years' service. The Abattoirs Board has an agreement whereby its employees receive one week's pay for each year of service after 10 years. This leave can be granted by the management in the event of the illness of an employee, but the general principle is that it shall be taken on retirement. The Municipal Tramways Trust has an agreement which awards a gratuity for long service. This gratuity payment amounts to two and two thirds weeks' pay for each year of service, and when the employee retires at the age of 60 or after 30 years' continuous service he receives 80 weeks' pay. This is vastly different from the entitlement under this Bill.

The Hon. Sir Frank Perry—How long have they had that?

The Hon. S. C. BEVAN—It has been in operation for a number of years.

The Hon. Sir Frank Perry—It was given for a specific reason, wasn't it?

The Hon. S. C. BEVAN—I suggest they are all given for specific reasons; employers are not so kind-hearted that they voluntarily hand out a concession such as this. This Bill provides for one week's leave after seven years continuous service and then one week each year thereafter, which leave must be taken.

The Hon. Sir Frank Perry—The employee does not have to take the leave.

The Hon. S. C. BEVAN—What happens to the employee who has had lengthy service with an employer? I know of a small industry with several employees who have had approximately

50 years' service, and it is very poor recompense for that service when only seven years of it is recognized. Employees are not getting anything like long service leave under this Bill, and they are being deprived of recognition of their past service with the exception of the last seven years.

Clause 8 provides that payment in lieu of leave can be made, and this is something contrary to the principles in any awards or determinations. We find a clause in the Bill which states that an employee may be paid instead of being granted leave if both the employer and employee agree to it.

The Hon. C. D. Rowe—That is entirely at the employee's option.

The Hon. S. C. BEVAN—I agree, but what are the repercussions? I suggest that the Minister knows as well as I do what can and what does happen. It stands to reason that many an employer is going to avail himself of this provision, and the worker will not get any leave as he will be afraid that if he refuses to accept payment his services will be terminated. It will suit the employer admirably to make payment in lieu because he will be getting an additional week's production.

The Hon. E. Anthoney—The employee will get another week's pay.

The Hon. S. C. BEVAN—Yes, and if he sticks hard and fast to the Bill he also has to have a week's relaxation, and he should be given that relaxation. The Bill allows the employer to say that he will not give a week's leave but only payment in lieu, and if the employee did not agree he would not be employed in the industry very much longer. That is what will happen, and it has happened in the past, and I say that that clause should be removed altogether.

Clause 13 provides for exemptions from this Bill, but I criticize the authority being placed in the hands of the Public Actuary. It is apparent that the Public Actuary has little knowledge of superannuation schemes, and in that respect it is only necessary to look at our own scheme. I suggest that he would have no knowledge of the various agreements entered into between industry and the unions for long service leave.

Other clauses deal with penalties but they all conflict with one another. Clause 14 imposes a penalty of £100 for a breach of this Act. Clause 19 imposes a penalty of £50 for any breach of the Act other than that already provided for, and clause 22 (*e*) imposes a penalty of £25 in regard to casual employment. A penalty of £100 in one clause, £50 in another, and £25 in yet another! All other Acts impose a penalty of about £500 as a deterrent against employers attempting to evade their provisions.

I consider that clause 21 is something unprecedented in regard to industrial legislation. Under that clause, irrespective of anything of which the employer may be guilty, the consent of the Minister must be obtained before any prosecution can be launched against him. Under the Industrial Code an inspector from the Factories and Steam Boilers' Department, unions, and even individuals can institute prosecutions for breaches of awards or determinations without needing any Minister's sanction, so why should not the same apply under this Bill? An employee who is not covered by any award or determination and has no union to assist him must seek legal advice if an employer refuses to grant him leave or pay him for such leave, and he then finds that his legal representative must obtain the consent of the Minister before he can institute proceedings. I have heard it said that this clause was put in the Bill to stop fictitious prosecutions, but has anyone ever heard of an instance where anyone fictitiously prosecuted an employer? I have been associated with the Industrial Courts as an industrial advocate and trade union secretary for some years, and I do not think there have been more than two occasions when I have had to resort to court proceedings to force an employer to do the right thing.

The Hon. C. D. Rowe—The consent of the Minister is necessary under the provisions of various Acts.

The Hon. S. C. BEVAN—Not under any industrial legislation, and why should not this legislation be the same as any other industrial legislation. I suggest that a fictitious, frivolous or spiteful prosecution of an employer over some alleged breach would be an unheard of thing. The clause is absolutely unwarranted. The Minister has affairs of State to worry about and his duties are considerable, but now he is to have this additional burden, which is wrong. Will he summon the employer before him, ask him the facts, and give him an opportunity to rectify the position, or what will transpire? A complainant should, if he feels justified, be in a position to institute proceedings for a breach of the Act without having to obtain the Minister's consent.

As I have already intimated, I will oppose the second reading for the reasons I have given. I have taken up some considerable time

of this Council, but I feel that I have been justified. I have drawn attention to the fact that already there are agreements in operation between unions and employers which justify long service leave on the grounds claimed by members of the Opposition and by the Labor Party, namely, three months after 10 years of service. I have enumerated a considerable number, but by no means all of them, and if that is the entitlement of a big section of the community it should be the entitlement of all.

The Hon. L. H. DENSLEY secured the adjournment of the debate.

METROPOLITAN DRAINAGE WORKS (INVESTIGATION) BILL.

Adjourned debate on second reading.

(Continued from September 24. Page 752.)

The Hon. E. ANTHONEY (Central No. 2)—This is a somewhat unusual Bill that asks Parliament to make up its mind whether this very important matter of the drainage of the western suburbs should be referred to the Public Works Committee. I think it is quite without precedent, and in order to be quite sure of my statement I made some little research to see what happened on the occasion when the other metropolitan drainage scheme was introduced. I find that that was referred direct to the Public Works Committee. I understand that the reason given for this departure is that some financial matters have to be framed as between the councils, and a good deal of preliminary work will have to be done. But the other Bill also contained financial provisions and the various councils were called upon to make contributions, so I cannot quite see the necessity for this departure.

I hope that members will be impressed by the urgency of this question. It has concerned a number of councils for some years, and as building expansion has increased so very much in the past few years it has become still more urgent. Speaking of my own area—Marion, Glenelg and Brighton—we are faced every year after heavy winter rains with considerable difficulties because of floodwaters and the accompanying damage to highways, and the tremendous inconvenience to residents who, in many cases, have to submit to very troublesome conditions in getting to and from their homes.

I would like to say how much I appreciate the Minister's statement as the result of the recommendations of the special committee which sat on the preliminaries of this Bill, and would like also to compliment that committee on a job well done. I would urge upon members that the Bill be passed as quickly as possible. After all, it is only a reference to the Public Works Committee. I listened to Sir Arthur Rymill yesterday and for a time I thought he was posing some very pertinent questions, but I found on further consideration that the Bill seeks only to refer the matter to the Public Works Committee and the terms of reference are set out clearly in the Bill, none of which I oppose. I would ask the Minister, however, if he could clarify clause 5 as this seems to be rather a blanket provision.

The Hon. Sir Arthur Rymill—It means what it says, curiously enough.

The Hon. E. ANTHONEY—That they may take into consideration extraneous matters?

The Hon. Sir Arthur Rymill—It preserves the Government's rights to refer anything else that it wants to. It is a legal provision.

The Hon. E. ANTHONEY—If that is all I have no objection. This is a big job which will entail considerable expense but I suggest that the Public Works Committee is not the right body to deal with the allocation of contributions by councils. I suggest that the committee which made these recommendations would be a very good body to undertake that task. However, I commend the Bill. I think it requires expedition for the reason that we are going through a fairly dry period and this would be an excellent opportunity to get on with the job as I understand there is a certain amount of plant available. I have pleasure in supporting the measure.

The Hon. N. L. JUDE (Minister of Local Government)—Although I felt that I gave quite a considerable explanation in my second reading speech I am indebted to Sir Arthur Rymill for pointing out that many of our members are not yet eligible for long service leave and therefore may not be familiar with the history of the Metropolitan Stormwater Drainage Bill to which reference has been made. It was the result of an inquiry held as far back as 1925. Although it was referred to the then Parliamentary Standing Committee on Railways, which preceded the Public Works Committee, and it presented a voluminous report with quite definite recommendations, it was not until 1935 that the people of the districts that were suffering from the lack of drainage managed to agree upon the apportionment of the costs and the Government was enabled to submit a Bill to Parliament.

The reason for submitting this Bill in its present form is to endeavour to give representatives of councils and members of Parliament an opportunity to discuss this knotty problem of who shall pay. The Government, with Parliamentary approval, will provide 50 per cent of the money, and it is obviously desirable that this awkward problem of apportionment shall be worked out as early as possible. By the introduction of this Bill to refer this question to the Public Works Committee, and with the clauses suggesting the contributions to be made towards the capital cost, plus my amendment on the file dealing with maintenance, members will have a much greater opportunity to see the matter is properly ventilated. I can only trust that, as this is an urgent matter in my view, people far and wide will express their opinions before the Public Works Committee at the earliest opportunity.

With regard to the further point made by Sir Arthur that the Bill did not specify directly which councils should contribute, the Government is quite prepared to add a few words to that clause which will make it quite clear to the Public Works Committee as to who shall be charged with the cost. The further point he made was regarding the councils directly involved. They are the corporations of Marion, Brighton, Mitcham, Unley, West Torrens, and Glenelg and the district council of Meadows. Of those Marion, Brighton and Mitcham will gain directly from stage 1 of the scheme, and Unley, West Torrens, Glenelg and Meadows will benefit because floodwaters which now cause some trouble will be intercepted or reduced by the works proposed. Stage 2 will be of direct benefit to all the councils concerned, but the principal beneficiaries will be Marion, Brighton, Mitcham and Glenelg. In all cases the drains proposed will be of direct benefit to the area through which they pass and to the areas which contribute water to them. The councils concerned have been advised of the general implications of the scheme and valuable assistance was contributed by their officers.

The Hon. Sir Arthur Rymill—Have all those councils been advised?

The Hon. N. L. JUDE—They have been consulted indirectly because several of them have had minor schemes of their own and we suggested that before they went ahead with them they should make certain that they would interlock with the proposed general scheme. Members will have noticed that the committee included representatives of the largest councils concerned.

The Hon. F. J. Condon—The Public Works Committee will give those councils and their residents every opportunity to present their case.

The Hon. N. L. JUDE—Of course it will, and I have no doubt that the honourable member will support the Bill. As requested, I have enlarged on why the Bill was introduced in this form, and I trust that in Committee members will give me their assistance by supporting the two amendments I have on file.

The Hon. A. J. Melrose—Has the Government given any thought to stopping the denudation of the Adelaide hills and preventing this flow of water.

The Hon. N. L. JUDE—While the request of the honourable member has some practical as well as academic interest, the problem that is being raised at the moment is not caused by the denudation of trees in the hills but by the erection of buildings: in other words, the building of roofage and large areas of bitumen for such things as drive-in theatres. These cause the drainage problem rather than the direct and deliberate denudation of trees on the sides of the hills. With these remarks I commend the Bill for the consideration of members.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Reference to Public Works Committee."

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

After "bodies" in paragraph (*c*) to insert "whose areas will derive benefit from such works".

The point to which I omitted to draw attention in my reply was that the 1935 committee, which sat prior to the previous Bill, made it very clear that it thought there were two classes of benefit derived; one, the benefit derived from direct drainage, and the other the benefit derived by the people in the watershed—those who could be described as the upland people—as against the lowland people. It was then found advisable by the committee to recommend that payments should be on a different rating, but that nevertheless the upland people should still pay. I think the amendment will make the clause clearer.

The Hon. F. J. CONDON (Leader of the Opposition)—Members can rest assured that every person concerned will be given an opportunity to express his wishes in tendering

evidence on this important question, but it is no use saying that this is an urgent matter and has to be put through quickly because, even if a recommendation is made next week, there is no amount on the Estimates for this work, so nothing can be done until the 1958 Estimates.

The Hon. N. L. JUDE—We have the fullest confidence that the Public Works Standing Committee will not rush the matter. We are half way through this session, and it is expected that another enabling Bill will be necessary next session to enable the work to be proceeded with if recommended.

Amendment carried.

The Hon. N. L. JUDE—I move to insert the following paragraph:—

(*e*) Assuming that the proposed drainage works are constructed and that the whole of the annual cost of maintenance of those works is to be paid by local governing bodies, what local governing bodies should contribute to such cost, and what should be the share of each contributing body, and at what time should each contributing body pay its share.

As I indicated earlier, this amendment adds to the clause a specific reference to the committee so that it will also make a recommendation with regard to the payment of maintenance by those who benefit. Quite frankly, as I indicated, it was an omission when the clause was drafted, brought about because we wanted to get this matter before the House quickly. I trust that the amendment will receive the support of members.

The Hon. J. L. S. BICE—I have listened with a great deal of interest to the comments made by the Minister and my colleague on the Public Works Standing Committee, and I suggest that this Chamber can rely on this scheme, as with all other projects, receiving the closest attention. All who are concerned with drainage will have an opportunity to put their evidence before the committee, whose report will ultimately be laid on the Table of this Chamber. That report will show what amounts are to be collected from the councils concerned. When I spoke on the second reading, I drew attention to the last four words of clause 5, "or any other matter". I feel that maintenance would be covered by those words. However, the amendment means the same thing.

The Hon. E. ANTHONEY—I do not feel at all nervous that the Public Works Standing Committee will not give every opportunity to everyone interested to tender evidence, because everyone has the right to come before that committee, but I think the Minister might have taken some heed of my suggestion to set up a statutory body to legislate on the financial obligations of the various councils. The Public Works Standing Committee should not be asked to accept this responsibility; outside bodies are far better able to carry out the enquiry, and I suggest that the committee that first made the recommendation to Parliament should be the body to deal with the matter.

Amendment carried; clause as amended passed.

Remaining clauses (4 and 5) and title passed. Bill reported with amendments, and Committee's report adopted.

ADJOURNMENT.

At 3.57 p.m. the Council adjourned until Tuesday, October 1, at 2.15 p.m.