LEGISLATIVE COUNCIL.

Tuesday, October 22, 1963.

The PRESIDENT (Hon. L. H. Densley) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS.

SITTINGS OF PARLIAMENT.

The Hon. K. E. J. BARDOLPH: In view of the impending Commonwealth election, can the Chief Secretary say whether the State Government intends to proceed with its legislative programme, or has it in mind an adjournment until after the Commonwealth election?

The Hon. Sir LYELL McEWIN: The honourable member will see that we have a considerable amount of business before us, with which we intend to proceed, and the matter of an adjournment because of the Commonwealth election has not been considered.

ROAD PROGRAMME.

The Hon. C. R. STORY: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. C. R. STORY: Recently the Highways Commissioner made a statement regarding a plan for the next 10 years for road building in certain areas adjacent to the Murray River. Can the Minister of Roads bring down a summary of the Commissioner's thoughts on this programme?

The Hon. N. L. JUDE: I am not at all keen on producing a summary because the difficulty is that people reading it are always forgetful that it must be flexible. The Commissioner referred to certain matters, mostly in connection with the mallee and river areas, regarding a road programme for the next 10 years. He made it clear that they were his thoughts on the matter and that many investigations, particularly of a traffic nature, were being undertaken in respect of those areas. He envisaged certain things that would be necessary over the next 10 years. Whether it is desirable that it should be put in print as a firm summary is somewhat doubtful, because no concrete proposals have yet been drawn.

CITY ROADS.

The Hon. K. E. J. BARDOLPH: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. K. E. J. BARDOLPH: Most of the main arterial roads coming into Adelaide and in the city of Adelaide are in a most deplorable state. One of my family met with an accident whilst crossing North Terrace to go to the university by tripping over an undulating section of the road, and was laid up for about four weeks. Can the Chief Secretary say whether it is the responsibility of the Adelaide City Council to maintain the roads in good repair, or are various Government departments compelled to recondition the roads to the state they were in prior to their disrepair?

The Hon. Sir LYELL McEWIN: As the honourable member's question relates to roads and to the Adelaide City Council I do not know why it was not addressed to the Minister of Roads and Local Government. I do not know what information I can give the honourable member, but I believe that if the City Council were in any difficulties and wanted any Government assistance it would ask for it, otherwise I think the matter can be safely left in the hands of a very competent authority.

The Hon. K. E. J. BARDOLPH: I did not wish there to be any ambiguity in my question. I directed it to the Chief Secretary for an obvious reason: the subject is a matter of Government policy.

TOWN PLANNING JOINT COMMITTEE.

A message was received from the House of Assembly agreeing to the Council's resolution and intimating that the Assembly members on the Joint Committee would be Messrs. Coumbe, Ryan and Fred Walsh.

LOCAL GOVERNMENT ACT AMENDMENT BILL (GENERAL).

The Hon. N. L. JUDE (Minister of Local Government) obtained leave and introduced a Bill for an Act to amend the Local Government Act, 1934-1961. Read a first time.

The Hon. N. L. JUDE: I move:

That this Bill be now read a second time.

I thank honourable members for allowing this matter to be considered immediately; copies of the Bill are available for them. This Bill contains a number of amendments, mainly of an administrative nature, to the Local Government Act, most of which have been sought by local government authorities and other organizations and bodies. As the amendments are nearly all unconnected the best course will be to deal with the Bill clause by clause in numerical order.

Clause 3 makes some drafting amendments consequential upon clauses 19 and 36 to 39 respectively. Clause 4 effects two amendments to section 5. The first of these concerns the

exemption from rating of hospitals where service is given at reduced rates, if not more than one-quarter of the hospital's annual income is derived from patients' fees. The exemption is contained in subparagraph (c1) of paragraph (1) and subparagraph (d1) of paragraph (2) of the definition of "ratable property" in identical terms; it thus applies to lands whether assessed upon land or annual value. The Adelaide City Council has found itself in the position of having to levy rates on the Children's Hospital on the basis that its income from fees exceeded the one-quarter stipulated in the definitions, and in fact the hospital eventually paid the council a sum of £7,500 for the year 1961-62. The hospital has pointed out that, as hospitals receiving Government grants increase their daily charges to patients and thus receive more income, they will gradually become ratable under present conditions and, in view of this fact, the Government has decided to vary the exception by providing that the hospitals concerned shall be exempted if not more than half of their income is derived from patients' fees.

The second of the amendments effected by clause 4 is to vary the second portion of the definition of "township" in section 5 by decreasing the number of dwelling houses required to qualify as a township from 40 to 20. The Local Government Association requested this amendment, pointing out that it would be advantageous if councils could create a township without the necessity of taking in adjoining lands of a rural character.

Clause 5 strikes out subsection (2) of section 88 of the principal Act, which requires British nationality as a qualification for voting at elections or meetings or polls of ratepayers. This matter was first raised by the District Council of Salisbury. The Local Government Advisory Committee agrees with the council and has recommended the amendment; apart from practical aspects of this matter, it is considered that persons paying rates and rents should be entitled to have some voice in local affairs.

Clause 6 amends section 133 of the principal Act by providing that distribution of how-to-vote cards or the exhibition of any electoral notice not otherwise prohibited shall not be an illegal practice. Section 131 of the Act defines "illegal practice" as including personal solicitation of votes during polling day or within eight hours before voting commences. Section 133 provides that the acts of all authorized agents committed with his knowledge and consent are to be held to be acts of the candidate himself. This could, as I understand it, be read as making the act of an authorized agent in distributing how-to-vote cards an act of the candidate and thus make the distribution into a personal solicitation of votes by the candidate. The amendment is designed to remove existing doubts on this matter.

Clause 7 deals with section 153 of the principal Act, subsection (4) of which provides that no expenditure or payment of more than £20 by a committee of a council is valid unless afterwards ratified by the council. The figure mentioned appears to be unduly restrictive: the subsection was passed many years ago and the sum of £200 is considered to be reasonable under present conditions.

Clause 8 amends section 163ff of the principal Act, which provides that an officer may appeal against a determination of salary by the Local Government Officers Classification Board within 30 days of publication of the determination. The Municipal Association has requested the amendment, which increases the time for appeal to 42 days, pointing out that the additional increase in the time would enable councils to have more time in which to decide whether or not to lodge an appeal.

Clauses 9 and 10 may be taken together. They amend sections 173a and 188, respectively, of the principal Act, which deal with alterations of waterworks assessments (in the case of assessments based on annual value) and land tax assessments (in the case of assessments based on land value). The object of the proposed new sections is to provide that, whenever the waterworks or land tax assessment is altered, the council shall adjust any rates paid or payable to accord with the fresh assessment. Some councils have in fact been making such adjustments and it is for this reason that the proposed new subsections provide for their application as from July 1, 1961. (I should mention that clause 9 introduces a new subsection into section 173a of the principal Act to accord with the corresponding provisions in section 188 that the council must alter its assessment if based on the waterworks assessment whenever the latter is altered, this provision being absent from the present section 173a.)

Clause 11 provides that notice of the declaration of any rate is to be given within 21 days instead of 14 as at present. In 1961 the principal Act was amended to enable a council to declare a rate at the same meeting as that at which the assessment was approved. Notice of the making of an assessment must be given within 21 days, and it is desirable that the time for notice of the rate shall be the same.

Clause 12 relates to fines on unpaid rates. Under the existing provision, while metropolitan councils can impose fines if rates are not paid before December 1, country councils have to wait until March 1. The amendment will enable all councils to impose fines on December 1. The provision is supported by the Municipal Association and the Secretary of the Local Government Association, who consider that it will avoid confusion and assist in financial arrangements. (The date of March 1 was originally fixed for country councils because of harvesting and marketing of grain. These conditions have not the same weight as previously in view of the diversity of farming income and wider spread of interest of ratepayers at the present day.)

Clause 13 raises the total amount of contributions which may be made by councils for the furtherance of local government from £100 to £250. The amendment was sought by the Local Government Association, which points out that the present provision is inadequate. Clause 14 inserts, at the request of the Municipal Association, a provision to enable councils to contribute towards the cost of operation of home-help services to assist in the care and wellbeing of children or domestic duties; the service would supplement what is now available from the District and Bush Nursing Society and Meals on Wheels Inc.

Clause 15 introduces a new section 290d into the principal Act of considerable importance; it relates to the application of parking meter revenue for car parks. The second and third subsections of the new section will empower municipal councils to expend the whole or any part of what for present purposes I shall call "parking meter revenue" in providing a reserve fund for the purpose of constructing, providing and maintaining car parks, including the acquisition of land for these purposes. What I have referred to as "parking meter revenue" is defined in the first subsection as comprising parking meter fees and penalties imposed for parking meter offences, less any amounts that may be set aside to amortize captial costs, plus interest, salaries and maintenance charges. Subsection (4) makes provision for the appropriation of the moneys standing to the credit of any reserve fund if the council winds it up. The new section does not make it compulsory for councils to establish reserve funds for the purposes mentioned.

Clause 16 provides for an audit of a council's accounts within 14 days of notification by a clerk of his intention to resign or his suspension or removal from office. Such an audit is not compulsory in the circumstances that I have mentioned, although some councils do have one made. It is considered desirable that the auditor should give a clearance before a new appointee assumes office. I may add that the Auditor-General agrees with the new provision.

Clauses 17 and 18 relate to recovery of portion of construction costs of road works and footways with a limit of 10s. a foot of frontage on road works and 1s. 6d. a foot on footways. In both cases there is provision for the addition of 5 per cent interest after six months. One council has been advised that if the addition of interest would result in raising the total amount payable in respect of road works above 10s. a foot, no interest can be charged. The amendments in clauses 15 and 16 will make it clear that interest is chargeable in all cases on unpaid amounts.

Clause 19 excises from the Act the whole of Division XII of Part XVII of the principal Act, comprising three sections first enacted in the eighteen-eighties to apply to private streets but now no longer serving any useful purpose. They were appropriate before the enactment of town planning and other modern legislation. The construction of streets in new subdivisions is now the responsibility of subdividers who are required to submit levels for council approval; if other public streets are constructed they are constructed by councils subject to contribution by abutting owners, while private streets in municipalities are in practice constructed nowadays by councils. The Chairman of the Local Government Advisory Committee has advised that the provisions are obscure, but, apart from this, the matters covered are already amply provided for by other legislation, such as the Town Planning Act, the Building Act, the Health Act and the Local Government Act itself. In view of these considerations it is desirable that the whole of the division be repealed. Clause 19 so provides.

Clause 20 amends the existing provisions of the principal Act concerning street name plates. Section 354 empowers a council to affix street name plates upon the walls of houses. The City of Adelaide has had difficulty in relation to buildings other than houses, many owners having refused to allow name plates to be attached to buildings. As the city develops more, buildings not being houses will become located on street corners. The Local Government Advisory Committee agrees with the amendments suggested by the council which will permit street name plates to be affixed to buildings.

Clause 21 is of a drafting nature, consequential upon enactment of the Road Traffic Act, 1961. Subclause (*b*) of clause 17 is designed to take account of the fact that the signs generally used throughout Australia are now designated as "no parking" or "no standing" areas.

Clause 22 (with which is to be read clause 33) will enable councils to buy houses to be let to their employees by instalments over a period of years. The Housing Trust has sold or erected many such houses and is willing to accept payment by instalments, a method which is extremely convenient for councils since it would enable them to pay for them out of revenue. However, payment by instalments constitutes in effect a borrowing. Clauses 22 and 33 are designed to put these transactions (which involve relatively small amounts of money) outside the ordinary borrowing provisions of the Act.

Clauses 23 and 24 are complementary. Their effect is to amalgamate the existing borrowing powers now set out in sections 423 and 424 of the principal Act, so that all moneys borrowed by a council will be on the security of the general rates and not in part on the security of a special or separate rate. The proposed amendments would simplify council accounting. An analysis of borrowings by councils during the year ended June 30, 1962, shows that only four out of 98 borrowings were made on the security of special rates. Clauses 25, 26 and 27 (*b*) make consequential amendments.

Clause 27 (*a*) amends section 435 of the principal Act which relates to schemes for undertakings which can be submitted to the Minister for his authorization. By subsection (4) of the section, however, a scheme can be authorized only if the proposed undertaking is to be permanent, of substantial benefit to the area, and reproductive or revenue earning. At least one council desires to establish a septic effluent scheme but is unable to proceed under section 435, partly because it may be limited to part of the area and mainly because it cannot be regarded as revenue earning. Such a work has much to commend it and the object of the amendment is to enable the Minister to authorize such a scheme without the need for compliance with the provision that it should be revenue earning.

Clause 28 removes the present requirement that debentures must have interest coupons annexed. It is considered that these requirements are not convenient in all circumstances. Clauses 29, 30, 31 and 32 make consequential amendments. I have already dealt with clause 33 in connection with clause 22. Clause 34 makes a consequential amendment which was overlooked when the power of councils to make by-laws for licensing persons to depasture stock was extended to include sheep. Clause 35 increases the penalty for hawking on foreshores, contrary to by-laws, from £5 to £20. The general penalty for breach of by-laws was raised from £10 to £20 in 1957 and it is desirable that a similar maximum be fixed in section 477.

Clauses 36 to 39 inclusive will have the effect of extending to district councils the powers already enjoyed with respect to sewerage and drainage by municipalities. There seems to be no particular reason why at the present day these powers should be limited to municipalities and, while it may be that district councils might not wish to avail themselves of the powers, nevertheless it is considered desirable that they should be in the Act for them to use if they so desire.

Clause 40 amends subsection (1) of section 607 dealing with safety precautions during the erection of buildings. The present subsection provides for the covering of a footway when the wall of any building abutting any street has been erected to a height of 12ft. In addition, a board covering is required to slope outwards from the building so that any falling materials will be thrown beyond the footway. The Adelaide City Council considers that the erection of a steel frame of a building does not constitute the erection of a wall, that protection should be given to pedestrians when buildings are erectetd only a few feet from the building alignment as well as on the alignment, and that the provision requiring board coverings to slope outwards could be dangerous in streets carrying heavy traffic, for example, Rundle Street. The Local Government Advisory Committee agrees with these views and has recommended the new subsection which covers buildings not only abutting on footpaths but also within 6ft. thereof; it also relates the safety provisions not only to walls, but also to parts of buildings. Additionally, it refers not only to plastering, but also to other building operations and, instead of the requirement for outward sloping boards, provides for coverings to be suitable for retaining falling materials.

Clause 41 adds to the by-law making powers of councils. Subclause (*a*) empowers the regulation of the height of fences and hedges within 20ft. of junctions as well as intersections as now provided; subclause (*b*) makes a new provision for regulating or controlling

the breaking of metal by the dropping of heavy weights within 300ft. of a public place or occupied property. Subclause (*c*) relates to by-laws concerning the loading and unloading of vehicles. The present provision refers specifically to operations in respect of certain types of materials. The amendment removes the specific enumeration and widens the power to enable the control of loading and unloading of materials and goods of any kind.

Clause 42 confers upon district councils powers to make by-laws with respect to sewerage along lines similar to those of municipal councils. Clause 43 amends section 779 which deals with damage to roads. At present that section provides for payment of damages if the damage is done "wilfully or maliciously". The South-Eastern Local Government Association has suggested that damage to roads be dealt with separately, pointing out that serious damage can be caused otherwise than wilfully. Accordingly clause 35 will remove the references to streets, roads, bridges, etc., in the present section and make specific provision relating to damage to these things in a new subsection which omits the references to "wilfully" and "maliciously" which appear to have been originally designed to cover acts of vandalism.

Clause 44 raises the penalty for driving vehicles over closed roads from £20 to £50. Clause 45 widens the extent of section 783 of the principal Act penalizing the depositing or dropping from vehicles of rubbish of specified kinds on streets and roads. In the case of at least one council difficulties have been encountered from the dropping of material not specifically mentioned. Clause 45 removes the specific references and substitutes a more general definition.

Many provisions of the principal Act provide for a demand or request for a poll of ratepayers, but there is no provision requiring such requests to show addresses and verification of signatures, as in the case of petitions. The Municipal Association has pointed out that councils experience difficulty in checking the rights of persons to sign demands for polls and the amendment which will require addresses and verification of signatures will enable councils to check each signature and qualification more readily. The Local Government Advisory Committee agrees that the amendment is desirable and clause 46 so provides. Clauses 47 and 50 add notaries public and solicitors to the list of authorized witnesses for the purposes of postal votes.

Clause 48 is a special provision concerning what is known as the Mayor's Bounty Fund at Kapunda. This fund is, by the principal Act, vested in the "Mayor of the Corporation of Kapunda" and is to be used for assistance and relief of necessitous residents. The Corporation and the District Council of Kapunda were united in July, 1962, at which time the fund comprised £119 in a savings bank and £100 invested in a war loan. Since the merger there is no "Mayor of the Corporation of Kapunda" and thus the fund cannot be used. The former Mayor requested the Government to amend the present section to enable the fund to be expended by the District Council of Kapunda for the provision of public conveniences, and clause 48 so provides.

Clause 49 makes some amendments to the nomination forms consequential upon amendments to Part VI of the principal Act in 1946, which were apparently overlooked. The 1946 amendment removed the provisions requiring councils to prepare voters' rolls on or before May 1 whether or not nominations subsequently lodged revealed that an election was or was not necessary. References in forms 2 and 2A in the fifth schedule were therefore unnecessary. I have much pleasure in commending the Bill for the consideration of members.

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

MARINE STORES ACT AMENDMENT BILL.

The Hon. Sir LYELL McEWIN (Chief Secretary) obtained leave and introduced a Bill for an Act to amend the Marine Stores Act, 1898-1958. Read a first time.

EXPLOSIVES ACT AMENDMENT BILL.

Read a third time and passed.

PISTOL LICENCE ACT AMENDMENT BILL.

Second reading.

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

That this Bill be now read a second time.

It is designed to strengthen the existing law relating to pistols. It brings the principal Act more closely into line with the Firearms Act which does not apply to pistols. Clause 5 inserts a new section 6a in the principal Act to provide for pistol licences for interstate competitors in pistol shooting competitions. Usually these competitors are in South Australia for very short periods, and the normal

procedure for obtaining a licence is not appropriate. Under the new section such a person will be required, within 24 hours of entering the State, to produce his pistol and interstate licence to a member of the police force authorized to grant licences for the purposes of the principal Act. He will then be entitled to a pistol licence (subsection (4) of the new section), unless there is a valid reason for withholding the licence. Such a licence will remain in force for the duration of the visit, until the interstate licence expires, or for three months, whichever is the shortest period.

Clause 4 (*b*) provides for the issue of licences restricted as to the purpose for which or the place at which a pistol may be used. A licence of this type would be appropriate for a bank officer or a competitor in a pistol shooting competition (whether an interstate visitor or a resident of South Australia). Clause 4 (*c*) is a drafting amendment. Clause 4 (*d*) provides for licences for companies carrying on business as night security services. The licence will be issued in the name of a principal officer of the company and will authorize employees of the company to carry and use pistols for the purpose of protecting property while on night security patrols. The new provision is drafted generally on the lines of existing subsection (3) of section 5, which relates to pistols issued to bank officers. If the company entrusts a pistol to an employee who is not fit to carry a pistol, the Commissioner may revoke the company's licence in respect of that pistol. Clause 6 so provides.

Clause 4 (*e*) increases the fee for a pistol licence from 2s. 6d. to 10s., the fee for a licence issued to an interstate visitor being 5s. Clause 7 inserts new sections 8a and 8b in the principal Act. The new sections require a licensee, upon change of address or disposal of the pistol, to notify the appropriate particulars to the Commissioner of Police. Under section 9 of the principal Act a person selling a pistol in the course of business is required to keep a record of the transaction. Clause 8 extends this requirement to a person purchasing a pistol in the course of business. The clause also extends the requirement to a sale or purchase of a part of a pistol. This will be of assistance in tracing home-made pistols.

Clause 9 provides that a pistol dealer, like a second-hand dealer, will be registered only in respect of the premises where he carries on business. The clause also increases the registration fee from £1 to £5. Clause 10 re-enacts section 12 with amendments and inserts new sections 12a and 12b in the principal Act. These three sections deal with seizure of pistols and disposal of pistols after seizure or upon conviction for an offence against the Act. These sections correspond with provisions in the Firearms Act. Clause 11 inserts a new section 17a in the principal Act providing for delegation of the powers of the Commissioner of Police. This section also corresponds with a similar provision in the Firearms Act. Clause 4 (*a*) is a consequential amendment.

Clause 12 inserts a new section 19a in the principal Act providing for certain *prima facie* evidence in prosecutions under the principal Act to be given by a certificate of the Commissioner. Clause 13 increases the penalties in the Act to approximately double the present amounts. The penalties have not been altered since 1929.

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

SECOND-HAND DEALERS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 16. Page 1074.)

The Hon. K. E. J. BARDOLPH (Acting Leader of the Opposition): I support the second reading. As the Minister said, this Bill tidies up the Second-hand Dealers Act, which was last amended in 1949. It is therefore 14 years since this Act was amended and it appears that during that time the Government has been somewhat remiss, because the present Bill, in addition to containing amendments to protect the public, also places the Act on a similar basis to the Land Agents Act and the Innkeepers Act. It makes provision for licensing companies to carry on a second-hand dealer's business and for the manager of a company who is of good character and integrity to be granted a licence. That position does not obtain under the present Act, although the courts have granted licences to managers of companies and to partnerships.

One of the principal features of this Bill is that partnerships conducting a second-hand business, on application by all partners, are issued with a single licence, which tidies up the present Act and affords additional protection to those who deal with second-hand dealers either by selling goods to them or by buying goods from them.

This afternoon we have already dealt with a Bill amending the Pistol Licence Act. It appears to me that the Joint Parliamentary Committee on Consolidation Bills could well

be entrusted to tidy up both that Act and this Act. Together with some other members of this Chamber I have been on that committee for some years and have asked questions in this Council about when the Government proposes calling that committee together so that it may carry out its functions appointed by Parliament. However, so far, there has been no response. I notice that in another place a similar request has been made by a member of the legal profession asking when the committee will meet for the purpose I have just mentioned.

I have dealt with the main provisions of the Bill and now come to the penalties. The maximum penalties were fixed in 1919 and they are now increased by 100 per cent. I readily agree that those who break the law, or parts of it, incur a penalty but it appears that in all Government departments, and in local government too, those responsible seem to run riot: they are accelerating the spiral of inflation both by increased charges and by penalties. I wonder where the stop will be made in all this.

The Hon. C. R. Story: Are not wages and everything else increasing, too?

The Hon. K. E. J. BARDOLPH: I am glad the honourable member mentioned that. If he will only follow the trend of the arbitration courts, he will find that compared with the imposts of other charges such as rates, taxes, water rates, etc., the worker, whether he works with his hands or with his brains, whether he be in a white collar job or not, constitutes the major part of the population paying taxes. It will be found that, compared with the increased income taxes, sales taxes and other charges, wage increases have been infinitesimal. At least, the worker has to go to a tribunal to get his wages fixed but these imposts, since we passed legislation, can be arbitrarily enforced by a Minister of the Crown or by a departmental head making a suggestion to a Minister of the Crown for an increased charge. There is no searching inquiry in that case, as applies to a wage increase. My honourable friend as an employer of labour should know that the basic wage has not been increased in proportion to the high cost of living that the breadwinner has to suffer. I leave it there. I know that my honourable friend is seeking information and no doubt it is illuminating to him this afternoon to learn of the comparison between the acceleration of the spiral of inflation and wage increases, the wages of most people in this State having remained practically at a standstill. I have much pleasure in supporting the second reading and may make some comments during the Committee stage.

The Hon. C. R. STORY (Midland): I, too, support the second reading. As Mr. Bardolph has said, the reason for this Bill's being here is, in the main, to bring companies into perhaps their proper line with what applies in the rest of the Act: in other words, companies at this stage are in a rather difficult position, in that the court at the present time has to approve one person within a company who is qualified as a second-hand dealer whereas, in the case of partnerships, two, three or four people being partners have each to be qualified and approved in the partnership.

Under the provisions of this Act, a company must appoint a manager. He must be the person who applies for the licence and, if it is granted, he must be an officer who is fully employed by that company, and must be a person who can be held responsible either in court or anywhere else. If he leaves the service of that company for any reason at all, the company must appoint another manager and reapply for the licence as a second-hand dealer.

The Hon. S. C. Bevan: Does that apply to the man with three balls outside his premises?

The Hon. C. R. STORY: Yes, it would. People like that would also have to conform but, at the present time in this State, we have a large number of second-hand dealers. I think everybody agrees that this is a type of business that lays itself open, perhaps, to some sharp practice unless a good control is exercised over it. Second-hand dealers handle all sorts of goods and, unless the law in regard to them is closely watched, all sorts of malpractice can creep in.

As regards the point raised by Mr. Bardolph about the schedule of the Bill where the amendments are set out for increases in penalties, I find myself slightly at a loss to see what my friend is driving at. In the first portion the amount of £20 is increased to £50. The honourable member was at some pains to tell us that this had not been touched for about 40 years. I do not know what he is driving at, but I remember that not so very long ago we dealt with the Registration of Dogs Act, which had not been amended for some years, and there was a terrific hue and cry when fees for dog licences were increased by 100 per cent. I think it is a proper thing for the Government to keep these things under consideration when Acts come up for amendment. I should have thought that this Parliament was a proper tribunal to deal with the fixing of penalties.

The Hon. K. E. J. Bardolph: You try to make an analogy between the Arbitration Court and Parliament.

The Hon. C. R. STORY: I did not mention the Arbitration Court; I said "wages".

The Hon. K. E. J. Bardolph: By implication.

The Hon. C. R. STORY: Again, the honourable member is reading my mind. He is good at that.

The Hon. S. C. Bevan: It is not hard, anyhow!

The Hon. C. R. STORY: I should have thought that this was a very good tribunal to do such things as fix penalties. If Parliament is not competent to state the maximum penalties for these things, who is? I understand that Parliament is the proper tribunal to fix certain other salaries—and I do not think my honourable friend will disagree with that! I can see no reason for the complaint. The penalties seem to conform with the penalties Parliament has fixed over the last few years. I do not think any spiral of inflation is indicated by the Bill. Over the last few years the record of the Government shows that its moves have been against any spiral of inflation. I support the second reading.

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

CHILDREN'S PROTECTION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 16. Page 1075).

The Hon. A. F. KNEEBONE (Central No. 1): This is a short Bill and appears to be straightforward and reasonable in its application. Since the advent of television in this State, and commercial television in particular with its many advertisements or "commercials" as they are termed, it has been apparent that there has been a need to revise the Children's Protection Act to clear up an element of doubt as to its application. Although the principal Act under section 12 prohibited a child under the age of six years from taking part in any public entertainment other than one of a charitable, religious, educational or patriotic nature, and where the services of the child were entirely gratuitous, the interpretation of the term "public entertainment" as contained in section 4 of the Act did not specifically refer to radio or television performances or rehearsals, etc. In these mediums of entertainment it is possible to record, tape or film programmes and "commercials" without the performers actually making an appearance before the public. It is doubtful whether the provisions of the principal Act would apply in such circumstances. The amendment proposed in clause 3, which will strike out the definition of "public entertainment" contained in section 4 of the principal Act and insert a new definition in its place, will leave no doubt that, in addition to other public appearances, television, radio and cinematograph are public entertainments within the meaning of the Act, whether exhibited "alive" or in recorded, taped or filmed form.

Clause 4 proposes to amend section 12 of the principal Act by raising from six to seven years the age under which children are prohibited from taking part in public entertainment. This appears to be a reasonable amendment, as also is the amendment proposed by clause 5. This latter clause seeks to amend section 13 of the principal Act by raising the age under which it is prohibited to employ a child in any circus or acrobatic entertainment by which his life, health or safety may be endangered. The age is increased from 13 to 15 years. In view of the recent raising of the school leaving age to 15 years the proposed amendment is a sound one. Although the exploitation of children in the entertainment world, or for that matter in other spheres of livelihood, is not as prevalent as it once was, it is still necessary for this type of legislation to be enacted to ensure that such exploitation does not increase. For these reasons I support the Bill.

The Hon. JESSIE COOPER secured the adjournment of the debate.

MINING (PETROLEUM) ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 16. Page 1076.)

The Hon. S. C. BEVAN (Central No. 1): I support the Bill, but at this stage I am in a quandary about how it can be implemented. The Minister went to some length to explain the purport of the measure, and he dealt extensively with problems that could arise. I will not refer to them, but there are one or two other matters I want to mention. The demand for oil has increased substantially in recent years because of increased population throughout the world, increased vehicular traffic, increased demands due to advanced services, increased mechanization and so on. In view of what has happened in other countries it is obvious that new oilfields must be found to meet the present

demand, and undoubtedly the demand will increase in the very near future. When oil exploration took place in Australia some years ago a kind of shale oil deposit was found. In the 1930's a good deposit was found in Queensland at Roma. The drilling surveys did not locate anything else, but it was always felt by overseas countries that Australia was a potential supplier of oil in commercial quantities. The Commonwealth Government initiated the search for oil in Australia which led to the present conditions. It acquired drilling equipment in order to exploit any oil deposits that may be found. Overseas companies then became interested in the possibility of finding oil in Australia including, of course, South Australia.

The Hon. Sir Lyell McEwin: We opened the way with legislation in 1940.

The Hon. S. C. BEVAN: That may be so. Overseas interests, especially American interests who are experienced in this type of mining, definitely became interested in Australia as a potential supplier of oil to meet the increased demand. As a result expert surveys have been conducted successfully, especially in Queensland. As late as last night news was received that it was anticipated that the pipeline from the Moonie fields would be completed shortly and a vast quantity of oil would be piped to Brisbane. It is obvious that these fields are successful.

Oil has also been found in Western Australia. These discoveries have accentuated the search for further deposits that might produce oil on a commercial basis and we hope that large deposits will be found in South Australia. Many surveys have been conducted in South Australia but, unfortunately, no oil has so far been located in a commercial quantity. However, what may eventuate in the future remains to be seen. Obviously, expert opinion is that oil in commercial quantities can be found in South Australia as is evidenced by the number of surveys being conducted at present.

Because of the surveys that have already taken place it has been found desirable to explore the possibility of finding off-shore deposits. Recently it was concluded that oil could be found off-shore in the South-East of this State. The deposits thought to be there could be of commercial value. The surveys have apparently been promising because I believe the main purpose of this Bill is to deal with off-shore drilling. This raises the question of the legal position in connection with off-shore drilling. The Minister intimated in his speech on the second reading that he did not wish to deal with the legal position at any length. Outside the three-mile limit we find international waters which are subject to international law, and I believe that neither the State nor the Commonwealth Government would have any jurisdiction outside that limit. As the Minister said, this question must be considered in the future, especially if oil in large quantities is found outside the three-mile limit.

Legislation has been introduced in relation to fishing rights outside the three-mile limit and it has been pointed out that the Government has no jurisdiction over fishing outside that limit. My interpretation is that the State Government has jurisdiction up to the three-mile limit on the coastline of this State. The first four clauses in the Bill are interpretation clauses and one is an amendment designed to remove the words "in South Australia". South Australia and all other States have power within the borders of their own State. However, it is difficult to determine whether the Commonwealth or the State Government has jurisdiction outside of the three-mile limit. My interpretation would be that the area up to the three-mile limit within the western and eastern boundaries of the coastline of South Australia would come under the jurisdiction of the State and not under that of the Commonwealth or any other authority. If oil were found off-shore the question would arise as to whether the Commonwealth or the State was entitled to the royalties. The legislation to be enacted raises various problems. Section 52 deals with various aspects that I should like to refer to. Subsection (1) reads:

> A licensee shall—(*a*) as against the owner or occupier of any land comprised in his licence be deemed to be in occupation of only such portion of that land as he encloses with a fence; and (*b*) shall enclose with a fence only that part of the land comprised in the licence of which he requires exclusive occupation in order effectively to carry on and adequately to protect his mining operations and works.

Then subsection (2) reads:

> A licensee may bring an action for trespass or injury to any land fenced by him under this section.

This subsection has a grave bearing on the whole of section 52 because it authorizes the licensee to take action "for trespass or injury to any land fenced by him". If the land is not fenced, that subsection will have no effect, anyhow.

Then we come to a point in respect of which I think the Act has never been given effect to:

that is, in relation to oil leases. There is a vast stretch of country where leases are granted for exploration. What constitutes a fence and how the leases would be fenced I do not know. Much money is required to fence in a lease. Section 52 may be clarified by the amending legislation now before us, wherein after the word "fence" it is suggested that we insert the words "or defined in any other manner approved by the Minister". So it gives the Minister the final say. That introduces another question: how shall we define it? In what way is it to be defined? Is it to be in the form of a map appearing in the *Government Gazette* or is it to be in some other manner? That brings me to off-shore drilling. A licence would be issued authorizing a company to undertake off-shore drilling, and that has to be defined. The lease for a particular area, irrespective of what the area was in measurement or in any other respect, would have to be defined. How are we to define it? If we are still within the three-mile limit and our drilling operations are taking place in a particular spot, how will any person other than the authorized people in the company and the Government, and perhaps a few others, know just what the content of the lease is, or whether a person is breaching its terms and is therefore liable to prosecution because he is trespassing? Are we to put floating buoys at each corner of the lease? How that is to be defined I do not know. It is not up to me to try to determine at this stage how this area will be defined, whether it is defined by means other than having something visible to warn the general public, "This is a lease; keep off!" and, if they do not, they are liable under the Act to a penalty as they are trespassers. Those are points to be considered in this regard.

The Hon. C. R. Story: That would be sending a "buoy" to do a man's work!

The Hon. S. C. BEVAN: At this stage I am not discussing whether a boy or a man is doing any particular work at all. I should think that the honourable member would be interested in at least having some safeguard for the general public so that they would know just what the facts were and what was the position. The honourable member himself could be caught up in the definition of an off-shore lease and, that being so, I suggest that, if a company had a lease and a licence to explore within an area and it happened to take action against the honourable member, he would scream to high heaven that he did not know where the lease was.

Section 84 of the principal Act is amended by this Bill. It strikes out the words "in the State", and deals with advertising for the purpose of influencing people, by way of a spurious report, to invest money in a company. It is a protection for the public investing in a company. Subsection (2) reads:

No person shall publish or distribute any prospectus, statement in lieu of prospectus, notice, circular, advertisement or other invitation offering to the public for subscription or purchase any shares or debentures of a company or intended company formed or to be formed for the purpose of mining for oil in the State, unless such prospectus, statement, notice, circular, advertisement or invitation has printed thereon a copy of the last preceding subsection.

It bars any company from publishing anything unless it has had the Minister's permission to do so, for the purpose of attracting the general public.

Clause 6 of the Bill proposes to strike out the words "in the State". I see no necessity for that because no legislation enacted in this State can be effective outside the boundaries of the State. The only other clause of interest in the Bill is that safeguarding those licensees who have already obtained a licence before this amending legislation is passed and becomes law. Clause 7 enacts a new section 89, which gives that protection by stipulating that any licence issued prior to this amendment has the same effect as if it had been issued after the coming into operation of this amendment. How the Bill will be implemented is not for me to say; it is up to some other authority to determine, in the final analysis. Because of the need for oil search and the possibility that oil can be found within the boundaries of the State but off-shore, I support the second reading.

The Hon. C. R. STORY secured the adjournment of the debate.

REAL PROPERTY ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from October 15. Page 1028.)

The Hon. Sir ARTHUR RYMILL (Central No. 2): This Bill, at first sight, seems to be a simple one, but it has caused much fluttering in the dovecote of business circles in Adelaide. In fact, one might almost describe it as turmoil in some quarters. I think I have had more representations about this Bill from business and professional people in Adelaide than about any other measure I can remember. There are two main operative clauses, and I

propose to deal with them in the order in which I think they rank in importance. The first is clause 5. As drafted, it strikes at the fundamental principle of the Real Property Act, namely, the priority of registration, because it says, unlike the Act, that once they have been accepted for registration documents can be subsequently rejected. That is not only contrary to the tenor of the Act at present, but contrary to the whole foundation of the Real Property Act. Section 56 of the Act has been unaltered since the original measure was passed, and states:

Every instrument presented for registration shall be attested by a witness and shall be registered in the order of time in which the same is produced for that purpose.

Members will see that clause 5, as drawn, would completely undermine that priority, because if a document can be rejected after having been accepted on presentation it means that every instrument presented for registration shall not necessarily be registered. The whole advantage of the Torrens system, which is embodied in the Real Property Act, and which was invented by Sir Robert Torrens, and which has spread throughout the world ever since, is that we can rely on the register book and get an absolute title once a document has been registered. That arises from the fact that once a document is handed in and accepted at the office of the Registrar-General, and if it is a valid document in registrable form, we can rely on its going on to the register book, and then there is an unassailable title to whatever the document purports to cover. The clause strikes at the root of that principle and therefore I find it completely objectionable. On the other hand, the object of the clause is laudable. I know that the office of the Registrar-General is littered at present with old documents which have not been put in proper order for registration, and which cannot be rejected. Therefore, it seems to me desirable that something should be done about it. I pay a tribute to the Registrar-General, who has already done much to tidy up the register, and I have no doubt that the suggestion springs from the most altruistic motives. However, I think it infringes principles, and it would create practical business difficulties, which is the reason why so many people have approached me about it.

Let me give a practical example. Some people express the fear that they will no longer be able to rely on accepting unregistered instruments that they can then themselves present for registration, if the amendment goes through; they will have to see that the documents are actually registered before they can rely on them. I believe that the fears are in part well-founded. Let me give another example. In most settlements when a man purchases a house he needs to borrow money to complete the purchase. I believe that happens in 90 per cent of house purchases. The normal procedure on settlement is that the party advancing the money takes the transfer of the land, plus the certificate of title, and gets his own mortgage executed. Then he takes the bundle of documents to the Registrar-General for registration. If the transfer has to be registered, as many people believe it will have to be before money is advanced, the transaction cannot take place because the vendor of the house will not execute the transfer until he gets his money, and the person advancing the money will not give it to the purchaser to give to the vendor until the transfer is registered. There we have a vicious circle that cannot be completed.

I have conferred with the Attorney-General and the Registrar-General and put these difficulties before them. I thank them for their co-operation and assistance. I think that out of the conference we have probably found a solution of the problem, whereby the wishes of the authorities can be satisfied. It is that some method of developing the legislation can be presented that will achieve the objective but at the same time protect the rights of the people whose rights are at present protected, should be protected, and indeed must be protected. I have since thought further about these matters and I have had to develop one or two refinements to give protection to the people operating under the Act. I have not yet submitted them to the Attorney-General, nor have amendments been drafted because of pressure of work on the Parliamentary Draftsman, but I think they will be ready tomorrow. As I have said, I have not been able to submit the amendments to the Attorney-General, but I think he may well find them acceptable.

The substance of the amendments is this. First, the Registrar-General told me that administratively he proposes to allow a couple of months in which to comply with the requirements he may make under clause 5. It gives him power to ask for other documents to be produced, or information, evidence or notice to be given. I am told that administratively he will allow about two months for this to be done. Administrations come and go and none of us lives forever; I have seen enough to know that

administrative acts (to comply with my requirements, anyhow) should have some tangible form. Acts of such vital importance should be embodied in the legislation. Therefore, I propose to present an amendment stating specifically that anybody being required to do these things under new paragraph (3*a*) of section 220 (3) shall have two months in which to do them. After that the penal clause, or the sanction, comes into effect. New paragraph (3*b*) states that if you do not comply with the requirements within such time as the Registrar-General allows he may reject the document and return it and other documents and you shall forfeit all fees. I do not mind the forfeiture of fees as they are minor and I do not propose to tamper with that part of the section, but the other sanctions I find objectionable because they can affect not only the holder of the document objected to but also the holder of subsequent documents such as the mortgagee to whom I have previously referred.

Therefore, I propose to present a further amendment stating that if the requirements of the Registrar General are not complied with within two months then a further one month's notice shall be given—(*a*) to the parties to the document in question and to the person lodging the document and (*b*) to the parties to all subsequent documents reliant on the registration of the documents and the persons lodging them. That would mean that everybody who could be affected by the rejection of the leading document would have notice and a chance to do something about it and the holders of the subsequent documents will not be able to hop in and get a priority over the original lodger of a document. In addition to that, I propose to move that the word "rejected" be altered to "returned". I understand that the word "returned" is used in the Victorian Transfer of Land Act, and this clause is modelled on section 105 of that Act. To me, "rejection" implies a final act: "return" does not. It is conceivable that in many cases documents which are returned may well be put into order and then re-presented. It could well be that if the Registrar-General has rejected, and has the power to reject, documents it will not be possible to resuscitate them because they are rejected, and not returned. I believe that the word "return", which is used in the Victorian Act, will be quite satisfactory from the point of view of the Registrar-General and certainly more satisfactory both from the point of view of any possible legal interpretation and from the point of view of people relying on these documents.

The idea of the one month's notice after the two month's notice is to give the holders of the subsequent documents and, indeed, the holder of the original document if he cannot recomply with the document, time to lodge a caveat on the title. Honourable members know that a caveat is as good as a document and protects the unregistered instrument. It gives an unregistered instrument priority over a registered instrument as long as it lasts, because the caveat can be removed in certain circumstances. The idea of this notice is to give the holder of a subsequent document a chance to caveat if the document is going to be returned.

We discussed this matter at the conference but it has occurred to me since that in certain rare cases, even though a caveat is lodged within that time, in the meantime someone could have lodged another document subsequent to the original lodgement to the same effect which could be registered in priority to the original document when it is returned. Therefore, I propose to submit an amendment stating that where a caveat is lodged within a month or prior to that month I have referred to, the priorities established by section 56 of the Act shall be retained in respect of any equity to which any person is entitled by the returned document. I know that this is a rather complicated matter. I have practised a great deal under this Act, but I had to have a good deal of legal training before I was able to do so. I hope that I have not been too technical and that I have made myself as clear as possible, and I hope honourable members have been able to follow me in this matter. If any honourable members have not been able to do so and wish the matter to be more clearly explained to them by an expert I refer them to Kerr's *The Principles of the Australian Land Titles (Torrens) System*, at page 151 and following pages. That will give them a lucid explanation of the priorities to which I am referring and supply them with further details.

I have now dealt with the most important points. The other point I wish to raise is contained in clause 4 of the Bill. Paragraph (*a*) of new subsection (2) of section 129 states that the rate of interest and so on shall be set forth in the instrument. I see no objection to that, but there are certain practical difficulties about paragraph (*b*). Under this paragraph if a mortgagor or encumbrancer is required to build in accordance with any plans and specifications, or do or refrain from doing any other act or thing by reference to some other document and the requirement is not, in the opinion of the

Registrar-General, adequately set forth in the instrument lodged for registration then you must attach the plans and specifications or a copy of them to the instrument or specify the registry in which such things are available for inspection. Some documents require people to build in accordance with plans and specifications to be prepared; they are not prepared at the time of the signing of the instrument. Generally, the difficulty of not having them prepared is overcome by stating a minimum price which the covenanter has to spend in relation to them. Therefore, I propose to submit an amendment after the word "specifications" to make that section read something to the effect, "Build in accordance with any plans or specifications which are in existence at the date of the mortgage" because, obviously, if there are none in existence you cannot attach them. The other practical difficulty is in relation to the statement of the registry in which the collateral documents are available for inspection. In 99 per cent of the cases where there are collateral documents containing the information wanted by the Registrar-General to be available (and quite rightly wanted to be available), those documents are all signed at the one time, so that at the time of signing them, when one has to specify the registry at which they are available, they are not in the hands of the registry at all, but in the hands of the signer of the documents. Therefore, my amendment will be along the line that one has to specify the registry in which they are available or will be available for inspection. I see no difficulty from the point of view of the Registrar-General in that, because in practically all cases the other documents have to be lodged within a specified time, the other documents in nearly all the cases being either bills of sale or company debentures, both of which have to be lodged within 28 days of signature or they are not valid, or rather I should say unenforceable against a receiver in bankruptcy. If it is desired that there should be some further protection such as a time limit, I shall be happy to incorporate that, too, in my amendment.

Those are my main points. I shall try to give honourable members ample opportunity to scrutinize these amendments. As soon as the Parliamentary Draftsman is good enough to let me have them, I will see that they go on the files, when they are in print, so that honourable members may study them. I support the second reading of the Bill. As I have said before, I think its objectives are perfectly laudable but it needs amending to try to cope with practical difficulties without detracting from its objectives. I think this can be done in the manner I have outlined.

The Hon. R. C. DeGARIS secured the adjournment of the debate.

LOCAL GOVERNMENT ACT AMENDMENT BILL (POLES AND RATES).

Adjourned debate on second reading.

(Continued from October 15. Page 1030.)

The Hon. G. J. GILFILLAN (Northern): I support the second reading of this Bill, which is made necessary by a desire to extend electricity into country areas. This intention was handicapped by excessive rating by one or two councils. In supporting the principles implied in the explanation given on second reading, I should like to see them extended to include one of the competitors of the Electricity Trust. Although the South Australian Gas Company is a profit-making organization, it is in competition with the trust in the metropolitan area, Port Pirie and Mount Gambier, and I believe we should not give one authority an advantage where there is direct competition. However, I disagree with one or two points in the clauses of the Bill. New paragraph (*j*) of section 5 (1), which lists the exemptions from rating, includes:

> machinery, plant, mains, poles, wires, pipes, and other things used by The Electricity Trust of South Australia for the purposes of generating, transforming, transmitting, distributing, controlling or measuring electricity.

I understand that the words "and other things" in this subclause by common usage refer to "machinery, plant, mains, poles, wires, pipes and other things of a similar nature"; but, when we consider new paragraphs (*k*) and (*h*), which are very similar, we find that they include:

> easements rights of way or other rights of property or of licence whereby or whereunder the said The Electricity Trust of South Australia may transmit or distribute electricity across through or under or transform electricity upon any land.

I believe that paragraph (*k*) contains a slightly different principle from that found in paragraph (*j*) when referring to the transforming of electricity; that in paragraph (*j*) the transforming referred to is that of transformers mounted upon electricity poles to service a limited number of consumers; but in paragraphs (*k*) and (*h*) the reference to this particular transforming of electricity takes the form of "or transform electricity upon

any land'', which implies that these transformers are located upon land that is normally ratable, as distinct from transformers on poles used in the actual distribution of electricity. Clause 5 inserts a new section 363a, which reads:

(1) Notwithstanding any other provisions of this or any other Act The Electricity Trust of South Australia shall, upon being requested so to do by a council, remove any pole or post supporting any cable or wire or any cable or wire supported by any pole or post the property of the said Trust in upon or over any street or road within the area of the council (other than a street or road for the maintenance of which the Commissioner of Highways is responsible) and may erect the same or any other pole post cable or wire in upon or over the same or any other street or road in place of or in consequence of such removal;

This clause gives the Electricity Trust the right to re-site these poles and wires upon any street or road that it chooses. Normally, when erecting a new transmission line, the trust is obliged to get permission from a council. This same consent should be obtained with the re-siting of a line because it means, in effect, that if poles or lines are removed under the provisions of this Act, the trust may put them where it wishes, although the new site may not be suitable for the council concerned, and there are many places where a pole may be placed without impeding traffic but where it may still cause inconvenience to the council. This clause goes further and says:

provided that the Trust shall be under no obligation to effect any such removal in any case unless the Commissioner of Highways certifies that in his opinion any such pole post cable or wire impedes or obstructs vehicular traffic.

These words ''impedes or obstructs vehicular traffic'' are too limited in their application. Over a period of years the provision of electricity has grown with the growth of our towns and cities, and in many streets from time to time poles have been placed in positions where they would not impede or obstruct traffic but they could be most undesirable or dangerous. However, the word ''dangerous'' is not included in this clause. I cannot find any definition of the word ''traffic'' in the Road Traffic Act or the Local Government Act. Webster's dictionary defines traffic as the flow of pedestrians or vehicles along a street or highway, so a pole could be in a position where, although it might not actually obstruct the flow of traffic, it could be undesirable or dangerous and still not come within the clause.

The Minister's second reading speech implies that, although the councils will no longer receive rates from the trust under the provisions of this Bill, they will be compensated by the fact that the trust will remove poles without cost. I consider that, because of the limited nature of this concession as outlined in the Bill, not very much is given by the trust in return for a considerable easing of rating. I support the second reading, but I reserve the right to raise these matters again in Committee.

The Hon. M. B. DAWKINS secured the adjournment of the debate.

ADJOURNMENT.

At 4.8 p.m. the Council adjourned until Wednesday, October 23, at 2.15 p.m.