LEGISLATIVE COUNCIL

Tuesday, August 24, 1965.

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

QUESTIONS

SOLDIER SETTLEMENT.

The Hon. C. R. STORY: Has the Minister of Local Government obtained a reply from the Minister of Lands to a question I asked on August 18 about war service land settlement?

The Hon. S. C. BEVAN: Yes. My colleague, the Minister of Lands, advises that there are 28 applicants still eligible for war service land settlement which were classified for fruit-growing under irrigation. In answer to the second part of the question, my colleague states that no more vacant land will be offered for development under the scheme so that the only holdings likely to become available for allotment are those which are voluntarily surrendered or for which the lease has been cancelled. Such blocks will be allotted under the scheme only if the Commonwealth Government provides funds to bring the holdings back to allotment standard.

SALISBURY COURTHOUSE.

The Hon. M. B. DAWKINS: A month ago I asked the Chief Secretary, who represents the Attorney-General in this Chamber, whether the Government would further consider the case of the people of the city of Salisbury for a courthouse in the area. Has he a reply?

The Hon. A. J. SHARD: Yes. My colleague advises that tenders will be re-called for extensions to the Elizabeth courthouse. Plans are being considered for a new courthouse in the southern part of the Salisbury local government area.

BOTANIC PARK ROAD.

The Hon. Sir LYELL McEWIN: Has the Minister of Local Government a reply to my question of August 18 regarding the closing of the Botanic Park road?

The Hon. S. C. BEVAN: Yes. My colleague, the Minister of Lands, advises that for many years the Board of Governors of the Botanic Garden has been concerned at the public use of Botanic Park roadways. Endeavours have been made to reduce the speed at which motorists travel through the park and to prevent the use of these private roads within the park as public parking areas. Recently both the Police Department and the Adelaide City Council have been greatly concerned by the danger, congestion and disorder caused by car drivers wishing either to enter Botanic Park from Frome Road or to enter Frome Road from the park. At peak periods this congestion has reached hazardous proportions. It will further increase as more traffic is funnelled into Frome Road and as Frome Street becomes a major north-south highway. The board's wish is to preserve Botanic Park as a quiet, aesthetic area in which the general public may drive and pedestrians wander and children play with complete safety. To this end, the board has decided to develop a circular scenic drive within the Botanic Park by closing the Frome Road vehicular entrance to and exit from the park, but this in no way will affect the pedestrian entrance.

Preparations are in hand to develop a small area adjoining Frome Road in which *bona fide* visitors may leave their cars whilst visiting Botanic Park or Botanic Garden. Traffic may for the present enter and leave the park either by the Hackney Bridge gates or the Plane Tree Avenue entrance. At a later date vehicles will be able to enter and leave the park from a single new entrance to be provided on Hackney Road following the closing of the present Hackney bridge entrance when the duplication of the Hackney Road highway is completed. The board proposes to continue its policy of beautifying the Botanic Park. More trees will be planted and lawns extended and in time it is hoped that this area will become even more attractive and will be used to a greater extent than it is at present, particularly by family groups.

NORTHERN ROADS.

The Hon. G. J. GILFILLAN: Has the Minister of Roads an answer to a question I asked on August 11 last about the sealing of the Orroroo-Hawker-Wilpena road, and a report on the programme for the sealing of the Quorn-Hawker road?

The Hon. S. C. BEVAN: Yes. Early this year representations were made to me by the member for the district (Mr. Casey) in another place in relation to roads in this area, and I took up this matter with the Highways Department, dealing with a section of road not referred to at the moment by the honourable member. Arrangements have been made in this financial year for the sealing of a road, which is apparent in the answer. The sealing of the Orroroo-Hawker section of Main Road 378 is not planned on the advanced planning programme. In order to provide a sealed road to Wilpena as quickly as possible, and following the completion of the Port Augusta to Quorn

road, construction of the Quorn-Hawker district road will be commenced shortly. Provision has been made on the current Budget for the expenditure of £115,000 during the financial year.

MESSENGERS.

The Hon. L. R. HART: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. L. R. HART: Mr. President, my question is directed to you. There are a number of messengers in this Parliament and one has to be here for a long time before one can remember all their names. It is difficult for new members to remember the names of the messengers, and any visitors to this Parliament who are directed to seek a certain messenger have some difficulty in locating him. Would you, Mr. President, investigate this matter with a view to having messengers wear a name label when they are on duty at Parliament House?

The PRESIDENT: Yes.

WATER CHARGES.

The Hon. R. C. DeGARIS: Has the Chief Secretary an answer to my question of July 27 last about the equalization of water rates between the country and city areas?

The Hon. A. J. SHARD: Yes. My colleague, the Minister of Works, has furnished me with the following reply: The Government has given a good deal of consideration to the question of water and sewer rating but, in view of the heavy and continuing deficits on country supplies and of the substantial and increasing costs of maintaining and extending those supplies and providing supplies to new areas, the Government cannot, at this stage, see any justification for altering the present policy.

CITY BRIDGE LIFEBUOYS.

The Hon. R. A. GEDDES: Has the Minister of Local Government a reply to the question I asked of the Minister of Transport on August 11 in regard to lifebuoys on the City bridge?

The Hon. S. C. BEVAN: I have a reply to the honourable member's question. A letter that I have received from the Town Clerk of the Corporation of the City of Adelaide states:

Your letter of the 13th August concerning a question asked by the Hon. R. A. Geddes in relation to lifebuoys on the City bridge has been received, and in reply I desire to inform you that on the 12th instant it became known to the corporation that four lifebuoys were missing from the Adelaide bridge recesses. There were two lifebuoys in stock and these were dispatched immediately to the bridge. Four more were ordered and have now been received. The remaining two bridge replacements were installed yesterday. One missing lifebuoy was recovered from the Police Station at the Torrens Lake and three from the grounds of St. Mark's College, Pennington Terrace, North Adelaide. It appears that the lifebuoys were removed from the Adelaide bridge by university students during their "Prosh" day activities.

I should like to add that on Saturday, August 14, I inspected the City bridge in company with my son and there were four lifebuoys in the recesses provided in the bridge framework itself. Four lifebuoys were in position on that day.

GAWLER EAST PRIMARY SCHOOL.

The Hon. M. B. DAWKINS: Has the Minister of Transport, representing the Minister of Education, a reply to the question I asked on August 11 in regard to alterations to the Gawler East Primary School?

The Hon. A. F. KNEEBONE: Yes, I have an answer from my colleague. The Director of the Public Buildings Department has advised that work has commenced on the alterations at the Gawler East Primary School and that it is planned that it will be completed in time for occupation at the beginning of the 1966 school year.

TIMBER FOR SLEEPERS.

The Hon. C. R. STORY: Has the Minister of Transport a reply to my question of August 11 regarding sleepers, following an advertisement in the *Advertiser* in which tenders were called for sleepers other than of indigenous timber?

The Hon. A. F. KNEEBONE: Yes. The Railways Department uses large numbers of red gum sleepers each year, and by and large it uses indigenous sleepers. In the past, however, difficulties have been encountered from time to time in matching the supply of sleepers to the demand, and it has been found necessary to secure supplies from various sources, including overseas countries. Supply is also necessarily affected by economic considerations, and it is prudent to determine from time to time the state of the market. This is done by the calling of tenders. The supply of red gum sleepers had been inadequate to meet all requirements, and is affected not only by seasonal conditions but also by the difficulty on the part of some contractors in supplying sleepers that conform to the specification.

GAWLER BY-PASS.

The Hon. M. B. DAWKINS: Has the Minister of Transport a reply to the question I asked on August 10 in regard to the placing

of a stock crossing on the railway just north of the Gawler by-pass?

The Hon. A. F. KNEEBONE: Yes. Action has been taken by the Railways Department to procure the necessary materials for the construction of the new level crossing near the Gawler by-pass. The work will be done during the current financial year.

SOUTH-EAST AIR SERVICES.

The Hon. R. C. DeGARIS: Has the Minister of Transport a reply to the question I asked on June 15 regarding air services to Naracoorte and Millicent?

The Hon. A. F. KNEEBONE. It is the Government's policy to co-ordinate all forms of transport, but I think the honourable member will agree that this is a task of some magnitude and will take quite some time to complete. The Government's view is that co-ordination of the various forms of transport should be approached on a priority basis with the co-ordination of road and rail being of prime importance and legislation in this direction will be introduced this session. The co-ordination of air services and the provision of better services for the South-East is a matter for subsequent consideration.

With regard to the honourable member's question of August 17, I believe the present service to Naracoorte and Millicent has been suspended because the airstrip at Naracoorte is closed owing to weather conditions, and it would be impossible to justify the service on the patronage offering from Millicent alone. This has also been the position in previous years. The airline concerned has written to the Corporation of Naracoorte and I believe that the service could be reinstated when the Naracoorte airstrip re-opens. However, there has been a falling off in patronage and it is fair comment that if the service is not sufficiently patronized by those who desire it at Naracoorte and Millicent, there will always be difficulties in maintaining the service. I think that the honourable member is at least as aware of the present position as I am.

COUNTRY BUS SERVICES.

The Hon. M. B. DAWKINS: I ask leave to make a statement prior to asking a question.

Leave granted.

The Hon. M. B. DAWKINS: My question refers somewhat to the matter of through transport, and through bus services in particular. I believe that recently there has been an application for a through bus service from Whyalla direct to Adelaide. I understand that it has been disallowed and that the reason given was that it was contrary to Government policy. Can the Minister of Transport say whether this means that in due course, as licences for existing through bus services from country centres to the city expire, they will not be renewed?

The Hon. A. F. KNEEBONE: The answer is "No."

ANZAC HIGHWAY.

The Hon. Sir ARTHUR RYMILL: I ask leave to make a reasonably brief statement prior to asking a question.

Leave granted.

The Hon. Sir ARTHUR RYMILL: Some little time ago I asked a question of the Minister of Roads relative to the possibility of getting more use of Anzac Highway. The question related to the possible removal of the cycle tracks, and I asked whether it would be possible to have a traffic count because my observations showed that the cycle track was rarely used these days. The Minister was courteous enough to let me have a written reply during the brief Parliamentary recess that followed my question. If I remember rightly, he said that the Keswick bridge was the bottleneck now and that it would not be much good doing anything until it was removed. Apart from the fact that the bridge is a bottleneck only one way (in other words, it is not a bottleneck after traffic leaves the city in the peak periods in the afternoon), my question was really directed at getting effective use of the three existing lanes on Anzac Highway. The idea of the question, which I would like to explain, was that, if the cycle track was no longer needed, either we could get a complete parking bay along it or there could be parking bays every now and again so that the three existing tracks could be used. One other matter I would like to mention—and I have had one or two letters about this—is that it would not involve the removal of any trees.

Will the Minister be good enough to have another look at the matter in view of what I have said, and possibly have some observation made of the use of the track, even if not a full traffic count?

The Hon. S. C. BEVAN: Yes, I will have the whole matter investigated again by the department and a report obtained. I will inform the honourable member of the result of that investigation.

UNDERGROUND WATERS.

The Hon. R. A. GEDDES (on notice): Does the Government plan to legislate for the preservation, conservation and prevention of pollution of underground waters of the State in the present session?

The Hon. S. C. BEVAN: In 1959 the Underground Waters Preservation Act was passed by Parliament. This Act provided for the establishment of controls necessary to preserve underground waters from contamination. There are a number of other important aspects of groundwater preservation related to such matters as conservation, which are not dealt with in the existing Act. The Government is considering appropriate amendments to the Act to strengthen it as deemed necessary.

BUILDING INDUSTRY.

The Hon. F. J. POTTER (on notice):

1. Since the Master Builders Association of South Australia has informed me that no approach whatsoever has been made by the association to the Government for tender-price flexibility to cover possible over-award wage concessions, will the Minister of Labour and Industry now inform the Council of the circumstances under which this request was made, and the date of this request?

2. Will the Minister comment upon the fact that representatives of the Master Builders Association have met with the building trade unions on at least five occasions for the sole purpose of discussing the present union wage demands?

3. Since building trade unions' officials have repeatedly stated that strikes will continue until employers concede their demand for £2 10s. per week wage rise, will the Minister inform the Council of the probable percentage increase in housing and other building costs which would follow a labour cost increase of £2 10s. per week per employee in the industry?

4. Since the Premier has acknowledged that he has conferred with representatives of the building trade unions upon their claims, will the Minister inform the Council of the steps taken by the Government to make itself aware of the employers' point of view?

The Hon. A. F. KNEEBONE: The replies are:

1. On June 28, 1965, the Executive Director of the Master Builders Association of South Australia wrote to the Minister of Works.

2. I asked the President of the Industrial Court to arrange a conference, which took place, of representatives of the Master Builders Association and of the building trade unions and at which he presided. I have no information as to the precise number of other meetings which have been held between representatives of those organisations.

3. This could not be calculated, as it would vary with different building projects.

4. I had a discussion with the President of the Master Builders Association.

35-HOUR WORKING WEEK.

The Hon. R. A. GEDDES (on notice): Is it the intention of the Government to introduce a 35-hour working week for State Government employees?

The Hon. A. J. SHARD: It is not the intention of the Government to introduce this measure at this stage.

STATE BANK REPORT.

The PRESIDENT laid on the table the annual report of the State Bank for the year ended June 30, 1965, together with balance-sheets.

HAWKERS ACT AMENDMENT BILL.

In Committee.

(Continued from August 17. Page 1022.)

Clause 3—"Amendment of principal Act, section 20", which the Hon. G. J. Gilfillan had moved to amend as follows:

To strike out "the words 'two pounds' in the second and third lines of the second paragraph, and inserting in lieu thereof the words 'four pounds'" and insert "therefrom the passage commencing with the words 'Any such by-laws' and ending with the words 'breach of any by-law' and inserting in lieu thereof the following subsection (the preceding part of the section being re-designated as subsection (1) thereof):—

(2) Any such by-laws—

(*a*) shall fix the fees payable for a licence thereunder, not exceeding four pounds per day or portion of a day;

(*b*) shall state the fees to be payable only in respect of such days as are specified in the licence being the days on which the holder of a licence is authorized by his licence to sell or expose for sale or take or solicit orders for the sale by retail of any goods, wares or merchandise; and

(*c*) may provide for the imposition of fines not exceeding five pounds, recoverable summarily, for any breach of any by-law."

The Hon. A. J. SHARD (Chief Secretary): When progress was reported I had said that this amendment would be examined. It has been examined, and the Government cannot accept it. The Minister of Local Government made out a good case, and so did the Hon. Sir Arthur Rymill. The Government has been advised that the section merely prescribes a maximum fee to be provided in a by-law under the Local Government Act. If a member of

the Council complains that councils are misusing their by-law-making power, two remedies are open—(1) disallowance of the by-law when laid before Parliament, or (2) placing restrictions upon the by-law-making power when the Local Government Act is before the Council. This Bill deals only with the Hawkers Act. If councils are overcharging, the correct thing to do is amend the Local Government Act rather than accept this amendment, which I ask the Committee to reject.

The Hon. C. R. STORY: I disagree entirely with the interpretation by the Chief Secretary's advisers, because the Local Government Act gives councils power to make by-laws drawing from other Acts; the genesis in this case is section 20 of the Hawkers Act. Unless that section is put in order councils will go on perpetuating the mistake that is being made. To say that the Subordinate Legislation Committee has the remedy in recommending to Parliament that by-laws be disallowed is extremely frustrating for councils. Until section 20 of the Hawkers Act is put in order, this will continue to go on and motions for disallowance will continue to come before Parliament. This makes the position of local government very difficult, and it also makes a farce of Parliament. For the Government to say that it should not do something about correcting a position that it admits is wrong is a foolish approach to the subject. I will continue to support the amendment, which sets out to remedy a wrong—and that is what we are here to do.

The Hon. M. B. DAWKINS: I disagree with the Chief Secretary's statement and agree with what the Hon. Mr. Story has just said. The Hon. Mr. Gilfillan has done much work to right a wrong, and that is one of the main reasons why we are here. I support the amendment and compliment the Hon. Mr. Gilfillan and other honourable members on the research they have done. I have followed the matter with great interest, and I believe the amendment is the result of a considerable amount of thought and that it will right the anomalies that have existed. This is not a matter of politics; it is a matter of trying to clear up anomalies between two Acts. I believe the amendment will do this, and I ask the Government to consider it further.

The Hon. R. C. DeGARIS: I, too, support the view of the Hon. Mr. Story and the Hon. Mr. Dawkins. I disagree with the view put forward by the Chief Secretary. The Local Government Act contains by-law-making powers but does not contain any such powers in regard to fees that visiting traders can be charged. The councils draw their powers for charging fees from section 20 of the Hawkers Act. Many of the by-laws under which councils are working were made under the Local Government Act and the Hawkers Act. Some fees charged by councils are not within the spirit of the Hawkers Act. It may be that the Government's advisers are right, that local government has the power to charge these fees over a longer period than one day—a quarterly, half-yearly or yearly fee. If the Government's advisers are right that local government can make by-laws covering a fee for a period of a quarter, a half year or a full year, then I am certain that this amendment of the Hon. Mr. Gilfillan should be accepted by the Committee in order to put the matter beyond doubt and make the fee for a visiting trader on a purely day-trading basis. I support the amendment.

The Hon. Sir ARTHUR RYMILL: I have not much to add to what I said on the second reading on this matter. Some honourable members are making a mountain out of a molehill and say they are trying to assist local government. I suggest that they are restricting local government. I adhere to the view that I expressed on the second reading and support the Government in this matter.

The Hon. G. J. GILFILLAN: I have listened with some interest to what has been said by honourable members on both sides. I find it hard to understand the Government's attitude in this matter because the amendment is intended to be constructive and make the Act work in the manner intended when the section was originally framed. I cannot understand the Minister's statement that the anomalies (the word he used) that may occur can be decided by the Subordinate Legislation Committee by a disallowance, because that committee is bound by the Act itself. Unless it is suggested that it should take extra powers unto itself to decide these things, I cannot understand how the suggestion can work.

The Hon. Mr. Bevan spoke at length on the Bill. I do not intend to deal in detail with his remarks, because I believe he spoke in the best of faith. He was absent through illness when this was debated at length, and he had a very short time in which to look up relevant matters before he spoke. In parts of his speech he implied that members on this side of the Chamber had a certain motive, and he used my name on several occasions. His assumptions that we were completely unaware of

the implications of the Act, and of the exemptions listed in it, were incorrect. In fact, members on this side—

The Hon. S. C. Bevan: You were pretty silent on it.

The Hon. G. J. GILFILLAN: I can read the remarks again in detail, if the honourable member wishes.

The Hon. Sir Arthur Rymill: That is a good idea.

The Hon. G. J. GILFILLAN: The Hon. Mr. Bevan said that the only people who would be affected by the amendment would be those exempted under the Act. That is not so, because many people trade in various areas as non-resident traders, or as people who do not continuously reside or trade in the area.

The Hon. S. C. Bevan: They are not hawkers under the Act.

The Hon. G. J. GILFILLAN: They do not come under the exemptions. Many classes of goods sold in council areas do not come under the exemptions. The honourable member is confusing these people with hawkers, whereas section 20 of the Hawkers Act has nothing whatsoever to do with hawkers. It deals with people who do not continuously reside or trade in the area. A hawker is a person who has a licence from the Commissioner of Police under section 10 of the Hawkers Act, which is a completely different section. I am sure that this is where the Minister has become confused. I do not suggest that it is his fault, because I know he spoke at short notice on this matter. In my remarks on the second reading and on this amendment, I did not mention the people who were exempted. We are fully aware that some people are exempted. I did not mention the word "fruit" or anything allied to fruit in the way of perishables: that was mentioned by another honourable member. My only concern in moving this amendment is to see that justice is done, and that the implications of the Act are carried out. It appears that there was a slight anomaly in the drafting of the original section 20, which has enabled a wide interpretation of the Act to be made.

The Hon. Sir Arthur Rymill: It has been amended twice already.

The Hon. G. J. GILFILLAN: But not in this sense.

The Hon. Sir Arthur Rymill: When they were amending it, one would have thought that they would put the section right.

The Hon. G. J. GILFILLAN: Obviously they have not done so. Sir Arthur Rymill implied that this was rather a trivial matter, but I think this discussion reveals the Legislative Council working in the way in which it is intended to: we are here to look after not only the majority but also the minority. Where we see what we consider an anomaly in an Act, it is our duty to try to rectify it. Whether it be small or large, the principles involved are precisely the same. Because of the lack of legislation from another place on our Notice Paper at the moment, I think we can well spend time on a Bill of this nature.

I should like to correct one thing in my speech supporting this amendment. I quoted from an opinion that we received but in the *Hansard* report the word "not" has been added wrongly, and it completely alters the meaning of the opinion. I missed this in correcting my proofs, and I should like to correct it now by re-reading the quotation, which is as follows:

It is appreciated that it is possible that this fee could amount to more than £2 per day in certain cases but, on the face of the by-law, the statutory maximum is not reached.

I take this opportunity of correcting this in the *Hansard* report, because it considerably alters the meaning of this opinion. I can see no reason from what has been said in opposition to this amendment why we should change our opinion on the necessity to tighten up section 20. I support the amendment.

The Hon. S. C. BEVAN (Minister of Local Government): I still support the original Bill. In the comments that have been made this afternoon, it has been quite respectfully suggested, of course, that if I had more time to examine the ramifications of the Bill, I might not have spoken in the terms in which I did. Section 20 of the Hawkers Act picks up various people who, I repeat, are exempt from having a licence under the Act. I made references to this in my previous speech and, if we look at the Hawkers Act, we find that the very people who are not hawkers under that Act are not required to have a hawker's licence. If they were, councils could make 1,000 by-laws, and that still would not affect these people.

The Hon. F. J. Potter: Yes, it would.

The Hon. R. C. DeGaris: Yes.

The Hon. S. C. BEVAN: Under the Act, a council cannot charge any fee in respect of a person who has a hawker's licence.

The Hon. R. C. DeGaris: There are by-laws other than by-laws charging fees.

The Hon. S. C. BEVAN: He cannot be charged a fee. There was an interjection a moment ago about the Act having been in operation for some time, that it was amended on a couple of occasions, and the question was asked as to why this was not picked up before. I think the answer is quite obvious, that it is only recently that councils have been taking action in relation to some of these people. The term "visiting trader" has been used in referring to a person who does not trade only in one area or council district and it has been said that he could have to pay a considerable amount of money. Perhaps he could, because the councils, under their by-law-making powers, can impose a charge upon him and, if he visits six districts in one day or six districts in six days, each individual council can impose a charge upon him, depending on circumstances. Therefore, that person has to have a permit for every district he enters and the fees charged are as determined by the councils.

There are people such as stallholders who set up stalls in council areas by permission of the council on payment of a particular fee. I do not see that the amendment will achieve the object that the honourable members are trying to achieve, nor can I see anything in it that says that, in relation to a visiting trader, only one council shall charge him a fee that shall not exceed £4 a day and no other council shall make a charge. In the circumstances, if that visiting trader went to six council areas in one day in the course of his work, and each council imposed a fee of £4 on him, he would have to pay £24 a day. This amendment does not prevent that, and I think that is what the honourable member himself is trying to overcome. I still say that the proper method of tackling this is through the three sections contained in the Local Government Act, which give the councils power to impose charges under their by-laws on the people whom honourable members are trying to protect. This amendment does not restrict the councils and the honourable member is attempting to restrict the powers of councils to impose a charge on these people.

The Hon. F. J. Potter: No.

The Hon. G. J. Gilfillan: This is to bring by-laws into line with the intention of the Act.

The Hon. S. C. BEVAN: It is to prevent councils from saying "B, C, D and E". What the honourable member is suggesting amounts to a limitation.

The Hon. G. J. Gilfillan: The only limitation is in section 20 itself. We are seeking clarification.

The Hon. S. C. BEVAN: In the case I mentioned, the man would have to pay £24 a day and I still say that the way to attack this is through the Local Government Act, not through the Hawkers Act, because this Bill only brings the licence fee into line with present-day costs.

The Hon. R. C. DeGaris: Aren't you altering the by-law-making powers of the council?

The Hon. S. C. BEVAN: What is the purpose of altering the by-law making powers of the council? I am sure, without looking up the Act, that this provision has been in it since 1934. The honourable member asked aren't we altering the by-law making powers of the council? I suggest we are not.

The Hon. Sir Norman Jude: You suggested that we should, but under the Local Government Act.

The Hon. S. C. BEVAN: I am suggesting that that is the proper way to tackle the question: I am not saying that I am in agreement with it and that that is what should be done. I am not saying that I agree that the councils should be restricted in their by-law-making powers in relation to this question at all. That is a matter that I would consider when it was under discussion, not now. I am suggesting that in order to achieve what the honourable member is trying to achieve, he should do it by amendment of the Local Government Act.

The Hon. Sir Norman Jude: He couldn't do it.

The Hon. C. R. STORY: There is a great amount of confusion and it appears to me that the confusion is at all levels. The Minister has said a lot of sensible things about this matter, but one thing about which he is confused is what these amendments would actually do. The marginal note to section 20 of the Hawkers Act says, "Powers of the local government body as to visiting traders". As I see it, the matter is in two parts. The first part is an amendment of section 20 of the Hawkers Act.

The Hon. Sir Arthur Rymill: The Act has been amended since that marginal note was inserted.

The Hon. C. R. STORY: Quite. Section 20 is being amended and the amount of £2 is to be increased to £4. If this passes, local government bodies will be able to alter their by-laws to provide for a fee of £4 a day.

The Hon. R. C. DeGaris: Or £300 a quarter.

The Hon. C. R. STORY: This is all that the Bill says. My contention, and the contention of other members, is that certain local government bodies have got around section 20 by taking a large figure and using it as a lump sum, but still remaining within the permissible amount for a quarter. A charge of £2 a day could be levied on the number of working days, excluding Sundays, in a quarter: a council could do that if a man applied for a licence and said he wanted to stay in that district all the time.

The Hon. S. C. Bevan: They may get £20 out of him and he may be in the area for only one day.

The Hon. C. R. STORY: The Minister is now coming around to my way of thinking, and this is precisely what the local government bodies are doing, putting on a flat fee of £20. If a man goes through local government areas in two weeks he could be up for a fee of £20 each time for one day's trading. He is being severely victimized in comparison with a man who gets a hawker's licence, who at the very worst under this amendment, could be charged only £8 for a whole year. That is not right, and the honourable member must see that it is not right. It is unfair, and local government bodies are abusing this provision, because it states quite clearly in the amendment:

Any such by-laws may fix the fees to be paid for a licence thereunder not exceeding £2 per day or portion of a day and may provide for the imposition of fines not exceeding £5 recoverable summarily for any breach of any by-law.

That is what Parliament wanted, that is what Parliament meant it to be and that is what it should be.

The Hon. S. C. Bevan: Tell us the results of this in the light of the Crown Solicitor's opinion that has just been obtained.

The Hon. C. R. STORY: If the Crown Solicitor holds that opinion the law must be corrected. Let us now turn to the schedule at the end of this Act and examine the intention of the amendment. It seeks to amend section 20 of the principal Act by striking out the word "two" in the second and third lines of the second paragraph and inserting in lieu thereof the word "four". That dispenses with the itinerant trader.

Now we come to the hawker, who is in a different category altogether. In the schedule, the first part of clause 4 amends the fees under the Hawkers Act itself. I think I have made my point that I believe £2 is the fee that this Chamber wants for a day or part of a day: no subterfuge, no finding other ways out of it, but just £2 a day for a travelling salesman in an area. I oppose anything that does not prescribe that, especially if section 20 is not properly clarified. I will not support any increase in that fee because councils would then be able to charge up to £40 if they now charge £20. In effect, they would be able to double their charges, and I will not support that as it is not right.

The Hon. F. J. POTTER: I think that the Hon. Mr. Story has set out the case well and explained it to the Minister. However, he raised another point; he stressed that the fee should remain as it is, that is, £2. It is not necessary, in his opinion, and I am inclined to agree with him, that this figure should also be increased to £4 if Mr. Gilfillan's amendment is passed. Mr. Gilfillan's amendment does two things: it alters the imposition of the fees or the way in which the council can use this section, and it increases the fee from £2 a day to £4 a day. I support Mr. Story's remarks that in implementing Parliament's original intention it is fair and right that there should be no interference with the actual amount prescribed in the existing section. Accordingly, I would like to move an amendment to the existing amendment or, if it is the proper method, to give notice of my intention to do so. I would move a further amendment if that were inserted by the Committee, and it would be to strike out the word "four" in paragraph 2 (*a*) of the amendment and insert in lieu thereof the word "two".

The Hon. Sir ARTHUR RYMILL: By way of interjection I think the mover of this amendment referred to the fact that it is giving effect to what he calls the intention of the Act. I have to join issue with that because every honourable member knows that the intention of the Act is interpreted by courts and can be interpreted only by them in the light of what the Act says. There is no other interpretation of it that can be taken. The Act says what it says, and I do not know how any honourable member can set himself up to say what the intention of the Act is other than what it appears to say or what one can normally expect it to mean when it says what it says.

The other point I want to make is that the amendment in clause 2 (*b*) says that the fee shall be stated to be payable only in respect of such days as are specified in the licence, and apparently the mover of this amendment thinks that that is going to block councils from doing what they are apparently doing

now, which he says is not in accordance with the intention and, if that is so, I am surprised that these by-laws were ever approved by this House or certified to be lawful. If the fees can be charged only in respect of the days specified in the licence, what is there to prevent councils from specifying a lot of days in the licences? In other words, if a council is asked to grant a hawker's licence, or a licence, to use the words of the Hawkers Act, to a person "who does not continuously reside in the area", what is there, if a council wants to charge a quarterly fee, to prevent it from stating on a licence that the man is to be licensed for every day in such an such a quarter?

The Hon. L. R. Hart: You cannot charge a hawker.

The Hon. Sir ARTHUR RYMILL: I am talking about people not continuously residing in the area. Also, I am talking about the manner in which these licences are granted. Although this amendment sets out to stop people from being charged for another licence, there is nothing to stop the licence from stating that it is granted in respect of a large number of days instead of just one or two days or in respect of the days in respect of which the person applying for it asks to be licensed. I think I am rather paraphrasing what the Minister of Local Government said. He thinks this amendment will not do what it sets out to do.

The Hon. S. C. Bevan: If it is considered in the light of what the Crown Solicitor has said, it has no effect.

The Hon. Sir ARTHUR RYMILL: That is so. Although this may putty up one chink that exists in the Act in the mind of the mover (I do not necessarily think it is the intention) it leaves another open so that councils, if they are lawfully doing what they are doing now, can continue in a different way to do lawfully what they are now doing. I do not think the amendment is effective. I have always preached in this Chamber that, within reasonable bounds, when we delegate authority to local government we should trust it. I know that certain restrictions must be placed on it, but, in a matter of this nature, which I consider to be comparatively trifling compared with the type of legislation that we deal with, I see no necessity for this amendment.

If by-laws of councils go beyond what the mover of the amendment thinks is the intention of the legislation, they should be challenged as such instead of having amendments to the legislation after by-laws have been carried into law, because, as far as I know, there is nothing in this Act which can make by-laws themselves be amended. If councils want to take advantage of the additional fees, they may have to amend their by-laws, but that would be only a minor amendment, and all this Chamber could do is disallow it; it could not disallow the whole by-law. In respect of existing by-laws that may be unlawful—I do not say they are—I do not think this gets us much further. In respect of new by-laws that may be made and may be unlawful, the remedy is in the hands of this Council, with or without the support of the Subordinate Legislation Committee.

The Hon. C. R. STORY: I was at one time the spokesman of the Subordinate Legislation Committee in this Chamber and I remember Sir Arthur Rymill being extremely critical on many occasions of the committee's moving for the disallowance of many by-laws. What he wants to do is perpetuate something that crept through the Crown Law Department some years ago.

The Hon. Sir Arthur Rymill: You do not think this will stop it, do you? This will not alter the position.

The Hon. C. R. STORY: I am not arguing the amendment along those lines because, if it does not do what the mover intends, we shall have to ask the Minister to report progress while we have another look at it. If that is not done I will vote against the Bill completely. It has been said that the Subordinate Legislation Committee should deal with by-laws if it considers the fees too high, but that is frustrating to councils, which are entitled to have a clear picture of their powers. Somebody made a by-law different from others, and it was passed. It then spread like wildfire to other councils. At present two by-laws are on the table of this Council and are receiving the attention of the committee. In 1934, when the Hawkers Act came into operation, section 20 became the authority for councils to make by-laws to deal with these people. In 1935 this was the form in which a by-law was drawn in respect of non-resident traders:

At a meeting of the district council held on Thursday, March 14, 1935, at which nine of the 10 councillors then constituting the council were present, it was resolved in terms of Part XXXIX of the Local Government Act, 1934, and the Hawkers Act, 1934, and all other powers thereunto enabling to make, and the council thereby makes the following by-law:

Then the area was mentioned, and "sell", "goods", and "house" were defined. It continued:

No person who does not usually reside or carry on business within the area shall sell any goods in or at any house hired or used for the purpose without first having obtained

a licence so to do from the council. The Clerk or other authorized officer may issue licences (hereinafter called non-resident traders licences) to persons to whom this by-law applies, which licence shall be in the form hereunder written. Every person desirous of obtaining a non-resident traders licence under this by-law shall make application therefor in the form B hereunder set forth and shall at the time of making such application pay to the Clerk or other officer a fee equal to £2 for every day mentioned in the said application during which such person desires to sell any goods.

That is how it was in its original form in 1935. It does not mention anything other than £2 for every day mentioned in the application during which a person desires to sell any goods. That is a far cry from what is happening now under the same Act. A few more words were added by an amendment but they do not affect this matter, and here we have varying fees prescribed.

The Hon. Sir NORMAN JUDE: It is obvious to me that the Committee is virtually deadlocked on what is thought by many to be an anomaly and what was admitted by the Minister on August 17 to be an anomaly. He said, "This amendment does not remove that anomaly"—that is, the anomaly that was suggested. I then asked, "Do you think we should have one that does?" The Minister then said, "This is another reason why the Local Government Act should be brought up to date to remove anomalies". I suggest that that is the only appropriate step to take in the circumstances. A Local Government Act Amendment Bill is before the Council, and if the Minister is sincere in his attitude, as I believe he is, here is an opportunity to amend the two Acts at once and so line them up.

The Hon F. J. Potter: It is very simple.

The Hon. Sir NORMAN JUDE: I do not think the Committee is divided in regard to the raising of hawkers' fees, but the Subordinate Legislation Committee has recently taken evidence that leaves some of its members in doubt about the attitude of one or two councils towards ousting all types of itinerant trader from the district, which, if taken over the whole State, would be grossly unfair. I do not wish to remove powers from local government but, the Minister has admitted, whether under this Act or another Act, there is an anomaly. It is suggested that the position can be remedied by amending the two Acts simultaneously. I suggest that the Chief Secretary report progress and that we look at this matter further.

The Hon. G. J. GILFILLAN: I want to clarify my attitude on this matter. Some doubt has been raised by the Minister and one other speaker whether the amendment will implement the desire of its mover and supporters. It has been drafted by the Parliamentary Draftsman with full knowledge of what is intended. If honourable members do not think the amendment carries out the intention that has been expressed, I suggest that they be co-operative and that perhaps we could alter the amendment to make it do what is intended.

The Hon. A. J. Shard: That is your affair, not ours.

The Hon. G. J. GILFILLAN: The Minister suggested on several occasions that the amendment did not give effect to what was intended. I do not know his authority, but my main intention is to see that the Act works in the way intended. The word "intention" has been used this afternoon. There is some misunderstanding about the difference between the intention of the law and my use of the word "intention", referring to the intention of those who introduced the Bill and those who spoke on it, particularly in regard to this section. Perhaps there is a difference, but perhaps it is a play on words. When I refer to "intention", I mean the intention of the framers of the Bill in its original form and the form in which it has been amended since.

It has been said that there appears to be a desire to restrict the powers of local government, but that is not so. It is merely to guide local government so that it can frame its by-laws in keeping with the Act; so that the intention of the Act will be clear. It is interesting to note that the Hawkers Act was first introduced to protect country traders from city traders who went into a country area for a short period, perhaps on a pay day or a market day, traded for a short time and then left the district. However, in the recent by-laws that have been framed, particularly under this section, we find that the councils that impose the large fees are mainly metropolitan or suburban. I refer also to fees. When I moved my amendment I included the words "£4 a day", because it was my wish at that stage not to oppose the Government's intention to increase fees under the Act to this amount, but to see that it was carried out on a per diem basis and not used by some councils for the purpose of imposing a large seasonal fee. If the Hon. Mr. Potter wishes to go on with his further amendment for a fee of £2 a day, it is not the main point under discussion as far as I am concerned.

The Hon. F. J. POTTER: A new factor has been introduced into the debate by a suggestion of the Hon. Mr. Bevan and the Hon. Sir Arthur Rymill that perhaps this amendment will not achieve what is desired. As I see it, the Minister and Sir Arthur Rymill have suggested that a council may say in its by-laws, "We do not issue licences per day. We issue licences only for nothing less than a quarter." If that is correct, it may well be that the intention of the mover of the amendment will be defeated, because the crux of it appears in paragraph 2 (*b*), which provides that the by-law shall state the fees to be payable only in respect of such days as are specified in the licence, whereas I think that what is really required is that the by-law shall state the fees to be payable only in respect of such days as are applied for by the trader and specified in the licence. That is Sir Arthur's point. It has been raised at a late stage, but it has some merit and it may well be that the matter should be looked at because I feel (and I am sure other honourable members agree with me) that, if the amendment is to be agreed to by members, it ought to do what we want it to do.

I support what Sir Norman Jude said about it just opening the door. It should probably be followed by a slight amendment of the Local Government Act to bring it into line. I am not sure whether or not that is necessary, for I have not looked into it; but I accept what others have said about that probably being necessary. If it is, we have a Local Government Act Amendment Bill before us and it would be a simple matter to amend it to bring things into line. The matter ought to be looked at. The Government may now be prepared to report progress to enable us to look at the matter again.

The Hon. L. R. HART: The matter raised by Mr. Potter has considerable merit. The question is, has the council power to state the number of days or has the trader the power to ask for certain days? The only days to be licensed should be those applied for by the trader. The Hon. Mr. Potter's suggested amendment to the amendments may well implement the intentions of the Hon. Mr. Gilfillan.

The Hon. M. B. DAWKINS: I support the suggestion made by the Hon. Mr. Potter and endorsed by the Hon. Mr. Hart, because I believe it may clear up the provision considerably. The hawker should have some right to state on how many days he wants to be in an area and to apply for a permit for those days. The council would then know whether it could give a licence. I support the addition of the words. I do not know whether the Hon. Mr. Potter wishes to make this the subject of a further amendment, but it may be helpful to achieve clarification.

The Hon. F. J. POTTER: I have no doubt that the proposed amendment would clear up the trouble we have. However, the only reason I did not move it as an amendment was that I was not sure whether "trader" would be the proper word to use. I have not got the Act in front of me and do not know whether the word is defined. If the Minister is not prepared to report progress in this matter—

The Hon. A. J. Shard: You have had a month. What more do you want?

The Hon. F. J. POTTER: —and if we do not get an opportunity to have another look at it, I will take the plunge and move the amendment. I give notice of a further amendment, to insert in paragraph 2 (*b*) after the word "are", the words "applied for by a trader and".

The CHAIRMAN: The honourable member will have the opportunity of moving that later. The Hon. Mr. Gilfillan's amendment is in two parts. I shall now put the first part, which is to strike out 'the words "two pounds" in the second and third lines of the second paragraph and to insert in lieu thereof the words "four pounds".'

The Committee divided on the question "That the words proposed to be struck out stand":

Ayes (5).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, Sir Arthur Rymill and A. J. Shard (teller).

Noes (12).—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan (teller), L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter, C. D. Rowe and C. R. Story.

Majority of 7 for the Noes.

Question thus negatived; amendment carried.

The CHAIRMAN: We shall now take the second part of the Hon. Mr. Gilfillan's amendment, to which the Hon. Mr. Potter proposes an amendment.

The Hon. F. J. POTTER: I am not quite sure of the procedure, but I have given notice of two amendments to the Hon. Mr. Gilfillan's amendment.

The CHAIRMAN: Now is the time to move them.

The Hon. F. J. POTTER: I take it that I can deal with one at a time?

The CHAIRMAN: Yes.

The Hon. F. J. POTTER: I will put the second one first, because it seems to be fresh in the minds of members.

The CHAIRMAN: The honourable member will have to move them in the proper order.

The Hon. F. J. POTTER moved:

In paragraph 2 (*a*) to strike out "four" and insert "two".

Amendment negatived.

The Hon. F. J. POTTER: I think there may have been a misunderstanding about the last amendment. I now move:

In paragraph 2 (*b*) to insert after the word "are" the words "applied for by any visiting trader and".

The Hon. Sir ARTHUR RYMILL: I do not think the honourable member has given this amendment sufficient consideration, because apparently he is limiting the power of a council to granting a licence only for the extra number of days that the trader applies for, no more and no less. They will be the only days on which fees can be imposed. I think that is an undue restriction on a council. It should be allowed to grant a licence for more days if it so desires. However, I know that this is a bone of contention. The amendment moved by Mr. Potter does not allow a council to have such a power. Either the council grants a permit for the days applied for, or it does not.

The Hon. S. C. Bevan: How are you going to police it?

Amendment negatived.

The CHAIRMAN: I will now put the second part of the amendment moved by the Hon. Mr. Gilfillan.

Amendment declared negatived.

The Hon. C. D. ROWE: On a point of order, Mr. Chairman, I think the Committee is confused. We are now voting on the remainder of the amendment moved by the Hon. Mr. Gilfillan.

The Committee divided on the amendment:

Ayes (12).—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan (teller), L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter, C. D. Rowe and C. R. Story.

Noes (5).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, Sir Arthur Rymill and A. J. Shard (teller).

Majority of 7 for the Ayes.

Amendment carried; clause as amended passed.

Clause 4 and title passed.

The Hon. F. J. POTTER: I move:

That the Bill be recommitted.

The PRESIDENT: I will first put the motion:

That the Committee's report be adopted.

Motion carried; Committee's report adopted.

The Hon. F. J. POTTER moved:

That the Bill be recommitted for the purpose of considering an amendment to clause 3 as amended.

The PRESIDENT: The question is that the Bill be recommitted for the purpose of considering an amendment to clause 3 as amended. Those in favour say "Aye"; those against say "No". The "Noes" have it.

The Hon. F. J. Potter: Divide.

The Hon. S. C. BEVAN: I rise on a point of order, Mr. President. The previous decision was that where only one member called for a division it was not in order to have a division. As only one member has called for a division, I submit for your ruling that this is not in order under Standing Orders.

The PRESIDENT: Any honourable member can call for a division, and it seemed that there were about half the members of the Council voting each way. The Hon. Mr. Potter has moved that the Bill be recommitted for further consideration of clause 3.

The Council divided on the motion:

Ayes (12).—The Hons. M. B. Dawkins, R. C. DeGaris, R. A. Geddes, G. J. Gilfillan, L. R. Hart, Sir Norman Jude, H. K. Kemp, Sir Lyell McEwin, C. C. D. Octoman, F. J. Potter (teller), C. D. Rowe, and C. R. Story.

Noes (5).—The Hons. D. H. L. Banfield, S. C. Bevan, A. F. Kneebone, Sir Arthur Rymill, and A. J. Shard (teller).

Majority of 7 for the Ayes.

Motion thus carried.

In Committee.

Clause 3—"Amendment of principal Act, section 20"—reconsidered.

The CHAIRMAN: The question is, "That the clause as amended be agreed to."

The Hon. F. J. POTTER moved:

In paragraph 2 (*b*) after "are" to insert "applied for by any visiting trader and".

The Hon. A. J. SHARD: I rise on a point of order, Mr. Chairman. An amendment exactly the same in principle has already been moved and decided when we were previously in Committee on this clause. I ask you to rule on whether it is right for a Bill to be recommitted to deal with exactly the same amendment as that which has been defeated on the same day.

The CHAIRMAN: The Council has agreed to recommit the Bill. The Hon. Mr. Potter.

The Hon. F. J. POTTER: I move this amendment simply because I believe that when

the matter was previously before Committee honourable members were confused. I do not mean to argue its merits. I think it was Sir Arthur Rymill who raised one point about this matter that was not replied to. I think his point is covered by the wording in the existing section, namely, that the days have to be specified in the licence. In any case, I believe that under the existing law there is no power for a council to refuse a licence to a visiting trader for anything other than what he applied for. I am not sure about that, but it is clear in the amendment that the number of days has to be specified in the licence as well.

The Hon. Sir ARTHUR RYMILL: I hope, Mr. Chairman, that you will not interpret what I am about to say as questioning your ruling in any way, which it does not. As I have said before, I have been here for nine years and this is the first time I have heard a member re-move an amendment that has already been defeated. In other words, he is asking the Committee within a matter of minutes to change its mind. As the Chief Secretary has pointed out, the wording of this amendment is identical with the wording the honourable member previously used. If my recollection is right, on the voices the only honourable member in favour of his previous moving of this amendment was himself: in other words, he is now asking every honourable member of this Chamber to change his mind within a matter of minutes. I certainly do not propose to, because I have no reason for doing so. I have previously expressed my reasons why I voted as I did.

The Hon. A. J. SHARD: This is a method that would never be tolerated among any free-thinking people. It is always accepted in the ordinary rules of debate in any place one goes to that, when an amendment or a motion is defeated, it is never recommitted on the same day. I am not questioning your ruling, Mr. Chairman. I am talking about general practice and procedure. If this is to be the attitude, if honourable members do not apply themselves to their jobs and know how they are voting and they have something recommitted in order to deal with it on the same day, it is wrong in any circumstances. Irrespective of the merits of this procedure, the Chamber should defeat this amendment simply to keep this place on an even keel in respect of what is fair and reasonable. I say that because I have been here, with Sir Arthur Rymill, for a long time, and I have never known such a course as we have taken today. If this is to be the attitude, to overcome the laxity of honourable members' thinking when an amendment is discussed in Committee, it is totally wrong. If we want to keep this Chamber at the high level it has maintained over the years, this amendment should be defeated for the sake of respect for the conduct of affairs here.

The Hon. C. R. STORY: I remember that not a quarter of an hour ago the Minister was asked to report progress so that this matter could be given due and proper consideration. He overruled that request and honourable members have gone along with him to this point. Some confusion arose, and I believe that the honourable member who introduced this amendment himself was not quite clear; I do not think that others were, either. If the Minister wants all this procedure to be democratic, he must bend his knee a little, too, to honourable members. When they ask, genuinely, for co-operation in having another look at amendments, the Chief Secretary himself might well run along with them a little better than he has.

The Hon. A. J. SHARD: As for running along with honourable members, I think I have been most courteous to them on this Bill and during all this session. This amendment was on the files to be dealt with last Tuesday. I promised to look at it and bring back a decision. We did not have a sitting on Thursday last week. If honourable members had done their homework properly, this difficulty we have had today would not have happened. The Government has done its share on this amendment. At one stage honourable members were not paying attention to you, Mr. Chairman. There should not have been any doubt about what was before the Chair. I say that, if there had been an adjournment today, tomorrow, or next week, we still should have been in the same position as we are today. It is the first time since I have been in this Chamber that this Standing Order to recommit a Bill in this manner has been taken advantage of, to the best of my knowledge. It is an advantage that should not have been taken and, if honourable members wanted to do the right thing, they would reject this amendment to maintain the courtesy and understanding that has always existed here.

The Hon. Sir LYELL McEWIN: We have listened to the wonderful heroics being indulged in by the Chief Secretary! He himself has just admitted that the delay to this Bill was used for his own convenience. The Bill has been here since July 28; he wanted time to look at it.

The Hon. A. J. Shard: What about the amendment?

The Hon. Sir LYELL McEWIN: The Chief Secretary has been yelling the roof down, but I ask him now to listen to me. The amendment has been recommitted. There is nothing unusual about that at all and I resent any suggestion from the Chief Secretary that honourable members here do not know how to conduct themselves or that you, Mr. Chairman, do not know the right decision to give. It is within the province of any honourable member to move for the recommittal of a Bill. It has been done hundreds of times, over the years. In fact, the Chief Secretary has been, on occasion, the first to take advantage of it in the past, to go into Committee and to recommit a Bill for further consideration.

The Hon. Mr. Potter moved an amendment. If the Chief Secretary knows all about it he is very smart, but it is something that I did not get the sense of. It is not before honourable members on their files and I have heard complaints before in this Chamber about things being placed before honourable members without their having time to examine them. I have only just seen the amendment myself. I certainly did not know what was going on previously. Surely it will not be suggested that this honourable Chamber will not be allowed to consider anything properly. So long as I am here, I intend to use my prerogative to consider any amendment put before this Committee. That is what I call democracy, not what the Chief Secretary is attempting to do, to bludgeon something through this Chamber. I give him this friendly warning: if this is the tactic that he intends to adopt to get business through this Chamber, I can assure him that we shall have plenty of sittings.

Amendment carried; clause as further amended passed.

Bill reported with a further amendment. Committee's report adopted.

LOCAL GOVERNMENT ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 18. Page 1086.)

The Hon. Sir NORMAN JUDE (Southern): Mr. President, I have considered the amending Bill as presented by the Minister of Local Government last week. First, I commend him for his introduction of it early in the session. As a matter of fact, the more I look at it, the more I can understand its early introduction, for it deals with a number of controversial problems. Honourable members are aware that a Local Government Act Amendment Bill is essentially a Committee Bill, dealing with a large number of matters, and this one is no exception. The Minister dealt with the various clauses in his second reading speech, but I wish to make a few comments on them in order to assist those who follow me in this debate and I hope thereby to give them food for thought on some specific clauses.

The first amendment brings exemption under land value rating into line with annual value rating in regard to church property, and this amendment is highly satisfactory. The Minister will be well aware that representations were made during the past year on these lines and a perusal of the relevant docket will show that I gave a verbal undertaking that this clause would be considered when the Local Government Act was reconsidered. So, I am glad to see that the Minister fell into line with me and agreed that it was a highly desirable amendment, bringing the two systems of rating to apply in the same manner.

I was a little concerned at the verbiage used. In one case the words used were, "entirely for worship", and in the other, "used for religious purposes". I do not know whether honourable members have ever passed a church hall on the occasion of a band practice, or something like that, and I do not know whether that could be termed a "religious purpose". However, as long as the spiritual side of the matter is covered, I am sure that that can be accepted.

The next clause deals, in the main, with what might be termed "interested parties as councillors" and was brought to immediate light by the desire of the spouse of the foreman of a particular district council to seek election as a councillor on that district council. The position appeared to be in some doubt and this amendment, as I understand it, is intended to clarify that matter. However, it goes further than that, and I am wondering whether honourable members will, on thought, find it desirable that councillors should trade with the council, even, as the clause suggests, "on more favourable terms" than other traders are prepared to give; in other words, so as to give it a "cut". I would hate to think that there was an opportunity of being in big business (and some district councils do very big business with petrol and items like that) by obtaining a franchise from the council and giving a cut rate in opposition to other persons selling the same products. I think that this clause should be given some consideration.

Clause 6 refers to the Local Government Officers Classification Board. Because variations of wages are sometimes made at intervals of up to two or three years, they become somewhat difficult to follow, as the Minister explained, and I suggest to honourable members that it will be advantageous if these determinations are consolidated. However, the clause does state that there shall be no appeal against any consolidation. At the moment, I am not disputing the point: I merely draw the attention of all honourable members to the suggestion that there shall be no appeal. I have not had time to look at this matter in detail.

The Hon. S. C. Bevan: There is no alteration here. It is merely a power to consolidate.

The Hon. Sir NORMAN JUDE: Yes, I accept the Minister's statement.

The Hon. C. D. Rowe: You are not taking anything away?

The Hon. S. C. Bevan: No.

The Hon. Sir NORMAN JUDE: I note the unusual verbiage in clause 7. I do not know whether other honourable members have noticed it. It is perfectly in order, but I do not know whether it is the old-fashioned expression, a legal phrase, or perhaps too new-fangled for me. I looked for a long time at the words, "or by any council under which the office is held, shall lie to the board against the fixation of that salary." I thought the word "lie" dealt with an untruth, but this is a matter of an appeal not lying, and means the same sort of thing as "laying", as we say in using the wrong verb. Apparently, it is the right legal word, but it might catch the eye of honourable members who might waste time seeking an explanation.

Clauses 8 and 9 deal with copies of assessments being available to the public in certain parts of districts and metropolitan areas. The Minister has been empowered to grant exemptions to metropolitan councils in certain cases. The clauses repeal some subsections of sections of the Local Government Act, and I suggest to the Minister that the method of going about this matter seems to be in reverse of the usual procedure. I am entirely in favour of the intention of the amendment. However, while the Minister may exempt a council, say, the City of Elizabeth, from keeping an assessment book at two places because of the rapid transport now available, this exemption can also be granted in outside areas, and there are some of these areas where councils have extremely large districts. In this connection, I have in mind the District Council of Elliston. It would not be unreasonable to require one copy of the assessment book to be available at Elliston and another at Lock, which is some 60 miles away. These parts of the district are contiguous but the neighbourhoods are not close. So, it seems that the clause should be worded the other way around and we should say that in certain councils this should be done. I think that might be examined by the Minister with a view to drafting it in a different form, with specific reference to large district councils.

Clause 10 deals with minimum rates. At first, I was a little concerned about it but I find that this provision already applies to municipalities and I cannot see any reason why it should not apply to district councils as well, particularly where alienation or compulsory acquisition takes place for an easement, road, or something of that nature.

Clause 11 deals with the controversial matter of residential flats and the right of metropolitan councils to build them for letting only. This matter needs careful examination, and members should get all possible evidence from interested parties, as I intend to do. Who asked for this provision? At the appropriate time I hope the Minister will give us this information on one or two clauses. I do not say that I smell a rat, but it would be of interest to know which councils want the provision. Every member should know whether the idea originated from the Government, local government bodies, individual members of a council or an individual member of Parliament.

Clauses 12 and 13 deal with the insurance, broadly speaking, of councillors proceeding about the business of the council. I do not smell a rat upon this occasion: I see one in full flight, and I trust that it will remain in full flight! This matter is closely related to our old friend in this Chamber, the Workmen's Compensation Act. Various "expressions" indicate how far this Act goes in different directions, and I suggest that this amendment is similar to the ideas of my friends in the Government regarding workmen's compensation. In practice, it is a difficult matter to handle. Members of councils work in an honorary capacity, in many cases proceeding from their place of business to the council chamber or from the chamber to their homes. They may even be carrying out a Sunday afternoon inspection trip in the conscientious handling of their duties, paying particular attention to a certain road or to kerbing. I did this when Minister of Roads when on a casual trip, and in the line of duty I considered a certain road or kerbing as I travelled along, with a view to mentioning it to the appropriate officer.

What has to be decided is: when is the councillor on duty and when is he not on duty? It seems to me that this is an all-embracing cover. I have no objection to that but, if it is, it seems to me that it should not be a matter on which a council should spend the ratepayers' money, especially when the persons concerned volunteer their services. It may be difficult to get a suitable policy at a suitable price. No figures are suggested. On the other hand, some councillors carry their own comprehensive insurance and therefore would not need a cover. It would act to a greater or lesser degree among the councils who try to initiate it. It is a matter that members of this Chamber should well consider rejecting at this stage.

Clause 14 refers to our old "friend" the parking meter. It applies only to municipal councils, but one or two district councils are associated with comparatively large towns, and they should be included. I am always concerned about the larger country towns going into the parking meter business just for the sake of obtaining revenue, and then have it disappearing into general funds. In this case councils would be forced to spend it on traffic devices, and it should apply equally to all councils that apply parking meter charges, with no exemptions. Members should examine it carefully. I assure members that the views of the Royal Automobile Association, with more than 100,000 members, differ considerably from those of the Adelaide City Council, and again I suggest to members that they carefully examine the clause.

Clause 15 deals with the matter of the increases in footpath moieties. The clause contains considerable merit, and it is in line with generally increased charges. However, I would not be human if I did not draw the attention of members, and particularly my Ministerial friends, to speeches made by the Honourable F. H. Walsh (present Premier) over the last 10 years. On many occasions I have entered into verbal and hard discussion with him regarding the matter of moieties, and he has always said that the imposition of moieties was an incubus on the young house-owner and his family. I have said that charges should increase because of the need of councils to get more money. I realize I am standing close to where my friend, the late Mr. Condon, used to stand, and an increase of over 300 per cent in one bite is somewhat unusual.

The Hon. C. R. Story: Do you think it will have the effect of steadying down subdivisions?

The Hon. Sir NORMAN JUDE: I cannot see why. Generally speaking, footpaths are not constructed anywhere but in front of houses, and in most cases so many footpaths are lacking in front of houses that councils will not construct them in front of vacant blocks. I read in the press this morning, following my remarks about the Town Planning Act the other day, that it is suggested that either the Government raises the taxes in order to provide parks and reserves in local government areas or else the local government people should do it. I do not know what their reaction will be when they hear about the 300 per cent increase in footpath moieties, especially in connection with children's playgrounds. I suggest that members consider this matter carefully.

The Hon. L. R. Hart: It is more than 300 per cent.

The Hon. Sir NORMAN JUDE: Yes. I am being generous. The Government is to be commended for clause 17, which deals with sewerage effluent schemes. The amendment is voluminous, but is highly necessary and is a corollary to the start made in this matter two or three years ago. It has been shown to be a success, and it should be developed and legislative form given to it. The matter calls for by-laws, and I leave it to the various councils.

Clause 19 appears to be trivial, but I have no doubt that if honourable members find it desirable they will support it. The opportunity to get back an overcharge of a couple of shillings on a taxi fare seems to be remote, and I do not know whether one would try to get it back through the courts.

I come now to clause 20. I like to see a good finish to a Bill to stir people up. I do not know if the Minister is fully aware not only of what this clause intends and conveys but of what it does. It gives the right to a council servant to enter occupied premises without having a warrant, which is something that a police officer cannot do. I am certain that honourable members will have no hesitation in rejecting this clause in its present form. I realize that some powers are necessary, but giving council officers power to go into occupied offices, works and shops, just because they hold some licence from the council, is far-reaching. The section of the principal Act dealing with the powers of councils to give licences was dealt with earlier this afternoon in the debate on another Bill. This clause is comprehensive, and honourable members will be well advised to consider it carefully.

The Hon. Sir Lyell McEwin: What is the definition of "officer?"

The Hon. Sir NORMAN JUDE: I do not think it is in the definition section of the Act. I draw attention to the wording of section 876, which provides:

(1) A council shall, for the purposes of this Act, except where otherwise provided, have power by its members or officers to enter at all reasonable hours in the daytime into and upon any building or land within the area for the purpose of executing any work or making any inspection authorized to be executed or made by the council under this Act, without being liable to any legal proceedings on account thereof.

(2) Except as herein otherwise provided, the council shall not make any such entry into occupied premises, unless with the consent of the occupier, until after the expiration of 24 hours notice for that purpose given to the occupier.

In his second reading speech regarding new subsection (1a) the Minister said:

This is designed to enable council officers to enter premises on which any business is carried on under licence from the council pursuant to by-laws and to inspect books and documents for the purpose of enforcing the council by-laws.

It will also enable them to stickybeak as they like. The proviso is left out, and I should like to insert it.

The Hon. S. C. Bevan: Section 876 (2) still remains in the Act. That is not deleted.

The Hon. Sir NORMAN JUDE: As I have said, I have not examined the Bill in detail. I will reserve judgment, but I consider this to be an undesirable addition to the Act. In conclusion, I ask the Minister to consider my remarks, and the particular request I make is that where possible he will indicate who asked for the provisions contained in the Bill. When I was Minister dealing with this legislation, from time to time I had these things tabulated, and there was a column headed "Asked for by". I know these papers are available to the present Minister. This information would give honourable members some opportunity to go to the people who requested these things and either argue with them or support them.

Unfortunately, it has been my experience that, when the Municipal Association and the Local Government Association have met, their annual or bi-annual meetings have been attended by members drawn from all over the State. Often council officers have represented their councils in the absence of councillors, or councillors have attended and have said that it is their job to move a certain item, but they know nothing about it because they missed the last council meeting. Often things have been rushed through and the particular council has never heard of the proposition. I say in all friendliness to the Minister that he will find that this has happened. That is why I suggest that where this information is available he should perhaps inform the Council who has requested these things. The Minister has said that the Government is pushing on with the idea of consolidating the Act. In support of my view about what happens in relation to individual councils, this session, despite the Government's attitude towards consolidation, a Bill dealing with local government containing 20 clauses has been introduced within a few weeks, and probably long before the Act is consolidated there will be requests for another 50 clauses to be passed.

The Hon. S. C. Bevan: There will not be another Local Government Act Amendment Bill this session.

The Hon. Sir NORMAN JUDE: I am warning the Minister that although consolidating the Act may reduce the number of sections the Act will soon increase in size. If it is reduced to 400 sections, it will in a short time contain 600. In the office now occupied by the present Minister there is a file labelled "All Cox". This indicates the number of requests made for amendments from one source alone.

The Hon. G. J. GILFILLAN secured the adjournment of debate.

SUPPLY BILL (No. 2).

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

The Hon. A. J. SHARD (Chief Secretary): I move:

That this Bill be now read a second time.

It follows the usual form of Supply Bills and provides for the issue of a further £10,000,000 to enable the Public Service to function until the Appropriation Bill has been passed by Parliament. Clause 2 provides for the issue and application of £10,000,000. Clause 3 provides for the payment of any increases in salaries or wages that may be authorized by any court or other body empowered to fix or prescribe salaries or wages. It is the usual Bill that is needed when the Public Service runs out of money. I would appreciate it if honourable members would pass it through all its stages without delay.

The Hon. Sir LYELL McEWIN (Leader of the Opposition): This Bill, of course, is more or less a formality to carry on the functions of the State until the Appropriation Bill is approved by Parliament. The Chief Secretary has not stated the period that the £10,000,000 is to cover, but I think that, as expenditure is now running at the rate of about £2,000,000

a week, it will probably meet demands for another month or so. We usually have the first and second Supply Bills prior to the passing of the Appropriation Bill. The expenditure of the money is governed by the appropriations of the preceding financial year. As I do not wish to delay the passing of this Bill, I support the second reading.

Bill read a second time and taken through its remaining stages.

IMPOUNDING ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 18. Page 1086.)

The Hon. R. C. DeGARIS (Southern): In 1962 various amendments were made to the Impounding Act, among which were amendments providing that straying stock could be conveyed to the nearest pound in a vehicle. Unfortunately, it was found that, when the amendments were agreed to, the ranger could not charge any fees for the transport of straying stock by motor transport. This matter was raised at Local Government Association meetings, particularly in the Lower South-East, where I believe it was in 1960 that the first motions were discussed in regard to the transport of stock to pounds. In 1964 further approaches were made through the Local Government Association in the South-East to give a council the right to charge an owner for the transport of straying stock. Then it went to the Local Government Advisory Committee. The committee has now reported to the Government, and that is why this amendment is being made to the Act.

It can be appreciated that a large country town with dairy farms extending right to its outskirts has difficulties in moving straying stock and bulls to the pound. For instance, cattle have strayed on the outskirts of Mount Gambier and the ranger has had to move them. It becomes difficult, particularly on busy roads on the town's outskirts with children going to and from school. I agree that the cost of this transport of straying stock to the pound should be borne by the responsible owner. I support the second reading.

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

ELECTORAL ACT AMENDMENT BILL.

Second reading.

The Hon. C. R. STORY (Midland): I move:

That this Bill be now read a second time.

This is an essential measure, and I submit the following information in explanation of it. It contains a simple amendment, as honourable members will see, to the Electoral Act. Honourable members will remember what happened in the last Parliament when, unfortunately, the then member for Stirling (Mr. Jenkins) passed away and a by-election was necessary to elect a new member for that district. The member elected was Mr. McAnaney. The Speaker of the House tried to get the Assistant Returning Officer to have the member sworn in on the Tuesday following the election on the Saturday, and this was done. The Assistant Returning Officer could see no difficulty in respect of outstanding postal votes, and consequently the new member was sworn in on the Tuesday. Members will recall that, later, a by-election was necessary for the District of Semaphore, following the lamented death of Mr. Tapping. However, in the meantime there had been a change in the office of Assistant Returning Officer for the State. The Speaker again tried to get the newly elected member sworn in on the Tuesday, the same as had happened in respect of the Stirling by-election, but the new Assistant Returning Officer placed a different interpretation on section 134 of the Act. He said that in his opinion the declaration of the poll could not be made in less than seven days. He was referring to section 81 of the Act, but that had been amended in 1941 and again in 1955. Section 81 deals with directions for postal voting. In 1941, section 81 was amended by adding the following subsection:

Notwithstanding anything contained in this section, in any case in which a postal ballot-paper, if posted prior to the close of the poll, as provided in paragraph (*e*) or paragraph (*f*) of subsection (1) of this section, would not reach the Returning Officer for the district in respect of which the elector claims to vote, before the end of three days—

The word "three" was later amended in 1955 to read "seven".

The Returning Officer said at that time that the provision regarding seven days prevented the declaration of the poll. Obviously, there was a difference of opinion between the Assistant Returning Officer and the Returning Officer as to the interpretation of this Act. This Bill will remove the doubt. Section 134 of the Act states, *inter alia*:

Where the returning officer—

(*a*) is satisfied that any ballot-papers issued at some remote polling-place cannot reach him for the purpose of scrutiny without unduly delaying the declaration of the poll; and

(*b*) is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election—

> he may, with the concurrence of the returning officer for the State, declare the result of the election and return the writ without awaiting the receipt of the ballot-papers.

It was obvious that the outstanding votes in the two by-elections could not have affected the result. However, the Returning Officer has some doubts about that section and this amendment will clear up the matter. Clause 3 enacts a new section 134 as follows:

> Where the Returning Officer is satisfied that any ballot-papers—
> (*a*) issued at a remote polling-place, or
> (*b*) posted or delivered to him in pursuance of section 81 of this Act,
> could not possibly affect the result of the election, he may, with the concurrence of the Returning Officer for the State, declare the result of the election and return the writ without awaiting the receipt of the said ballot-papers.

That provision would prevent a recurrence of the embarrassing situation in which Parliament found itself in those two by-elections to which I have referred. I do not think there is need to debate the matter further. As I said, the Returning Officer and the Assistant Returning Officer have doubts about the present provision and Parliament should put the matter right. I commend the Bill to honourable members.

The Hon. A. J. SHARD secured the adjournment of the debate.

ADJOURNMENT.

At 5 p.m. the Council adjourned until Wednesday, August 25, at 2.15 p.m.