LEGISLATIVE COUNCIL

Tuesday, October 4, 1966.

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

INDUSTRIAL AND PROVIDENT SOCIETIES ACT AMENDMENT BILL.

His Excellency the Governor, by message, intimated his assent to the Bill.

QUESTIONS

NORTH ROAD.

The Hon. Sir LYELL McEWIN: I ask leave to make a brief statement prior to asking a question of the Minister of Roads.

Leave granted.

The Hon. Sir LYELL McEWIN: I think I have referred to this matter previously. It concerns the North Road from Auburn going north to Clare, which is beginning to show signs of wear. Can the Minister say whether the Highways Department's programme includes a plan for the reconditioning of that part of the road?

The Hon. S. C. BEVAN: I will inquire of the department and let the honourable member have an answer to his question as soon as possible.

SUBSIDIZED HOSPITALS.

The Hon. G. J. GILFILLAN: Has the Minister of Health a reply to my question of September 22 about maintenance grants for subsidized hospitals?

The Hon. A. J. SHARD: Yes. As promised, I took up the matter with the Hospitals Department. The department recently sent a circular to each of the 50 country Government subsidized hospitals in South Australia requesting details of amounts held in maintenance reserve accounts and in other various reserve accounts. As a result of this action, the questions asked by the various members could be summarized thus:

(1) Will amounts held by these hospitals in reserve accounts have any effect "as far as future allocations of money from the Hospitals Department are concerned"?

(2) Will amounts held in reserve accounts affect compulsory rating of country local government bodies for country Government subsidized hospitals?

The term "money from the Hospitals Department" really refers to amounts made available by the Chief Secretary's Department by way of:

(1) annual maintenance subsidies;

(2) special subsidies on the basis of $2 for $1 towards approved capital expenditure involved in buildings, equipment etc.

The annual maintenance subsidies are carefully considered and recommended by a special Hospitals Subsidies Committee, which has never taken maintenance reserve accounts etc. into consideration in deciding on the amounts to be recommended and it is thought that this situation is unlikely to be changed. Similarly, capital subsidies are made available without taking into account amounts held in reserve accounts. It should also be noted that reasonable reserve account balances do not have any effect on the compulsory rating of local government bodies for hospital maintenance purposes.

The basic objects of the setting up of proper reserve accounts are to ensure that money is actually available for a particular purpose when required and to spread the effect of the expenditure over a reasonable cycle rather than have an undesirable impact on one particular year. With this in mind the recent circular was issued in order that the level of the amounts of the various reserve accounts in the 50 Government subsidized hospitals could be examined, as the situation could arise when it is considered that a particular hospital has built up its various reserve accounts to an optimum level and must therefore be advised accordingly.

UNDERGROUND WATER.

The Hon. H. K. KEMP: Has the Minister of Mines an answer to my question of September 29 concerning the underground water basin in the Langhorne Creek district?

The Hon. S. C. BEVAN; Yes, it is as follows:

It is evident from the information available to the department that Langhorne Creek underground water basin is being seriously depleted by excessive pumping from bores. The department has, of course, no power to prevent this situation pending the passage of the Underground Waters Bill at present under consideration. Even when this Act is law, it will take considerable time for the department to ascertain the quantities of water which are at present being pumped, and to work out a safe yield for individual areas which must be balanced by nature's annual recharge. In the meantime, the department has carried out some

preliminary inspections, and may, if funds permit, undertake trial drilling and pump testing to determine the general characteristics of the water bearing beds. It is unlikely that this work will be far advanced before the present summer so that landholders in the Langhorne Creek area will need to exercise voluntary restraint in water usage if a critical situation is to be avoided.

JAPANESE CARS.

The Hon. C. M. HILL: Has the Chief Secretary a reply to my question of September 22 whether the Housing Trust has recently bought any Japanese cars?

The Hon. A. J. SHARD: Yes. The trust has purchased eight small sedans of Japanese manufacture during 1966. During the same period the trust purchased 96 other vehicles.

BUILDING INDUSTRY.

The Hon. H. K. KEMP: On September 20 I asked a question of the Minister of Labour and Industry about the number of building workers and associated tradesmen who in the last 18 months had left South Australia to obtain employment in other States. Has he a reply?

The Hon. A. F. KNEEBONE: I made inquiries of the Secretary of the Department of Labour and Industry and I have been informed that the information required by the honourable member is not available nor is there any way in which it can be obtained.

BROKEN HILL TO PORT PIRIE RAILWAY.

The Hon. Sir LYELL McEWIN: I ask leave to make a statement prior to asking a question of the Minister of Roads.

Leave granted.

The Hon. Sir LYELL McEWIN: We, as members of the Parliament, are all interested in the speeding up of the provision of a uniform gauge railway between South Australia and Broken Hill. This work is proceeding but I am not sure (and I doubt that anybody else knows) what survey has been made and what the route will be to Port Pirie. It is likely that the line will pass through some northern towns. As standardization will mean that larger, longer and faster trains, possibly express passenger trains, will travel on the line, rail crossings and main roads through the towns may be affected. Can the Minister say whether the people concerned have been consulted as to the effect the routing of the railway system will have on main roads through these northern towns?

The Hon. S. C. BEVAN: I am not able to answer the question at this stage, but I assume that consultations would have taken place between the Highways Department and the Railways Commissioner and that the re-routing of the railway would be done in conjunction with the rebuilding of the Broken Hill main road. I shall inquire from the department regarding planning in the matter mentioned by the honourable member and obtain a reply as soon as possible.

STRATA TITLES.

The Hon. JESSIE COOPER: With reference to my question of July 19 regarding strata titles, which matter the Chief Secretary said he would discuss with the Attorney-General, can he say now what progress has been made in the preparation of legislation concerning these titles?

The Hon. A. J. SHARD: I thought I gave an answer to that question. Some difficulties were involved. I do not know what stage the matter has reached but I shall reply to the question in a day or two.

SUBURB NAMES.

The Hon. C. M. HILL: I ask leave to make a statement prior to asking a question of the Minister of Local Government, who represents the Minister of Lands.

Leave granted.

The Hon. C. M. HILL: There is much public discussion by constituents in the area south of Daws Road and west of Goodwood Road in the District of Edwardstown regarding the present suburb name, Centennial Park. A strong feeling exists that the suburb should be called Pasadena, which was the name of one of the former estates in part of that area. I understand that the local government body, the Corporation of the City of Mitcham, has written to the Director of Lands regarding this matter and supports the views of the residents. The suburb eventually will contain about 1,100 houses. Will the Minister of Local Government obtain details of the department's policy regarding the renaming of certain suburbs and will he say by what method the department considers the views of local people affected by such changes before arriving at decisions?

The Hon. S. C. BEVAN: I shall be happy to obtain the information and to give a reply as soon as possible.

MINISTERIAL STATEMENT: LOTTERY AND GAMING ACT AMENDMENT BILL (T.A.B.)

The Hon. A. J. SHARD (Chief Secretary): I ask leave to make a statement.

Leave granted.

The Hon. A. J. SHARD: Since last Thursday much has been written and said about the Lottery and Gaming Act Amendment Bill (T.A.B.), and I think it is time that the record was put straight as far as I am concerned. In this morning's *Advertiser* appears the following statement:

The State Government should not attempt to deny Parliamentary procedures by threatening to withdraw a Bill if it were amended by the Legislative Council, Mr. DeGaris, M.L.C., said yesterday. He was commenting on a statement by the Chief Secretary (Mr. Shard) that the Government would not proceed with the T.A.B. Bill if it were amended.

That is not in accordance with facts.

The PRESIDENT: At this stage I remind the Chief Secretary that he can make a personal statement but he must not involve other honourable members.

The Hon. A. J. SHARD: I am not blaming anyone for what was printed; either the newspaper was misinformed or it printed something that was not right. What I said last Tuesday, as reported in *Hansard*, was:

I say publicly now for the record and I do not run away from the record, that whether it is undemocratic or not (and it has been said many times) the Government of the day, of which I am happy to be a member, is not prepared to accept any amendments dealing with financial matters in this Bill. If the Council insists on them, this Council must take the responsibility. It is as simple and as plain as that.

I shall leave it at that.

ROWLAND FLAT WAR MEMORIAL HALL INCORPORATED BILL.

Second reading.

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

That this Bill be now read a second time.

Its object is to enable a certain piece of land comprising about half an acre to be vested in an association known as "Rowland Flat War Memorial Hall Incorporated" for the purposes and objects of the association. The land in question is situated at Rowland Flat. It was conveyed in 1859 to certain named trustees for religious purposes. The original deed provided that the land should be used for the erection of a chapel, school, dwellinghouses for a minister of religion, schoolmaster and officers, and for use as a cemetery. It was expressly provided that the land could not be used for any other purpose. From time to time new trustees have been appointed, and at present there are only two.

The land has never been used for any of the original purposes and is, in fact, not used at all. It is the desire of the trustees that it should now be used as a site for a War Memorial Hall. For this purpose it is desired to vest the land in Rowland Flat War Memorial Hall Incorporated, an association incorporated under the Associations Incorporation Act having as its objects the establishment of a memorial to 1939-1945 defence personnel, the provision of amenities for returned personnel and the promotion of recreation for subscribers and the general public.

The trustees cannot divest themselves of the land or, as I have said, use it for purposes outside those set forth in the original grant and have requested the Government to introduce this Bill to enable the land to be used for what appears to be a laudable purpose. The Bill vests the land in the association and by clause 4 requires the association to hold and deal with the land for the objects of the association as set forth in its rules. Clause 5 discharges the existing trustees from their obligations as such. As the Bill will require reference to a Select Committee in accordance with Joint Standing Orders, no useful purpose would be served by my going into further details at this stage.

The Hon. L. R. HART secured the adjournment of the debate.

APPROPRIATION BILL (No. 2).

Adjourned debate on second reading.

(Continued from September 29. Page 1950).

The Hon. Sir LYELL McEWIN (Leader of the Opposition): I have spoken to the Chief Secretary, who introduced this measure, and find that he is sharing a virus with me. I merely want to indicate now that, if he desires to leave the Chamber, I shall not take exception to the fact that he is not here to listen to me. I know that all Ministers are expected to keep well all the time: in fact, that is expected of all members of Parliament too, but somehow we are only human. I have told the Chief Secretary already that anything I have to say is not to be regarded as in any way taking advantage of his absence. I want to see him back with us tomorrow and hope that he will be present at a meeting in the morning. I trust he will have a quick recovery overnight.

I listened to the Chief Secretary's marathon second reading explanation consisting of 38 pages. I followed it through word by word. My only criticism of it is that I failed to get the message I was seeking. One would have expected that, following a year with a total deficit of $9,240,000 and a first two months' deficit in this financial year of $7,706,000, some evidence would be forthcoming of how the Government proposed to stabilize and restore the economy to its proper equilibrium. But, instead of any such suggestions and any attempt to worry about the past, the accumulated deficit of last year appears to have been left floating. Increased taxation is expected to yield $9,274,000, which consists of increased land tax of $2,162,000 (I am quoting from the Estimates; some of this may be adjustable, because there could have been previous collections included); stamp duties, $1,867,000; hotel licences and publicans' licences, $425,000; harbours and wharfage charges, an increase of $704,000; railways, because of increased freights and rents, $1,786,000; and waterworks and sewers, because of increased charges, $2,077,000. These items alone total over $9,000,000. In addition to that, the totalizator agency board is expected to provide another $100,000 this year in the form of taxation.

All this additional charge has been placed on the taxpayers without absorbing any of the previous year's losses and without doing anything to relieve unemployment by creating confidence in our economy. In this morning's newspaper I read of two more industries, one of which is moving to Sydney while the other is reducing its staff because of lack of sales. What a change that is from the position we held for so long in industrial expansion and employment! The trouble is that we are today taxing at a rate detrimental to employment. It is in contradistinction to the previous policy under which this State progressed, which was to keep taxation to a minimum, to leave the maximum amount of money to be reinvested in industry and employment, and to manufacture at a price enabling us to export to other States. What has to be paid in excess taxation reduces purchasing power that is not available to industry for employment. Therefore, because of reduced output, costs rise and our markets disappear. But that is not all the story. Today we are using up Loan funds to save semi-government undertakings that hitherto had been financed out of Revenue. Certain hospitals are being assisted to the extent of $2,600,000 from Loan account, and university grants of $3,800,000 are also coming from Loan funds. That means that this money is taken away from the development of our public works, with the result that many projects that could have gone forward and could have provided employment are not being proceeded with.

I may mention, as one example, mental hospitals, which were considered urgently in need of expansion by the Government prior to its assuming office; but now we are just drifting along an uncharted course. On June 30 next moneys that were appropriated under certain Commonwealth legislation to subsidize the State's mental hospitals to the extent of $1 for $2 will cease to exist. Everything was laid on for the Government when it assumed office. The planning had been done and the estimates had been made and were before the Public Works Committee and the then Leader of the Opposition in another place in his policy speech mentioned the Stoller report about mental hospitalization throughout Australia. In that report, South Australia did not fare badly. Much had been done in the intervening period and a man from England was appointed to take the position of the retiring director, who had done so much to keep our mental hospital facilities up to standard prior to his departure from office. Some planning took place under the direction of the new officer and ultimately he presented a scheme and plans that were referred to the Public Works Committee.

In his policy speech the Hon. Frank Walsh used these words, as well as many other words, but I quote these extracts that were embellished by other remarks:

> The plans that are now envisaged for Reynella and Hillcrest are so very long overdue that the Reynella project is still awaiting the consideration of the Government.

They were awaiting the consideration of the Government when the Public Works Committee had presented its report. The plans were before that committee at that time, and had been for some months. The committee took a great deal of evidence and ultimately submitted a report to Parliament on July 27, 1965. It is now October, 1966, and no progress has been made in spite of the fact that in his policy speech the present Premier said:

> The Government will immediately speed up the re-housing of mental hospital patients in modern buildings adequate for their needs.

None of these things has been done as yet and no money, as far as I can ascertain, has been put aside in the Loan Estimates or Revenue Estimates to do anything towards

establishing improved conditions in our mental hospitals. The position now is that people who expected to live better with Labor find that they have become disillusioned with promises that cannot be fulfilled. Universities are languishing because of the inability of the Government to match grants allocated from Commonwealth sources. I think we have learnt (anybody who did not know before will now know, and possibly there were many such people) that taxation does not provide prosperity; that production is the only measure of our economy. Higher costs restrict production to local needs because industry cannot compete in foreign markets and thereby assist in building up our economy.

Many other items are missing from the Estimates. Recently a report was placed before Parliament dealing with a gas pipeline from Gidgealpa to Adelaide and that matter was under the consideration of the previous regime. The only matter on which there was any doubt previously was the supply of gas; whether sufficient existed to ensure an adequate supply to a pipeline of major dimensions in order not only to supply present requirements in Adelaide but to cope with the expansion of industry and the establishment of possible new industries. As I said, it was only a matter of proving the supply.

Since that time a nearby field has been established and I am optimistic enough to believe that adequate supplies have been proved. However, the difficulty is that while it is possible to go on and build a pipeline it is hardly feasible for the South Australian Government to make a contribution in view of the existing budgetary position. It is all very well to say that the Commonwealth Government should find the necessary money for the pipeline, and that it should put up all the money as well for grants for universities. This Govern ment considers that the Commonwealth should find the money for the Gidgealpa pipeline, but no more reason exists why it should supply money for Gidgealpa than that it should assist Victoria in what it desires to do.

If the Commonwealth Government has to attend to all these things, then I ask: what is the function of the State Parliament or the State Government? Does it carry any responsibility? One could imagine the position that this Government would be in if, for instance, all district councils in South Australia were told to go ahead and send in a list of their demands and the State Government would find the necessary money I can see the Minister of Local Government having a more haggard look than he has at present. We know it is impossible.

The Hon. S. C. Bevan: The councils are going a fair way to doing that now.

The Hon. Sir LYELL McEWIN: They are a long way from it, and the Minister knows that, but he is in the position that his own Government has taken the money that belongs to his department and used it for other purposes. That is going back a long way but I will not dwell on it now. If we cannot preserve our resources and justify our own case by making a contribution, I think we will miss the opportunity of all time. It is urgent that a gas pipeline should be established if we are to retrieve our position in industry. We have gone to the limits with taxation, and in that we have no advantages now over anybody else. I think the gas pipeline is probably our last resort if we are to do anything to maintain and develop further our industrial position in South Australia in order to have something to offer in the way of employment to the youth being educated today. I only hope that ways may still be found to obtain cheap money.

The Hon. S. C. Bevan: We have not asked the Commonwealth Government to give us the money; we have asked them to lend it.

The Hon. Sir LYELL McEWIN: All I understand is that it seems to depend upon the Commonwealth Government to provide the money. I do not say that the Minister has said that; I am only looking at the financial position at the present time. We have an amount of $8,000,000 of debt and that has to be paid for from the Loan funds or some other place. An additional $9,000,000 taken from the people by way of taxes is doing nothing to relieve the position created in the last year, for the deficit is still continuing this year when all the revenue mentioned in the Treasurer's statement is obtained. I hope all that revenue will be obtained. I am glad to say that the season has improved considerably and any help that can be obtained from that improved season will be of great value next year, but we will start off, according to the figures before us, in no better position than we are in at the present time. We shall be leaving floating the losses of 12 months and that means that we shall be paying extra interest. This is like the case of the farmer who gets a mortgage and says to his wife, "Everything is all right. The farm is flourishing. I have just been to the bank and have got $6,000." Of course,

he still has to repay the $6,000 and the interest. Another man may be just able to carry on but does not incur the liability.

I do not think the Government has grasped the nettle. We are still drifting. There is an item of $84,000 in the Estimates of Expenditure relating to the enrolling of qualified electors on the Legislative Council roll. Two amounts are shown, $14,000 and $70,000, but no explanation of this item has been given. One report is that it is to enable a computer calculation to be made regarding people who are not on the roll but who are eligible to be enrolled. It seems to me that the qualifications are so simple that the services of a computer are not required, particularly when finances are in the red.

I think the $84,000 could have been spent in a better way and I can only assume that this provision is because of the perpetual vendetta that the Labor Party carries on towards a House of Review and that this is supposed to be some way in which additional people are to be enrolled. The franchise is not affected by this item but, evidently, the provision is made with the idea that the results can be used in the right place at the appropriate time to some political advantage. It is peculiar that this substantial amount has been provided but has not been referred to in either House by the Treasurer or the Chief Secretary. All that was said was what the Treasurer broadcast at the time of the introduction of the Bill.

The Chief Secretary may be able to help me by saying what information will be fed into the computer. It seems to me that, if we have the information to feed into the machine, we can answer the question without using the computer. Regardless of all that, both Parties have the same opportunities at present if they think people are careless regarding exercising their voting rights. No-one can complain if he does not use a right that he has. Many people object to being compelled to vote. Sometimes they object because they are compelled to vote when there is not a candidate of their liking.

This provision savours of the tendency towards this type of policy favoured by a Socialist Government, which has a domineering attitude towards democracy. We have some extraordinary translations of the meaning of democracy at times. I know of no Party that is more domineering than the Labor Party and this item seems to be extending that policy into a field that is neither necessary nor desirable when finances are as they are. How will this proposal be put into operation? I think we are entitled to that information. If the computer is accurate and reliable (and I have some reservations about that), will this work deal with the whole State at one time, or will information be prepared regarding selected places in a district at a time appropriate to the Government? I have not been able to obtain particulars about this and should be interested to hear more about it.

I share some of the disabilities of the Chief Secretary and do not intend to make a long speech today. Perhaps there is nothing we can do about the Bill, and I support it. The State finds itself in a position where unemployment is increasing and where there are continual references to industries either closing down part of their works or transferring to other States. There must be some reason why this is happening. If the Government got down to basic economics and faced the position fairly and squarely it might bring about more favourable conditions than we are experiencing at present.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 29. Page 1942.)

The PRESIDENT: The motion before the Council is:

That this Bill be now read a second time.

The Hon. L. R. HART (Midland) moved:

That this debate be further adjourned.

The PRESIDENT: If the debate is not adjourned, I will put the motion that the Bill be now read a second time.

The Hon. L. R. HART: There seems to be some confusion about the position with this Bill.

The PRESIDENT: A debate cannot be further adjourned if the motion to adjourn it is not seconded. If there is any confusion in the honourable member's mind, that is the position.

The Hon. L. R. HART: I thought the motion was seconded by the Hon. Mr. Story.

The Hon. M. B. Dawkins: It was seconded by me, Mr. President.

The PRESIDENT: I did not see any member stand up to second it, as he should do. Is the motion seconded?

The Hon. C. R. STORY: Yes.

Motion carried; debate adjourned.

MOTOR VEHICLES ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 27. Page 1818.)

The Hon. S. C. BEVAN (Minister of Roads): During the second reading debate one or two matters were discussed by honourable members. The clause relating to the licensing of driving instructors apparently caused honourable members some concern, and another matter debated was the registration of vehicles in business names. I have obtained an explanation in relation to both these matters that may give a clearer picture. The Registrar of Motor Vehicles states:

Section 98a provides that a person shall not for fee, reward, salary, wages or other remuneration or for any consideration whatever by whomsoever paid teach any other person to drive a motor vehicle unless he is the holder of a driving instructor's licence. Before issuing such a licence the Registrar of Motor Vehicles is required to be satisfied that the person is of good character and is proficient as an instructor. There are approximately 70 persons licensed as driving instructors and carrying on private business or with driving schools. A considerable number of applicants have been refused licences on the grounds of character or inability to reach the standard of proficiency considered necessary. The introduction of this legislation in 1961 aimed at protecting the public so that any person could engage an instructor and be safe in the knowledge that he was of good repute and had the necessary ability to carry out instruction in a proper manner. The legislation was designed to license those offering themselves to the general public as instructors and to prevent "backyard" operators. In large Government departments and instrumentalities, such as the Engineering and Water Supply Department, Highways and Local Government Department, and Municipal Tramways Trust, it is necessary for employees who only possess "B" class licences (that is, to drive vehicles not exceeding three tons in weight) to learn to drive heavy vehicles so that they can operate these in the course of their employment. They are being taught by experienced employees who are engaged full time or part time in this work and therefore receiving salary or wages for the purpose. (In some cases this is not confined to heavy vehicles but to those who are required to drive motor cars and utilities.) They do not hold driving instructors' licences.

The Railways Commissioner now wishes to engage two of his employees in a similar manner and has applied for them to be licensed as instructors under the Motor Vehicles Act. Officers of the Police Department have asked whether similar employees in other departments are contravening the provisions of the Motor Vehicles Act. I have to admit that they are, although it has always been considered reasonable to allow the practice which existed for many years to continue when the new legislation was introduced in 1961. The Municipal Tramways Trust, for example, has maintained an excellent instruction and training programme for its drivers since it commenced operating buses in 1925. Their instructional staff are carefully selected and obviously at least as well qualified as private driving instructors licensed under the Motor Vehicles Act. Unlike private instructors, they are concerned in the main with heavier types of vehicle. It does not seem desirable for this department to take over selection and control of these persons from the Municipal Tramways Trust and the other public authorities by licensing them under the Motor Vehicles Act. I do not think that this was intended by the legislation introduced in 1961.

The Act requires the applicant for a licence to produce a certificate signed by a police testing officer that he has passed a practical driving test. A proviso is that the Registrar may accept a driving test conducted by some other public authority. In accordance with the proviso, it has been agreed with the Municipal Tramways Trust, the Postmaster-General's Department, the Electricity Trust, the Highways and Local Government Department and the Engineering and Water Supply Department that certificates issued by specified officers covering employees of those authorities will be accepted *in lieu* of police certificates. It would seem inconsistent if we now strictly applied the law and demanded that such persons (who are usually the ones carrying out the instructions) should be licensed under section 98a of the Act. I could not imagine that such responsible authorities would allow them to have charge of employees and vehicles during the learning stage unless they were well qualified to do so. There could be some disadvantages in licensing these persons, as it is not possible to issue a restricted licence, and they would therefore be unable to use the licence for paid instruction outside their normal employment, unless, of course, they were prevented by the terms of their service. This may be done under the Public Service Act but may not apply to instrumentalities.

As long as instruction is confined to employees of the department or instrumentality in the normal course of operations, I can see no objection to the present practice continuing. I do not consider that such a policy should extend beyond public authorities. Any person engaged commercially as an instructor, however, either on his own behalf or by an employer, should be licensed as intended by the legislation. Rather than allow a continuance of the present practice, which is strictly speaking a contravention of the Act, you may consider it desirable to amend the Act to provide for exemptions.

Honourable members expressed the fear that this provision might be extended to other than the purposes for which it was intended. However, it is confined to Government departments and instrumentalities and is introduced because of the necessity to have instructors to teach drivers the handling and proper operation of

the vehicles they will be called on to use. In relation to the registration of vehicles in business names, which honourable members said they considered should not be written into the Act, the Registrar states:

The Motor Vehicles Act defines "registered owner" as a person recorded in the register of motor vehicles as the owner of a motor vehicle. As "person" includes a body corporate, we effect registrations in the names of such bodies. It has also been the practice to register vehicles in registered business names (checks being made with the Registrar-of Companies) even though they are not bodies corporate. Although such firms have no legal being, this has not until recently presented difficulties, apart from very isolated cases. Invariably admissions have been obtained from individuals that they are the proprietors and and therefore owners of the vehicles. However, the following problems have presented themselves in recent months:

(1) Since the introduction of road charges, the Collector of Road Charges has been unable in some cases to establish ownership in his attempts to recover charges or to prosecute.

I know that only too well. The report continues:

(2) Registered businesses change hands without alteration of name and no transfer of vehicle registration is made as would be the case if the vehicle were registered in the names of the proprietors. Thus transfer fees and stamp duty on transfer are evaded.

I discussed this matter with Mr. Gordon, of the Crown Solicitor's Department, who confirmed previous advice from the Crown Solicitor that as the Act stands it is incorrect to register vehicles in business names. Because it has been such a long-standing practice to effect such registrations, and because owners demand it for business and taxation purposes, it would be difficult to stop doing so and require thousands of vehicles at present registered in business names to be in future registered in the names of individuals. It would certainly bring arguments and criticisms from many quarters.

Apart from this there are advantages in continuing the present procedure. The department deals continuously in registration matters with a large number of motor firms which are not corporate bodies, and it is an advantage administratively to recognize the name of a motor firm rather than the individuals who own it. Furthermore, some businesses have several proprietors, and it would be cumbersome to name all of them on registrations and in our records. Thus, it is desirable to amend the Motor Vehicles Act to permit registrations in business names, and I am hopeful that in doing so the legal authorities could advise if it is possible by legislation to overcome the problems outlined in 1 and 2 above.

The practice has been going on for years. These are the reasons why the Registrar considers that the Act should be amended. I make the explanation so that honourable members will have the fullest possible information on the objections raised during the debate.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

Clause 6—"Registration to be void if not cancelled or transferred."

The Hon. Sir ARTHUR RYMILL: I think the Hon. Mr. DeGaris during the second reading debate pointed out that the provision enabled the transferee to claim the refund when it really should belong to the transferor. I think this point should be further examined. I do not know whether the honourable member is ready to develop his argument on this matter. The clause amends section 60 of the principal Act. Section 56 states:

Where the ownership of a motor vehicle is transferred . . . and the transferor—

I emphasize "transferor"—

shall within fourteen days after the transfer either (*a*) apply for cancellation of the registration. . . .

or give the Registrar a notice of transfer. Section 57 provides:

Where the ownership of a registered motor vehicle is transferred not later than fourteen days before the expiration of the registration thereof and an application to cancel such registration is not duly made within fourteen days after the transfer, the transferee shall within fourteen days after the transfer deliver to the Registrar an application in the prescribed form to transfer the registration to him. . . .

Then section 60 says:

If the registration of a motor vehicle is neither cancelled nor transferred within fourteen days after the transfer of ownership of the vehicle—

(*a*) such registration shall be void upon the expiration of such fourteen days; and

(*b*) the Registrar shall not transfer the registration, but shall cancel it without making or crediting any refund in respect thereof:

Provided that where the transferee within fourteen days after the transfer of the vehicle or within such longer time as the Registrar fixes has made a proper application to transfer the registration and paid the transfer fee. . . .

and then this has been amended by the 1964 Act. Paragraph (*b*) of clause 6 provides that after the word "transferee" in the proviso I have just read the words "or any subsequent transferee" shall be added. Paragraph (*c*) provides for the insertion of the following new subsection:

(2) Where the Registrar cancels the registration, he may, upon application by the transferee, make a refund in respect of the unexpired period of the registration less an amount of four dollars.

It is the transferor of the vehicle who has paid the fee, yet under this clause it is the transferee who is entitled to the refund of it. Perhaps the Hon. Mr. DeGaris will be able to elaborate on this, and then the Minister may be good enough to explain why it is the transferee who receives the refund and not the transferor. I will resume my seat and allow the Hon. Mr. DeGaris to speak, if he so desires. In the meantime, I can examine the matter further myself.

The Hon. R. C. DeGARIS: I thank the Hon. Sir Arthur Rymill for coming to the aid of the party when I raised the point in my second reading speech. I think he has covered the point raised and it seems that the position is as he has explained. Under section 56 of the principal Act where the ownership of a motor vehicle is transferred at any time during the currency of the registration:

The transferor shall within 14 days after the transfer either—

(*a*) apply for cancellation of the registration after having destroyed the registration label in accordance with the regulations or having delivered it to the Registrar; or

(*b*) give the Registrar a notice of transfer of the vehicle in the prescribed form setting out the full name and address of the transferee and the date of the transfer.

Section 60, which is amended by this Bill, provides that a registration will be void if it is not cancelled or transferred. The first part of the amendment strikes out of section 60 (*b*) the words "without making or crediting any refund in respect thereof". That means that the Registrar need not credit any registration fee that has been paid where the registration has not been cancelled or transferred within 14 days. Under the amendment, it means that any of the unexpired portion of registration of a vehicle, on the application of the transferee, may be refunded to that person, less $4. It appears to me that the unexpired portion of the registration should belong to the transferor. Why is the transferee the person who may apply and obtain the unexpired amount of registration? Why is this alteration necessary? Perhaps the Minister will give an explanation.

The Hon. S. C. BEVAN (Minister of Roads): It is the same phraseology that has been adopted in the present Act and it has been in the Act since 1959 or thereabouts. The proviso to section 60 of the principal Act states:

Provided that where the transferee within 14 days after the transfer of the vehicle or within such longer time as the Registrar fixes has made a proper application to transfer the registration and paid the transfer fee and the stamp duty (if any) payable on the application, the Registrar may, on being satisfied that the ownership of the vehicle has been transferred to the applicant, register the vehicle in the name of the applicant for the balance of the period of registration, without receiving a notice of transfer from the transferor.

A vehicle may be advertised and sold privately or from a used car yard. As far as a used car yard is concerned, the general attitude is that the owner has forfeited his right to the unexpired portion of the fee because he has sold or traded his car in. If he should sell the vehicle and notification is not given within the prescribed period, a refund is not made. It is possible to sell a vehicle and for the purchaser not to make application for registration of the vehicle, but on the expiry of the 14 days no repayment would be made. This clause we are considering allows the Registrar to refund the unexpired portion, and I consider that such portion should go to the transferee. That is the intent of the amendment; instead of nothing being paid, if notification is given in the prescribed time, the Registrar will be authorized to refund the unexpired portion to the transferee, less the stipulated amount.

The Hon. C. R. Story: But should it not go to the person who paid the original registration?

The Hon. S. C. BEVAN: If he has forfeited all right to it why should it go to him?

The Hon. C. R. Story: Surely he has not forfeited the right. It would only be out of time?

The Hon. C. M. Hill: I think it is generally assumed that the registration fee is included in the price paid to the vendor.

The Hon. F. J. POTTER: It seems to me that although it may appear anomalous at first glance for the refund to go to the transferee, from an administrative point of view this position is satisfactory. After all, the Registrar is primarily dealing with the transferee. It would be a simple matter for dealers to adopt the practice of adjusting the registration fee at the time of sale in a manner similar to that adopted when rates and taxes are adjusted on settlement day with property transactions. It seems to me a number of

practices exist at present with motor vehicle dealers. Most dealers do not worry about the unexpired portion of registration; that is expected to be all in with the price of the traded car. Some dealers allow a credit to be given for the unexpired period of registration. That is the proper and fair method, and I think this provision will encourage this to be done regularly in future. The transferee is entitled to the refund, but whether he will receive it or not is problematical. Many dealers do not mention the matter of unexpired registration; they consider it part of the purchase price. It would probably impose intolerable burdens on the Registrar to have to deal with the transferor, who does not come into his office at the time the transfer is being effected. It is the transferee who seeks the transfer.

The Hon. Sir ARTHUR RYMILL: I thank the Minister for his lucid explanation, and I think the matter is now clear. Under sections of the Act occurring prior to those I read out, and including section 56, it appears that the transferor of a motor vehicle may do one of two things. He may apply for cancellation of registration, in which case he may obtain a refund of the appropriate proportion of the fee himself, a fee that he has paid; or he may transfer the registration of the vehicle to the transferee, upon which it would be assumed, as the Hon. Mr. Potter has said, that he has taken into account the value of the registration in the purchase price. The section that this clause amends provides:

The Registrar may, on being satisfied that the ownership of the vehicle has been transferred—

Then subsection (2) will operate. When the Registrar examines the registration, having been satisfied that the vehicle has been transferred by the previous owner to the tranferee, he can then refund the balance to the transferee, and not to the transferor. I think the matter is perfectly clear now.

Clause passed.

Clauses 7 to 10 passed.

Clause 11—"Duty to insure against Third Party Risks."

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

In new subsection (4) to strike out "while temporarily within the State, drives a motor vehicle on a road if—" and insert "on any road drives a motor vehicle which is temporarily within the State, if—".

I dealt with this matter in the second reading debate and pointed out that the important aspect was not that the person who, while temporarily within the State, was involved, but that the motor vehicle temporarily within the State was involved. Insurance follows the motor vehicle. I think this is primarily a drafting matter but it is of some importance nevertheless. I hope that the Government will accept the amendment.

The Hon. S. C. BEVAN: The amendment improves the phraseology and the Government accepts it.

Amendment carried.

The Hon. S. C. BEVAN: I move:

In new subsection (5) to strike out "proclaim" and insert "by proclamation declare".

The word "proclamation" is normally used in such provisions, not "proclaim". The amendment clarifies the new subsection.

Amendment carried.

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

In new subsection (5) to strike out "substantially similar" and insert "adequate"; and to strike out "to" and insert "for".

Perhaps this is a drafting amendment but nevertheless it is important, although it may not present any particular difficulty in administration. The new subsection enables the Governor, by proclamation, to declare any State or territory, the law of which in his opinion makes substantially similar provision, to be a proclaimed State or territory. One may ask who, once a proclamation is made, will question whether the advice given by the Executive Council was wrong, and to this extent we may be dealing with a difficulty that hardly exists.

However, it seems to me that the important State as far as South Australia is concerned in connection with such a proclamation as a State with a similar provision is the State of Victoria. That is because I suppose more vehicles come here from Victoria than from any other State. I mentioned this matter in the second reading debate and my inquiries have not revealed anything to show that what I said was wrong. The law of Victoria does not provide cover for the driver under a third party policy. If that is so, I fail to see how the Governor can have an opinion, whether official or not and whether assailable or not, that such legislation in Victoria can be substantially similar to the legislation in South Australia. It seems that that one important difference makes the legislation very dissimilar to our law.

The Hon. S. C. BEVAN: I oppose the amendment. This provision follows the provision in other States, and it is desirable that the legislation here should be in line with that of other States. One of the principal reasons for the introduction of this measure

was to give some semblance of uniform legislation. In any case, the proposed amendment would leave a wide discretion to the Executive. One would have to ask what were adequate provisions, and who would determine that?

The Hon. F. J. Potter: How do you determine "substantially similar"?

The Hon. S. C. BEVAN: Surely this can be determined by what applies elsewhere. Who will determine what is adequate? Everybody may put a different interpretation on it. Is this to be determined by the Executive?

The Hon. Sir ARTHUR RYMILL: I think the amendment is correct. The clause gives a discretion to the Governor. This means the Governor in Council, which means the Executive Council, which means the Government of the day, which means the Minister's own Government. Unless the Government is prepared to act under this clause, nothing will happen. That is the complete safeguard, because no Government of the day would act unless it was satisfied. Any Government of the day can act by Act of Parliament. This simply means that there is a facility to the Government of the day to declare that certain policies are sufficient—or adequate, to use the word in the amendment.

Insurance law is complicated, and consequently a policy that is adequate may not be substantially similar to a policy issued in the State but could have precisely the same effect. It may not be similar in verbiage but may have precisely the same effect. Such a policy would be adequate but would not be substantially similar. I think the amendment is a good one. It does not take away any power from the Government: rather, it adds to its power and enables it to exercise a more commonsense approach than it can exercise at the moment. It now has to exercise a purely dogmatic approach. I suggest that the Minister reconsider his attitude, as the amendment will assist the Government.

The Hon. F. J. POTTER: This amendment will free the Government from the rather sterile procedure of having to make up its mind whether one particular policy or set of laws is substantially similar to the law in South Australia, whereas what it really wants to determine for the purposes of this section is whether it is adequate. This allows the Government to do what it wants in relation to this section. It does not create any difficulty for the Government, because, once the Government has determined the matter and the proclamation has been made, that is the end of the matter. I ask the Minister to have another look at the amendment.

Amendment carried; clause as amended passed.

Clauses 12 and 13 passed.

Clause 14—"Claim against spouse by injured person."

The Hon. F. J. POTTER: I have placed on honourable members' files duplicated amendments that will take the place of the printed amendments. These duplicated amendments attempt to deal with two difficult matters that arise in consequence of the Government's laudable desire to extend section 118 to cover claims against people who marry after an accident occurs. In the second reading debate I said I could not see any real necessity to give notice of the accident to any insurer (as at present required under section 118) and recounted how this idea of notice was brought into this section in another place when the matter was first introduced in 1959. My previous amendments were all based on the idea of getting rid of this notice, as it was necessary to give notice of an accident to an insurer anyway. I see that the Minister has an amendment here but, as I tried to explain to him privately, I have usurped his subparagraph (*c*) by my amendments. Consequently, if my amendments are accepted, he will have to alter the lettering of his amendment and make it subparagraph (*d*). That is the logical and sensible way to deal with it.

The Hon. S. C. Bevan: But I have an amendment that precedes those of the honourable member.

The CHAIRMAN: Do you wish to proceed with the amendment to paragraph (*b*)?

The Hon. S. C. BEVAN: Yes.

The CHAIRMAN: Then we will deal with that amendment first.

The Hon. S. C. BEVAN moved:

After "caused" first appearing to insert "or".

The Hon. Sir ARTHUR RYMILL: Would the Minister explain that, because I cannot understand it?

The Hon. S. C. BEVAN: It will then read "'as soon as reasonably possible after the injury was caused or' in subsection (5) thereof".

The Hon. F. J. Potter: I think that is right.

The Hon. Sir ARTHUR RYMILL: I see the word "or" comes before the inverted commas. I was reading it as coming after the inverted commas.

Amendment carried.

The Hon. F. J. POTTER: I thank the Minister for drawing my attention to that amendment. I thought it came after my amendments, but I now realize that it precedes them. In the second reading debate I stressed that I could see little reason why we should continue with the special form of notice that section 118 imposes in the case of claims by spouses but, since speaking then, I have had certain representations and submissions made to me by various people, and I am prepared to concede that there are perhaps reasons why it is desirable that there should be such a notice, as far as section 118 is concerned. However, once having allowed this special kind of notice, which must be given to the insurer and which is in addition to any other notice of an actual accident, certain difficulties arise, the first of which is in connection with the situation of an injured person who was not married at the time of the injury but was married after the commencement of this present legislation. In paragraph (*b*), with which we are now dealing, two additional circumstances are covered. The first one appears in subparagraph (*a*), which states:

if the injured person and his or her spouse were married to each other at the time of the injury, as soon as reasonably possible after the injury was caused.

In that case, this notice has to be given. Then subparagraph (*b*) states:

if the injured person and his or her spouse were not married to each other at the time of the injury but were so married within three years before the commencement of the Motor Vehicles Act Amendment Act, 1966, within one month after they were so married or after such commencement, whichever last occurs.

In that case, too, this notice has to be given; but there is no provision for the person who was not married at the time of the injury but who was married after the commencement of this Act. This is an important matter and is an omission that must be dealt with because, where an injured person or his or her spouse was not married and does not marry until after the commencement of the Act, it is a situation that this section does not yet cover. It is important that it should be covered, particularly having regard to the requirement of this notice. The Minister has already added "or" after "caused" in paragraph (*b*). I now move:

After the semi-colon in subparagraph (*b*) to insert "or" and the following new subparagraph:

(*c*) if the injured person and his or her spouse were not married to each other at the time of the injury but were so married after the commencement of the Motor Vehicles Act Amendment Act 1966, within one month after they married;

That will meet the other situation that follows from subparagraph (*b*), which deals with spouses being married within three years before the commencement of the Act. I think this will complete the necessary requirements if this section is to be amended.

The Hon. S. C. BEVAN: I thought the honourable member would move his first amendment and then move separately for the insertion of the new subparagraph. If he had done that, I would have accepted the first amendment. However, at this stage I cannot accept the amendments as moved. In order that we may look at this matter further, I move that progress be reported.

Progress reported; Committee to sit again.

MINES AND WORKS INSPECTION ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 27. Page 1820.)

The Hon. L. R. HART (Midland): In his second reading explanation the Minister said this was a short Bill. After being a member of this Council for some years one tends to become suspicious of short Bills; there may be good reasons for some, but in this case I do not believe the Minister has given sufficient reason for its introduction. He said that it had been introduced to eliminate dual control on the wharves at Port Pirie. It was only in 1962 that a similar amendment was introduced to institute this dual control on those wharves, and the reason for its introduction at that time was clearly explained. On this occasion the Minister has not explained whether the controls instituted in 1962 have or have not worked satisfactorily; he has merely said that the Bill has been introduced to eliminate the dual control.

In 1962 the then Opposition was suspicious of the legislation then introduced and claimed that the unions at that time had not been notified or consulted. One would believe that possibly this Bill had been promoted by the unions. Has the Broken Hill Associated Smelters been notified or consulted with regard to this amending legislation? In 1962 the main concern of the unions seemed to be about the industrial effect of the legislation on their members. At that time the employment situation on the Port Pirie wharves was grim and

it was easy to understand union officials and even Parliamentarians being concerned about legislation that might have worsened the employment position on the Port Pirie wharves. However, at this stage such a position does not exist to the same extent. I wonder whether it is a move to permit some employees to operate machines that at present they are not permitted to operate. Does this amendment mean that the machines will now be operated by waterside workers rather than by employees of the B.H.A.S.? These latter employees, according to statements made in 1962, did not enjoy the same privileges and amenities as those available to waterside workers. Therefore, I wonder whether this Bill is simply to restore to the unions some of the control they may have lost as a result of the 1962 amendment. Now, one section of the wharves at Port Pirie is controlled by the Harbors Board while another is controlled by the Mines Department. There is dual control side by side, and the Bill will probably create a greater problem if one has existed than was the case in 1962.

I believe that much of the confusion about the amendments in this Bill could have been avoided if the Minister had given a clear explanation of the reason for the introduction of the Bill. Such a position has arisen not only with this but with many other Bills introduced in this Council. Much time is lost because members are not fully informed of the intentions of the amending legislation.

The Hon. S. C. Bevan: It is funny how the honourable member can understand it now; I have not given any further explanation.

The Hon. L. R. HART: It is all right for the Minister; he sits on his information until the end of the debate.

The Hon. R. C. DeGaris: What do you suggest?

The Hon. L. R. HART: I am trying to suggest that the Government could get legislation through more quickly if members were more fully informed than they are at present.

The Hon. S. C. Bevan: The honourable member is not asking me to answer that one, surely!

The Hon. L. R. HART: Probably I am, but at this stage I do not wish to delay the measure. I look forward to hearing the Minister's explanation when he winds up the debate, but at present I am not prepared to say whether I fully support this Bill. I give it some support, but my full support will depend on the Minister's explanation.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 29. Page 1942.)

The Hon. L. R. HART (Midland): Notwithstanding certain statements by the Minister of Local Government to the effect that he would not accept any amendments to the Local Government Act, except of a substantial nature, prior to the revised Local Government Act being brought before this Council—

The Hon. S. C. BEVAN: On a point of order, Mr. President, I am forced to say that at no time have I made the statement attributed to me by the honourable member. If he reads *Hansard* he will see that I said that it was not my desire to introduce any amendments to the Local Government Act, unless they were important or necessary, before the Local Government Revision Committee had brought down its report. I consider in this instance that the amendments are necessary.

The Hon. L. R. HART: I accept the Minister's explanation. However, I was about to try to convince the Council (and I don't think it needs much convincing) that the amendments introduced are amendments of a substantial nature. This is the very thing that the Minister pointed out.

From time to time we have heard that local government is concerned about losing its powers to the central Government. This Bill is no doubt accelerating the gradual absorption of the powers of local government by the central Government. If this Bill is passed in its present form and becomes fully effective it will increase the costs of local government. It will be necessary for local government to either employ more staff or purchase accounting machines to help with carrying out this onerous procedure. Local government is well known as the oldest and most effective form of government, and it has probably been the most economic form of government up until this time.

There has been the suggestion that some amendments are justified because of provisions in other States. The statement that we should have certain provisions because they are in legislation in other States is becoming a hackneyed one. Competent authorities have said that local government in the other States functions perhaps as a more economic unit than does

its counterpart in South Australia, and that is a good reason for following the example of other States. However, in many cases it functions better because it receives greater support from the central Government. It is well known that local government in New South Wales and Victoria receives more assistance and a greater share of road grants from the central Government than does local government here.

What is more important is that in those other States local government does not make any contribution to hospitals. Whether our local government should make substantial donations towards meeting hospital costs is a vexed question. When the Chief Secretary opened a wing at a community hospital over the week-end he paid a tribute to community hospitals in this State and said that the Government would not be able to provide all the hospital accommodation required if it were not for them. Therefore, ratepayers are probably paying twice in order that hospitals can keep going. They pay their rates and, in addition, voluntary donations are made to the community hospitals.

That is probably why local government can function better in the other States. Another reason is the geographical position of the other States. South Australia has 12.79 per cent of the total area of Australia, whilst Victoria has 2.96 per cent and New South Wales has 10.42 per cent. It is easily seen that South Australian local government operates at a distinct disadvantage. The population density a square mile in South Australia is 2.55, in Victoria it is 33.34 and in New South Wales it is 12.66.

The main reason for the introduction of the Bill is to keep a better check on the accounting by local government. As other honourable members have pointed out, one problem has been that the local government auditing system has been at fault and, because of that, some local government officers have fallen by the wayside and have placed councils in difficult financial positions. Clause 3 amends section 158 of the principal Act in order to overcome that. The clause provides that an auditor shall be paid such remuneration as the Minister may fix on the recommendation of the Auditor-General. I have no quarrel with that, because an auditor should be paid a fee adequate for his services, and council books should be properly audited. Proper auditing means less likelihood of malpractices taking place.

I notice that the Hon. Mr. Hill proposes to move an amendment to that clause, and I think the amendment has much to commend it. I am in agreement with clause 4, which amends section 286. Provision is made to enable the present convenient practice to continue, but on a rather restricted basis, and this is quite acceptable. New South Wales has overcome the position to some extent by authorizing specified council servants to sign and countersign cheques rather than having them signed by the council chairman or mayor. This provision relates to accounts for which speedy settlement is required and I agree with the clause.

However, that is where the Bill should end. There are undesirable provisions from here on and I consider that the Government, in inserting them, has set out to crack a peanut with a sledgehammer.

The Hon. Sir Norman Jude: That $33,000 was a fair peanut!

The Hon. L. R. HART: That happened prior to the introduction of this Bill. Would that have occurred if the council's books had been properly audited?

The Hon. S. C. Bevan: That occurred only last week and this Bill has been before the Council for, I think, the last month.

The Hon. L. R. HART: Clause 5 amends section 295 of the principal Act so that that section, which previously applied to district councils only, will now apply to all councils. There is probably not much wrong with that, but we go further and authorize the Minister to appoint officers from his department to inspect the books of councils from time to time. What are the qualifications of these officers to be? Are they to be people with auditing experience; are they to be people who have had experience in local government affairs; are they to be people who appreciate the problems and difficulties of local government; or are they to be merely clerks from the Highways Department? There is no Local Government Department, of course, but we are probably reaching the stage where there soon will be one. We are not told what the qualifications of these people will be. No doubt after some years they will be qualified, because no doubt they will pick the brains of most council officers and be able to gather information on the way. However, this knowledge will be gathered at the expense of the councils themselves.

New section 295 (4) amends the principal Act by making it possible for the Auditor-General or his officers to inspect the books of any council. New subsection (5) is the provision I like least of all in the Bill. It provides:

Where a report of the Auditor-General, his officer or officers or any officer or officers appointed by the Minister under subsection (1) of this section, reveals to the satisfaction of the Minister that any council has not complied with any provision of this or any other Act, the Minister may give such directions to the council in connection therewith as he considers desirable and any council shall comply with any directions made by the Minister in that behalf.

Councils administer various Acts, and at any time fault could probably be found with their administration of those Acts. Probably no council in the State complies strictly with the Weeds Act, the Building Act or the Health Act. One of the officers appointed by the Minister will be able to investigate the council's affairs, and he will report that the council is not fully complying with these Acts. This may be so: every council does everything possible to comply, but all councils administer these Acts with understanding and sympathy. Are the affairs of councils to be interfered with to this extent? If they are, I believe this new subsection should be removed. I do not believe inspectors should have these powers, as I do not think it necessary that the affairs of councils should be probed to this extent. Why doesn't the Minister take full control of these particular aspects?

The position of councils will become intolerable. There will be no honour in being a member of a council as there is at present. People give many hours of their time to this voluntary work. Is this the reward they will get for the time they have spent over the years? Is this the recognition they will get for the services they are rendering the State? I believe this will be completely unacceptable to the majority of, if not all, councils. If the provisions of this subclause are to be carried out, there is no doubt that the costs of councils will be increased enormously. Will the Government consider this and give increased grants to councils so that they can carry out their functions to the satisfaction of the Government? These are the things which we shall want to know but which are not stated in the Bill.

Clause 6 deals with section 691, and relates to the power to make regulations. I do not know that I like this clause, and I am doubtful about what some of the paragraphs mean. Paragraph (*a*) deals with the power to make regulations prescribing accountancy and finance methods and systems and making their use by councils and by their officers compulsory. We realize that there should be some uniformity in council procedure, but I do not think a provision that makes it compulsory to carry out certain procedures irrespective of whether the income is $20,000 or $2,000,000 will be acceptable to councils. If a system of uniformity of procedure is to be introduced, it should be acceptable to the majority of council officers.

The Hon. S. C. Bevan: What about the ratepayers? Don't you think they are worthy of consideration?

The Hon. L. R. HART: I do, and one wonders whether the effect of this will be that ratepayers will be asked to pay increased rates. That is undoubtedly how it will finish. In New South Wales, a council cannot adopt a rate without the sanction of the Minister. Is that the position we are reaching in this State? I wonder whether under this clause it will be permissible to introduce a poll tax on householders. The clauses are so framed that one wonders what powers they contain. I do not think a provision that enables accountancy procedures to be prescribed should be introduced before the introduction of a revised Act: the Minister has said this at times. This should not be introduced until we have had the complete or near complete agreement of people who have to work in local government.

The Hon. S. C. Bevan: Do you agree with what went on in the East Torrens council recently? Do you want that council's agreement?

The Hon. L. R. HART: The Minister can point out various instances of malpractice, but that will still happen to a certain extent. Under the provisions of two or three clauses, this will be eliminated to some extent. If a certain procedure is to be required, there must be some means of educating local government officers.

The Hon. S. C. Bevan: That is what the Bill is for. It will educate them.

The Hon. L. R. HART: It will educate them, but at whose expense?

The Hon. M. B. Dawkins: The ratepayers'.

The Hon. L. R. HART: That is what it will do.

The Hon. S. C. Bevan: You don't know what you're talking about!

The Hon. L. R. HART: The Government should have some way of educating council officers, because many councils, particularly the smaller ones, find some difficulty in getting fully qualified clerks and have to accept persons who do not have all the qualifications. Such a person is accepted on the condition that over a certain period he gains his various

certificates. Of course, he is getting this experience at the councils' expense and probably, in the long run, at the ratepayers' expense. Therefore, I view this present Bill, particularly its latter clauses, with a great deal of apprehension, and consequently I only conditionally support it in the second reading.

The Hon. H. K. KEMP secured the adjournment of the debate.

LONG SERVICE LEAVE BILL.

Second reading.

The Hon. F. J. POTTER (Central No. 2): I move:

That this Bill be now read a second time.

This Bill is a genuine attempt to do something to correct the somewhat chaotic position that at present exists in South Australia concerning the matter of long service leave. As most honourable members will know, there is at present in existence an Act of this Parliament passed in 1957 which provides for one week of additional annual leave to be given to an employee in the eighth and subsequent years of service with his employer. In 1957 the subject matter of long service leave was regarded with some suspicion and apprehension by employers generally, and I think it could be said that the Act then passed by this Parliament was somewhat of a compromise measure and represented a very different approach from the general lines that were developing in other States. I think I am not being unfair in stating that the 1957 Act has not proved satisfactory. It is significant that in the period of nine years since the Act was passed, not one amendment to the Act has been proffered. One of the principal difficulties is that the Act provides that persons are exempted from its provisions who:

(*a*) are bound by a registered industrial agreement or a State or Federal award prescribing long service leave; or

(*b*) being bound by such agreements or awards to grant leave to the majority of their employees, grant such leave to the minority; or

(*c*) have a long service leave scheme in operation which is not less favourable to the employees as a whole than the scheme of leave prescribed by the Act.

All these matters are mentioned in section 13 of the existing Act. Regarding those employers who are exempted from the Act because they are bound by industrial agreements or a State or Federal award, the point to notice is that industrial agreements are normally made binding on organizations—not individuals—and the same also goes for awards: for example, the Metal Trades Long Service Leave Award. Therefore, unless the employee knows whether his employer is a member of an organization which is so bound he does not know what are his long service leave rights. Concerning employers who are exempted under the existing Act because they are bound to grant leave to the majority of the employees and grant such leave to the minority, it has been found in many instances that the majority of employees may at a later stage in any particular year become a minority and therefore the question then arises: "What is the leave position of the employees who formerly constituted the majority?" This situation particularly arises regarding employers whose business is largely seasonal. As regards those persons who are exempted from the existing Act because they have long service leave schemes in operation which are not less favourable to the employees as a whole than the scheme of leave prescribed by the Act, there is no test for determining whether the scheme is not less favourable to the employees as a whole or not. Therefore, the employer cannot be sure that his scheme is binding and, as regards the employee, he does not know of the existence of any such scheme.

The position in South Australia, therefore, is that the long service leave obligations of an employer and the rights of an employee may be determined by either one of the following things:

(*a*) the existing 1957 Act; or
(*b*) an industrial agreement (and there are many of these); or
(*c*) a Federal award; or
(*d*) a State award; or
(*e*) a long service leave scheme.

It is important to note that all States have a Long Service Leave Act and generally in the other States it is provided that an employer has to obtain a specific exemption from the provisions of the Act. In industrial agreements it is usually provided for a Board of Reference to be set up for the settlement of disputes, and this is a cheap and easy way to determine long service leave rights and obligations. It is important to note that our 1957 State Act has no such provisions.

What, then, is provided in the present Bill which is before honourable members? The Bill provides for long service leave after 15 years' service, with pro rata leave after 10 years' service subject to certain conditions which are set out in clause 4 of the Bill. These provisions are substantially the same as those in all Federal awards and, as I said earlier, there are also quite a number of these Federal awards. It is also substantially similar to most of the

other State Long Service Leave Acts. However, it is to be noted that the New South Wales Act alone is more beneficial to employees as regards pro rata leave. All the State Acts, including that of New South Wales, provide for exactly the same benefits, namely, each one provides for 13 weeks' leave after 15 years' continous service. However, in New South Wales the Act provides for pro rata leave after 5 years' service in special circumstances, although one may fairly question whether or not 5 years' service with an employer could be said to be long service. Under this Bill, an employer will have to obtain a specific exemption from the Act if he wishes to apply his own scheme. The procedure of obtaining specific exemption will thus enable employees to ascertain whether their employer is covered by the Bill and, if not, what is the long service leave applicable to them.

It is interesting to note that, just recently, the South Australian Employers Federation and the South Australian Chamber of Manufactures combined to approach the State Industrial Commission for a Long Service Leave Award applicable to employees who are employed by their members. They have obtained from the State Industrial Commission an award for long service leave in almost identical terms to those provided in this Bill. It is interesting and refreshing to note that after the passage of time these employer organizations have taken steps to follow the prevailing trend and thoughts concerning long service leave, and I think they are to be commended for making this move to bring South Australia into line with what is currently accepted elsewhere in the Commonwealth. However, the Chamber of Manufactures and the South Australian Employers Federation have not yet made any application to the Industrial Commission to make their recent award a common rule, and I consider that very difficult jurisdictional problems would be involved if this were attempted. This Bill, if carried, will, of course, apply to all employers and employees in South Australia, and I consider that it is highly desirable that this uniformity should exist. If this Bill is accepted by the House it will mean that South Australia will have a Long Service Leave Act almost identical with every other State in the Commonwealth and with practically all State and Federal awards.

Turning now to the actual provisions of the Bill, I should state at the outset that these provisions are substantially based on the Metal Trades (Long Service Leave) Award of 1964 but care has been taken to include appropriate provisions from the existing State Act where necessary and for introducing certain new provisions. Clause 2 repeals the existing Long Service Leave Act of 1957. In clause 3, which is the definitions section, the description of "worker" is that used in the existing Long Service Leave Act and also in the New South Wales legislation. The Metal Trades Award and the existing agreements use the word "employee". The definition of "ordinary pay" is taken from the existing State Act and from various industrial agreements.

Clause 4 deals with the right to long service leave. Subclause (2) thereof is substantially the same as clause 6 (2) of the Metal Trades Award, except that in paragraph (iii) I have used the words "completed after 15 years' service" instead of the words "completed since he last became entitled to an amount of long service leave", which are used in the Metal Trades Award. The reason why I have changed the wording is that it can be a matter of some difficulty to determine when a person last became entitled to leave. In subclause (3) of clause 4, subparagraphs (i), (ii), (iv) and (v) are the same as in the Metal Trades Award, but subparagraph (iii) of the Bill is new. This is because there have been some conflicting legal decisions in other States whether pregnancy constitutes a pressing necessity, and this new subparagraph clarifies the position.

Clause 5 of the Bill, dealing with the subject of what constitutes service, is taken from the Metal Trades Award except that subclause (4) (c) is new. This has been included mainly to cover the case of persons who are employed by hotel or motel companies, which often remove a manager or staff from one company to another even though these companies are all associated. Subclause (5) of clause 5 is similar in many respects to clause 6 (4) of the Metal Trades Award, except that I have made the commencing date January 1, 1966, to coincide with the date prescribed by the State Industrial Commission in the recent award granted there.

Clause 6, dealing with the payment for the period of leave, is similar to clause 7 of the Metal Trades Award, the existing State Act and industrial agreements. Clause 7, dealing with the subject of time for taking leave, is the same as clause 8 of the Metal Trades Award. Clause 8, dealing with the subject of agreements for leave before the right thereto has become due, is similar to clause 9 of the

Metal Trades Award. Clause 9, dealing with the matter of leave taken before commencement of the Act, is similar to clause 10 of the Metal Trades Award. Clause 10, dealing with the obligation of the employer to keep records, is similar to clause 11 of the Metal Trades Award, except that the Metal Trades Award provides that such records shall be available to union officials. In the Bill I have provided that the Industrial Commission may permit persons to inspect the records, and I consider that a more satisfactory procedure.

Clause 11 deals with the important question of exemption from the provisions of the Act. The law of most States provides for exemptions, and clause 12 of the Metal Trades Award provides for the adoption of exemptions that are granted under State laws. However, under the 1957 State Act there is no such provision and, as I said earlier, employees do not know what employers may be exempted by reason of having private agreements. This is one of the most unsatisfactory aspects of the existing law and this new clause will remedy the position. Clause 11 provides for an employer to obtain an exemption from the provisions of the Act from the Industrial Commission of South Australia. The commission must be satisfied that the workers are entitled to benefits in the nature of long service leave under any agreement or scheme conducted by or on behalf of the employer which is not less favourable to their employees than those specified in this Act.

Clause 12 is substantially the wording of section 15 in the existing State Act and allows an employer to use any money that he may have contributed to a fund for the purpose of providing retiring allowances, superannuation benefits or other similar benefits for any of his employees to use any of such funds for the purpose of meeting the cost of the obligations imposed by this Act. Clause 13 is a new approach to procedure where there is an allegation that a worker has not been granted the long service leave to which he claims to be entitled. Existing industrial agreements all provide for boards of reference constituted by the Industrial Registrar and two other persons on each side of the issue. This is recognized as a good procedure but, in view of section 132 (*c*) of the Industrial Code, which was passed earlier this year by this Parliament, it now seems unnecessary to have a board of reference.

Clause 14 restricts a worker from working whilst on long service leave, which is a similar provision to that contained in clause 8 of the Metal Trades Award. An employer is also prohibited from employing a person whom he knows to be on long service leave. Clause 15, which deals with offences and penalties, provides a simple way of dealing with an offence. Part VI of the Justices Act provides that an appeal in connection with a prosecution under the Industrial Code is to lie to the Industrial Court, and the same applies for any case stated on a question of law. I feel that it is a good idea to keep this matter clearly under the jurisdiction of the Industrial Court.

In conclusion, I stress to all members of this Council that this is an extremely important Bill, to which I have given much time and thought. I commend it to all honourable members and trust that I shall have their wholehearted support for its passage.

The Hon. A. F. KNEEBONE secured the adjournment of the debate.

ADJOURNMENT.

At 4.53 p.m. the Council adjourned until Wednesday, October 5, at 2.15 p.m.