LEGISLATIVE COUNCIL

Tuesday, October 17, 1967

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

QUESTIONS

LOCAL GOVERNMENT ACCOUNTING

The Hon. C. D. ROWE: Has the Minister of Local Government a reply to a question I asked last week about local government accounting?

The Hon. S. C. BEVAN: Yes. I have answers to questions asked by the honourable member, the Hon. Mr. Hart and the Hon. Mr. Dawkins. The Local Government Accounting Committee, in investigating local government accounting, considered that its draft regulations should be on the basis of minimum requirements that could be adopted by all councils, irrespective of size. The committee considers that the records and procedures prescribed by the regulations should be maintained by the smallest council. The larger councils will probably have to keep much more detailed records but still comply with the basic requirements of the regulations. The committee is of the opinion that, irrespective of whether these regulations are in force or not, councils should maintain records at least to the standard set out in the regulations. The District Council of Clinton, in its letter to the Hon. C. D. Rowe, states that it ensures that the maximum amount of ratepayers' money is directed to its proper function, namely, the maintenance and construction of roads, etc. The committee appreciates this object, but it also considers that councils have an equal responsibility to record adequately expenditure of public money. It is felt that, unless a council records all of its assets, liabilities, and financial transactions in formal books of account, then it is not adequately recording the expenditure of ratepayers' money. As pointed out in its report to the Government, the committee found, during its investigations in other States, that regulations and ordinances were applied, without exemptions, to all councils, irrespective of size.

The Hon. Mr. Hart mentioned an instance where a council was quoted an amount of $2,700 for the installation of an accounting machine. Whilst the committee in its investigations and in its report has recommended that councils give early consideration to the benefits to be gained from machine accounting, the regulations do not require the installation of accounting machines. The regulations have been prepared on the basis of the use of handwritten or machine accounting methods, whichever a council resolves to use. Accordingly, the installation of accounting machines is not the result of proposed regulations but because many councils and their officers have seen and appreciate the benefits from such installations. The committee is aware that accounting machines capable of adequately recording transactions by the smaller councils are available at figures below that quoted by the honourable member.

The Hon. Mr. Dawkins has mentioned the cost of stationery. Where councils are not maintaining some of the prescribed records, expenditure on stationery will be necessary, but because it is considered essential to keep these records such expenditure, which would not be considerable, is warranted. Whilst the regulations prescribe the form of certain records, it is pointed out that the Acts Interpretation Act permits the use of forms giving the same information but not necessarily in the order set out in the form prescribed. Accordingly, in many instances existing records will meet requirements and in any case the provision of standard forms will overall reduce the cost of new stationery to any council.

The Hon. Mr. Dawkins mentioned the employment of additional staff. The committee found during its investigations that, in many areas, officers were working considerable periods of overtime to maintain up-to-date records and, in these cases, the committee considers that additional staff is required, whether regulations are introduced or not. The committee is aware that, because of the lack of records and of inadequate procedures in some areas, the provision of proper records will, in the first instance, create additional work, but when the new system has been established its operation should not prove onerous and will, in fact, expedite the provision of information to councillors.

Accordingly, the committee considers that the regulations in themselves will not generally result in the need for additional staff. I am prepared to make my officers available to assist any council that has difficulties in introducing the new system. I repeat that departmental officers are available to assist any town clerk who thinks he is not fully conversant with the regulations or their impact. The officers are available to visit the clerk, sit down with him, go through the matters that are causing difficulty, and explain everything to him.

The Hon. C. D. Rowe: Town clerk or district clerk?

The Hon. S. C. BEVAN: Yes; essentially district clerks. The regulations will come into operation on July 1, 1968.

CROSS ROAD

The Hon. F. J. POTTER: Has the Minister of Roads further information concerning my question of last week about the reconstruction of Cross Road?

The Hon. S. C. BEVAN: The Highways Department maintains the paved portion of Cross Road between South Road and Marion Road, and this is in good condition. The maintenance of the unpaved portion is the responsibility of the city of Marion. It is expected, however, that drainage works on this portion of Cross Road will be commenced early next calendar year and will therefore allow road widening to proceed during the 1968-69 financial year. This will overcome the present problems associated with the unsealed portion of the road.

WHYALLA HOSPITAL

The Hon. R. A. GEDDES: I ask leave to make a short statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. R. A. GEDDES: As a result of the latest unfortunate clash of personalities at the Whyalla Hospital, the opinion has been expressed that this hospital should become a public hospital controlled by the State Government. Does the Government intend to make Whyalla Hospital a public hospital?

The Hon. A. J. SHARD: I cannot say at present. We have looked at the possibilities of taking the hospital over, but no firm decision has been taken. It is about time somebody said something about the Whyalla Hospital, and I think this is the opportune moment. Let me say quite candidly that, if the Government took over the Whyalla Hospital today, it would not solve the position there. State-owned hospitals, such as those at Mount Gambier, Port Augusta, Wallaroo and Barmera, are run on exactly the same basis as is the Whyalla Hospital. Until the personalities concerned are prepared to work as a combined body in the interests of the community as a whole, the trouble will continue. It is a sorry affair, and I would not have mentioned it if the question had not been asked.

When the doctors first came to see me, one of them, backed by another, said, "It is the matron or us." I told him that, if that was their attitude, they could be on their way, because one cannot solve such a problem when people have that attitude. During my term of office I have seen a number of hospitals and matrons, and I can say that the work of Matron Usher is of a standard well above the average. The only thing wrong, from a professional point of view, is that the matron is a single-certificated sister. Matron Usher has been at the Whyalla Hospital since before I became Chief Secretary and Minister of Health, and she has carried out her duties from the point of view of standards of hygiene and in the running of the hospital with great credit to herself.

A hospital is only as good as the people who work in it, and there is no hope of its functioning properly when certain people are vindictive and spiteful and say such things as the doctors have said. The conduct of one of the doctors last week was very close to being unprofessional, if not actually so. A patient had been prepared for an operation, and when the matron went into the theatre to do her work to the best of her ability, as she has done over a period of years, one doctor said, "I will not go on with the anaesthetic while the matron is here." With good common sense, in my opinion, the matron, rather than have a scene, left the theatre. How can we expect things to be as they should be at the hospital while the doctors conduct themselves as they are doing?

NURIOOTPA PRIMARY SCHOOL

The Hon. M. B. DAWKINS: Has the Minister of Labour and Industry, representing the Minister of Education, a reply to my recent question relating to accommodation at the Nuriootpa Primary School?

The Hon. A. F. KNEEBONE: My colleague reports:

The Education Department is aware of the Nuriootpa Primary School's situation in connection with accommodation in both classrooms and playgrounds. However, due to the urgent demands for classroom accommodation in rapidly growing areas and the more urgent needs of other schools for replacement buildings, it has not yet been possible to recommend a new school for Nuriootpa on the site that has been obtained for it. Consideration will continue to be given to Nuriootpa's claims when building programmes are being prepared.

GAS

The Hon. A. M. WHYTE: Can the Minister of Mines tell me the finalized diameter of the gas pipeline from Gidgealpa to Torrens Island, and can he also say what company has the contract for supplying the pipes?

The Hon. S. C. BEVAN: The proposed diameter of the pipeline is 18in. No contract has yet been let.

MURRAY RIVER SALINITY

The Hon. M. B. DAWKINS: Has the Minister of Local Government, representing the Minister of Irrigation, a reply to my question of October 3 regarding the salinity of the Murray River and the possible release of further water?

The Hon. S. C. BEVAN: The Minister of Works reports:

The position as regards the quality of water entering South Australia is far from good, and unless heavy late rains fall in the central Murray catchments it is expected that the quality will not improve but will further deteriorate as the season progresses. The catchment above Albury contributes more than one-quarter of the total flow in the system, and this year the inflow from this area is only two-thirds of the previously recorded lowest in 1914. This has the effect of lower than normal flows in the central region, which in turn leads to an increase in salinity. Consequently, the average salinity of the water entering South Australia is higher than normal, even apart from the isolated "slugs", and with the restricted flow in force the figures further down the river will be higher still.

With coincident low storages under these conditions, there is no water of any magnitude to allow quality control by flushing. Therefore, the position is very serious and must be recognized as such by irrigators. The River Murray Commission is extremely conscious of the problem, but at present does not have the water available in storage to control a situation developed due to prolonged conditions of drought. The last three years has seen a progressive deterioration of water resources. The season is critical and will demand the most careful farm management by irrigators to ameliorate the damage due to the high salinities expected.

The Hon. C. R. STORY: Has the Minister representing the Minister of Works replies to the two questions I asked on October 12 about the publication of salinity figures on a daily basis and the high salinity in Lake Victoria?

The Hon. A. F. KNEEBONE: No, but I shall try to bring down a reply tomorrow.

ROAD GRANTS

The Hon. A. M. WHYTE: Has the Minister of Roads a reply to my question of October 5 concerning the Port Augusta to Woomera road?

The Hon. S. C. BEVAN: The finance made available to the Highways Department by the Commonwealth Government for the maintenance of the Port Augusta to Woomera road is as follows:

Year	Commonwealth Contribution
	$
1947-48	10,549.30
1948-49	13,208.26
1949-50	46,442.44
1950-51	18,000.00
1951-52	25,578.88
1952-53	56,244.19
1953-54	53,000.00
1954-55	50,000,00
1955-56	46,000.00
1956-57	40,000.00
1957-58	48,000.00
1958-59	36,000.00
1959-60	76,000.00
1960-61	76,000.00
1961-62	84,000.00
1962-63	86,000.00
1963-64	60,000.00
1964-65	53,789.96
1965-66	61,263.02
1966-67	46,949.83

LONG SERVICE LEAVE BILL

In Committee.

(Continued from October 12. Page 2655.)

Clause 5—"What constitutes service."

The Hon. F. J. POTTER moved:

In subclause (8) to strike out "ten" first occurring and insert "fifteen"; to strike out "five" and insert "ten"; to strike out "as an adult"; and to strike out "ten" second occurring and insert "fifteen".

Amendments carried; clause as amended passed.

Clause 6 passed.

Clause 7—"Time for taking leave."

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

In subclause (2) to strike out "sixty" and insert "twenty-eight".

This amendment deals with the notice that has to be given to an employee taking long service leave. The reason for 28 days is that that is the period of time prescribed in an award made by our State Industrial Commission in June of this year. Sixty days' notice to an employee about to take long service leave is unnecessary. In some circumstances, it may be a good thing from the point of view of both the employer and the employee if, in a time of slackness, the employee takes his long service leave provided he is eligible for it.

The Hon. S. C. Bevan: Don't you think the employee is entitled to some consideration?

The Hon. F. J. POTTER: This matter was considered by the commission, which fixed the period at 28 days, which is reasonable. It does not, of course, apply in every circumstance. In most cases it would be negotiated between the employee and the employer, but to make it mandatory, where there is no agreement, for 60 days' notice to be given is unnecessary; and the commission considered it unnecessary. In the interests of some kind of uniformity, I want to bring it back to 28 days.

The Hon. A. F. KNEEBONE (Minister of Labour and Industry): I do not agree with the honourable member on this because, when a man is entitled to long service leave, he has more opportunity to go away somewhere than he has on annual leave. For this reason an employee may be looking forward to going overseas or travelling some distance during his three months' long service leave. Some people have made oversea trips in much less time than three months. Do not tell me that all employers are reasonable with long service leave! The commission may accept this period, but some people do not think the commission is always quite reasonable, although others may think it is. Where an employee is looking forward to his long service leave (and he has to wait long enough for it, under the honourable member's proposals) if he has to wait all this time for it, is preparing to travel some distance from his home and has to make travel and accommodation bookings, he needs more than 28 days' notice, as anybody realizes. We know that even in booking from one year to another we have difficulty with accommodation, merely travelling from one State to another, or even within the State. As the provision in the Bill stands, it is not unreasonable that 60 days' notice should be given.

The Hon. S. C. BEVAN (Minister of Local Government): I, too, oppose the amendment. From the reasons given by the Hon. Mr. Potter, it is obvious that the employer is the only one to be considered. One of the honourable member's reasons for this amendment was that in the event of slackness at work the employer could give his employee just 28 days' notice.

The Hon. F. J. Potter: That is only one instance.

The Hon. S. C. BEVAN: I interjected and said, "Don't you think the employee is entitled to some consideration?" The clause states that the worker becomes entitled to long service leave after 15 years' continuous service with one employer. Clause 7 provides that an employer shall grant an employee long service leave "as soon as practicable" after he becomes eligible for it "having regard to the needs of his establishment", etc. It may not be practicable to grant long service leave because of orders piling up. An employee entitled to long service leave applies to his employer for it and the employer may point out to him the considerable disruption that would ensue if even one employee was granted his long service leave at that particular time because of orders needing to be completed within the industry. In that case, the employer says, "I am sorry, I cannot let you have long service leave at this moment. We will wait until we get the orders out of the way."

In those circumstances, the employee has no alternative but to comply with that. Then a slack period occurs and the employer says, "Now you can take your long service leave: I will give you 28 days' notice." The employee has 13 weeks' leave due to him after completing 15 years' continuous service. He has much planning to do in order to be able to use his 13 weeks to the best advantage. He gets that leave at the convenience of his employer. I maintain that the employee, too, should be given some consideration; he should be given two months' notice. I draw the attention of honourable members to subclause (2), which states:

> Except where a worker otherwise agrees the employer shall give a worker at least sixty days' notice of the date from which his leave is to be taken.

Where the employee and employer are not in agreement, the commission desires that all the notice he shall get for taking long service leave of 13 weeks is 28 days, which is not enough. Although the commission considers that period sufficient, I should like to see the clause in the award where the commission determined this matter, and its reasons, before I would be guided here by what the commission had done. I do not know the circumstances in which the commission made it 28 days. Because some industrial tribunal in the State adjudicating on matters put to it has said that 28 days' notice is sufficient is no argument substantiating the honourable member's argument that 28 days is enough. I hope the Committee will reject the amendment. Where agreements between employers and employees exist, it does not matter. It is only when there is no such agreement that this clause comes into operation.

The Hon. A. F. Kneebone: The employer could direct the employee to take long service leave.

The Hon. S. C. BEVAN: It is at the convenience of the employer.

The Hon. JESSIE COOPER: I do not support the amendment. Every employer knows when an employee's leave is due, and in nine cases out of 10 he will be reasonable and agreement will be reached between them. It is only in the rare case that agreement will not be reached. A period longer than 28 days is reasonable. It is much more humane to keep the period as it is in the Bill.

Amendment negatived.

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

In subclause (3) after "in" third occurring to insert "not more than two separate periods in"; and to strike out "in periods of not less than four weeks".

These amendments are in accordance with the terms of the commission's award and with other amendments I have moved.

Amendments carried; clause as amended passed.

Clauses 8 and 9 passed.

Clause 10—"Employer to keep records."

The Hon. F. J. POTTER: I draw the Committee's attention to the provision that an employer is required during the service of a worker and for a period of three years thereafter to keep the necessary records concerning his long service leave entitlement. Under the terms of the commission's award we have been looking at, these records need be kept for only 12 months after the worker has terminated his period of service. Clauses 12 and 15 provide that a person's claim for long service leave can be brought within six years of the date of termination of his services, yet records need be kept for only three years or, in the case of the commission's award, only one year.

Clause passed.

Clause 11 passed.

New clause 11a—"Application of money paid into funds of employers."

The Hon. F. J. POTTER: I move to insert the following new clause:

11a. Where an employer —

(*a*) has contributed money to a fund for the purpose of providing retiring allowances, superannuation benefits or other similar benefits for any of his workers;

and

(*b*) becomes bound by this Act or by an award or agreement prescribing long service leave for such workers,

he shall, notwithstanding the provisions of any instrument, be entitled to use any of the money contributed by him into such fund, for the purpose of paying or reimbursing himself for the cost of complying with the obligations imposed by this Act or such awards or agreements.

This provision gives some set-off for the cost of this leave to an employer who has set up a superannuation fund where he has not been bound by similar provisions. It is not mandatory upon him to do this but it gives him the right to apply the costs of long service leave against the costs of this other type of scheme.

The Hon. S. C. Bevan: Irrespective of whether it is a contributory scheme or not?

The Hon. F. J. POTTER: This is in regard to the employer's contribution.

The Hon. S. C. Bevan: Where the employee contributes?

The Hon. F. J. POTTER: It has nothing to do with an employee; this is an employer's contribution. This new clause is taken word for word from the existing Act, and I think it is fair and reasonable.

The Hon. A. F. KNEEBONE: I strongly oppose this amendment. The honourable member has referred to the provisions in State and Commonwealth awards in regard to other parts of the Bill, but now he proposes to include something that is not contained in any State or Commonwealth awards. The only Act containing his proposed clause is the old Long Service Leave Act, which he himself tried to get rid of last year; he said it was a poor Act. Admittedly, he included this clause in the Bill introduced last year.

I point out that the purpose of long service leave is to grant an additional benefit to workers, and there is no reason why payments into a fund for the purpose of superannuation should be used to pay for long service leave benefits. In the Public Service, long service leave is granted in addition to superannuation. It is not unusual for contributions, as the Minister of Local Government interjected when the Hon. Mr. Potter was speaking, to be made by both the employer and the employee to superannuation funds. This new clause will permit the employer to use his contribution to such a fund to offset payments for long service leave. Again, I ask: what happens to contributions that the employee makes to the fund?

The Hon. D. H. L. Banfield: They only get their money back.

The Hon. A. F. KNEEBONE: And with no interest. I have had experience of this. One is given the opportunity of buying the superannuation off the employer or accepting the

return of one's money without any interest. I oppose the amendment.

The Committee divided on the new clause:

Ayes (9)—The Hons. M. B. Dawkins, R. A. Geddes, G. J. Gilfillan, L. R. Hart, H. K. Kemp, F. J. Potter (teller), Sir Arthur Rymill, V. G. Springett, and A. M. Whyte.

Noes (8)—The Hons. D. H. L. Banfield, S. C. Bevan, Jessie Cooper, R. C. DeGaris, A. F. Kneebone (teller), C. D. Rowe. A. J. Shard, and C. R. Story.

Majority of 1 for the Ayes.

New clause thus inserted.

Clause 12—"Failure to grant leave."

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

To strike out "six years" and insert "one year".

Although this amendment may seem small, it is a very important one. Granting a right to an employee to bring a claim within six years from the date of termination of his employment raises great difficulties in the adjudication of a claim. Under the present terms of the Industrial Code a person is required to bring a claim within one year from the time the cause of action arose.

Under this clause as it stands, a person retiring at 70 years of age may claim entitlement to long service leave in respect of continuous service over the required period of years, and a dispute in connection with that claim could involve the question of whether or not he had performed the required continuous service. It could be that the whole question turned on whether or not there was a break in his employment. Under the terms of this Bill, if he retires at 70 he has until he is 76 to bring a claim, and he may be bringing that claim in relation to something that occurred, say, 20 years before he retired. Therefore, the question for the court to determine could involve something that happened 26 years earlier.

Apparently, the Government is endeavouring to include a similar provision in relation to this period of six years in the new Industrial Code. I can see some logic in this, in that the Government is apparently trying to equate claims of this kind to claims under which one has a statutory period of six years in which to prove a debt at common law. However, the nature of the claim is entirely different, for even at common law it is six years from the date the cause of action arose. This is not the position here. If the Government wanted to bring it clearly into line with the civil law position, it would prescribe a period of six years from the date on which the cause of action arose or when an employee claimed to be entitled to the leave.

The clause as worded would create practical difficulties. If a person retires from a job and claims he is entitled to long service leave, surely it is only fair and reasonable for him to bring his claim within one year.

The Hon. A. F. KNEEBONE: I oppose the amendment. As the Hon. Mr. Potter has said, we have looked at the situation in regard to the rights of a person under civil law. When the honourable member was speaking to clause 10 he said that a three-year period for keeping records would have some significance in relation to later clauses, so I would have thought he would move to provide there for a different period. It is true, as he said, that we are aiming to do the same thing here as we intend with the Industrial Code. Long service leave involves a right at civil law and normally civil debts are recoverable within six years of their being incurred.

My colleague, the Minister of Local Government, will recall cases of workers in backyard industries who have not been organized by the trade union movement and therefore have not been aware of their rights. Often it is some time after those people have left their employment that they find they have some rights. Therefore, a statutory period of one year would not give them sufficient time in which to claim.

Some employers have evaded their responsibility to pay for long service leave. Also, in some cases where an employee is killed his dependants have not been aware of his entitlement to long service leave. I doubt whether the dependants of many employees know their entitlement under various awards or Acts, and it may be some time before they discover what it is. I think that a period of 12 months in which to make a claim is too short.

The Hon. Sir ARTHUR RYMILL: I support the amendment, and I do not think that the Minister's remarks take sufficient account of the practice in this matter. The time when long service leave is normally assessed is either when it becomes due or, at the latest, when the employee leaves the employment. I have had considerable experience of this in various companies and, inevitably, when the retiring terms are being considered, long service leave entitlement is taken into account. If six years is allowed after the employee retires, the records of employment may have been destroyed. Employers in big companies could not possibly remember the terms under

which the employee was engaged or the details of his service. I cannot imagine any company wanting to keep records of what its employees had been doing six years previously.

The Minister's point about the employee's not being aware of his entitlement makes me want to burst out laughing. We have become used to long service leave now, and everyone is conscious of his long service leave. No employee does not know exactly what he will be entitled to receive and when he will be entitled to it. If he cannot clean up the entitlement within 12 months of ceasing employment, there is something wrong with him.

The Hon. A. F. Kneebone: What about his dependants?

The Hon. Sir ARTHUR RYMILL: Dependants are just as conscious as is the employee of his entitlement to long service leave. I am satisfied that 12 months is sufficient time for this purpose, just as it is sufficient for the other purpose mentioned in the clause.

Amendment carried; clause as amended passed.

Clauses 13 and 14 passed.

Clause 15—"Offences and proceedings."

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

In subclause (3) to strike out "six years" and insert "one year"; and in subclause (7) to strike out "six years" and insert "one year".

These amendments are consequential on a previous amendment.

Amendments carried; clause as amended passed.

Clause 16 and title passed.

Bill reported with amendments. Committee's report adopted.

MINING (PETROLEUM) ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from October 12. Page 2643.)

The Hon. A. M. WHYTE (Northern): In his second reading explanation the Minister of Mines made clear the reason why this amending legislation was introduced. He explained the alteration of the title, which dissociates it from the Mining Act: it is now to be known as the Petroleum Act. Many changes are brought about by this Bill, one of which is the discontinuance of the intermediate licence (the oil prospecting licence). In the old Act the Minister had the right to renew a licence after its first term but without necessarily compelling the licensee to surrender 25 per cent of his lease. I am not saying that an intermediate licence is necessary, but I question taking away the Minister's discretionary power and making it automatic. I know that much of the primary exploratory work throughout the State has reached an advanced stage. Nevertheless, the provisions of the Bill are rather inflexible and could detract from exploration being done in some of the less attractive areas.

In his second reading explanation the Minister stated that the provisions of the Bill had been approved and commended by the petroleum industry. If that is so, I do not wish to make any further defence for the industry in regard to the surrendering of 25 per cent of a lease. The Bill is less flexible than the old Act.

The renewal for five years of a lease now becomes automatic, as does the reduction of the area by 25 per cent, provided that the provisions of the Act in terms of the licence are complied with and the licensee has sufficient resources to continue effective exploration. This latter requirement seems to be very much at the discretion of the Minister. There also seems to be an attempt to cover up the amount of power held by the Minister by the creation of a new body called the Petroleum Advisory Committee. It is clearly stated that a certain amount of Ministerial discretion is inevitable, and I am prepared to accept this. However, I am not prepared to accept the Minister's statement that he has less power under this Bill than under the old Act. I do not even suggest that the Minister does not need this power, but I do suggest that he has more power. The Minister need not, for instance, take any notice of the Petroleum Advisory Committee, so why has this committee of three been proposed in order to make recommendations to the Minister that need not be accepted by him? The composition of the committee is laid down in Part IIc of the Bill, but new section 80u clearly states:

The Minister shall consider any recommendation of the Committee but shall not be bound thereby.

I believe that the Minister could easily obtain the advice of competent men without having to have another committee. We have too many committees at present.

The marginal note to clause 6 has the words "Transitional provisions". With all due respect to the Parliamentary Draftsman, I believe the words "I think" should follow in brackets. This is a complicated provision. Subclause (3) has been included to honour an agreement entered into by the Minister with the Delhi-Santos companies. There seems no doubt that this group of companies has been singled out for preferential treatment. The Minister no doubt has his reason for such treatment,

and I hope that he will make a suitable explanation in reply to my query. Perhaps this provision is inserted to assist our hardest worker in this field, or perhaps it is because of the company's Australian content. If it is because of its Australian content, then why are other Australian companies excluded? I believe it is an excellent idea to give all Australian companies some encouragement, but I do not believe that such preference should be given to one company or that that preference should override efficiency.

The Hon. S. C. Bevan: You would not ask me to repudiate something that the previous Government had entered into, would you?

The Hon. A. M. WHYTE: I have asked for an explanation from the Minister; I thought that one would be available.

The Hon. S. C. Bevan: You will get an explanation.

The Hon. D. H. L. Banfield: Is it a good one?

The Hon. S. C. Bevan: Yes, excellent.

The Hon. A. M. WHYTE: I am intrigued to know where such preference could end, because in the first place it was introduced in section 40 of the principal Act. I ask the Minister whether this is a statutory guarantee of special treatment in any further amending legislation. Clause 20 fixes the initial lease to a period of 21 years whereas under the previous Act it was for not more than 21 years. Is it necessary for a licensee to be bound for 21 years in what may be a hopeless proposition? I wonder why the petroleum industry gave its blessing to this clause?

The Hon. S. C. Bevan: Because it is in their interests.

The Hon. A. M. WHYTE: I cannot see that it is to their benefit to be compelled to hold a lease for 21 years if it is proved that it would not be of much use to them. New section 36 (4) provides that where, in the opinion of the Minister, petroleum of economic quantity and quality exists, the Minister may require the licensee to continue operations for its recovery. Surely no company having petroleum in economic quantities would need the Minister to tell it that it should recover that product. I doubt whether this is a suggestion of the petroleum industry.

The Hon. S. C. Bevan: That is the problem of unearthing a field and refusing to declare it as an economic field. We do not want to have a commercial field tied up. This could apply also to a gas field.

The Hon. A. M. WHYTE: I merely wondered why such a clause should receive the blessing of the industry. The Minister said that clause 27 merely simplified section 52 of the principal Act. The principal Act simply states that to be in occupation a licensee must fence that land which is reasonably necessary to carry out his work. We all know that in many cases such fencing is neither necessary nor requested. However, I raise this point because the onus has now been transferred from the licensee to the landowner or occupier. I know it can be claimed that everybody should know the law, but many do not know it. This transfer is not justified, because section 52 (2) of the principal Act is retained, and it clearly states:

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

This means that unless a landowner has requested the erection of a fence he is liable for any trespass or injury. You, Sir, when Minister of Mines knew there were occasions when landowners and licensees did not get on well together. That was not generally the case. Usually they worked harmoniously, but on occasions (perhaps it was not the fault of the licensee so much as the fault of the drilling teams) there was not harmony and the owners were occasioned inconvenience. I strongly question the transfer of the onus to the landowner. Unless the Minister can explain why this has been done I intend to move against it in the Committee stage. I support the Bill in principle, and I support the second reading.

The Hon. Sir ARTHUR RYMILL (Central No. 2): I have scrutinized the Bill and, on the face of it, it seems generally satisfactory to me. In the Minister's second reading explanation he said that he had consulted with the companies presently concerned in this Act and that they were all in accord with the Bill, having made various constructive suggestions, some of which the Minister said had been incorporated in the Bill. Bills such as this one often set off a flutter in the dovecotes, and private members get approaches from various people concerned with Bills of this nature. I have not received any approaches in relation to this Bill, and I assume that some honourable members would have received approaches if the parties affected by the Bill were not generally satisfied with it. I have heard of no honourable member saying that he has received any complaints about the Bill, and this speaks for itself.

The Minister said that the object of the Bill was, in the main, to modernize the Act, and that is how I interpret it, too. There are many new provisions in the Bill which seem to be improvements, and there are some clauses, such as the pipeline clauses, that are really developments of the original Act because of the discoveries that have been made. One of the clauses protects the provisions of companies that have already had a grant of exploration licences. I think it is proper that that should be done. The Minister said that the arrangement he had made was a generous one. I referred to him just now as being a reasonable man for acceding to the Leader of the Opposition's request that progress be reported; and I would prefer to call the arrangement under this Bill a reasonable arrangement rather than a generous one, because it merely confirms what has already been agreed on by the parties. It is a private arrangement: that rights already given should not be whittled down.

An interesting point is the omission of helium. Under the present Act, the Mining (Petroleum) Act, 1940, honourable members may recall that all petroleum was expropriated, or any rights to petroleum were expropriated from private individuals who might be deemed to hold those rights on certain conditions. Also at that time, helium was appropriated to the Crown. This particular clause is now being amended by omitting from it the word "helium". This interests me from the technical point of view. What does this mean? There could have been private ownership in helium below the ground before the 1940 Act, which expropriated to the Crown this private ownership. Now that helium is being removed from the clause, does it mean that the rights to helium go back to the private individual; does no-one have the rights; or what is the position? It is a curious provision. I should be grateful if the Minister would explain this. It is not an important point now but perhaps later it could become important. I should like to know who has the right to the helium: does it go back to the ordinary Mining Act, or what happens to it? If helium is discovered, in common with certain other items in the Bill, it is to be controlled by the methods set out in the Bill. New subsection 4 (1a) states:

The provisions of this Act with the exception of subsection (1) of section 35 of this Act shall apply to and in relation to any naturally occurring subterranean accumulation of any of or any mixture of the following:

(*a*) hydrogen sulphide;
(*b*) nitrogen;
(*c*) helium;
(*d*) carbon dioxide;
and
(*e*) any other substance that the Governor declares . . .

As I interpret it, this means that the production of those particular materials will be controlled by this Bill. The question is whether helium reverts to private ownership. Obviously, the Crown no longer claims the right to it. The other amendment relating to helium and putting it under the Act is in another application. However, the Minister will no doubt let me know the answer.

An interesting feature of the Bill is new section 15 (1), which states:

The area comprised in a petroleum exploration licence shall not exceed 10,000 square miles.

Previously, there was no limit, as I recall it, but the grant or otherwise was in the hands of the Minister of Mines. I imagine that Delhi-Santos have more than 10,000 square miles in their area, but that point is covered by another clause protecting existing rights which is a very proper clause.

Another interesting feature is the setting out of the number of dollars a square mile that a lessee has to expend each year. He gets an absolute entitlement now to renewals, which I think is a step forward because it enables the searcher to plan with certainty in the knowledge that he will at least retain portion of the area for a considerable time. He has to pay a prescribed amount each year for every square mile, and if he has a big search licence that could amount to a considerable sum. For instance, with a field of 10,000 square miles he would have to spend $20 a year for a start and then $30, followed by $40 a year. The latter figure in association with 10,000 square miles would result in a total of $400,000 a year, which is a very considerable expenditure. This, no doubt, is done for a purpose, as is the provision for a five-yearly renewal, for each time the licensee shall give up one quarter of his existing area; under the Bill he is entitled to choose that area to be given up. However, if he does not do that, then the authorities will dictate which part shall be given up.

Another interesting provision in the Bill is where one structure creeps over one exploration licence into an adjoining one. This could well happen. I imagine that in the course of time further developments will result in more alterations to the Act in the light of continuing experience, provided we get reasonable additional discoveries in this State,

and I see no reason why we should not. I had the pleasure last May of looking over the Moomba field and seeing the great spread at that field between producing wells that have been put down. It is a vast field, and I have no doubt that the optimistic views taken about its magnitude are fully justified because a large number of producing holes exist. It could not be called a fluke that each one of these producers hit some isolated patch, even when one considers the distances separating these holes. Indeed, I think one concept is that the Gidgealpa and Moomba fields may have a geological link, but that remains to be discovered. I know many people are optimistic that oil will be found in association with these fields, and that is certainly not beyond the realms of possibility.

Another interesting feature is the provision made concerning discoveries of good water in association with what are called "dry" holes. At present the Minister has the power to direct that the casings shall be left in the holes and there is no right of compensation to the searching companies for leaving such casings. This Bill very properly provides that if the Minister directs that casings shall be left in a hole then the company concerned will be compensated. I think that is a real step forward because in some of these holes large quantities of good water have been discovered, and in the type of country where they are situated such water could be of considerable value.

The Hon. S. C. Bevan: There is one at the moment on the Gidgealpa field and it is an artesian bore with good quality water. The casing has been left in.

The Hon. Sir ARTHUR RYMILL: Yes, I was aware of this although I did not have those details. However, I understand that several good water supplies have been discovered, and in those arid areas they could be tremendously valuable, either for the station properties, for travelling stock, or for many other purposes. That is one of the side advantages that oil search has brought us, because undoubtedly there will be a large number of holes dry of petroleum but which will be water-producing holes. I think it is good that the Bill should make proper provision to retain these holes in a manner fair to the person who has supplied the casing, who could otherwise remove it as his own property. The pipeline clause in Part IIB is interesting and far reaching. It provides that a search company or another company can get a licence, and this is in the hands of the Minister. It sets forth the terms of the licence and then sets out other essentials that need to accompany provisions of this nature; namely, that the person holding a pipeline licence shall negotiate with property owners over whose property the pipeline is to go. If a reasonable bargain cannot be struck with such owners, then the Compulsory Acquisition of Land Act shall apply. If such a provision were not inserted it would obviously be useless to give anyone a pipeline licence because he would not be able to put his pipeline over other people's property. I think the private individual over whose property the pipeline would go would be fully protected under this clause. The Minister has in all cases to approve of any compulsory acquisition of land, and this brings it into the same category as if the Government were acquiring such land. Because of that, I think individual rights are properly protected; it is an essential part of any granting of a licence, otherwise a licensee could not put his pipeline across the ground even if only one owner objected.

An advisory committee is appointed under the Bill, but I cannot imagine its function. It comprises three people who shall be appointed by the Government. The committee is to inquire into matters referred to it and then make recommendations to the Minister, but the Minister does not have to accept such recommendations. Therefore, its real function is beyond my comprehension and I cannot see any virtue in such a committee. If the Minister wants any help at any time in elucidating any of his problems he can appoint somebody to look into them; he can appoint an independent committee, or members of his department. I do not see where such a petroleum advisory committee gets us, but no doubt the Minister, now that I have raised the subject, will explain this in detail when he replies. I support the second reading.

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

BUILDERS LICENSING BILL

Adjourned debate on second reading.

(Continued from October 12. Page 2647.)

The Hon. R. C. DeGARIS (Leader of the Opposition): When it was first known that the Government intended introducing legislation to license builders in South Australia, my first reaction was not adverse to the principle but, when the Bill was first introduced in another place and we read in the press of some of its provisions, my reaction was then one of

caution—indeed, one of outright opposition to much of it. Rather consistently with its record over the past three years, the Government after introducing the Bill then set about altering it with its own amendments in a wholesale fashion. Even now as I speak to the Bill, I see a further two pages of Government amendments. At least in this matter of drawing up numerous amendments to legislation after it has been introduced the Government has set a record.

The Bill as it comes to us is considerably different in some aspects from what it was when first introduced in another place. That fact alone is sufficient justification for the continuing role of this Council as a House of Review for, without the guarantee that legislation must be reviewed by another Chamber after much publicity has been given to it, there would be no pressure under a one-House system to alter the legislation as there is under a two-House system before it comes to the second Chamber.

In the second reading explanation several reasons are given for the introduction of this Bill. By and large, they can be grouped into four categories. The Govenment claims that, first, this legislation fulfils a long-felt need in this State; secondly, that it is designed to improve the quality and standards of building; thirdly, that it affords a protection to the house builder and the house buyer; and, fourthly, that it will protect the building industry and the public from exploitation by unqualified persons. I do not think any honourable member would question such lofty principles, but in all matters like these this concept of protection can go so far that all incentive is lost, the rights of the individual are lost and people become frustrated with bureaucratic controls.

Whilst the Bill is, supposedly, designed to overcome some difficulties, the end result could be much worse than the original difficulties it sought to cure. Let us look once again at the four points I have just made that the Government claims are the reasons for the introduction of this Bill. First, it is said it fulfils a long-felt need. We all realize there have been some complaints about the building standards in this State but one wonders whether this is a long-felt need. There have been complaints, but I say clearly here and now that I have had far more complaints about the standard of building of the Housing Trust than about that of private builders. That is not a criticism of the Housing Trust; many complaints made as regards both the Housing Trust and private builders are not always justified. The Government says that, secondly, the Bill is designed to improve the quality and standards of building. I cannot see how this legislation will in any way help to improve those things. When we look later at some of the provisions, perhaps we shall see why I make such a claim. I see nothing wrong with the registration of builders. Under such a system, certain standards can be set whereby any person employing another person or any person letting a contract to another person or persons can have some guarantee of skill and competence. However, it would be wise to pause here. In other words, I cannot see much reason for going beyond, at this stage, providing the public with a protection by registering builders so that, when they are employed, the people employing them may have some guarantee that they possess some qualifications. In many ways, as we analyse this Bill, we appreciate that, with the possible exception of the road transport legislation, which was rejected by this Council, it contains some of the most restrictive clauses ever to come before this Council in the life of this Parliament. I am certain these restrictions will not achieve the purpose for which the Bill is designed. Certainly, it will add considerably to building costs.

I draw the attention of honourable members to clause 4, "Interpretation", where "building work" is defined as follows:

(*a*) the erection, construction, alteration of, addition to, or the repair or improvement of any building or structure; or

(*b*) the making of any excavation, or filling for, or incidental to, the erection, construction, alteration of, addition to, or the repair or improvement of any building or structure.

The Hon. C. R. Story: What is the definition of "structure"?

The Hon. R. C. DeGARIS: There is no definition of either "building" or "structure". When I looked it up in the dictionary, I found that "structure" had a wide variety of meanings. Indeed, I am sure the Hon. Mrs. Cooper could give me much information on this: it also has a meaning in relation to the English language, the structure of a sentence. I do not know whether one would need a licence for that purpose! It means virtually anything at all. "Building work" includes anything that can be regarded as a structure and includes earthworks or earth movement before any actual construction takes place. As far as I can see it includes anything and everything—fences, dams, shearing sheds, implement sheds,

sheep yards, cattle yards, windmills, irrigation channels, irrigation equipment, and any excavation or filling that may be necessary for any building or construction.

The Hon. A. J. Shard: Drying equipment?

The Hon. R. C. DeGARIS: Yes; drying racks in the irrigation areas.

The Hon. A. J. Shard: What about orange cases?

The Hon. R. C. DeGARIS: Even those. This may sound ridiculous, but it indicates the width of the provision. One could go further than this. It takes in painting, plumbing, carpentry, plastering and a host of other trades within the building industry. So, this clause takes in every form of construction in every part of the State. I think honourable members can gauge the width and breadth and depth of this definition. The term "building work" is first used in clause 15 (1), which states:

Subject to this Act, a general builder's licence authorizes the holder thereof to undertake and carry out building work of any kind.

This means that a person holding a general builder's licence will have a licence to do the things that come under the classification of building work. The term "building work" is again used in clause 16 in relation to a restricted builder's licence; clause 16 (1) states:

Subject to this Act, a restricted builder's licence authorizes the holder thereof to undertake and carry out building work within such classified trade as is specified in the licence.

We have no information as to the classifications that will be made by regulations under clause 29. Clause 4 (2) states:

"Classified trade" means one of the trades into which building work is classified under this Act.

However, as I have pointed out, we have no information as to what these classifications will be; they are to be provided by regulation under clause 29 (*i*). I think we can assume that all these little pockets of the building industry will be classified by regulation.

Clause 5 (2) establishes the board, which is to be known as the Builders Licensing Board of South Australia; it is to be a Government-appointed board, consisting of four members, all of whom will have some knowledge of the building industry. One is to be a legal practitioner, one an architect, one a member of the Australian Institute of Building, and one a chartered accountant. Clauses 5 to 12 deal with the board. Clause 13 provides for an advisory committee and its functions. There is no information in the Bill as to this committee's constitution. The Minister may approve subcommittees of this committee for specific purposes.

We have a board and an advisory committee, both of which are completely Government appointed. The board may refer such matters as it thinks necessary to the advisory committee. If I were engaged in the building industry I would be very concerned about this arrangement, particularly if I knew the way in which the Bill was originally drafted. Clause 14 provides that any licence under the Act shall be valid for 12 months, and the licence ceases to be valid under certain conditions. If a licence has not been renewed or if it is cancelled or suspended, it ceases to be valid.

The Hon. C. D. Rowe: Is there any limitation upon the membership of the advisory committee?

The Hon. R. C. DeGARIS: There can be as many members as the Government wishes, and there is no information as to the composition of the advisory committee.

The Hon. C. R. Story: Does the Leader think it will be a paid body?

The Hon. R. C. DeGARIS: Yes; there is provision for that. Clause 15 deals with the general builder's licence. I have already referred to this clause in relation to the definition of "building work". It sets out the conditions governing the issue of a general builder's licence. Clause 15 (3) lays down certain conditions for the issue of a licence to a body corporate or a partnership. I believe some of the amendments that have been foreshadowed deal with this subject, so anything I say on this matter is subject to revision. At least one of the directors or members of a board of management in a body corporate or at least one member of a partnership must hold a general builder's licence. I am not quite sure what constitutes a board of management, although I think I can guess what it means.

Clause 15 (4) could cause grave difficulty in the event of death, particularly of a member of a partnership. After having had a quick look at the Chief Secretary's foreshadowed amendments, I believe they overcome one of my objections to the Bill as originally drafted. I myself know of many cases where a husband and a wife engage in a business partnership, in which the husband is the builder and the wife does the accounting work. Such partnerships do enter into some quite lengthy contracts. If the husband dies there will be no possibility of that partnership completing the contract it has entered into, because the Bill provides that

the partnership cannot continue after the expiration of 21 days from the date of death of a partner. The Chief Secretary's foreshadowed amendment allows the board to give the partnership the right to continue for a longer period.

The Hon. A. J. Shard: It will permit the continuity of the work in that event.

The Hon. R. C. DeGARIS: I believe that is so. However, it seems rather foolish that the board should have the right to say this, when it would probably have to give the partnership the right to conclude the contract already entered into. It seems a long-winded way around a very simple problem. I cannot see any reason why there should not be a simple provision for a partnership to continue with and complete any contract entered into by that partnership.

Clause 15 (5) allows the South Australian Housing Trust to hold a general builder's licence. I have had more complaints regarding Housing Trust construction than I have had regarding any private builder. In saying that, I do not wish to criticize the trust in any way. However, I point out that many of the complaints lodged in relation to faulty building do not necessarily arise from any fault of the person carrying out the construction work.

Clause 16 deals with the restricted builder's licence. This applies particularly to those people who are subcontractors. As I said earlier, at this stage this Council has no knowledge of how the various trades will be classified. Similar conditions apply to the issue of a restricted builder's licence as apply to the issue of a general builder's licence. The same things apply in relation to a corporate body or a partnership.

Clause 18 confers on the board the power to cancel or suspend any licence for any period for any of the reasons set out in paragraphs (*a*) to (*e*) of subclause (1). Paragraph (*c*) provides that a licence may be cancelled or suspended if the holder of the licence has been found by any court or other tribunal to have been negligent or incompetent. I cannot see the reason for the inclusion of the words "or other tribunal". We have a whole list of things for which the board can withdraw, suspend, cancel or not renew a licence.

Clause 19 deals with the right of appeal against a decision of the board. In this, it seems to me that the board's powers are very wide and, in fact, far in excess of the needs of a board primarily set up to register builders. In my opinion, if a person wishes to appeal against the action of the board he should be able to continue his activities until the appeal is heard.

The Minister, in his second reading explanation, said that clauses 21 and 22 contained the teeth of the legislation, and that is one statement with which I heartily agree. However, clause 20 also has a certain number of teeth in it. Part IV of the Bill, of which the first clause is clause 20, gives the board the right, in conducting any inquiry, to require by summons under the hand of the chairman or secretary the attendance of any witness and the production of any books, papers or documents. The board has power to inspect any books, papers or documents produced before it, and it can examine witnesses on oath or affirmation. A person into whose conduct the board is conducting an inquiry is entitled to be represented at the inquiry by counsel. This once again appears to be a very wide power for a board of this nature to have. I would ask the legal members of this Council to examine this clause closely, because the board sets itself up not only as a board of registration but virtually a court to decide certain things.

Clause 21 provides a penalty of $200 for failure to attend the board on a summons. It goes on to say that if any person wilfully interrupts the proceedings of the board, refuses to be sworn or affirmed, fails to produce books or makes a false declaration, he will be subject to that penalty. I am at a loss to understand the meaning of the words "wilfully interrupts" in this context. I repeat that I would like the legal members of this Council to look very closely at clauses 20 and 21.

The Hon. A. J. Shard: You might be sorry, because you might get three different answers.

The Hon. R. C. DeGARIS: That may be so. However, we are setting up a board to register builders, and it seems to me that we are giving the board powers that are rather wider than they should be.

Clause 21 (3) deals with the question of a person not being able to carry out for fee or reward any building work within a classified trade unless he is the holder of a general builder's licence or a restricted builder's licence. Once again, this is the clause that catches up with all these people who could be included in the regulation specifying the classified trades. For instance, it would be necessary for an earthmover to have a restricted builder's licence. A person wishing to

buy four acres of land and have it levelled could not bring in a bulldozer operator to do it unless that operator had a restricted builder's licence. Throughout the country, including the district I represent, there are any number of people doing nothing else but erecting windmills, and under this Bill such a person would be unable to erect windmills unless he had a restricted builder's licence; that is, if that particlar trade is covered in the regulation dealing with classified trades. A person will have a defence in this matter if he undertakes the work for wages only or if the total amount of the work undertaken does not exceed $100.

The Hon. A. J. Shard: I thought it was $500.

The Hon. R. C. DeGARIS: No, the total amount mentioned in subclause (4) is $100. If those people who do very small jobs like erecting windmills in the country areas are included in the regulations (and I see no reason why they will not be), they will have to be in possession of a restricted builder's licence before they can carry out that work. I believe that here we see beaurocracy going so far as to make one wonder exactly what is the aim of this Bill.

If a person wants earth moved prior to a building or structure being erected, and that work costs more than $100, the earthmover must have a restricted builder's licence. If he does not possess a licence, the penalty is $750. Nor can a person employ another to construct a building for immediate sale or letting if the building was not carried out under the personal supervision and control of the holder of a general builder's licence. As I pointed out earlier, the question of building is not defined in the Bill. Again, there are defences to this matter: if the building costs less than $500, if the builder holds a general builder's licence, or if the builder builds it for his own use or occupation. Under clause 21 (8), if a person builds his own building and sells or leases that building within 18 months, it shall be deemed that the person built it for immediate sale or letting. Once again, this appears to be so restrictive as to be rather foolish.

What is the position in regard to a person who builds his own house (and one can go right through the Adelaide Hills, through Bridgewater and also in my own district to see examples of this)? Many wage-earners build their own homes and do a good job of it. If the husband and wife build a house and the husband dies, what is the position? What is the position if a person builds his own house over a period of three or four years and is transferred to Melbourne or Perth? After 18 months from the erection of the building, he can sell it but he must advertise the fact that it was not built by the holder of a general builder's licence. I do not mind that provision, but if a person builds his own house and moves to another State and advertises the fact that the house was not built by the holder of a general builder's licence, that should be as far as the restriction should go, otherwise the matter reaches the stage of being so restrictive as to be foolish.

What constitutes a building? What is the position, for example, of a person on a farm who builds his own shearing shed? Most shearing sheds erected today of a prefabricated type are erected by the farmer concerned. Does this clause prevent the person from selling his farm for 18 months? I believe it does. I cannot see where there is any exemption for the farmer who erects an implement shed on his property, or for the fruitgrower who erects a drying rack on his property. If he does that, he cannot sell his property for 18 months after the building has been constructed. If there is any need to control people who, without a general builder's licence, erect a building for their own use, the fact that it must be advertised or written into the contract of sale that the building was not built by the holder of a general builder's licence should be a sufficient safeguard to the person who wishes to purchase.

Clause 21 (16) requires a sign to be erected in a prominent position where any alteration or repairs are being carried out. There is an exemption where the sign need not be erected, and that is in relation to building work being carried out on any existing dwellinghouse, flat or home unit. This sign is to carry the name, licence number, and classified trade of the person so working. One can imagine the position in King William Street where a plumber is called down to the Australian Mutual Provident Society building opposite Parliament House to do some minor repairs to a wash basin on the tenth floor. He has to carry his sign down and put it on the exterior wall of the building while he carries out the repairs. He does the repairs, picks up the sign and moves on. What will happen in Rundle Street where a shop is being painted and where the only prominent wall is the front window? The person has to put up a sign to the effect that he is painting a room in the building. This appears to be an unnecessary provision.

Clause 22 once again gives the board a very wide power. It states:

(1) Any member or officer of the board, authorized in that behalf in writing by the chairman, may enter the premises of any council at any time when such premises are open for business and may examine and make copies of or extracts from any books, papers, documents and records kept by the council relating to any matter about which the board requires information for the purposes of this Act.

(2) No member, officer or servant of the council and no other person shall hinder or obstruct the member or officer of the board in the lawful exercise by him of the powers conferred by subsection (1) of this section.

Penalty: Two hundred dollars.

I object to this clause as it is drafted. More and more one sees local government being forced into the position of being the lackey for many authorities, boards and departments. I cannot see any reason why the board should have a need even to worry local government in this regard. If certain information is required from local government it is only reasonable that a request should be made to the council. One can see the position developing quite easily where an officer of the board goes to a council and says, "We want to see this immediately." The council has no option but to carry out its duties under the Bill immediately. There is no payment to the council for the time it may take to obtain this information for any officer or member of the board. As far as the board is concerned it has the right, under another section, to make a charge for any documents or copies of documents required. If the board requires this information, it should request it and, if necessary, make a payment to the council concerned.

Clause 24 is also objectionable, in that it removes any arbitration clause in any contract. It states:

Notwithstanding any provision of the Arbitration Act, 1891-1934, any provision of a contract relating to the performance or carrying out of any building work entered into after the commencement of this Act which has the effect of submitting, or binding the parties to the contract to submit, to arbitration any matter or dispute concerning the performance or carrying out of such building work or any part thereof has no force or effect unless and until, after such matter or dispute arose, the parties to the contract by writing duly executed by them agree that such provision has effect in relation to such matter or dispute.

This is an unnecessary clause, unless a dispute arises and the parties to the contract agree in writing that such provision has effect in such a dispute. The clause as it stands has the effect of negating any arbitration clause in any building contract. It completely overrules a practice that has existed in the building industry for many years, and I am totally opposed to the clause.

This Bill cannot be completely divorced from the provisions of the Industrial Code, which at present is not in this Chamber but which, I think, will be here in the near future. From what I know of its provisions, the Bill to amend or completely rewrite the Industrial Code, together with this Bill, could seriously affect the position in the State of a large group of people: the subcontractors. I am certain if the subcontractors working in this State understood the full implications of the Bill, together with what I believe is contained in the new Industrial Code, they would be extremely worried. Any alteration in the position of subcontractors in the work they are doing in the building industry in South Australia would not be in the best interests of this State or of the house-buying public. At this stage, I am not opposing the Bill, but I will listen with much interest to contributions that will be made by other honourable members. I am not happy with many of its provisions, and I believe that in many ways it is one of the most restrictive pieces of legislation that has come before this Parliament in the three years of office of this Government. If left in its present form, it will have a dampening effect on the building industry in South Australia.

I know that in other States, particularly Western Australia, similar legislation exists. I shall point out some of the differences between this Bill and the Western Australian legislation. In the Western Australian Act there is a definition of "building" but no definition of "building work"; and there is a definition of "builder" but no definition of classified trades within the building industry. Section 3 of the Western Australian Act states that the Act shall apply within the metropolitan area. That is entirely different from the concept of this Bill, which classifies all trades and embraces the whole of the State.

Section 4 of the Western Australian Act is similar to this Bill in relation to general builders' licences, but there are certain exemptions from the provisions of that section. As the Bill before us is drawn it sets out what can and what cannot be done under a general builder's licence, and then it contains a defence clause that reads "It shall be a defence to a charge

under this section", etc. The Western Australian Act reads:

No person who is not registered under this Act shall—

and then it deals with things a non-registered person cannot do; then comes the proviso:

unless—

(i) the total fee or charge payable in respect of the carrying out of the same does not exceed $1,600.

However, the restriction in this Bill is $100 in relation to classified trades, but if you do the work yourself the amount is $500. Therefore, it can be seen how restrictive is the concept in the Bill. All the penalties throughout the Bill range from $400 to $750, whereas in Western Australia the penalties range from $40 for a first offence to $80 for a subsequent offence. Section 10 of the Western Australian Act reads:

(1) Any person, not being a company or any other body corporate, who applies to be registered under this section as a registered builder shall be entitled to be so registered if and when he . . . has completed the prescribed course of training, including practical experience for a period of at least seven years, or for periods aggregating at least seven years, in the work of a builder, or as a supervisor of building work, and has passed the examination prescribed for applicants for registration as registered builders;

So that Act deals only with the general builder's licence and lays down certain qualifications and standards that a person must possess. Dealing with the question of the powers of the boards in South Australia and Western Australia, perhaps I could quote section 11 of the Western Australian Act:

Any application for registration under this Act whose application has been refused by the Board shall be entitled, on demand, to be furnished in writing with the reason or reasons for such refusal.

That is an entirely different concept from that in this Bill. The Western Australian Act deals solely with the registration of a builder (a general builder's licence) and has nothing to do with classifying or registering the various trades that exist within the building industry.

I think that the Bill can prove extremely restrictive and repressive to those subcontractors who have meant so much to the building industry in South Australia and who have been factors in maintaining the low costs in that industry. I am not opposing the Bill at this stage, but I have grave reservations about the efficiency of the legislation.

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

LOCAL GOVERNMENT ACT AMENDMENT BILL (RATING)

Adjourned debate on second reading.

(Continued from October 12. Page 2638.)

The Hon. M. B. DAWKINS (Midland): I support the second reading of this Bill. The Leader of the Opposition has referred to a habit which has grown up with this Government and which has now become its practice: increasing the number of clauses in Bills after their introduction. Last week I got a copy of this Bill as it existed for the last two months in another place. I found that it had six clauses, that it was unexceptionable and in no way objectionable. However, I see now that the Bill has no fewer than 11 clauses and it is about twice as long as it was previously. The Minister in his second reading explanation had to apologize for the Bill not being on honourable members' files. Obviously, the reason was that it had to be reprinted because of the additional provisions that had been inserted. The Minister said that the amendments to the principal Act proposed by this Bill were mainly consequential upon the provisions of the Real Property Act Amendment (Strata Titles) Bill passed earlier this session. With that I agree. I have looked at the Bill and have no particular objection to it.

I draw attention to the clauses that have been added during the last few days. Clause 7 empowers the Adelaide City Council in certain cases to construct and repair private streets in the city of Adelaide and to recover the cost of so doing from the owners of property abutting on those streets. I see no objection to that, although I would not presume to speak for the Adelaide City Council. Clause 8 enables other councils to construct private streets where necessary. Speaking as a member of this Council with some experience of local government in country areas and some contact with country councils, I see no objection to this clause.

Clause 9 deals with the power of a council to construct or repair private streets and to recover the costs from the owners of ratable property. The clause appears to me to be reasonable. Clause 11 empowers a council to construct a retaining wall. That would apply more particularly, probably, to the city of Adelaide or suburban councils. Whilst I see no objection to these clauses, some people in the city may have other ideas on the matter. As the Minister has stated, the Bill is mainly consequential on the strata titles legislation. In

order to enable it to be considered in Committee without delay, I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7—"Construction and repair of private streets in city of Adelaide."

The Hon. Sir ARTHUR RYMILL: It is obvious that some provision had to be made to meet this contingency. Honourable members know that under the Local Government Act if a person's property abuts on a street he is responsible for the upkeep of that street in proportion to his linear frontage along it. The question that must have puzzled the authorities here was whether they should make the units actually abutting on streets solely liable for these particular ratings or whether the whole of the development should be proportionately liable. It has come down on the side of the whole of the title being responsible in proportion to the respective ownerships of it. I see no reason why this should not be the correct concept of the justice of the case. It must have been a difficult question to decide, but the Government has come down on the side of this provision as the fair thing in the circumstances. Looking at it broadly, we cannot quarrel with that decision. Therefore, I support the clause.

Clause passed.

Clause 8 passed.

Clause 9—"Construction and repair of private streets and roads."

The Hon. C. R. STORY: The marginal note indicates that this clause deals with the construction and repair of private streets and roads. When related to the principal Act, will this cover other things besides the strata title types of property? Can a council undertake this work and charge it to the owners of abutting property other than strata titles property? I want to be clear whether this is tied absolutely to the new strata title properties.

The Hon. S. C. BEVAN (Minister of Local Government): It is in accordance with the strata plan that has been approved. Similar circumstances apply in the city of Adelaide. In all fairness to the council and the occupiers of the units, the council is entitled to recover from the ratepayers the cost of building roads and kerbing, which cost shall be apportioned amongst the unit owners. Irrespective of the number of units abutting on the street, the cost shall be apportioned in relation to the approved strata plan. This relates to units approved and built under a strata plan lodged under the Real Property Act. The cost of the road can be recovered by the council from the unit owners on a proportionate basis. This is the fairest way.

The Hon. C. R. STORY: I would have thought this was a new departure. This may not be only on private property, as it applies to the strata title. I am thinking of country council areas where there are service lanes.

The Hon. R. C. DeGaris: Doesn't this clause concern only private streets?

The Hon. S. C. Bevan: Yes.

The Hon. C. R. STORY: I am not sure whether it may not also include a laneway, of which there are many in North Adelaide. I am thinking of private service lanes.

The Hon. S. C. BEVAN: Section 344a (1) of the Local Government Act states:

If a request in writing is presented to the council signed by not less than three-fourths of the owners of ratable property abutting on a private street or road, or any part thereof, requesting the council to form, level, pave, kerb, drain, or repair the private street or road, or part thereof, the council may carry out the work and recover from all the persons who, at the time of the completion of the work, are owners of ratable property abutting on the private street or road or part thereof the whole of the expenses incurred by the council in carrying out the work (including the cost, if any, of supervision incurred by the council but not exceeding five per centum of the total expenses) ratably according to the frontages of the ratable property abutting on the private street or road or part thereof.

Charges for units under a strata plan are apportioned under this clause.

The Hon. Sir ARTHUR RYMILL: This clause in its principle is similar to clause 7. Normally under the Local Government Act the linear frontage of the property concerned is taken into account in assessing the proportion to be paid by the owner of the property. I stress "linear frontage", because it is not how far back the property goes in depth: it still remains liable, not in proportion to its area but in proportion to its linear frontage to the street. The same thing will happen to the strata title buildings.

In making all the owners of the title liable, including owners of units that do not face the road, the Government is probably doing what it thinks is the most just thing. The Government could have said that the rates would be payable only by the owners of units that actually face the road, but it has taken the property as a whole, as, in effect, it is taken under the Local Government Act at present.

The Government has provided in this clause that all the unit owners shall be ratable for these amounts proportionately to their holding of the title. In all the circumstances this is probably a good way of spreading the burden.

Clause passed.

Remaining clauses (10 and 11) and title passed.

Bill reported without amendment. Committee's report adopted.

PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

(Second reading debate adjourned on October 10. Page 2523.)

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—"Land not to be sold, etc., except in allotments."

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

In new subsection (4) (*b*) of section 44 to strike out all words after "1940".

I am moving this amendment on behalf of the Hon. Mr. Hill. I think all honourable members who heard the debate last week will realize why the Hon. Mr. Hill wished to move this amendment, which would have the effect of allowing the building of units under the old arrangement. It would not be the case that such building would be outside the control of the Director of Planning, because under section 36 (4) of the principal Act the Director has quite wide powers to control subdivisional activity and the building of units of the kind mentioned by the honourable member, that is, units erected under the old system with a tenants-in-common title, plus a company with a head lease and an under lease, which is a common and very effective alternative method to the strata titles system.

The Hon. Mr. Hill pointed out that he thought there was still room for this kind of development, particularly in the construction of three units on a building allotment. He claimed that there would be a saving in expense under this system. If the amendment is not carried it will mean, in effect, that after the coming into operation of the strata titles legislation the kind of development in building units that he wishes will not be able to continue.

The Hon. S. C. Bevan: Why?

The Hon. F. J. POTTER: Because of the necessity under the provisions of this Bill to obtain the approval of the Director of Planning.

The Hon. S. C. Bevan: You are saying that that approval would not be given?

The Hon. F. J. POTTER: The Hon. Mr. Hill queried the necessity for this when, in fact, the Director already has control under section 36 of the Act. I should like to hear the Minister's reply to the matters raised by the Hon. Mr. Hill.

The Hon. S. C. BEVAN (Minister of Local Government): I oppose the amendment and the subsequent consequential amendment to another clause. The amendment would take away from the Director altogether the power to control these units. It is moved for the sole purpose, in my opinion, of removing the obligation to pay the prescribed fee of up to $100 in respect of an allotment. The Hon. Mr. Hill made great play about protecting the small man, but I say that it is not the small man that he is concerned about. Some pretty big contractors and builders have built these double units in South Australia, and I must say that they are quite good and quite attractive. However, it became necessary to bring this amending Bill before the House to deal with the building of units. The whole purport of the Hon. Mr. Hill's amendment is to take the control of these two-unit establishments outside of a strata plan altogether and leave them free.

The amendments would defeat one of the purposes of the Act, namely, that no land should be capable of being separately owned unless it is an allotment or an undivided share of an allotment as defined in the Act. The amendments would enable a person who fails to get approval to a plan of subdivision or plan of resubdivision of any land to effectively subdivide the land by erecting home units (or pairs of shacks in country areas) on the land. Such a person would also avoid payment of the prescribed reserve contribution into the Planning and Development Fund administered by the State Planning Authority.

Section 44 of the Act is designed to prevent the disposal of land by long-term leases and so avoid the requirements that a subdivider has to fulfil. However, section 44 (4) was included as a temporary provision to avoid inhibiting the promotion of home units and other structures comprising a building-unit scheme while the strata titles legislation was being drafted. The Hon. Mr. Hill referred to office development in the city of Adelaide. I point out that Part VI of the Act, which relates to the control of land subdivision and which includes section 44, does not apply within the city of Adelaide. The term

"building-unit scheme" to which the honourable member has referred is not defined in the Act because of the wide range of buildings it could encompass. The Director has told me that he regards groups of shops as being building-unit schemes. The honourable member questioned this provision in relation to shopping centres.

The Hon. F. J. Potter: He talked about Marden.

The Hon. S. C. BEVAN: Yes. I know that area very well. Plans for that centre were approved and it is now being constructed. That centre should be open before very long. In that respect, there was a question about the inconvenience being caused as a result of roadworks nearby.

The Hon. F. J. Potter: I thought the Hon. Mr. Hill was referring to some leasing difficulties.

The Hon. S. C. BEVAN: These are still under consideration.

The Hon. F. J. Potter: I thought Mr. Hill was referring to long-term leases.

The Hon. S. C. BEVAN: There is no difficulty in these matters. This is the effect of it: it will take it out of control, provided that the permission of the council is sought for erection of the premises. I hope that the Committee will not insist on the amendment.

The Hon. R. C. DeGARIS (Leader of the Opposition): I do not wish to hold up the passage of the Bill, but as the Minister did not give any explanation in the second reading stage, I ask that he report progress, in order to allow honourable members to study the amendments. I think the Minister will agree that this is a complex matter, and to give us a chance to study the submissions he has made it would be opportune to report progress now.

The Hon. S. C. BEVAN: If honourable members wish to have additional time to study the ramifications of the Bill, I shall be happy to oblige. Therefore, I ask that the Committee report progress and have leave to sit again.

Progress reported; Committee to sit again.

ADJOURNMENT

At 5.11 p.m. the Council adjourned until Wednesday, October 18, at 2.15 p.m.