LEGISLATIVE COUNCIL.

Wednesday, February 13, 1957.

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

QUESTION.

MIGRANT DOCTORS.

The Hon. A. J. SHARD—

1. Does the Minister of Health believe that there is power in section 19 of the Medical Practitioners Act, 1919-1955 for the Medical Board of South Australia to register as a medical practitioner a person who is properly qualified in a country other than Australia, New Zealand or the United Kingdom?

2. Has the board registered any such medical practitioners during the past 11 years, even though no reciprocity existed between his former country and South Australia in matters of registration?

3. If so, how many, and when?

4. Are there sufficient medical practitioners employed in the various South Australian Government Departments to cope adequately with the needs of the public?

5. If not, how many more medical practitioners are so needed, and in which departments?

The Hon. Sir LYELL McEWIN—I have received the following replies from the Medical Board:—

1. Yes. The power, however, does not exist where the course through which the applicant has passed is less than five years or is of a standard lower than that required in this State. Moreover, the board may refuse registration where the laws of the applicant's country do not accord reciprocal rights and advantages in that country to persons registered under the State Act.

2. Yes.

3. Four (4).

4 and 5. There is always a large turnover in medical practitioners employed by the Government as most positions are occupied by doctors in their early years after graduation, and this employment is not regarded by them as a career occupation, but, subject to one or two specialized positions, no difficulty is experienced in maintaining adequate services to the public.

PUBLIC ACCOUNTS COMMITTEE.

Adjourned debate on motion of the Hon. K. E. J. Bardolph—

That, in the opinion of this Council, it is desirable that a Joint Parliamentary Public Accounts Committee should be appointed.

(Continued from October 17, 1956. Page 1048.)

The Hon. S. C. BEVAN (Central No. 1)—I support the motion, which only suggests that the South Australian Parliament should follow the same procedure as that adopted by the other States and by the Commonwealth. From time to time legislation has been introduced in this Parliament which we are informed is already operating in other States. Therefore, it is advisable to have the same provisions here. That could be one valid reason why the motion should be agreed to. Such committees in other States have proved their value, and there is no reason why a similar practice should not prove successful here. Each year Government expenditure is increasing and now amounts to an enormous figure. Because of this, much additional work is placed upon Government officers, who have done a remarkable job in administration, and I consider it unfair to pile additional work on them and at the same time expect them to be just as efficient.

The Hon. Sir Frank Perry—Don't you think this suggestion would make more work?

The Hon. S. C. BEVAN—No, it would relieve them of much responsibility. Our State instrumentalities are expanding, and in this respect I have in mind the Leigh Creek coalfield, the Electricity Trust, operations at Radium Hill, and our timber projects; and we hope in the near future the State will also be actively engaged in the production of atomic energy. The advancement of these undertakings must involve greatly increased expenditure and this, with an increased State population, must increase the demand on the Public Service and place greater responsibility on Government departments administering these projects, including the Auditor-General and his staff.

The creation of a Public Accounts Committee would, to some extent, relieve these officers of some of their responsibility and enable Parliament to be more fully conversant with the revenue and expenditure of the State. For instance, in 1951-52, the net outlay of loan funds—that is payments less recoveries—amounted to £90,478,000. An amount of £20,465,000 was spent on waterworks and sewers, £19,843,000 on electricity, £14,241,000 on transport and £11,361,000 on housing, in addition to which there are other projects.

The total funds employed in uranium production as at June 30 last amounted to £6,927,000, and the amount recovered from the sale of uranium oxide for the year ended June 30 last amounted to £1,770,000. How many members are aware of how these amounts were actually expended, if the return to the State justified the expenditure and what wastage, if any, took place? What we do know is that each year Estimates are presented to the House allocating money to the various departments, with an outline of the work on which the money will be spent.

Members might say that a Public Accounts Committee is not necessary because the Public Works Standing Committee inquires into any Government work referred to it, considers costs and reports to the Government on whether or not it is advisable to go on with the work. In answer to that I point out that only projects costing over £100,000 are referred to that committee. This is a large amount, even taking inflation into account, and numerous works that ultimately exceed the estimated cost are commenced without inquiry by the committee. For example, the Education Department is constructing many new buildings that it was estimated would cost less than £100,000, so there is no inquiry into them by any committee, but possibly some will cost more when completed. The Auditor-General's report for the year ended June 30, 1956 contains these remarks relevant to some departments:—

The accounts and Balance-sheets published in 1955 which were not certified at that time have since been examined and found to be correct in most cases. Some statements required amendment before certification, but the amendments did not have any material effect on the statements as published, excepting the Balance-sheet of the South Australian Harbors Board, where the "Fixed Assets" were understated by £31,669, and "Scrapped and Abandoned Assets Written Off" overstated by a like amount. An adjustment was made. Qualified certificates were given on the following Balance-Sheets for the reasons stated:—

Woods and Forests Department.—Insufficient check on stores by the Department had been carried out to enable me to accept the amount of £157,937 shown in the Balance-sheet.

Improvements on Pastoral Leases.—Insufficient evidence to accept the existence of the fixed assets making up the amount of £28,081 shown in the Balance-sheet.

Enfield General Cemetery Trust.—No provision had been made in the accounts for the contractual obligation of the trust for future maintenance of graves over the unexpired term of the leases.

The certificate on the Balance-sheet of the South-Eastern Drainage Board was withheld because—

(1) the rate declared by the Board was not sufficient to cover the cost of management and maintenance of drains as required by section 48 of the South-Eastern Drainage Act, 1931-1948;

(2) it is considered that the cost of "Management and Maintenance of Drains" for the year shown in the Revenue Statement, and which should be recovered from the drainage rates, is understated and that for "Other Works and Services" not recoverable from drainage rates is overstated.

I hasten to say that I am not criticizing the officials of those departments who, in my opinion, have done a remarkable job, but undoubtedly they are overworked and naturally these mistakes occur. The committee suggested would eliminate this and would enable Parliament to have a clear picture of expenditure and revenue. For these reasons I support the Motion.

The Hon. K. E. J. BARDOLPH (Central No. 1)—The Chief Secretary said that although a public accounts committee is necessary in the Mother and Commonwealth Parliaments it is not necessary here, but I point out that every State in the Commonwealth has sovereign rights, and surely the Chief Secretary would not say by any stretch of the imagination that this State is not carrying out major developmental projects akin to those being carried out by the Commonwealth Government. In support of this I instance the Leigh Creek coalfield and the Electricity Trust. It is true that some public funds are garnered by way of debentures in the Trust, but we must not lose sight of the fact that a large amount of loan money is provided by taxpayers. The Chief Secretary's argument does not constitute any true opposition to my motion. He went further and said that the Government had established the Public Works Standing Committee to which all projects estimated to cost more than £100,000 have to be referred. But after its report has been submitted to Parliament and the work is undertaken by the various departments there is no opportunity of further reviewing that expenditure by Parliament.

The same can be said of the Parliamentary Land Settlement Committee. It merely makes reports to Parliament and then it is the responsibility of the Land Department to carry out the Government's policy this Parliament has no further say in the matter. I am not attempting in this motion to cast any aspersions upon the integrity of departmental heads, who are very responsible people in this community, but I am suggesting that a public accounts

committee would assist them by watching the various avenues of expenditure and showing where waste could be eliminated.

The Council divided on the motion.

Ayes (5).—The Hons. E. Anthoney, K. E. J. Bardolph (teller), S. C. Bevan, F. J. Condon, and A. J. Shard.

Noes (10).—The Hons. J. L. S. Bice, J. L. Cowan, L. H. Densley, E. H. Edmonds, A. J. Melrose, Sir Frank Perry, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story and R. R. Wilson.

Majority of five for the Noes.

Motion thus negatived.

LANDLORD AND TENANT (CONTROL OF RENTS) ACT AMENDMENT BILL (No. 2).

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

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

That this Bill be now read a second time.

The Bill is introduced for the sole purpose of qualifying, to some degree, the provisions of section 55c enacted by the amending Act passed in 1956. In 1956, section 55c was amended to provide that the lessor of a dwellinghouse may give six months' notice to quit to the lessee on the grounds that the possession of the house is required for the purpose of facilitating its sale. The notice to quit must be accompanied by a statutory declaration of the lessor stating that possession is required for this purpose. The intention of this provision is to enable an owner of a house, after giving his tenant six months' notice to quit, to secure possession of the house and thus to sell with vacant possession, so that the purchaser could then take possession and occupy the house.

However, it has come to the notice of the Government that, in the cases of some blocks of flats, notices to quit under section 55c have been given to the tenants on the ground that possession is required to facilitate the sale of the flats. If the tenants give up possession of their flats and the block of flats is sold with vacant possession, it is most likely that the flats will be let to new tenants but under one or other of the various provisions of the Act which enable a lease to be free from rent control; for example, under a lease in writing for a term of two years or more. It can also be expected that the rents under these leases will be substantially higher than those formerly paid for the flats. It could, of course, happen that, once the tenants have vacated, the owner may change his mind about selling and will re-let the flats at increased rents under leases outside rent control.

Thus, it is possible that the section may be used to substitute another lot of tenants for the present tenants at enhanced rents either after the sale of the premises or in the event of the premises not being sold, or that the section could be used to place pressure on the present tenants by means of the notice to quit for the purpose of forcing them to contract themselves out of the protection given to them by the Act and agreeing to new leases at increased rents.

The purpose of the Bill is to prevent these practices whilst preserving the policy of the section to enable an owner of a tenanted dwelling to secure possession of the premises and then to sell with vacant possession to a purchaser who will occupy the premises.

Clause 3 therefore provides as follows:—If the lessor gives notice to quit under the section and the lessee, as a consequence, delivers up possession but the lessor does not sell the house within three months of possession being delivered up or, if he carries out repairs within that period, within three months after the completion of the repairs, he must give notice to the former lessee giving him the opportunity to re-occupy the dwelling at the same rent and under the same conditions as those under which he previously occupied it. Failure to give this notice will constitute an offence. If the former lessee does not wish to re-occupy the premises, it may be let to someone else but, if it is let to someone else, the rent and conditions must be the same as those obtaining under the former lessee's lease.

If the dwelling is sold by the lessor and if the purchaser lets it within 12 months of the purchase, the rent is to be that fixed by the Housing Trust. If the Trust has not already fixed the rent, it is provided that it should do so as soon as may be. In order to inform the purchaser of his obligation in this respect the lessor is required, at the time of the sale, to give him particulars in writing of the former rent. It will be an offence for a lessor who gives a notice to quit under section 55c to let the house contrary to the clause, and it is provided that any lease of the house entered into by the lessor or the purchaser contrary to the clause is to be construed in conformity with the clause.

Thus, the effect of the Bill is to provide that, if a tenant is dispossessed to make way for another tenant as a consequence of a notice to

quit to facilitate the sale of the premises then, whether the premises are sold or not, there can be no increase in rent unless, in the case of a lease after sale, the rent is fixed by the Housing Trust. Therefore there will be no inducement for a lessor to attempt to use section 55c in order to secure increased rents. However, the Bill makes no change to the policy of the section in so far as it facilitates the sale of a house to a purchaser who, after purchase, occupies the house for his own purposes.

The Hon. F. J. CONDON (Leader of the Opposition)—It is usual, after Bills have been introduced, to seek an adjournment of a debate until some other time, but because of circumstances I am forced into making my contribution to this debate today. Before dealing with the Bill in detail, however, I wish on behalf of the Opposition to protest strongly at the treatment that this Council has received at the hands of the Government in another place. This session of Parliament was resumed in order to deal with business left over from the earlier part of the session prior to Christmas. Yesterday this Council met to receive a message from another place conveying amendments of the Local Government Act Amendment Bill which had been passed by the Council. In the course of the ensuing debate in Committee clarification of an amendment was sought by some members, and in order to meet the Government's wishes, and because it was stated that another Bill would be received by the Council, proceedings were adjourned until the ringing of the bells. Members of the Council, always subjected to dictation by another place, were compelled to wait about in order to discuss measures that were about to be introduced.

The Hon. Sir Lyell McEwin—I thought the adjournment was at the request of members.

The Hon. F. J. CONDON—No, the only request was that progress be reported so that the amendment could be clarified.

The Hon. Sir Lyell McEwin—Was there any other business to do when progress was reported?

The Hon. F. J. CONDON—Yes. Mr. Bardolph could have asked that his motion be brought forward for discussion, but he was not given the opportunity. I am not blaming Ministers in this House, but it is time that some protest was made about the way this place is treated, and has been treated for years. We are part of the Legislature and members should not be prepared to take without protest what they have been subjected to recently.

The Hon. Sir Lyell McEwin—You suggest that they do not work?

The Hon. K. E. J. Bardolph—No, but that the Government should frame its programme better.

The Hon. F. J. CONDON—When it was known that the Statutes Amendment (Public Salaries) Bill had been passed in the Assembly, the bells were rung and the Council proceeded to deal with the Local Government Act Amendment Bill. After that the Statutes Amendment Bill was received and the second reading speech delivered. Meanwhile the Landlord and Tenant (Control of Rents) Act Amendment Bill was under discussion in the Assembly and we were asked to remain in attendance so that we might receive a message in relation thereto. The Council adjourned for the second time until the ringing of the bells and finally that Bill was passed in another place. Members were again summoned to the Chamber only to be told by the Attorney-General that the Assembly had adjourned without sending a message and that our only course was to adjourn until today. The Attorney-General desired to move the second reading of the Bill, but was unable to do so. I strongly resent this treatment, and I deplore the discourtesy displayed by the Government in another place. It is not the first time that this has happened.

We are a very important part of the Legislature and entitled to consideration. I do not think members agree with the procedure that has been adopted on numerous occasions. The Opposition has always endeavoured to facilitate the business of this Council, but we wish it to be understood that we will not be subject to this treatment in the future without a further protest. I do not know whether it is the Government's intention to belittle this Council or not, but whilst the Council exists I am going to fight on constitutional methods in its interests.

The Hon. Sir Lyell McEwin—Do you believe in a House of review?

The Hon. F. J. CONDON—Yes.

The Hon. Sir Arthur Rymill—Don't you believe in the abolition of the Legislative Council?

The Hon. F. J. CONDON—No, I do not; I believe it should work constitutionally and democratically.

The PRESIDENT—Order! The honourable member has already been allowed too much latitude.

The Hon. F. J. CONDON—This Bill is a direct result of the operation of section 55 (c). Members will recall that when the legislation was before the Council last year the Opposition pointed out the difficulties that would arise. The Government has now recognized that injustice would be done to certain people, hence the present amendment. I appreciate that a landlord has certain rights which he should not be denied, but so has the tenant. Landlords have complained to me about certain anomalies in this legislation, and provisions which they consider to be unfair, but for every landlord there are 10 tenants who complain about injustices in the Act.

Tenants are in a more difficult position than owners. I know of a landlord with 10 houses who sent letters to the tenants asking them to enter into agreements for a period of two years at an increased rental of 9s. a week. He pointed out that if they did not do so the houses would be sold. Those people are threatened, but what are they to do? They have been in these homes for many years and have nowhere else to go, so they are forced to agree.

This legislation is introduced in order to deal with unscrupulous landlords. I dare say that 90 per cent of landlords are fair and reasonable, but we legislate here for the 10 per cent who will not do the right thing. It is a grave injustice that a person who has been a tenant for perhaps 20 or 30 years should receive an eviction order without being approached in any way beforehand. It is a threat. There is more direct action under this legislation than under any other I know of. If there were less talk of court action and threats, it would be better for everyone.

It is very hard when you represent an industrial centre and have people coming to you continually pouring out their troubles. However, I do not accept all that I am told. Some people have themselves to blame, but the majority are good, hard working citizens, and it is for these people that I make a plea for consideration. The Government recognizes that it has made a mistake and has introduced the Bill, but it is only a small improvement restoring something to those who have suffered. Those who oppose the Bill often refer to the poor widows. I know of one "poor widow" who has returned from an overseas trip and the first thing she did was to issue an eviction order against her tenant, threatening that unless an increase of 50 per cent in the rent was paid the house would be sold over his head.

I know of one New Australian who gave a tenant, who was a returned soldier with a wife and several children, six months' notice to vacate a house, which he told the court that he wanted for his son. The court in effect told the tenant to get out. Actually, the owner misled the court and did not want the house for his son, but wanted to sell it because he had a chance to make a good profit. During the past three or four years concessions have been given to landlords, but we must not forget that there is the other side to be considered. Although this legislation does not go far enough, I support it because it is an improvement on the present law and is what my Party advocated last year.

The Hon. Sir FRANK PERRY (Central No. 2)—Last year we thought that we had heard the last of this legislation for a time. I understand the Bill has been introduced to rectify an amendment made last year because certain people were reported to have taken advantage of the amended law and had endeavoured to persuade tenants to pay increased rent either under a threat or by duress. I had hoped that the Chief Secretary would have given instances where this had occurred. Mr. Condon indicated in a roundabout way that he knew of such cases, but did not explain them fully, and the Chief Secretary did not explain the position at all. When Parliament is asked to alter a law which it had passed only a few months before, members are entitled to be given definite reasons for the alteration. There may have been a few instances of abuse of the legislation, but the number is very small. Because we have five per cent, or even 10 per cent, of the people prepared to take advantage of a loophole in the legislation, why should we penalize the other 90 per cent? It is the bulk of the people who should be safeguarded and their interests watched and not the 10 per cent.

The time must come when this type of legislation must be abandoned. If we consider the ordinary investments made by the public, such as in shares and other financial activities, it will be found that since the war which started in 1939 their returns had increased at least three times. That also applies to the basic wage, and far more to the price of wool. However, the man who invested in property has been permitted to increase his return by only 33⅓ per cent, plus certain allowances for expenditure incurred in the maintenance of his property. The landlord has been controlled for 17 years in the return he could get from his property.

The Bill seeks to alter what Parliament agreed to last year. The six months' notice to quit has been reduced to three months, and I am glad to say that the House of Assembly has provided that an additional three months shall be permitted the owner to undertake repairs and alterations to his property before a penalty applies. Another part of the Bill places restrictions on a seller who seeks to mislead his tenant or evade the principle contained in the amendment passed last year relating to sales. If he makes anything but a *bona fide* sale he is liable to a fine not exceeding £500. Although I think the restrictions are unwise, I do not object to this provision, because the Act we passed last year envisaged that sales would be *bona fide* and not an attempt to mislead a tenant. However, I do object to the fact that if a genuine sale is made the occupier at the time of or before the sale has the right to occupy in the future at the same rental. If a house is worth a rental of £2 a week at its original capital value, and this value has increased to £3,000 at auction, which is the fairest type of sale, the rent should be increased accordingly. Many people are forced to sell property, and they have had restrictions placed on them for many years. Last year we alleviated some of their hardship, but this Bill cuts right across that legislation.

The Hon. C. D. Rowe—I do not think it goes that far.

The Hon. Sir FRANK PERRY—Many people feel that is the interpretation. If the Attorney-General can convince me otherwise I will be relieved, but I feel that if the Housing Trust has fixed the rental for a property it will fix the same rent now irrespective of any increase in capital value. As sellers of properties have had their rents pegged for years, they should be able to sell now without having any tags attached to the sale. I oppose this portion of the Bill to the utmost because it is unjust if a property owner who wishes to sell cannot obtain the current value for his home.

I ask members to consider carefully the effect of this clause, and if the Minister cannot give a better explanation than I think it is possible to give, the Act should remain as it is. I think the time has arrived to remove all the restrictions imposed by this legislation. If a rent is fixed on the value of a property in 1939 the occupier is fortunate, because many people on or slightly above the basic wage have had to purchase homes from the Housing Trust and from other sources at current prices.

The Hon. E. Anthoney—So did he when he bought it.

The Hon. Sir FRANK PERRY—Yes, but other investments made at that time have increased threefold in value, whereas rents have increased by only one-third. Furthermore, the type of house we are discussing is the type used by the Commonwealth in fixing rental values for basic wage purposes, but many people receiving the basic wage or a little more occupy similar homes at a much greater rental. The Housing Trust has in some cases doubled rents, yet private landlords have been limited to an increase of 33⅓rd per cent and are deprived of making free sales. This clause nullifies the intention of the House when last year's Bill was passed. Although I will support a restriction on any attempt to intimidate a tenant by false representations with regard to sales, I will not go further and say that a person who has bought a property under *bona fide* conditions should be prevented from applying a rental in proportion to the capital value of the property. I oppose this provision, which I think the House should reject.

The Hon. S. C. BEVAN (Central No. 1)—I support the Bill, and feel that its introduction so soon after last year's legislation is proof of the Opposition's contention last year that the amendment made then to section 55 (c) was wide open to abuse. Last year I and members of the Opposition in the House of Assembly pointed out what would happen. We wanted greater protection for tenants than that Bill provided. I vividly recollect an interjection during my speech that I was showing landlords just how they could get around the legislation, to which I replied that if a layman could see around it the Government should be able to do so. However, the Government was adamant that what it intended to do was right, and went ahead with the legislation irrespective of our criticism. Just what we said would happen has happened, and I am pleased that the Government has introduced this Bill to rectify it.

Although we have been told that this Bill has been introduced to interpret the previous legislation, and that it was never intended that last year's Act would be used as it has been used, that is just what has happened. Mr. Condon pointed out what has occurred since last year's amendment. Sir Frank Perry, commenting on the Leader of the Opposition's statements, said that he would like to hear something more concrete. I will give him something. It is not the small landlord who is

attempting to take advantage of the Act, but the land agents who are acting for the bigger landlords, because the more rent they collect the higher their commission. This letter was sent to a tenant on January 23, 1957 and he has made it available to me to deal with as I please:—

No doubt you are aware that rates and taxes on the premises you occupy have considerably increased this year, also the costs of outgoings including the cost of repairs with consideration for provisional costs, interest rates and insurance have risen to such an alarming extent that the percentage return on capital investment has fallen sharply. After several discussions with your landlord *re* this matter and taking into account the new legislation recently passed by the Government *re* landlord and tenant granting power to the landlord to evict for purposes of sale we now propose the following:—An increase in rental to £1 15s. per week on a three-year term with a lease for the tenant's protection. Legal costs involved to be paid by the tenant and such increase in rent to take effect from February 4, 1957. Should you not be in agreement with the above proposal and therefore not prepared to enter into a lease we are instructed to give you first chance to purchase the property, *i.e.* both sides at the price of £3,500 on a one third to one fifth deposit and the balance over 10 to 15 years at current bank trading rates of interest. An early reply would be appreciated concerning the above as your landlord is anxious to complete his negotiations.

That is a fair example of letters sent to tenants generally, and I am sure that most members have seen something of the sort. The property in question consists of two small attached cottages which have been standing as long as I can remember. The tenant is a man who has reached the retiring age and is now living on a pension. The tenant of one of the cottages went to the agent and said that at his time of life he did not want to buy the two dwellings, and asked what the owner would accept for the cottage he was living in. The agent replied that he must buy the two or none. The tenant said that it would be difficult at his age to raise the amount of capital necessary and even if he could do so he could not meet the commitment over a 10 or 15 year period. The tenant in the other cottage received exactly the same letter giving him also first preference to buy. I do not know how it was proposed to decide the issue if both tenants decided they wanted to buy.

I repeat, that is typical of the situation in which many tenants now find themselves. One who came to me said that he had been to the Housing Trust to see if it could help, even by making a temporary home available, but the Trust advised that because its scope was limited and there were so many cases of hardship still awaiting homes there was nothing available for tenants who were in this situation. He asked me what he could do and I said that the only thing, if he wished to remain in occupancy, was to enter into the contract suggested in the letter and in the meantime see what could be done within the six months' notice. However, he said that he could see no prospect of being able to do anything in that time and therefore the only thing left for him was to enter into the contract, and pay the increased rent, which he did.

Because these things have been going on various statements have appeared in the press, and in the *News* of February 2, under the heading, "No Big Rents Reaction," the following appeared:—

An overall increase in rents had not resulted from a controversial amendment to the Landlord and Tenant (Control of Rents) Act, Mr. Hylton H. Hayes said today. He is president of the Real Estates Institute of South Australia. Mr. Hayes was commenting on a recent statement by the Opposition Leader, Mr. O'Halloran, that through the amendment some landlords, by using threats, had been able to increase rents by up to 200 per cent. The amendment last year gave homeowners the right to obtain vacant possession to facilitate the sale of properties. Mr. Hayes said a few unscrupulous owners had taken advantage of the legislation. "But with any legislation designed to protect the majority of people, there must always be certain hardships on a few," he added. The amendment was fair and just, said Mr. Hayes. Only through the gradual and permanent removal of landlord and tenant controls could there again be large investment in homebuilding for rental purposes.

Mr. Hayes says that only a few unscrupulous owners had taken advantage of the legislation, but I cannot agree with that because I know of many cases, as doubtless other members do also. If it were true we would have to assume that the Government was enacting this legislation because a few have been exploiting tenants. I cannot think that the Government would act in this way if only a few were involved and consequently we have the right to assume that the big majority have been endeavouring to exploit the tenants.

The Minister in his second reading speech referred mainly to rentals of flats and to new leases being effected, but that is not the position. Tenants are receiving notification such as I have read whilst still in occupation and have been forced to enter into leases at considerable increase in rent in order to avoid the loss of their homes. This Bill will prevent that sort of thing and I commend the Government on

its endeavour to stop such practices. However, I feel that the Bill does not go far enough. We have often passed retrospective legislation. The Government must feel satisfied that the things which were never intended are taking place and in those circumstances it should have made this Bill retrospective too. Leases that have been entered into under duress, such as I have mentioned, should be declared null and void and the rent should revert to the former rate, because people who have signed these new leases are bound for the term of the lease, say three years, and this Bill does nothing to relieve their position. It should have made that decision.

I feel that clause 55 (c) should include a provision that the court have power to determine the issue on the grounds of hardship. If the premises are genuinely required for the owner's habitation he should be entitled to possession, but if they are required for other than that purpose the court should have the power to decide where the greater hardship lies. A great deal has been said on the question of flats. The Housing Trust has built flats and fixed rentals on the capital cost. Last October there was a general increase in these rents, and the flats at Goodman Court were increased from £3 3s. to £3 10s. a week. One of those two-person flats became vacant in November; when it was relet by the trust the rental charged was not the standard of all the other flats in the area but a rental of £4 5s. a week. I cannot see any justification for that.

The Hon. E. Anthoney—Was it the same size as the other flats?

The Hon. S. C. BEVAN—It was the flat which had been let for £3 3s. a week prior to the general increase of 7s. a week. Every honourable member will agree that the landlord has certain rights, and perhaps he has greater rights than the tenant because he is the owner of the premises and is entitled to a fair and just return. Taking that into consideration, the authorities have allowed an increase of 33⅓ percent on 1939 rentals, plus a little extra for expenditure on maintenance. Taking into account the capital outlay of a home built in 1939 and the rent which the owner has received over the years, I do not think he has done too badly. It has been suggested that where a property was valued at £500 in 1939 and at £1,500 today the rental should be readjusted in the same proportions, but I do not agree with that.

The Hon. C. R. Story—You will find that wages in 1939 were about one-third of what they are today.

The Hon. S. C. BEVAN—I do not think they were. If an owner desires to take advantage of today's market value and sell his home he should have every right to do so. The law provides that if he desires to do that he can give six months' notice to quit and obtain vacant possession for that purpose. As I interpret the clause dealt with by Sir Frank Perry, the purchaser can then ask the Housing Trust to fix the rent, and it can fix it on the capital outlay of the premises. As there are at least two members in this Council who have an opposite view of the clause, I feel that the Minister should clarify it. The legislation gives some protection to the tenant while still safeguarding the interests of the landlord and the prospective buyer. It will make the landlord act in conformity with the intentions of the legislation, and I therefore support the Bill.

The Hon. E. ANTHONEY (Central No. 2)—This is a Bill of considerable importance and I regret that members are asked to give a hasty decision on it. Amendments have been made in another place and have only recently been placed before us. Since then further amendments in this Council have been forecast and I think it would be advisable to adjourn the Bill until tomorrow so that members can consider it. The question of the rights of the landlord and the tenant is always a difficult one. The Government tried conscientiously last year to bring about a solution of this problem, while trying to get back to a little modicum of freedom. Members should know exactly what the amendments mean. The Government has pointed out that certain unscrupulous landlords saw loopholes in the Act and took advantage of it to the detriment of the tenant, and I commend the Government for its attempt to rectify that position.

I have listened to the debate, but I have not had time to compare the amendment with the original Act and do not know what effect it is likely to have. I am supporting the Bill on general principles and will listen with interest to other speakers. I think it was Sir Frank Perry who said that the Bill was designed to deal with only a few unscrupulous people and doubted whether we should take notice of them. My reply is that there are only a few burglars, but the law has to take notice of them. We make laws only for malefactors, and if people acted decently towards all others we should not have to pass legislation.

The Hon. K. E. J. BARDOLPH (Central No. 1)—I criticize the Government for its

ineptitude. When the measure was before Parliament before Christmas members of the Opposition in both Houses referred to the possibility of evasions of the law taking place and its being nullified by those who had become rather rapacious. It is an old saying of Mr. Cudmore that hard luck cases make bad laws. I upbraid the Government for its shortsightedness in rushing this legislation through previously and not including provisions necessary for tenants' protection it is now attempting to do. I support the views expressed by Mr. Condon.

The Council divided on the Hon. Sir Arthur Rymill's motion to adjourn the debate.

Ayes (5).—The Hons. E. Anthoney, L. H. Densley, A. J. Melrose, Sir Frank Perry, and Sir Arthur Rymill (teller).

Noes (11).—The Hons. K. E. J. Bardolph, S. C. Bevan, J. L. S. Bice, F. J. Condon, J. L. Cowan, E. H. Edmonds, Sir Lyell McEwin (teller), C. D. Rowe, A. J. Shard, C. R. Story, and R. R. Wilson.

Majority of 6 for the Noes.

Motion thus negatived.

The Hon. Sir ARTHUR RYMILL (Central No. 2)—First, I address myself to the unseemly haste with which the Bill has been presented to the Council. Apparently, it is now going to be rammed through. We had the first and second readings today, and I have been denied an adjournment. Knowing that there was a desire by some members to finish the session today, I took the Bill home last night, expecting that I would at least have a reasonable time to apply myself to it, but when I got into the Chamber today I was presented with an important amendment which had been included by the House of Assembly. Therefore, one has to reorientate oneself in his whole approach to the Bill. I am denied any reasonable opportunity to consider the Bill in full in the light—

The Hon. Sir Lyell McEwin—You went home too early.

The Hon. Sir ARTHUR RYMILL—I did not. On the assurance of a certain gentleman, who should know, I waited patiently for the second reading, as did many others, but that did not occur. I would much have preferred to be able to read the Bill fully and digest it. I listened intently today, but the only substance I gained was that it was a sort of reiteration of the terms of the amending Act which I read last night, except for the amendment included by the House of Assembly, about which I did not get very much enlightment.

This is extremely important legislation which affects many. If it is to continue, then we should be given an opportunity for the fullest scrutiny of any amendments. Although I am told that this is to be the last day of the session, we have even more important legislation to come forward. When a Bill is presented in this manner we are denied the opportunity to digest the second reading overnight and ponder over the legislation and come back and say what we think about it. Although this was initally a war-time measure, it seems to be in the course of perpetuation like other legislation we had before us not long ago. The mere fact that it has had to be patched up, repatched, amended, messed about with and re-numbered over so many years suggests to me that it is not very good legislation. Indeed, when I was practising the law and had to appear in the courts it was most difficult to keep up with the patching up. One had to watch unceasingly to see whether some part of the patchwork quilt appeared in reds or purples or any other colour. If any legislation demands such patching up all the time, then it certainly suggests that it is not good legislation. Whereas clause 3 (c) as it left the Assembly contained the words

The lessor within three months after the time the lessee delivers up possession does not sell the dwellinghouse,

it now reads

The lessor within three months or if the lessor within the said period of three months undertakes repairs to the dwelling-house within three months after the time those repairs are completed after the time the lessee delivers up possession does not sell the dwelling-house.

My colleague has attempted to elucidate that, but what it means I do not know. Fortunately, in the meantime, we have a little slip of paper handed around showing that another amendment has to be moved to try to make sense out of it. That emphasizes my point—that this haste is unbecoming and does not make for good legislation. New section 55d (1) (c) as it now reads is a mess, and that is about to be given recognition to by the foreshadowed amendment that we are told will make some sense out of it. Without the amendment, it reads:—

The lessor within three months or if the lessor within the said period of three months undertakes repairs to the dwellinghouse within three months after the time those repairs are completed after the time the lessee delivers up possession does not sell the dwelling-house.

Last night and this morning I studied the Bill as it was presented in the House of Assembly, and in the brief time I had it

seemed to me that the amendment was a good one. One of the objections raised by certain people was that after a house had been let for a long time under this rigid legislation, which does not give landlords a fair return for their investment—and I do not think members would like to be pegged in this type of investment themselves—when they did not have any surplus from their investments they had to make repairs. Apparently in the House of Assembly the light was seen to some extent, and the amendment was inserted. If that had not been done something certainly would have been said in this House.

In the short time I have had to study the amendment I have come to the conclusion that it appears to be a fair and proper one. However, it is one thing to consider an Act *de novo*, but another matter to consider an amending Bill, because in doing so one must look not only at the clause to be amended but at every clause before one can say that the amendment is in order and will do what it appears on the face of it that it will do. I know this because I have had to draft amendments and have been caught at times. I have not had any possibility of going through that procedure in this case; that has been denied me because of my defeat in a motion for adjournment of the debate. On the face of it, it seems to me that the amendment is satisfactory, but I am afraid that I cannot say clearly that that is so.

Sir Frank Perry said that he would vote against new section 55d (3), three or four words of (4), and (5), and he gave very valid and potent reasons for his attitude. I have considered this matter and I think everything he said was correct. As the House will not get the opportunity to read his speech I make no apology for repeating the substance of what he said. New section 55d (3) provides:—

> If—
>
> (*a*) after notice to quit is given in respect of any dwelling-house, as referred to in subsection (1), the lessee thereof delivers up possession of the dwelling-house and the lessor sells the dwelling-house; and
>
> (*b*) the purchaser or his successor in title within twelve months after the sale lets the dwelling-house,
>
> then, notwithstanding any other provision of this Act, the rent payable under the lease shall be that fixed by the trust in accordance with the provisions of Part III.

The rest, I think, is machinery to carry these important words into effect. It seems to me that that clause is very unfair. There might be some excuse, although I do not think there is much, for pinning the landlord of a house that he bought for £1,000 before the war to the rent he was getting before the war plus the tiny increases he has had since, because he paid only that amount for the house. If that is any excuse, it is only a slender one, although it has validity in some concepts of the position. However, a man who pays today's value—for instance, £3,000 for a similar house—under this clause will only get a return attunded to interest on £1,000 and not the £3,000 in the currency he has to pay. The use he will get out of the house is a gamble because he might buy it for his own occupation but he might die and his successor in title, who is carefully provided for in this Bill, might have to let it, but must accept a rent attuned to a value of £1,000. That will not give him a return on his capital investment but will put the house into a category of its own—not vacant possession and not a house subject to a lease. To that extent this clause will destroy last year's amending provision, which members who feel as I do support.

The amendment was presented to us as saying, "Yes, you are one of the unfortunates in having been pegged in rent since the war, who cannot sell at a full value because your property is subject to a lease as the tenant is still there and the rent is pegged at pre-war values, but now we recognize the time has arrived when you shall be able to change your investment. We will not chop off rent control altogether but we will allow you, if you genuinely want to sell the house, to do so and to get your full value with vacant possession so that you can change your investment." I feel that was a fair thing.

We are not here to protect investors in any particular form of investment but to see as far as we can that people in general get a fair deal, and if we cannot give them a fair deal because of circumstances we will say, "We are sorry, but you still cannot get a completely free go, although we will let you get out of land and put your money into something else." I feel that was fair because after all we are concerned to keep down the cost of living, and rents have a big influence on the C Series index, something that my friends of the Opposition sometimes seem to overlook, because they are prepared to overlook things that keep down the C Series index when things not in that index are rising in value. With Sir Frank Perry, and I hope other members, I propose to oppose this new subsection for the reasons I have outlined. In new subsection (4) there

would be a consequential amendment cutting out three or four words in the third line. New subsection (5) provides:—

If after notice to quit is given in respect of any dwelling-house as referred to in subsection (1) hereof, the lessee thereof delivers up possession of the dwelling-house and the lessor sells the dwelling-house, the lessor shall at the time of the sale or within seven days thereafter give to the purchaser in writing full particulars of the rent at which the dwelling-house was let to the former lessee, and whether that rent was fixed by a determination of the trust and shall also give a copy of such notice to the trust together with particulars in writing of the name and address of the purchaser.

That, of course, would need a consequential amendment if subsection (3) goes. Mr. Bardolph quoted what Mr. Cudmore says in this Chamber from time to time, namely, that legislation seems to be concerned too much with individual cases rather than with principle, and that when we try to legislate for every individual case we still create hardship. As a new member, but one who has for many years had to consider the effects of legislation, I could not agree more. For instance, it predominates in the Road Traffic Act where there is too much dealing with the exceptional case and not enough with the general.

Although I do not think he was quite as modest as Mr. Bardolph was yesterday, Mr. Bevan, stated, in as modest terms as he could summon at the moment, that he had warned us that this very thing would happen. Whether or not he gave warning someone else apparently has got the idea that he had, namely, that there are quite a number of people, the number being unknown, who have tried to take advantage of the amendment made earlier in the session. I do not think that many members of this House were so ingenuous as not to think that the smart Alecs would hop in, because they always do. However, we were legislating for the generality, which is Parliament's function. We should not try to step in because A has made a fool of himself and paid too much money to B; because 90 per cent have made good bargains we must not try to protect the 10 per cent that have not.

Parliament cannot protect everyone, and that goes back to the inevitable and fundamental quarrel between socialists and human nature; the socialists think they can change human nature, whereas we recognize that we cannot. This amending Bill seems to come within that category. We are going to penalize genuine people because a few smarties—I could use a stronger word— have hopped in and tried to upset the apple-cart when we have tried to do a fair thing.

The Hon. S. C. Bevan—Does not this Bill give the same facilities to the genuine people? That is what it is for.

The Hon. Sir ARTHUR RYMILL—Subsection (4) is the one that particularly penalizes the genuine person. From the cursory reading that I have been able to give it subsection (3) seems to be reasonable, but (4) definitely penalizes the genuine people. I have no hesitation in saying that, and we are asked to agree to it because a few slick ones have tried to get around the legislation. Most of us realized that a few would attempt to do so. If I were introducing legislation of this nature I would have approached it on the genuineness of these declarations that they have to make, and would have attempted to see that they could not give notice and about five minutes later say, "Yes, it was my intention to sell when I made the declaration five minutes ago, but I have changed my mind now, and if you will pay so much more you can have it." That is the sort of thing I would have attacked.

The Hon. S. C. Bevan—That is what the Bill does.

The Hon. Sir ARTHUR RYMILL—It does it in such a round-about way that it penalizes decent people. I would have tightened that up so that such persons could be prosecuted for making false declarations, because that is, in effect, what they are doing. Anyone is entitled to change his mind, and I am the last to try to prevent it, but no-one can change his mind that quickly and get away with it. That is the whole crux of the amendment. The Government has recognized that these people have not played the game, but instead of tightening the penalty clauses it has cast the dragnet once again and will rope in a lot of decent people among the dishonest ones, which does not seem to be the right way to go to work.

However, my approach to the Bill is not to try to be a crusader, knowing that I shall be a defeated warrior in any event, but to draw the attention of the Government to this defect in its measure. I may have said some hard things about the Government, but I know that it is always prepared to listen to reason if something worth-while is put forward.

The Hon. S. C. Bevan—Oh yes!

The Hon. Sir ARTHUR RYMILL—That is what I believe and I am prepared to make a statutory declaration to that effect. I would like to suggest, with Mr. Perry, that subclause (3) be deleted as unnecessary and penalizing about 99 owners for the sake of the one crooky, and make consequential amendments in subsection (4) and delete subsection (5). That would satisfy me that this legislation would then be somewhat as I would like to see it.

I think the reason for subsection (3), although I did not hear it stated by the Minister, is an attempt to stop dummying, *i.e.*, to stop the owner from transferring his property to a friend who might sign a declaration of trust on the quiet, or to a son or daughter or wife and thus be able to get around the Act by purporting to sell and then get a higher rent. That could be the only valid reason for subsection (3). I believe that the Government should reconsider it on the grounds of whether it is fair, merely to prevent a tiny bit of dummying, to penalize the genuine seller of his house, the man who really wants to change his investment, by depressing its value, because that is inevitably what subsection (3) will do; it will limit the field of buyers and therefore must in many cases depress values, which is the one thing that the original amendment sought not to do.

We are retracing our steps if we leave subsection (3) in. I have no doubt that in Committee we shall debate this at further length but in the meantime—if there is a meantime—I hope that the Minister in charge of the Bill will give some thought to what I have said and if necessary report progress. We are asked to rush things through for someone's convenience, but that someone is always nameless. There are never any individuals who want to get away when you tax them with it; there was no-one who wanted to go to the Olympic Games; it was for nobody's convenience that we adjourned earlier before Christmas—it just happened. That seems to be the case today; it is for some nameless individual's convenience that Parliament is going to adjourn. I do not agree with it and I want to say again that when members sincerely believe in the things they have raised, time should be given for their proper consideration and they should not be just wiped off because someone wants to get away.

The Hon. L. H. DENSLEY (Southern)—I am constrained to rise after listening to several of the speakers in this debate with regard to the probable justification for fixing the rents the same as they were in 1939 if people purchased those homes prior to 1939. I consider that is entirely a fallacy. We fully appreciate that if people who had just enough money to live on from letting homes in 1939 had no increase in income they would be forced to die of starvation today. In 1939 the average wage was about £4 a week whereas to day it is about £12 and if the basic wage has altered by 200 percent obviously the income of the person letting houses has decreased proportionately. It is not desirable, therefore, to try to push these cases into two different classes. If a man bought a house since 1950 he bought it with money that was only one-third of its 1939 value, but the man who had a house in 1939 and has not had 150 per cent increase in income from it must be in a bad position if he relies on that income for his sustenance. Surely we do not need to penalize the just owners in order to close a small hole in the legislation. I am sorry that we have not been able to give a little more thought to this Bill. It seems unrealistic that when members wish to thrash out the various amendments to see that justice is done they are denied that right. I hope the Minister will report progress and give members another opportunity to consider the matter.

The Hon. C. D. ROWE (Attorney-General)—I have listened carefully to the various speeches on this Bill. It has been said that members have not had reasonable time to absorb what is contained in the amendments, but with respect I feel that a reasonable time has been provided. I remind members that this is the conclusion of the session, when inevitably there is more pressure to get the work completed than there is at the beginning of the session. When the Government decided to introduce legislation on these lines publicity was given to it in the press. The Bill has been in the other House for some time, and except for one amendment made there it is the same as when it was introduced. In my view members have had ample opportunity to consider its terms.

Several members stated that they had difficulty in understanding the Bill, but they made speeches which indicated a detailed knowledge of it. I do not think I could have obtained a more detailed explanation of the terms of the Bill if I had consulted all the Queen's Counsel in Adelaide. It appears to me that members have a close knowledge of the Bill and its implications, and I do not consider

the discussion has raised matters which require clarification. Generally speaking the speeches have been either in support of the Bill or in opposition to it, and in each case reasons have been given.

When the Bill was passed last year the Government thought that the provision of a statutory declaration would adequately protect tenants from landlords who were not prepared to do the right thing. It was then discovered that in practice the provisions of the statutory declaration did not meet the case, and means had to be provided so that what was intended by the legislation should be done. The Bill is the result of the Government's attempts to meet the situation. I feel that it will not penalize the person who genuinely desires to sell his premises on a vacant possession basis, but on the other hand it will stop certain improper practices. Under the Act the definition of "dwellinghouse" is as follows:—

"Dwellinghouse" means any premises leased for the purpose of residence.

A dwellinghouse therefore includes premises which are let for the purpose of residence, and the buildings which are let for that purpose come briefly within two categories, namely (*a*) the ordinary home which is occupied by one family, and (*b*) flats or a number of separate units within one building. When a person wishes to sell an ordinary single unit home on a vacant possession basis, he usually sells to a purchaser who requires the home for his own occupation, and in those circumstances there are no tags attached to it whatsoever. In 99 cases out of 100 this provision will not affect the person who wishes to sell a private house.

The Hon. Sir Frank Perry—There are many semi-detached houses, a portion of which can be let.

The Hon. C. D. ROWE—The difficulty has arisen in the case of flats. Some landlords were anxious to remove their tenants from flats in order to obtain an increased rent or enable a purchaser, who may be a member of the family, to obtain an increased rent. They have the right to apply to the Trust for increased rents and those rents are preserved under this amendment. I feel that the Bill should have the support of the Council, and I ask members to support it.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3—"Restriction on certain lettings of dwelling-houses."

The Hon. C. D. ROWE—I move—

In new section 55d (1) (*c*) after "months" in the first line to insert "after the time the lessee delivers up possession" and to delete those words where occurring.

I think this point was covered by Sir Arthur Rymill during his remarks and there is no necessity to explain it. It clears up a drafting error in the Bill.

Amendments carried.

The Hon. Sir FRANK PERRY—I move to delete subsection (3); as despite the explanation given by the Attorney-General it is an injustice and defeats the very purpose of the legislation passed only a few months ago. A person desirous of selling a property must be able to give a clear title without restrictions. He should have a perfect right to sell his property and obtain the full current value for it. I previously instanced the increase in values that has taken place in every type of investment. That increase has been three times in most cases, in some cases a little less and in others a little more, but that does not apply to landlords. Even members who have a poor opinion of landlords have gone out of their way to say that a landlord has a right to expect a fair deal from the legislature which tries to do justice to all parties.

The subsection defeats the very object of the legislation, and unless a clear title can be given without restrictions it is obvious that the value of the property on the open market will be affected. Many people who wish to sell properties will be confronted with that restricting provision. It has been suggested that it is to control the rents of flats, also to prevent dummying. I do not know which is correct, but I would say there is a little truth in both assertions. Many houses are purchased with an eye to providing for the future, and a person has a perfect right to make that provision. It was the custom at one time for a person to purchase a house 10 years prior to his retirement, and even now a person may wish to do that 12 months beforehand so that he will be assured of a home. There is nothing extraordinary about that. It is probably an everyday fact. I was disappointed that the Attorney-General did not define whether capital values influenced rent. I have heard that the Housing Trust does not consider the capital value. If that is so, the subsection is grossly unfair and is against the owner who has held a property for a number of years. I hope the Council will not permit such legislation to be placed on our Statute

Book, because it nullifies everything that a self-respecting landlord has a right to expect from this Chamber.

The Hon. Sir ARTHUR RYMILL—The Bill is a patching up of a clause presented to us from the House of Assembly earlier in the session and accepted by this Chamber. Although the Minister said its intention is to prevent abuses which have arisen since, I contend that the subsection goes further than anything included in the previous Bill, which dealt with something which happens when a landlord intimidates his tenant by giving notice and then does not sell. The new provision deals with a house which has actually been sold, which is something beyond that. It is totally unfair and I am sorry that the Government has seen fit to accept it.

The Hon. Sir FRANK PERRY—I ask the Attorney-General to make some comment as to what the valuation is.

The Hon. C. D. ROWE—I understand that the Housing Trust takes what was the general standard of rents in a particular area in 1939 and from that basis adds increases in rates and taxes, repair costs and what increases have been allowed by Parliament in rents since that date, amounting to 33⅓ per cent. Having done that, the Trust arrives at what it considers in the circumstances a reasonable rent.

The Hon. Sir ARTHUR RYMILL—Can anyone say that money values have increased by only one-third since 1939? They have increased three or four times.

The Committee divided on the amendment.

Ayes (4).—The Hons. E. Anthoney, A. J. Melrose, Sir Frank Perry (teller), and Sir Arthur Rymill.

Noes (10).—The Hons. K. E. J. Bardolph, S. C. Bevan, J. L. S. Bice, F. J. Condon, J. L. Cowan, E. H. Edmonds, C. D. Rowe (teller), A. J. Shard, C. R. Story, and R. R. Wilson.

Pairs.—Ayes—Hons. C. R. Cudmore and L. H. Densley. Noes—Hons. Sir Lyell McEwin and N. L. Jude.

Majority of 6 for the Noes.

Amendment thus negatived.

Clause as amended passed. Title passed.

Bill read a third time and passed.

Later.

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

STATUTES ACT AMENDMENT (PUBLIC SALARIES) BILL.

Adjourned debate on second reading.

(Continued from February 12. Page 1627.)

The Hon. F. J. CONDON (Leader of the Opposition)—The Public Service Board made an award applying to Public Service salaries from £1,126 to £3,526 and prescribed a scale of general increases ranging from £10 to £350. This Bill applies to the salaries of the Agent-General, Auditor-General, Public Service Commissioner and Commissioner of Police, and provides for an increase of £376 a year, retrospective to July 1 last. This Council on many occassions has dealt with amendments submitted by the Opposition for retrospective legislation, but in general they have been opposed. I do not oppose the Bill, because I realize that if men are to be kept in the Public Service they must be given recognition, but at the same time there is a limit to these things. However, anyone who stands for Labor principles will have to approve of this Bill.

I wish to draw attention, however, to the anomalies between salaried public servants and daily paid officers. When the Public Service Board made its recommendation, the Government objected and referred the matter back to it, but the majority adhered to the previous decision and the increases were paid, yet the Government has spent a great deal of money to send a man to the Arbitration Court to oppose an increase in the basic wage. It is an anomaly that people who are getting almost twice as much as members of Parliament will have their salaries increased, yet the Government is opposing an increase in the basic wage. The Government should not have sent a representative to Melbourne to oppose an increase in wages that have been pegged for three years while at the same time it is recommending retrospective increases to these officers. The Government should consider everyone in the Government service, whether salaried or daily paid officers.

The Bill also gives the Governor power to increase salaries paid to the Commissioner of Highways, the Deputy Commissioner of Police and the Highways Commissioner. I do not say their salaries are too high, but I merely point out that many public servants have not received any increase.

The Hon. E. Anthoney—What was the justification for the increase?

The Hon. F. J. CONDON—The Public Service Board increased salaries of officers on

certain classifications, but those on lower classifications received no increase. Under this Bill the increases will be made retrospective to July 1.

The Hon. C. D. Rowe—That also applied to adjustments made by the Public Service Board.

The Hon. F. J. CONDON—I know that, but draw attention to the anomaly between the higher paid officers and those on lower classifications.

The Hon. E. H. Edmonds—Are not some court awards retrospective?

The Hon. F. J. CONDON—Very few. I know that some have been made retrospective by agreement, but the last award of the Full Court granting an increase of 10s. a week was retrospective for only one week. The Government opposes an increase in the basic wage on the one hand while on the other hand it is giving increases to the officers mentioned in this Bill. Although I support the measure, I object to the attitude taken in relation to the basic wage.

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

Sitting suspended from 5.40 *to* 7.45 *p.m.*

MARRIAGE ACT AMENDMENT BILL.

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

The Hon. C. D. ROWE (Attorney-General)—I move—

That this Bill be now read a second time.

Its purpose is to raise the age of marriage. Apart from an additional provision the Bill is in substantially the same terms as a Bill introduced in Parliament last session which, owing to pressure of business and its controversial nature, was allowed to lapse. At present, there is no legislation in South Australia fixing a minimum age for marriage. The matter is regulated by the rules of the common law, which are that girls who have attained the age of 12, and boys who have attained the age of 14 are capable of contracting a completely valid marriage. The common law also allows a valid marriage to be contracted by a girl or boy under these ages, but such a marriage is voidable by the girl on attaining the age of 12 or by the boy on attaining the age of 14. Although girls and boys have thus full capacity to marry on attaining the ages of 12 and 14, under the Marriage Act they cannot marry without parental consent until they attain the age of 21.

Last year the Government was approached by representatives of a number of organizations with the request that the age of marriage should be raised. The principal reason advanced for so doing was to protect young people from unhappy early marriages. It was submitted that the provisions of the Marriage Act prohibiting minors from marrying without parental consent do not protect children adequately. It was argued that where an unmarried girl becomes pregnant the parties are often forced into marriage by their parents, and that such marriages are not usually satisfactory. Attention was also drawn to the great difference between the age of consent under the Criminal Law Consolidation Act and the age at which persons can marry. It was also pointed out that in Great Britain the age of marriage has been fixed by Statute at 16 for both sexes and in Tasmania as 16 for girls and 18 for boys.

As a result of these representations, the Government investigated the matter, and came to the conclusion that the minimum age for marriage should be 16 for girls and 18 for boys.

Information obtained by the Government indicated that in modern times many girls under 16 and boys under 18 were too immature to undertake the responsibilities of marriage and that boys under 18 did not, in most cases, earn enough to marry. It also appeared that marriages of young girls were very often entered into to save the reputation of the parties, and in many cases only to save the man from prosecution. Such marriages frequently failed, and when they did the children of the marriage became the responsibility of the State or charity. The Government found that in the previous five years 94 girls under 16 and 86 boys under 18 had married.

The Government has not altered the opinion which it arrived at least year, and accordingly is introducing this Bill once more. Honourable members may be interested to know that in 1955 twenty-one boys under 18 and 32 girls under 16 married. The Bill provides that all marriages contracted after the commencement of the Bill between persons either of whom is a girl under 16 or a boy under 18 shall be void.

If the Bill went no further one of its effects would be that a child born of parents prevented from marrying by the Bill would be incapable of being legitimated by the subsequent marriage of his parents. This is because under the Births and Deaths Registration Act a child cannot be legitimated by the subsequent

marriage of his parents if there is a legal impediment to their marriage at the time of his birth. The Government considers that it is desirable in the public interest that offspring of parents who are prevented from marrying only by their youth should be capable of being legitimated by their subsequent marriage after attaining the prescribed age. The Bill accordingly provides for this.

Another provision is now included in the Bill as the result of an amendment accepted by the Government in another place. It is a subsection providing that the Minister administering the Marriage Act— at present the Chief Secretary—if he considers it desirable that persons either or both of whom is or are under the prescribed age should marry, may grant an exemption from the age limit fixed by the Bill.

It will be noted that the subsection requires the Minister to consider the general question whether the proposed marriage is desirable or not. This will enable him to take into consideration all relevant circumstances, such as whether the proposed husband is able to maintain the proposed wife, whether the wife is sufficiently mature to accept matrimonial responsibilities, and whether the parents favour the marriages and are likely to encourage or assist the proposed parties to carry out their obligation to each other.

The Government accepted this provision in another place because, after considering the experience of the officers concerned with the administration of the marriage laws and the arguments submitted, it came to the conclusion that there were some cases in which marriages of under-age persons had good prospects of success, and it might cause unnecessary hardship to prohibit them. The Bill will come into operation on a day to be fixed by proclamation. This will enable the provisions of the Bill to become known before they come into force.

The Bill is substantially similar to one introduced in this Parliament in 1955 except that it includes an amendment inserted by the House of Assembly. It was read a second time on September 29, 1955, being supported by Mr. Condon, Mr. Robinson, Mr. Anthoney and Mr. Cudmore. The last-named suggested an amendment, which was defeated on the voices. It went through Committee on October 12, 1955, and was carried on the voices.

The Hon. L. H. Densley—That was not this Parliament.

The Hon. C. D. ROWE—No. It was not carried that session because there was some difference of opinion in the House of Assembly, and it was left to be introduced there this session. Virtually, what the Council has to consider is the amendment inserted by the House of Assembly. It is to the effect that where the parties concerned are under the ages of 18 and 16 respectively, and where they have secured the consent of their parents to the marriage, the matter can be submitted to the Minister administering the Act and he, after considering all the circumstances that I have already mentioned, can give his consent to the marriage if he so desires. It is asked that the Council should accept the Bill, which it accepted in 1955, with the addition of a clause which makes a slight concession to those who thought the ages 18 and 16 a little too high.

The Council divided on the motion of the Hon. F. J. Condon to adjourn the debate.

Ayes (4).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller), and A. J. Shard.

Noes (7)—The Hons. E. Anthoney, L. H. Densley, E. H. Edmonds, C. D. Rowe (teller), Sir Arthur Rymill, C. R. Story, and R. R. Wilson.

Majority of 3 for the Noes.

Motion thus negatived.

The Council divided on the second reading.

Ayes (5).—The Hons. E. Anthoney, E. H. Edmonds, C. D. ROWE (teller), C. R. Story and R. R. Wilson.

Noes (6).—The Hons. K. E. J. Bardolph, S. C. Bevan, F. J. Condon (teller), L. H. Densley, Sir Arthur Rymill and A. J. Shard.

Second reading thus negatived.

PROROGATION.

At 8.12 p.m. the Council adjourned until Tuesday, March 5, at 2.15 p.m.