LEGISLATIVE COUNCIL.

Tuesday, August 27, 1957.

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

SUPPLY ACT (No. 2).

His Excellency the Governor's Deputy intimated by message his assent to the Supply Act (No. 2).

QUESTIONS.

TAXICAB CONTROL.

The Hon. C. R. CUDMORE—Will the Minister of Roads inform me whether the Government has received a report from the Commissioner of Police, who recently arrived back from England, on the general control and management of taxicabs in London and other parts of the world, and if so, does the Bill that is being introduced in the House of Assembly carry out any recommendations of the Commissioner?

The Hon. N. L. JUDE—No, therefore the immediate Bill is not associated with a possible report.

The Hon. C. R. CUDMORE—Will the Government consider deferring any further alteration to our taxicab legislation until the Chief Secretary, who is the head of the Police Department and is very interested in this matter, has returned and has been able to report to the Government?

The Hon. N. L. JUDE—I assure the honourable member that the immediate Bill before the House of Assembly is an urgent measure of a machinery nature that was not envisaged last year when the Taxicab Committee was formed. However, I have no doubt that the Government will await the Chief Secretary's return and consider any representations he may make on more material matters that might be introduced later.

COMMONWEALTH CONSTITUTION.

The Hon. C. R. CUDMORE—I ask leave to make a short statement with a view to asking a question.

Leave granted.

The Hon. C. R. CUDMORE—Earlier this year I asked the Attorney-General a question relating to the attitude of the Government of South Australia to calling a conference of the States only, without the Commonwealth being present, with a view to arriving at some better understanding on the Constitution, and particularly the question of finance under uniform taxation. Last Friday the High Court gave a decision on the Victorian application on uniform taxation and on Saturday I read the following statement in the *News*:—

It is anticipated that moves will be made soon for a special Premiers' Conference to consider the effects of the judgment. At such a conference Victoria would press the Commonwealth to reduce its tax rates to allow the States to enter the field, but the Commonwealth would once again reply that as soon as all the States were agreed among themselves on the desirability of such a move the Commonwealth would be happy to oblige.

I again ask if the Attorney-General will bring before the Government the desirability of moving at once for a conference of the States only to arrive at an agreement as to what their views are and what possibly can be done to clear up this uniform taxation position.

The Hon. C. D. ROWE—When the Victorian Government announced its intention to appeal to the High Court, this State was asked if it would join in. As at that stage we felt very little good could come from such an action, we did not join in. We adopted that attitude because we felt that if this unsatisfactory position could be resolved, it would be by negotiation and not by action in the court. The court's decision has indicated that this is so. I should be happy to take up with the Government the matter of what can or should be done to get over the difficulty in which we find ourselves with regard to taxation.

SITTINGS OF COUNCIL.

The Hon. F. J. CONDON—Can the Attorney-General say what the intentions of the Council are with regard to sittings during Show Week?

The Hon. C. D. ROWE—Last week I indicated that the Council would probably sit on Tuesday and Wednesday of next week and then adjourn for one week. At the moment there is not sufficient business to warrant sitting tomorrow or Thursday, and consequently it is the intention to adjourn until Tuesday next.

TRANSPORT CONTROL BOARD CENSUS.

The Hon. E. ANTHONEY (on notice)—Has the Transport Control Board ever conducted a census of the tonnage of goods carried over controlled routes by licensed carriers or carriers operating under permit?

The Hon. N. L. JUDE—The chairman of the Transport Control Board advises that the board has taken no census of the tonnage carried over controlled roads by licensed carriers or permit holders. The majority of operators under the board's jurisdiction function under nominal annual fees and it has not been

required that statistical information be compiled and supplied showing the tonnage handled.

ROAD TRANSPORT TO ELIZABETH.

The Hon. E. ANTHONEY (on notice)—Does the Government intend to exempt the town of Elizabeth from the operation of the Road and Railway Transport Act, 1935-1956, so as to facilitate the development of that area?

The Hon. N. L. JUDE—The Chairman of the Transport Control Board reports that the matter has been under notice of the board throughout the continued development of Elizabeth. The licensed road service provided by the board is highly regarded by the local governing body at Salisbury-Elizabeth and users of the service have expressed their appreciation of the regular service provided under the board's control. The board is quite definite that the development has not been retarded under the present system. Approaches have been made to the board for exemption of control by one representative organization of carriers and a similar organization has pressed for the continuance of the present method.

The board is not in a position at this date to make a definite statement that the town of Elizabeth should be exempt from the provisions of the Road and Railway Transport Act.

ELECTRICITY TRUST ADVERTISING.

The Hon. K. E. J. Bardolph (on notice)—

1. What financial commitments have been entered into by the Electricity Trust for 1957-58 in respect of advertising (*a*) on the radio, and (*b*) in newspapers?

2. What amount has been spent to date?

3. Is such expenditure necessary?

4. What is the cost of maintaining the trust's advertising department?

The Hon. C. D. ROWE—The replies are:—

1. (*a*) £2,706; (*b*) no fixed commitment.

2. Radio £745; press £825.

3. Yes.

4. The trust has no advertising department.

ASSOCIATIONS INCORPORATIONS ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 21. Page 371.)

The Hon. F. J. CONDON (Leader of the Opposition)—The present Act was introduced last session and repealed the Associations Incorporation Act. At that time I expressed the opinion that we should be careful about repealing legislation unless there were good reasons for it, and that it would have been better to amend the legislation. There was very little debate on the Bill last year, only three members speaking on what I considered a very important measure. The Act contains 37 sections, and section 22 (1) is as follows:—

An incorporated association may, by legislation passed in accordance with its rules, determine to transfer all its property both real and personal to any other body, whether corporate or unincorporate, formed for promoting objects similar to its own or charitable objects or to any other incorporated association.

Can the Attorney-General tell me whether any provision has been made in the Act for balance sheets to be audited and presented? This is a very important matter, and it should be compulsory. Section 22 (2) reads as follows:—

Within fourteen days of the passing of such a resolution the association shall file a copy thereof with the registrar and shall give notice in one daily newspaper published in Adelaide and the *Gazette* of the intention of the association so to transfer all its property.

That is the Act as it stands today. Subsection (3) of that section provides:—

Any member of the association, not being a member who voted in favour of the resolution, or any creditor of the association may within one month of such publication apply to the local court nearest the place where the association is situated or established for an order prohibiting the association from so transferring its property.

Subsection (4) is as follows:—

An association shall not transfer its property until the expiration of one month after the publication of the last notice which it has given, nor, where an application to the local court has been made, until the court so orders, and any transfer in contravention of this subsection shall be void.

A slight amendment only is necessary to the Bill that was passed last year. This amendment was suggested by the Registrar-General of Deeds, who points out that the provision declaring any such transfer to be void runs counter to the Real Property Act. The Bill clarifies the position and inserts an amendment which, in my opinion, was overlooked last year. I support the second reading.

The Hon. C. R. CUDMORE (Central No. 2)—I congratulate Mr. Condon on his study and explanation of the Bill. To be quite frank, and with apologies to the Attorney-General, I did not really understand what the position was until Mr. Condon explained it. It is a matter of clearing up a point which has been raised with regard to the consolidating Act passed last year, and no good purpose will

be served in discussing it on the second reading. I suggest that the sensible thing is to go into Committee, and we can then ask questions on any point we do not quite understand. My own idea, after listening to Mr. Condon, is that after "transfer" in the last line it would be advisable to add the words "already registered"; that seems to be the point worrying the Registrar of Companies. In Committee we could get further information, or if necessary report progress to enable further consideration to be given to it.

The Hon. E. ANTHONEY (Central No. 2)—This Bill seems to be introduced to rectify a mistake made last session and my purpose in rising is to suggest to the Attorney-General that he be good enough to examine section 5 of the principal Act with a view to amending it in a minor way. It provides that notice of incorporation of an association may be given by publishing the same once in a newspaper circulating in Adelaide or once in a newspaper circulating in the neighbourhood of the place in which the association is situated. I think that information should be given also in the *Government Gazette* because a newspaper circulating in the vicinity of an institute or other place may be seen by few people.

The Hon. C. R. Cudmore—How many see the *Government Gazette*?

The Hon. E. ANTHONEY—A lot more than see a country newspaper probably.

The Hon. C. R. Cudmore—No.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—"Transfer of property."

The Hon. C. R. CUDMORE—I would like your ruling, Mr. Chairman, as to whether we are in order in discussing on this Bill an amendment of section 5 of the principal Act with reference to the point raised by Mr. Anthoney.

The CHAIRMAN—Not knowing the full particulars of section 5, or whether it could be connected up with this Bill in any way, I am not prepared to give a ruling offhand. If the honourable member raises the point on another occasion I will give him a considered opinion.

The Hon. C. D. ROWE (Attorney-General)—I am indebted to members who spoke on the second reading and endorse what Mr. Cudmore said regarding Mr. Condon's remarks. He raised a point regarding balance-sheets on which I should like to get more detailed information; also I should like to consider whether an amendment of section 5 comes within the ambit of the Bill, although I may say that I do not think there is any merit in Mr. Anthoney's suggestion, because the Bill refers only to associations and they are the only people who would be interested.

The Hon. C. R. Cudmore—Would it not be better to make it an Adelaide paper rather than a country paper?

The Hon. C. D. ROWE—It could be one or the other, and it is left to the Registrar to direct which it shall be. Advertising is fairly expensive and my view is that the present requirements are satisfactory. However, to enable me to get further information I move that progress be reported.

Progress reported; Committee to sit again.

MARRIAGE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from August 21. Page 372.)

The Hon. F. J. CONDON (Leader of the Opposition)—When the Marriage Bill was before the Council on February 13 last it was on the last night of the session. The Attorney-General moved the second reading and time did not permit full discussion of the merits or de-merits of such an important measure. The Bill was therefore defeated on the second reading in order to give members time to give it full consideration. On that occasion only 11 members were present and it would have been most unsatisfactory for such a thin House to pass such an important measure. At that time only Tasmania had similar legislation on its Statute Book, but since then Western Australia has adopted legislation like that of Tasmania. The British Parliament passed an Act similar to this Bill in 1929. I am not fully in accord with the Bill, but propose to support the second reading so that there may be a full discussion in Committee. It is very easy for certain public bodies to be interested in certain social legislation but they do not seem to take much interest in other public matters that affect the liberty of the individual.

The Hon. E. Anthoney—How do you know that?

The Hon. F. J. CONDON—Because I have been here long enough to know. Respect should be shown to social workers, as in spite of what I have said they are interesting themselves in the social welfare of the community. That does not mean that there is only one opinion on this matter. In 1955 I said it was one of the most important Bills that had been before us for a

long time and one which should be closely scrutinized as some people seemed to think that it interfered with the liberty of the individual. The law proposed is similar to that operating in Tasmania with the additional provision that if after an inquiry by the Chief Secretary it is thought necessary the Registrar-General of Births, Deaths and Marriages, or a police magistrate, if he is satisfied for some special reason that the marriage is desirable, may make an order dispensing with the age requirements. Why should it be necessary for the Chief Secretary to have to come to a decision on these matters? If anyone is to be the sole judge, why should it not be the Registrar-General or a special magistrate? The Minister already has plenty else to do.

The Hon. Sir Arthur Rymill—One of the reasons given was the number of children who became the responsibility of the State. Do you think that would weigh with the Chief Secretary?

The Hon. F. J. CONDON—I think he already has enough other important duties without having this forced upon him. When introducing the measure, the Attorney-General said that in the last seven years 155 girls under 16 and 133 boys under 18 had married. According to the Minister, such marriages generally are unsatifactory, but I ask how many marriages of persons over 21 years have also been unsatisfactory?

The Hon. W. W. Robinson—The percentage is not so great.

The Hon. F. J. CONDON—I ask the honourable member to consider the divorce court figures. One Supreme Court judge sits almost entirely on divorce cases. That is a sad state of affairs. One cannot pin the blame on young people who make a mistake without having regard to the mistakes of those of mature age. When speaking on a similar Bill in 1955 Mr. Cudmore said he thought the age limit was too high in one respect, and that might well be considered. It might be said that according to the present law the age is very low, but there is another side to the question. As to the forced marriages, if the two persons concerned and the parents of both parties are agreeable to the marriage that is worthy of consideration, but the decision will not rest there, but with the Chief Secretary, the Registrar-General or a special magistrate. Therefore, a safeguard is provided. Marriage is a very sacred thing, and whether they are happy or unhappy is not always due to the age of the parties. I take a serious view of the law interfering with the age at which people can marry, but I am not unmindful of the desire of the Government and social workers to improve the position, and therefore have an open mind on what should be included in the Bill. It is said that girls under 16 and boys under 18 are too immature to undertake the responsibilities of marriage, and that most boys do not earn enough.

The Hon. C. R. Cudmore—Who said that?

The Hon. F. J. CONDON—This argument was used when the Bill was before us in 1955. It cannot be used today with as much strength as it could have been used a few years ago, because a young man of 18 now is capable financially of maintaining a family. It is most surprising that very little was said in debates on similar measures in the British Parliament, and in Tasmania and Western Australia. Last year the Western Australian Parliament introduced a Bill to enforce the age limits proposed in this Bill, and only two members spoke. That Parliament evidently did not regard it as a very important matter. I respect the views of social workers, but legislation of this nature should not be passed just because they consider it desirable.

The Hon. C. R. Cudmore—We have not voted against it.

The Hon. F. J. CONDON—No, but we have considered it before. The Bill is an interference with the rights of individuals, therefore I hope it will be given serious consideration. The Western Australian Marriage Act was passed in December last, and provided for a minimum age for males of 18 years and for females of 16 years, as proposed in this measure. It also provided for a magistrate to hear and determine applications by persons of lower ages seeking to marry; another provision was that no marriage otherwise properly contracted shall be voided if one of the parties is under the minimum age. I suggest we should consider the Western Australian and Tasmanian Acts before we pass this legislation.

The Hon. C. R. Cudmore—Don't you think the parents should have any say?

The Hon. F. J. CONDON—I do.

The Hon. C. R. Cudmore—They have no say under this measure.

The Hon. F. J. CONDON—That is my argument; if parents of both parties desire a marriage, I think the special magistrate should decide the matter. That is the law in Western Australia and Tasmania, and I do not see why we should not have a similar provision. I am supporting the second reading so that the matter can be debated in Committee, and I hope that whatever is decided will be in the best interests of the community.

The Hon. Sir ARTHUR RYMILL (Central No. 2)—"Things are seldom what they seem," wrote the famous W. S. Gilbert in one of the Gilbert and Sullivan operas, "Skim milk masquerades as cream. Highlows pass as patent leathers, jackdaws strut in peacocks' feathers." If ever I have seen a Parliamentary jackdaw strutting in peacocks' feathers, then it is in the Bill before us, for the reasons I propose to enlarge upon later. To apply the more homely metaphor, this Bill is skim milk masquerading as cream. When a similar measure was brought down in the dying hours of last session with, as I described it then, unseemly haste, the Attorney-General urged the House to pass it without very much consideration. He said that Council had already passed, to use his own words, "a substantially similar Bill in 1955." In fairness to him, he went on to say that the only thing this Council really needed to consider was the amendment that had just been inserted by the House of Assembly, but he finished by saying:—

> 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 of 18 and 16 a little too high.

In common with, I have no doubt, all other members of this House, I have an extremely high regard for the Attorney-General and I know positively that he would never wittingly mislead us. On the contrary, he gives us every piece of information he can that is likely to help us on measures he introduces. I blame the haste for misunderstandings that have arisen and for the defects that I propose to point out in this Bill.

I suggest that the Government still does not quite realize the full implications of the measure. I do blame the Government for trying to thrust the Bill down our throats last year at very short notice, and indeed, when some members, including myself, did not even know it was proposed that the session should conclude on that day. That, in effect, was trying to make this chamber merely an echo of the House of Assembly which is the last thing I would ever like to see or countenance in any way. The defects I propose to point out show the need for this Council, which is often called a House of review or a House of second thought. Although I know this was not the intention, we were denied the opportunity of giving second thought to the Bill passed by the other House last year, because we did not have time to consider the measure, and particularly the amendment. We are not members of both Houses and cannot consider the effect of every amendment proposed in the House of Assembly, because a large number of them fail anyhow. It is quite impracticable to attempt to consider all amendments, and we did not know whether this particular one was going to be passed or not in the Assembly. Consequently, with only an hour or two at our disposal it would have been quite impossible for anyone to really assess the effect of that amendment.

I have given a lot of thought to this Bill. Last week I thought that I had come across the obvious in relation to it, but only this morning I came across another very important point that I think is a defect. Last week the conclusion I arrived at was that the sole effect of the Bill was to withdraw rights of consent from the parents of young people. That is all it does in relation to marriages below the ages of 18 and 16. The sole effect of the Bill is to take away the rights of parents to say yea or nay. The other conclusion I came to is that the Bill as it is now drawn could well be construed by the court as having the effect of reducing the minimum marriage age instead of increasing it, and I will explain that more fully later.

As other honourable members have mentioned, legislation was introduced into this Chamber in 1955, and at that stage it constituted a total prohibition of any marriage whatsoever under the respective ages of 18 for young men and 16 for young women. It was a total prohibition and there was no qualification to it; nobody could consent, and whatever the circumstances marriage under those ages was to be absolutely forbidden. It was passed in this Council, although I gather from reading *Hansard*—because I was not a member at that time—that a number of members expressed some doubts about it, and one or two thought that the ages were a little too high.

The Hon. C. D. Rowe—It was passed in that form.

The Hon. Sir ARTHUR RYMILL—That is so; it was passed and was to impose an absolute prohibition.

The Hon. C. D. Rowe—It passed on the voices.

The Hon. Sir ARTHUR RYMILL—The Bill went to another place, where it lapsed. Apparently the Government was not as anxious then as it was at the end of last session to rush the Bill through. It was reintroduced in the House of Assembly last session, and at 5.30 p.m. on February 13, which it transpired was to be the last day of the session, the House of Assembly passed this important amendment which is

presented to us today as new clause 42a, subsection (2). Perhaps some members knew beforehand that the amendment was going to pass, but I had no information whatsoever until it was actually passed. The Bill then came to this Chamber which sat until 5.40 p.m. on other matters. The Council then adjourned and reassembled at 7.45 p.m. I had expected, perhaps in my ignorance, that we would sit the following day, and that I would have at least one night and a morning to consider the effect of the amendment. However, the Bill came here and we were expected to pass it through all stages, although the important amendment was not even in print.

The Government's intention was to push the Bill through that night. I considered that this Council could easily sit the next day, but no doubt that would have been inconvenient to members elsewhere who would have had to come back. That may be one of the reasons why the slender House we had at that time was asked to deal with this very important matter. The Minister took a chance on this slender Council, but with a convulsive spasm the Council in its dying moments threw it out. I believe that it was an excellent thing that this House threw out the Bill; I do not regret that for one second, and indeed I think I can give reasons which more than justiy that action, if in those circumstances it needed any justification. The Bill is now back in this Chamber, and this time it was introduced here.

With regard to the merits of the Bill itself, I will deal with it as it was originally presented to the House of Assembly. It was to be an absolute bar to marriage under the ages of 18 and 16 in any circumstances whatsoever; no one could remove the bar, and consequently people under those ages could not marry whatever the circumstances. The present marriage ages which appertain in this State are not fixed by our Marriage Act but are a survival of the English Common Law and are 14 for young men and 12 for girls. The English Common Law is something that is properly revered by every thinking British subject, and was built up by the experience of centuries. As one who has practised in the law for many years I can say that it is not to be lightly discarded. Where it was built up there were always very good basic reasons for it which might not always be apparent on the surface. I say that deliberately, because the man in the street is apt to say that it is ridiculous for boys to marry at 14 and girls at 12. Street polls have been taken by the press on this matter and people have been interviewed; that has been the reaction, and it is the reaction one would expect from the man in the street who has not properly thought about the matter, and who indeed has not the need to think about it in most cases unless he has suddenly come face to face with some of the facts of life in relation to these things. Of course, the obvious thing that we must think about in relation to this Bill—because voluntary marriages in our community can be at ridiculously low ages—is the question of illegitimate children. We cannot stop illegitimacy by Act of Parliament. Whatever we say here, illegitimacy will continue.

As Mr. Condon said, this is a very important social Bill. In approaching measures of this nature as a member of Parliament one must have regard to social thinking, both one's own and that of others, and I do not think it is good legislation that outstrips current social thoughts and trends. We are dependent upon two things in our own social thinking, namely, our own upbringing and the ideals instilled into us in our formative years, and secondly, the knowledge and experience we have acquired since. Social thinking in one's own approach is very largely a matter for one's own conscience—a personal matter, and no two people agree about it. One thing we can agree about I think is that in today's current social thinking through all sections of the community there still remains a stigma in respect of the illegitimate child; a stigma on the father, more so on the mother and a still greater stigma and psychological implications on the illegitimate child, and it is these people we must think about in considering this Bill. The father of the illegitimate child generally escapes with the least contumely. The stigma falls very heavily on the unfortunate young mother and the child, I believe, is often more besmirched than the mother. After all, although she may have been too young to know what she was doing she did it voluntarily in most cases, whereas the child is a completely innocent party.

If we agreed to the Bill as it was originally posed to this Council we would say that the stigma must attach to any young mother under the age of 16, or any child born to her whether or not the parents wanted to escape the stigma by marriage. That was the form in which this Bill was previously presented. In the House of Assembly, no doubt for these self-same reasons, an amendment was put into the Bill so that, in the circumstances I have outlined, the marriage could take place with the permission of the Chief Secretary. I would like to say here that when referring to the Minister I am referring only to his office, for if we

pass this measure many different Ministers will have to deal with the matter. The other place inserted this amendment to give the Minister power to consent to marriages under the ages of 18 and 16.

The Attorney-General, in his second reading speech last session, referred to the approaches that had been made to the Government to introduce this legislation. "It was argued," he said, "that where an unmarired girl becomes pregnant the parties are often forced into marriage by their parents," the implication being, I imagine, that the parents would force the children into marriage, not for the sake of the children, but for their own sake so as to escape the backwash of the stigma attaching to the birth of an illegitimate child. I do not deny for a moment that there may be some parents who would force their children into marriage to save their own faces, because this world is made up of all the sorts of people there possibly can be. But does that mean that all parents will have this motive? I will not believe that for one second.

I have criticized before in this place legislation aimed at some unusual happening being applied to everyone, and that is what I believe this does, for it takes away from the parents the right of saying yea or nay to these marriages. I like to believe, and do sincerely believe, that most parents think of their children's interests first. I believe that the parents of the children, with the few exceptions referred to—and do not let us exaggerate the number—are the best qualified in every way to decide whether the marriage of young persons in these unfortunate circumstances should or should not take place. They know the whole of the atmosphere and surroundings of the case; they know their own child and probably the other, whereas if it comes to the Minister for consent he gathers up the evidence, generally from other people, often the women police; he has never seen the parties before and never will again and has no real interest in their welfare. He has only his own humanitarianism to follow plus the facts presented to him, which may or may not be correct.

The Hon. C. D. Rowe—Is the honourable member aware of new section 42a(1)(4) which provides that nothing in this section shall affect any requirement as to the consent of parent or guardian under section 26?

The Hon. Sir ARTHUR RYMILL—Yes, but that does not mean a thing in relation to this Bill or to my argument. All it means is that the parents have still got to consent between the ages of 18 and 16 and the age of 21.

The Hon. C. D. Rowe—That makes a big difference.

The Hon. Sir ARTHUR RYMILL—I have studied it carefully and I am quite satisfied to state dogmatically that it does not make the slightest difference to the things I am arguing. At present we rely on common law, and marriages can take place at the ages of 14 and 12 respectively, but any such marriage requires the consent of the parents; if either party is under 21 the parents' consent is essential, but there is, in effect, a right of review by the Minister if the parents refuse to give consent. Where there are no parents, he can consent to such marriages, and he can consent to such marriages, despite the parents' opposition, if he thinks they have unreasonably withheld their consent. What this Bill does is to say that between the ages of 18 and 16 years respectively and up to 21 the parents still have the right to give consent or not, and the Minister still has the right of review. I agree with Mr. Condon. I feel it would be much better anyhow if a court of some sort considered this matter—and again that is not personal to the Minister because it is the court's job.

The Hon. C. R. Cudmore—It is a question of publicity, is it not?

The Hon. Sir ARTHUR RYMILL—I do not know.

The Hon. C. D. Rowe—I think it is the publicity that is the bugbear.

The Hon. Sir ARTHUR RYMILL—It could be dealt with in camera or Chambers, so that could be easily overcome. So, all that this Bill does is to take away the rights of the parents to consent to marriages under the ages of 18 and 16. It leaves the right in the hands of the Minister to consent, but it takes it away from the parents, and I challenge any member to show me that the Bill does anything else than that in this regard. What I put to you is this: if such a question were posed to us in a Bill in black and white, not in this round-about way, but in direct language saying, "The parents' consent shall be struck out" or whatever was appropriate, would one member support it in that form? I doubt it, but in fact that is exactly what this Bill does. It takes away the right of consent in a round-about fashion, and I believe that if it were done directly it would receive no support whatever in this Council. I draw the attention of members to that aspect most seriously. That is why I had to have time to study the Bill because I did not properly realize it when the

Bill came with such haste before us. The word that came into my mind was "totalitarianism" when I first saw the amendment, and I realize now that there is a distinct savour of totalitarianism. We take away the rights of parents in respect of their own children and hand them to a Government official, and I do not think that the word "totalitarianism" is an over-exaggeration in that context.

The Hon. L. H. Densley—Do you think it is the desire of the women's organization to do that?

The Hon. Sir ARTHUR RYMILL—No. I do not think that many people have yet realized what this Bill exactly means, and that is why I am trying to give as much assistance as I can to create a better understanding of it, not only in this place but elsewhere. I have addressed a number of women's meetings since we last considered this Bill, and I think I have opened their eyes to some extent. In fact, at the beginning of meetings there has been an atmosphere that one could cut with a knife, but at the end one could see that their approach was entirely different because, as I have mentioned before, this Bill in the public estimation was masquerading as something that it was not.

To test the feeling of this Council on whether or not the matter of the parents' consent should be in their own hands, in Committee I will move an amendment to restore that right to them. If members will agree with me that the parents should know best in normal circumstances—and we are not here to legislate for the abnormal—they will be with me on the side of the parents and will approve of my amendment.

The Hon. C. D. Rowe—Leaving the ages at 12 and 14?

The Hon. Sir ARTHUR RYMILL—No. As they are in the Bill, 18 and 16. There is no harm in that as long as the parents have the right to consent. I think that is quite realistic. If the Bill means what I think it means, with the inclusion of my amendment the position will be very little different from the law as it stands at the moment.

The Hon. E. Anthoney—What is wrong with the law as at present?

The Hon. Sir ARTHUR RYMILL—It is not what is wrong with the law, but what appears to be wrong with the law; 18 and 16 years seem to be much more sensible ages than 14 and 12. I draw members' attention, particularly that of the Attorney-General, to a legal point, and if I am right it is a very important one and one which will have to be attended to. The object of the Bill is to amend the common law by, in effect, deleting the ages of 14 and 12 and substituting 18 and 16, but with certain qualifications. I believe that the effect of that is to totally destroy the common law ages. If I am right in that, where do we get? Where two persons are incapable of marriage because one or both are under the age of 16, the Minister has the power of consent, but where are the limitations to 14 and 12 years? They are gone, if I am right. To retain control over such things as illegitimacy power is given to the Minister, but the Bill does not say that he cannot consent to marriages of persons under 14 and 12.

The Hon. C. D. Rowe—You assume that the Minister has a certain amount of common sense?

The Hon. Sir ARTHUR RYMILL—One does not have to consider common sense, and if one did only that there would be no need for this Bill in any form. We are here to fix minimum ages. At the moment the minimum ages are 14 and 12, but on my reading that is taken right away; and if my legal construction of the Bill is correct all it does is to provide that parents can give consent to the marriage of children over 18 and 16 and the Minister can consent at any age under those ages and does not have to worry about the ages of 14 and 12, whereas before there was a qualified power. If that is right, the Bill does not increase the minimum age of marriage, but reduces it. The Atorney-General will have a little difficulty in construing it otherwise. If I can help him a little in that regard, I will be delighted, and this is the only chance he has to get a construction that I know he has always thought the amendment would bear. I have no doubt he will have a good look at it, whether he agrees with me or not. The Minister may be able to get another construction as to the wording of the clause by the argument that it does not totally destroy the existing common law ages of 14 and 12, but only in effect destroys them where this Bill makes a direct impact.

I showed this point to other lawyers, and they all tended to think that the clause bears the construction I have given it and would permit the Chief Secretary to consent to marriage of persons under 14 and 12, but we were all more sure of one thing—that it was impossible for any of us to be dogmatic on the construction of the Bill. In other words, it is defective to this extent, that no-one can be sure of what it does mean. I tend to think that it means what I have said—that the Chief

Secretary could give consent to marriage at any age. I recommend the Attorney-General to have a good look at it now that the House has given him the time and chance to do so.

I have drawn the attention of members to the points I have raised after very careful study and after thinking about it since last February. I think I should make my attitude clear—that I intend to support the second reading and to move in Committee the amendment I have envisaged, and if the Bill is not satisfactorily amended in the way I think it needs amendment, I will oppose the third reading.

The Hon. W. W. ROBINSON secured the adjournment of the debate.

ADJOURNMENT.

At 3.38 p.m. the Council adjourned until Tuesday, September 3, at 2.15 p.m.