LEGISLATIVE COUNCIL.

Tuesday, September 24, 1957.

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

QUESTIONS.

SNOWY MOUNTAINS AGREEMENT.

The Hon. F. J. CONDON—Will the Attorney-General inform this Council what is the position relating to the allocation of water that has been diverted under the Snowy Mountains scheme?

The Hon. C. D. ROWE—As I anticipated that a question would be asked on this matter, I have prepared a report that I think covers the position as it stands now. The Snowy Mountains Agreement, which was signed by the respective parties to it, namely the Commonwealth and States of New South Wales and Victoria, on September 18, has been made available, and has been perused by this Government. It is a long and somewhat complicated document covering approximately 58 pages of foolscap. The agreement purports to deal with certain works to be undertaken by the Snowy Mountains Hydro Electric authority relating to the collection, storage and diversion of the waters arising in the Snowy Mountains areas. The particular works that concern us at the moment are: firstly, the diversion of the waters of the Tooma River into the Murrumbidgee River, which is estimated at a net average volume of approximately 330,000 acre feet of water a year, and secondly, the diversion of waters of the Snowy River into the River Murray, the estimated amount of which is 730,000 acre feet a year.

Originally, the proposal was that the diversion of the 730,000 acre feet from the Snowy River to the River Murray would be completed before the diversion of the 330,000 acre feet from the Tooma River to the Murrumbidgee. That is to say, it was originally intended that the larger diversion to the Murray would be done first, and that the diversion from the Tooma to the Murrumbidgee would be done after that, but that position has now been altered because the Snowy Mountains Authority has decided that it can secure an earlier use of power by constructing the Tooma diversion first. That will mean that for the time being 330,000 acre feet of water a year will be lost to the River Murray and will not be replaced until such time as the diversion from the Snowy River is completed. It is estimated that this amount will be lost for a period of at least six years and, should drought conditions occur in that period, the consequences to South Australia could be quite serious.

It may well be that the second portion of the scheme relating to the diversion of the Snowy River water will not be carried out as quickly as anticipated and that the water lost to the Murray from the Tooma River will be lost for a very much longer period than the expected six years. It is these aspects of the matter that lead us to the conclusion that South Australia will suffer adversely under the proposed agreement.

The other equally important consideration is that, as far as we can understand, there will ultimately be directed into the River Murray a greater quantity of water than now reaches it, the estimated increase being approximately 400,000 acre feet a year, but South Australia will receive no portion of this additional amount. In general terms, the agreement provides that it is to be divided between New South Wales and Victoria. We feel that since it is provided that this work will be undertaken by Commonwealth moneys and that each South Australian taxpayer will contribute his share, South Australia should be entitled to its proportion of the additional waters that will eventually enter the River Murray. The present River Murray Waters Agreement provides that the waters of the river are to be divided between the States on the basis of five-thirteenths each to Victoria and New South Wales and three-thirteenths to South Australia in times when restrictions must be imposed. It seems only logical that this ratio should be maintained in respect of any additional waters that may find their way into the River Murray, and this is the particular aspect of the matter that concerns us at the moment.

Counsel's opinion has been obtained on the legal position, and in the near future he will advise us exactly what action we should take to enable us to protect our interests. It may be that it will be necessary for us to take action in the High Court for an injunction to restrain the Snowy Mountains Authority from proceeding with the diversion of the Tooma River and for a declaration of our rights under the former River Murray Waters Agreement. It is perfectly obvious that in reply I cannot cover all the matters set out in the 58 pages of the agreement, but I have tried to inform the House as fully as I can on the matters that we feel are important to us at present.

The Hon. F. J. CONDON—Further to my question of the Attorney-General regarding the

briefing of counsel in connection with the Snowy Mountains agreement, in which we are 100 per cent behind him, I ask him if the Government will consult a local Q.C. in order to ensure that South Australia receives the justice to which it is entitled? A local man will know the position better than any interstate Q.C.'s.

The Hon. C. D. ROWE—The Government has already had the advantage of the advice and assistance of our own Crown Solicitor, Mr. Chamberlain, Q.C., and I think everyone will agree he is probably as *au fait* with constitutional law as any Q.C. in this State. I do not feel that the local profession has been neglected in this matter, and everything possible will be done to see that our interests are protected to the fullest.

CONTROL OF FIREARMS.

The Hon. E. ANTHONEY—In view of the frequent tragedies that have occurred as a result of shooting in this State, does the Attorney-General not think it might be an appropriate time for closer police supervision of the issue of permits and the purchase of rifles by irresponsible people?

The Hon. C. D. ROWE—I presume the honourable member is referring to the tragedy that occurred yesterday?

The Hon. E. ANTHONEY—And another one today.

The Hon. C. D. ROWE—The honourable member is a little further advanced in his information than I am. As I was out of the State yesterday, I have not had an opportunity to consider the facts in relation to the tragedy yesterday, but I can assure the honourable member that the Government will do whatever it considers necessary to see that proper control is kept of fire-arms, which are a danger in improper hands.

FINANCIAL AID FOR UNIVERSITY.

The Hon. F. J. CONDON—The Acting Vice-Chancellor of the University, Sir Mark Mitchell, has stated that the University is in need of additional financial aid. As Parliament has granted a very substantial sum to the University, can the Attorney-General inform me whether it is the intention of the Government to give further assistance?

The Hon. C. D. ROWE—As the honourable member would know, matters relating to the University come under the control of the Minister of Education so I am not in touch with the actual facts of the matter. As I understand the position, the University submits an annual budget to the Government that is approved by it in due course. As far as we are aware, no application for additional advances above the budget has been submitted. The Government is anxious to do what it can to meet the requirements of the University.

EMERSON CROSSING.

The Hon. Sir ARTHUR RYMILL—I ask leave to make a brief statement with a view to asking a question.

Leave granted.

The Hon. Sir ARTHUR RYMILL—My question deals with the traffic lights at the Emerson Crossing. I mentioned this matter during the Address in Reply debate. Since then I have made further observations of that crossing, and I think there can be a misunderstanding that can be cleared up for the benefit of the motoring and other travelling public. On the South Road there are three traffic bays on each side. The right-hand one is marked, "Right-hand turn." The centre bay is not marked, nor is the left-hand bay, but there is a line in between them. There is a considerably greater amount of through traffic north and south than traffic turning to the left, but the through traffic apparently thinks it has to confine itself to the centre bay, and the left-hand bay is generally unoccupied except for a sporadic left turn. Can the Minister of Roads tell me whether I am correct in assuming that, as those two channels are not marked, straight through traffic has the right to go in either of them?

The Hon. N. L. JUDE—The honourable member was good enough to inform me that he intended to ask this question, and I have had the matter investigated. He is partly right in that on the one phase of the green light which indicates that traffic can turn left, the traffic may proceed, but there are two phases on which that light is visible. When traffic is turning right from Cross Road into South Road it is quite simple to permit the traffic to turn left and go in a southerly direction. That also applies to traffic turning from the South Road into Cross Road. However, on the second phase when traffic may turn left from the South Road into Cross Road, it is quite in order for vehicles to proceed in a southerly direction in both channels. As Sir Arthur Rymill has indicated, probably 90 per cent of the traffic proceeds straight along the South Road. Sir Arthur has raised a point that it might be desirable to cut out the

yellow line dividing the two channels, and I will confer with the authorities in charge of those signals to see if that can be done. It obviously would be advantageous if we could direct a double line of traffic on the heavier route, particularly in peak periods. I assure the honourable member that that matter will be looked at, and, if possible, an even further improvement effected. At present we are reasonably satisfied with the efficiency of this crossing.

The Hon. Sir ARTHUR RYMILL—If the Minister considers it impracticable to remove that yellow line, will he consider placing in the left-hand bay the words "Ahead or left," or alternatively going in for some educational campaign so that the motorist will know exactly what he is entitled to do at the crossing?

The Hon. N. L. JUDE—Certainly.

PRESS PHOTOGRAPHS OF TRAGEDIES.

The Hon. A. J. MELROSE—Can the honourable the Attorney-General representing the Chief Secretary say whether he thinks it is in the interests of police administration and the general public for the press to publish photographs of tragedies such as appeared today?

The Hon. C. D. ROWE—I am of the opinion that such photographs do not help the administration of justice or the work of the police in any way.

MARKETING OF EGGS ACT AMENDMENT BILL.

Read a third time and passed.

LONG SERVICE LEAVE BILL.

Adjourned debate on the motion of the Hon. C. D. Rowe (Attorney-General)—

That this Bill be now read a second time—which the Hon. F. J. Condon had moved to amend by deleting all the words after "be" with a view to inserting "withdrawn and redrafted to provide for three months' long service leave after ten years continuous service."

(Continued from September 19. Page 725.)

The Hon. Sir FRANK PERRY (Central No. 2)—This appears to be a very controversial Bill. It was introduced by the Attorney-General who gave a fairly explicit account of what it purported to do, and we had very flat opposition from Mr. Condon. It will devolve on this House to arrive at something between their views in order that we may provide a long service Bill for the people of this State. All must agree, I think, that the Bill is designed to give benefits to a very large number of people. We find that it covers all employed persons. In these days of joint stock companies most people are employed, so that it evidently covers everyone from the managing director of a business down to the kitchen maid in the home and all the varying occupations between those extremes. Consequently, the Bill should received very careful attention.

In a Bill of this nature which involves somebody—in this case not the Government—in onerous conditions I think that some estimate of the cost should be made so that members may know what their vote may mean to the economy of the people and the Stae. This, however, was not done, and I have therefore attempted to make a rough estimate of the cost. It seems to me that possibly £1,250,000 will be involved annually in meeting the conditions provided under this Bill. It is very hard to get down to exact figures, but that is an approximation. Courts of Conciliation and Arbitration have been set up by the Commonwealth and all of the States, and there is no parallel elsewhere in the world with the extent that compulsory arbitration is enforced in Australia. I wish to refer to some of the benefits that the courts have given employees. I can remember when there was no payment for public holidays and no annual leave. Then the employees were granted one week's annual leave, which was subsequently altered to two weeks. Then sick leave of one week a year was given, and in many cases this was allowed to accumulate for three years. Weekly hours of labour have been altered from 48 to 44, and from 44 to 40. A basic wage has been established throughout Australia, and a prosperity loading on the basic rate has been granted by the respective courts; very largely there is now a weekly hiring instead of daily or hourly hiring, and workers generally have been classified on higher margins.

The Hon. K. E. J. Bardolph—Who wrote this speech?

The Hon. Sir FRANK PERRY—I have had a fair amount of experience of industrial court matters and I have not needed any assistance in preparing my remarks to date. It will be seen that the courts have provided for additional leisure and additional pay. I mention this to show how greatly the courts of this country have been associated with the improved conditions of employed persons. It will be noted, however, that long service leave is not

in that list. It is true that it was considered by both our State Court and the Federal Court, but they did not concede that the time was ripe for long service leave to be granted.

The Hon. K. E. J. Bardolph—The courts did not have the power. Isn't that the story?

The Hon. Sir FRANK PERRY—I do not think the honourable member is correct. They had the power but did not see fit to use it. If the hourourable member studies the State Industrial Court proceedings he will find that both Kelly J. and Morgan J. heard long service leave applications and denied them. It was left to the New South Wales Government to trespass into this field by Act of Parliament, and this course was followed by Victoria and Tasmania—it will be noticed in each instance by Labor Governments. Appeals were made by the employers to the High Court of Australia and to the Privy Council, and from the results of those appeals I think it must now be recognized as part of the employment conditions in Australia.

Therefore, it is not surprising that a long service leave Bill should have been introduced into this Council. I regret, however, the form which it has taken and that the Government did not feel disposed to grant long service leave on somewhat the same conditions as in other States. The general interpretation of those Acts is that 13 weeks' leave should be given after 20 years' service, and it is very important that, in a country governed by so many court awards as Australia is, some uniformity should be achieved in the conditions of long service leave; uniformity as between unions and industries and as between States, particularly as there are so many firms trading in all of the States. State awards are operative, and Federal awards cover mainly the five mainland States. I have no need to stress that uniformity in these awards is very desirable. We have the Federal court, State courts, wages boards, employers' associations and union secretaries and advocates dealing with the conditions of awards. Therefore, the question of uniformity to save argument and misunderstanding is very vital. Consequently, I regret that this Bill was not more in line with the recognized ideas on long service leave. It is better that the court commissioners should handle these awards because they know exactly the conditions of employment in the industries with which they deal. From the employers' point of view and that of the public it is better that the courts with men trained in industrial and economic matters should fix the conditions of awards rather than Parliament.

The Hon. E. Anthoney—Why was that practice departed from?

The Hon. Sir FRANK PERRY—Because presumably the Labor Governments of the other States acted before the matter was properly put before the courts and introduced legislation. I and many others think that such a vital matter should have been submitted to the court for decision.

The Hon. F. J. Condon—Didn't the Parliaments introduce legislation regarding their own Government employees?

The Hon. Sir FRANK PERRY—It is all very well for a Government to legislate for its own employees, but we are talking of economic conditions which must be safeguarded and carefully watched by those engaged in industry. I think that every honourable member would rather be spared the research necessary to make a good and practical decision and would prefer that it should be made by the courts. Everyone must be concerned at the cost of production, in which wages and conditions are a big factor, and I think the public would be more satisfied if the matters involved in this Bill were referred to the court rather than that they should be decided by Parliament.

Mr. Condon mentioned that he had advocated long service leave for 48 years, but evidently he got no results from the courts. During this time various companies and other employers had established superannuation schemes, service bonuses and various forms of long service leave without court or Parliamentary compulsion. It is true and understandable that they should differ. It is important to study the particular industry in which the conditions apply and naturally the peculiar circumstances of that industry. Employers having established these arrangements without waiting for the court or Parliament, I see no reason why they should now be penalized. This Bill should not superimpose on them any conditions other than those they now work under provided, of course, that those conditions are comparable with those provided in the Bill. However, it does not fully provide for exemptions, and at the proper time I will move an amendment to meet this position.

Employees in Australia can be regarded under several headings, but mainly under three. They are, first, those governed by Federal court awards, secondly, those employed under State court awards and wages boards, and thirdly, those who are non-unionists and presumably

are covered by no award and often have no suitable union available to them. It is very evident that a State Act is necessary if non-unionists are to receive the benefit of long service leave. The Government has evidently adopted this view and made provision in the Bill. I venture the opinion that it sprung from the imaginative and fertile brain of the Premier who, in many ways is not orthodox, and I do not think he has been orthodox in the production of this Bill. However, it provides a benefit to a very large number of people, who will welcome it, particularly those who are not covered by a union.

I have figures which I will give the House covering the three classes of employees I have mentioned. The first group of figures is taken from returns from 1,100 employers who are actively organized to state their case before the Federal and State courts. Under Federal Court awards there are 32,000 employees, or 54 per cent; under State awards 18,400 employees, or 31 per cent; and non-unionists, 8,800, or 15 per cent. These figures cover a group of 1,100 employers and consequently cannot be accepted as the total number, but they give an indication of the split-up in that group. The 1954 census showed that 321,000 people were gainfully employed in this State, and it is estimated that 53.2 per cent of that number were covered by State awards or wages board determinations. That percentage accounts for 171,000 people. Under Federal Court awards 25.6 per cent, or 82,000, were employed, and 21.2 per cent, covering 68,000, were under no awards. Of course, these figures are not strictly applicable as they come from the census, but they show how the various classes of workmen are employed. I emphasize particularly the number covered by court awards. From these figures it seems to me that it is evident that a State Act is necessary for non-unionists and others of that type to receive any benefits from the Bill or from any long service leave.

The Bill provides very definite advantages. It provides for one week's pay for leisure after seven years' continuous service and for a further week each year, which can be allowed to accrue if agreed upon. This does not agree with my ideas, nor does it suit organized industry, but it is a form of long service leave that will suit a number of people. Apart from the objections that I have already stated, organized industry has a very strong objection to the disruption caused by indiscriminate weekly leave. One can quite understand the changes necessary in any organization if at any time any employee who has a week's leave can take it on application. This is one of the main objections that employers have to a week's leave every year being taken indiscriminately, and I propose to attempt to modify this. .

Although I am prepared to accept the Bill up to a point I desire a number of amendments, particularly to clause 13. I am sorry that my amendments are not on members' files. I propose to move that clause 13 be re-cast to exempt employers and employees who are or may be covered by Arbitration Court awards that grant long service leave. That applies both to State and Federal awards. I shall also move that the exemptions shall include employers and employees who are covered by agreements or arrangements that are equal to or better than the Bill. I shall now indicate other amendments I propose to move that would satisfy me and a large number of employers. Clause 4 (*e*) provides that continuity shall not be deemed to have been broken by interruption of the worker's service arising directly or indirectly from industrial disputes, but only if the worker returned to work in accordance with the terms of settlement of the dispute. This State has an Industrial Code that provides, among other things, that no person or association shall do any act or thing in the nature of a strike, continue any strike or take part in any strike, and prescribes a penalty of £500 for a breach of this provision, so it seems to me to be wrong to have a clause in this Bill to provide that anything in the nature of a strike shall not affect the terms of long service leave.

The overlapping of court awards is a complication that has developed in industry. There is a ruling in the courts when the majority of employees in an industry are under an award the employer can apply the conditions of that award to all of his employees.

The Hon. K. E. J. Bardolph—Have you got that quite clear yourself?

The Hon. Sir FRANK PERRY—Yes, and I can cite cases in which the court has done that. It is a big convenience to both employers and employees for them to be able to transfer without having to have a different set of conditions. I think the State court should have the authority to say whether a superannuation scheme or any existing scheme for long service leave is either equal

to or better than the present Bill. The Bill provides that it is the Public Actuary who will make this decision, but to my mind the President of the court is far better informed and able to give a satisfactory decision. I would like to see provisions in the Act which would provide against the overlapping of awards. Employers will endeavour to adopt court awards on long service leave, and I think a certain time should elapse to enable them to do this. I wish to see that when this is done there will be no overlapping between the Bill and the awards, and that additional pay is not granted under those conditions.

I would like to see clause 22 deleted altogether. That clause governs casual employees, but how long service leave could apply to casual employees I do not understand. A casual employee usually has a loaded rate and the fact that he is a casual employee means that he has increased rates on that account. It might just as well be said that an employee in industry who leaves one employer and goes to another in the same industry should qualify for long service leave, but the Bill does not provide for that and in fact stipulates that the service must be with the same employer. It seems to me that the suggestion of long service leave by regulation which this Bill proposes is entirely wrong, and if at any time the Government feels disposed to bring in a Bill covering casual workers I think it should be brought in as an amendment to the Bill rather than by means of a regulation.

I think it will be gathered from what I have said that I support the Bill up to a point and will vote for the second reading. However, I do desire that some amendments should be made so that people who are under Federal or State awards will be relieved of the provisions of the Bill. To my mind, it is the unorganized sections of the community which this Bill seeks to cover, and I see no other way of granting them long service leave than by an Act of Parliament. I therefore support the second reading, but will move the amendments that I have outlined.

The Hon. S. C. BEVAN secured the adjournment of the debate.

METROPOLITAN DRAINAGE WORKS (INVESTIGATION) BILL.

Adjourned debate on second reading.

(Continued from September 19. Page 726.)

The Hon. Sir ARTHUR RYMILL (Central No. 2)—This is a very short Bill but like so many short Bills that come before this Council it involves the expenditure of some millions of pounds and therefore naturally challenges the attention of members. The Bill is largely one for experts. I was a member of one of the councils concerned with the provisions of the Metropolitan Floodwaters Act, a somewhat similar measure to the present one, which was the first legislation to really grapple with the problem of the Adelaide plains, and I think the present Bill can be considered somewhat in the light of experience of that Act and the workings of it.

There is no doubt that when a plain such as the Adelaide plain is closely settled it brings in its wake many ancillary problems, and not the least of them is the disposal of the storm waters, not only from the fact that the ground can no longer absorb them so well but also from the fact that the stormwaters still run on to the plain from the adjacent hills. This Bill is more or less a matter for experts, and therefore I am prepared to be guided to a large extent by the opinions of the experts who have closely examined the matter and who, if this Bill is passed, will further consider it. The first thing that struck me when I read this Bill was that it seemed to be a somewhat unusual procedure that instead of the proposal being referred direct to the Public Works Standing Committee it was to be referred to that Committee by an Act of Parliament. However, I think that point was fairly adequately covered by the Minister of Local Government in his second reading speech when he said that the Government could have referred the proposal to the committee by a different procedure but that it had expressly chosen to proceed by statute in order to obtain at the outset Parliamentary approval for two principles, namely, that the councils which benefit by the work will contribute half the cost, and that the shares and instalments of the respective councils will be in accordance with the recommendations of the Public Works Standing Committee. Those two matters seem to me to be the crux of the Bill, because the Government could well have referred the proposition to the Public Works Standing Committee and then presented the committee's opinion to this Council for its judgment, coupled, of course, with the judgment of another place.

I will deal with the first of these two matters, namely, that the councils which benefit by the work will contribute half the cost. That is a principle to which this Chamber could readily accede, because in my understanding and experience that is quite the usual

and indeed the accepted manner of dealing with a public work of this nature. The only comment I have to make apart from that is that the words "the councils which benefit by the work" in the Minister's second reading speech do not appear in the Bill. The wording of the Bill is, "what local governing bodies should contribute . . . . and what should be the share of each contributing body." Speaking from memory of what transpired about 20 years ago at the time the Metropolitan Floodwaters Drainage Scheme was under consideration I am conscious of the fact that there was some dissension because of the fact that certain councils who claimed not to be benefiting from this scheme, but through whose territories the floodwaters ran, were obliged by the Act to pay a portion of the cost. I am not debating the question of whether they should be obliged to do so in this case, but I am drawing attention to the wording of the proposed reference to the Public Works Committee. As I see it, if the Bill is passed in its present form it will be left to the Public Works Committee to decide what councils who have no direct relation to this scheme should pay and in what proportion.

The Minister has said, in effect, that he wants Parliament to bind itself to these principles and I am not suggesting that there is anything wrong in that. We should be quite clear, however, as to what we are binding ourselves, and I hope that the Minister will enlarge on that and tell us exactly what is meant by the phrases he used and by the verbiage of the Bill itself.

The second point that he made, as to the motive of this unusual method of presentation, was that the shares and instalments of the councils will be in accordance with the recommendations of the Public Works Committee, and he wants Parliamentary approval also for that principle. I know that it is an almost accepted tradition or mode of procedure that when Parliament refers a matter to a responsible committee it normally accepts its findings. I use the word "normally" advisedly because I feel that we should be at liberty to criticize that committee in its findings —although I say it with the utmost respect to that valuable and important committee—because I have yet to meet a man or body of men who cannot make a mistake, or overlook something, or be unwittingly misled. I do not believe that there are such people or bodies and therefore I should like to feel at liberty to give the fullest consideration to the committee's recommendations and to criticize its report. In other words, I am not prepared to accept a proposition that I, as a member of this honourable council should, because I support the Bill, find myself bound to accept anything in the wide world that the Public Works Committee—admirable as it might be—may recommend.

The other thing on which I should like further information is what other councils apart from Brighton and Marion are involved. I know that our Government is a very careful custodian of public funds and that it would not for one second embark on a scheme of this magnitude unless it were absolutely satisfied that the scheme was not only justified but necessary. The way it has proposed that the work shall be done step by step is an admirable approach to it, but I feel that this honourable Council should know—and perhaps particularly the members for Central District No. 2—what other councils are likely to be involved and what other councils may reasonably be expected to have some imposition put on them by the recommendations of the Public Works Committee.

I say, apropos of what was done under the previous Act where the mere fact that stormwaters passed through municipalities involved them in a contribution, that I would like the Minister to tell us what other councils are likely to be involved and the nature of the benefit they will receive; and whether there is any intention to impose any obligation on councils whose areas will not be drained by the scheme but through which the drains will pass.

The procedure and methods of responsible public bodies such as this Parliament are expressly designed to enable people concerned with possible legislation to make representations in the right quarter if they feel their interests are affected. So far a great deal of publicity has not been given to this scheme; certainly not in ratio to its magnitude and the costs involved, and therefore I would also like the Minister to tell us whether other councils likely to be affected have been notified of the full import of this scheme and invited to make their comments and to raise any criticism or complaint they may have. It is important that all councils that may be involved should have an opportunity to say what they think about the scheme and whether it appeals to them. I know that they will have an opportunity to put their case before the Public Works Committee, but by then, of course, we will have bound ourselves more or less, in the words of

the second reading speech, to certain propositions. Therefore, if it has not already been done, I feel that before this Council finally passes this measure the councils other than the two who have been closely into the matter should have an opportunity to make representation in the right quarters if they wish to do so.

Finally, through the kind graces of the Minister, I have had an opportunity of seeing the report of the governmentally appointed committee on whose report the Bill has been brought down, and I would like to say that it was obviously an expert and excellent committee that has done a very fine job. I compliment it on the way it has presented its recommendations and the obviously great deal of time and interest devoted to this important matter. It is my present intention to support this measure with the reservations mentioned.

The Hon. L. H. DENSLEY secured the adjournment of the debate.

MARRIAGE ACT AMENDMENT BILL.

Adjourned debate on second reading.

(Continued from September 18. Page 669.)

The Hon. A. J. MELROSE (Midland)—This is a social Bill, and by its controversial nature, such that none of us should evade the issues involved by giving a silent vote. When I say, as I do now, that I have not been influenced by what others have said, I do not mean that I have not listened attentively to their expressed views—far from it—but rather that I propose to voice my own as they have been determined and set down from time to time, whether they agree with those of others or not, or even if they appear to have been extracted holus bolus from speeches already delivered. Speaking at a late stage in a debate such as this it is foregone that practically everything one might say has already been said, and probably better said. There is evidently no possibility of unanimity amongst us in this Council, nor is there any evidence of unanimity amongst the people outside, despite claims to the contrary.

During this debate it has been frequently reiterated that very early marriages may be expected to turn out unsatisfactorily, so we naturally ask ourselves if there is such a thing as a marriage age that can be expected to guarantee complete success. Although ages such as 25 for men and 22 or 23 for women seem to be considered ideal and, logically, the more mature the contractors the more the likelihood of success—there certainly does not appear to be any age carrying such a guarantee. When physical and economic conditions are ideal, or even satisfactory, earlier marriages might be expected to succeed and, in any case, the legal age should certainly be determined in proper relation to puberty—evidence of approaching maturity—with its impact upon the rapidly developing subject. It should be borne in mind that we are not setting out to encourage marriages at 14 and 12 as a regular practice, but that our task is rather to consider the possible effects of precocious delinquency. By retaining those ages we make it possible to avoid the stigma of an illegitimacy that some people seem to desire to be made compulsory, or at least unavoidable.

These extra early marriages may in practice lead to a more than average percentage of failures, but the choice seems to lie between unhappy marriages and celibacies far more far-reaching in unhappiness. At present parental consent is a pre-requisite to the marriage of minors, and I agree with other speakers that this authority should on no account be undermined. I feel very strongly that we should remove the additional responsibility of these cases from the hands of a Minister of the Crown and transfer it to a magistrate—preferably of the Juvenile Court. He would be trained, not only judicially, but especially experienced in dealing with the problems of teen-agers. He would be competent, too, to decide whether or not the non-consent of parents was justifiable or merely capricious. A Minister of the Crown is, after all, an accident of the politics of the day, who at first must rely upon reports from departmental officers. It would therefore seem logical and more expeditious to go straight to the officer concerned. It requires no great feat of imagination to think that such a course could possibly throw wide open the door to malpractice, influence and class bias. For these reasons I believe that a magistrate is the most fitting person to make the decision.

It will therefore be seen that I am not in favour of interfering with the present law—firstly, because I do not believe for a moment that there will be an increase in the frequency of this type of marriage; secondly, because I feel that the door should be left as wide open as possible to facilitate the legitimizing of the unfortunate children when such are involved. Therefore, I see no reason for curtailing the self-determination of the individual, nor for suspecting the good intentions and warm

interests of the parents concerned. Despite, or perhaps because of, the complete absence of any sign of unanimity upon the various aspects under consideration in the proposed reform, the public should be made to realize that the fullest and most serious thought has been devoted to it by this Council, irrespective of Party, creed or walk of life.

The Hon. C. D. ROWE (Attorney-General)—I have listened with great respect and care to all the speeches made on the Bill, and believe it has been one of the best debates I have heard in this Chamber since becoming a member, not only because of the standard of the speeches, but because I believe that every honourable member has spoken according to what he believes should be the action to be taken to get over the unfortunate problem with which we are asked to deal. The debate has been carried on without heat and on a level which I feel it should be conducted. It is that basis on which I propose to reply. In doing so, I hope to be able to raise certain matters and place certain aspects before the House which I believe will satisfy members that the Bill as introduced will go further towards solving the problem than perhaps some of the amendments which have been foreshadowed.

The first point is that the first Bill was introduced in this House on the matter in 1955 following a request by a deputation of the following organizations which waited upon the Chief Secretary:—The Adelaide Women Graduates Association, the Baptist Union, the Church of Christ, the Business and Professional Women's Club, the Civilian Widows' Association, the Congregational Union, the Country Women's Association, the Housewives Association, the Methodist Church, the Mothers and Babies' Health Association, the Returned Sisters Branch of the R.S.L., the Salvation Army, the Soroptimists Club, the Presbyterian Church, the United Churches Social Reform Board, the Women's Christian Temperance Union and the Women Justices Association. Whether we agree with all their views or not, it must be admitted that these organizations are vitally interested and represent a fairly large body of opinion in the community. Following upon the defeat of the Bill in 1955 further requests were received from certain of these organizations asking the Government whether it proposed to introduce a Bill and, if so, when. I have before me their letters. In the meantime the Government has received no request, nor have I personally, not to proceed with the Bill. So, the information which the Government has before it in the matter is that all these people made the request and notwithstanding that a Bill has been before the House on two occasions, there has been no request for the Government not to proceed with this legislation. Therefore, it has submitted the Bill for reconsideration during the present session, and has done so not lightly nor without very serious consideration as to what the demand for the Bill is, and what the effect of it will be if passed.

In considering the position, it has had in mind these facts—first, that the law on this matter was altered in England in 1929 when the marriage age for male and females was raised to 16 years, and that has worked quite satisfactorily since. Secondly, the Government has had regard to the fact that in Tasmania in 1942 the ages were raised to 18 and 16, respectively, and a report which the Government has obtained from the Registrar-General of Births in Tasmania contains this statement:—

> The minimum age provision became law in 1942 and has proved completely satisfactory. A considerable number of cases come before the magistrates and myself. In the majority of cases an expected child has been the principal reason offered, but permission on such grounds alone would not be granted lest it becomes a means of "getting round" the minimum age law.
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> Care is then taken to see that the provision is not used as a means of escaping criminal liability. There is much to commend the provision. I have heard nothing against it, and the ages prescribed seem to meet with general satisfaction.

There are other countries in which the ages of marriage are higher than those proposed in South Australia. They are France, Germany, Sweden, Norway, Turkey, Spain and, curiously enough, Japan. In Western Australia ages have been increased to what are proposed in this Bill, and by a curious coincidence there was brought to my notice only a day or two ago an article published under the heading of "How Successful are Early Marriages" appearing in the American magazine *Red Book*, and in it is set out the ages for marriage in all the States of the United States of America. Although the ages do vary, I think a correct assessment of the position is that in the majority of the States the ages are those proposed in this legislation. Therefore, I believe that what I have said demonstrates that what we are proposing will bring us into line with what has been found to be satisfactory in England, Tasmania, the United States of America and other countries.

The Hon. F. J. Condon—What about coming nearer to home and telling us about Queensland, Victoria, and New South Wales?

The Hon. C. D. ROWE—I can deal with them in due course. During the last seven years in this State 155 girls under 16 years and 133 boys under 18 married, so what the House is considering is that each year 22 girls and 19 boys on the average will be affected by this legislation. Complete figures cannot be obtained to show the relevant ages of the bride and bridegroom for the whole of this period, but I have taken out the information for the year 1954, which I think could be regarded as a representative year to show the respective ages of the parties to these marriages at such early ages.

The general position seems to be that boys marrying under 18 years of age marry girls who are either younger or approximately the same age. Out of 18 boys who married in 1954 two married girls aged 15, five aged 16, two aged 17, seven aged 18 and two aged 19. Therefore, in the majority of cases, the girls were of the same age or younger. As to girls who married under 16, a very different set of circumstances applies. Out of the 26 girls who married in 1954 the ages of their husbands were as follows:—None under 16, one aged 16, one aged 17, one aged 18, five aged 19, two aged 20, 12 aged between 21 and 25, two aged between 25 and 30 and two aged between 30 and 35. So, in the majority of instances, the husbands were older, and in some cases very much older. I think it follows from that that it is almost certain that these marriages are permitted because the husband concerned wants to escape criminal responsibility.

The Hon. Sir Arthur Rymill—Of itself, such a marriage does not do that.

The Hon. C. D. ROWE—No, but normally speaking if the parties do agree to the marriage and the matter is submitted to the court, it will probably result in the husband being released on bond, or otherwise he would receive a gaol sentence. Frequently, such marriages are undertaken to avoid criminal responsibility. It seems to me that under those circumstances whether the marriage is likely to be successful or not does not enter into anyone's consideration, and I feel that that should be the first consideration—whether or not it will be successful and whether it will result in achieving the purpose for which marriage is designed.

It seems to me that in the cases where the husband is over 21 and no-one's consent is required as far as he is concerned, the principal reason for the consent of the girl's parents is probably at the representation of the father of the child to avoid his criminal responsibility. On this matter a detailed report was obtained when the Bill was before the House on the last occasion from the Principal of the Women Police. I believe she would have as much experience and knowledge as anyone on this matter, and would be as capable as anyone of forming an opinion of what the attitude on this Bill should be. I propose to read her report for the benefit of members, as I believe what she says is very important. The report is as follows:—

I beg to report having given serious thought and discussions with senior members of the Women Police regarding the raising of the marriage ages in South Australian from 12 years for girls and 14 years for boys. Modern girls from 12 to 16 years are physically and mentally unstable, and their decisions are easily swayed. They have periodical "crushes" on various types of movie stars, and imitate their hair styles, clothes, and talk. The sex side of life is displayed blatantly by every modern means, and this also has an impact on the mental outlook of a young girl. If she does not "play around" with youths she forms the opinion that she will be left altogether, as certain types of youths want to be with girls who are willing to allow them sexual relations. When the girl becomes pregnant she tries to make the boy marry her, even to the extent of making a statement regarding indecent assault. To save him a conviction his parents are willing for his marriage, or if he is over 21 years, he marries her to save his good name. Marriages such as these to save the good names of the parents or children concerned are seldom happy, and in fact most unhappy, as one of the parties resents having been "forced" to marry, and in later life frequently states this fact. The following are the types of cases to which I refer:

In her report the Principal referred to the case of a mother married at 14 years, deserted the home at 20 years, leaving four children, and those children are now being reared in the Protestant Children's Home. In another case, where the girl was married at 16, the husband now threatens to leave the home. He is only 20 years of age, and there are two children. In another case where the girl was married at 16 years, she had been married 10 weeks when the husband brought his girl friend home, and he has now left and is living with his girl friend. The pregnancy of the wife in that case was the reason for marriage.

The Hon. L. H. Densley—Is this an attack on your Bill?

The Hon. C. D. ROWE—No, it is in support of it.

The Hon. L. H. Densley—It seems to me as though it is an attack on the Bill.

The Hon. Sir Arthur Rymill—These marriages would be permitted under your Bill.

The Hon. C. D. ROWE—Not all of them. The report indicates that there is an increasing possibility of young marriages not being successful.

The Hon. F. J. Condon—What is the percentage?

The Hon. C. D. ROWE—It is given in a later part of the reply. In general terms the percentage of unsatisfactory marriages increases very greatly. From memory, I think the percentage of marriages that break down in cases of people under the ages provided in this Bill is 21 per cent, or it may be higher, whereas only 6 per cent of marriages contracted between more mature people are broken.

The Hon. Sir Arthur Rymill—But some are successful, aren't they?

The Hon. C. D. ROWE—Yes.

The Hon. Sir Arthur Rymill—Wouldn't it be useful to save them?

The Hon. C. D. ROWE—I will deal with that later. It does not follow that the marriages that would be successful would not be permitted under this Bill. I think the majority of marriages that turn out to be successful are those to which the Minister would give his consent. The report continues:—

> The money earned by boys under the age of 21 years is not sufficient to support a wife and family during the present economic situation. The responsibility of married life, with the lack of the necessary knowledge in the management of monetary and household affairs and parentcraft, causes young couples to be fed up with their home life and to seek outside recreations. This is the first step towards desertion and divorce.
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> I am in favour of the raising of the marriage age, and my opinion is based on 23 years' service in the Women Police, where the tragedy of the broken and deserted home, the careless and irresponsible parent, is a daily feature and the main cause in the increase in child delinquency.

That is an opinion of a person for whom I have the highest regard, and who I believe would have a more detailed knowledge of this matter than possibly any member or any other person in the community. The Government feels it is justifiably entitled to rely on the opinion of a person who is so experienced and who has had personal contact with these matters. Her final statement is quite unequivocal, and I have not heard anything produced in this debate that contradicts in any way the evidence she has set out. All the authorities, and as far as I can see, all the people who are in a position to have a detailed knowledge of the problems involved in this matter are wholeheartedly in favour of the Bill, and in my view this provides ample justification for the attitude of the Government on this question. Further, I remind members that all members who were in this Chamber in 1955 voted for the Bill then.

The Hon. L. H. Densley—Was there a division?

The Hon. C. D. ROWE—There was not, but if anyone had been against it I am sure there would have been a division. I now come to what the Bill proposes to do, and I shall deal with it in three aspects. Firstly, I shall deal with girls under 12 and boys under 14. As Sir Arthur Rymill said, it would be theoretically possible for the Minister giving consent to a marriage under those ages, but I do not think it has been seriously suggested that any Minister would do so. In the last few years there have been no marriages like that in this State, so I think it is safe to say that the Bill makes no change in the law in regard to these people.

The Hon. Sir Arthur Rymill—I agree with that, but don't you think you should amend it?

The Hon. C. D. ROWE—Possibly there may be a good argument for it, and I think a minor amendment, to clear up this point, could be considered. I agree that possibly this should be done. Secondly, I will deal with those over 16 and 18 years respectively. I think it is common ground that there is no proposal to alter the law relating to these people. It will remain as it is at present—that they can be married on the consent of their parents, but if the parents do not consent, the Chief Secretary can give permission, as he has always been able to do. The Bill really deals with girls between 12 and 16 and boys between 14 and 18, and it seems to me that the question relates to what we should do with regard to this age group. Is the situation as we find it today such that we should attempt to improve it and to save people from becoming involved

in marriages that eventually lead to broken homes and other problems associated with the matter? It seems to me that if we accept the amendment foreshadowed by Sir Arthur Rymill we will in effect be leaving the law very much as it is at present, and therefore leaving the situation as it is now.

The Hon. Sir Arthur Rymill—If you do not accept it, all you are doing is putting parents out of the picture altogether.

The Hon. C. D. ROWE—That is not so. We should take heed of what has been done in Tasmania and other countries, including Great Britain, of reports that the increase in ages has been of advantage, and of the report of the Principal of the Women Police, and try to benefit from the examples of other countries. I think the principal objection to the raising of the ages is that it takes away the responsibilities of parents, and by virtue of that permits the Minister to prevent people from becoming married after the parents have given consent. It has been said that that amounts to something approaching totalitarianism, or at least the removal of responsibilities that we should not lightly remove from parents, but I ask members to consider the legal position at present. The Chief Secretary now has power to override the rights of parents, and he has had this power since 1936, when the Marriage Act was brought in. Before that the Registrar, who administered the matter then, had the power to do so, and he had that power since 1867, so that the wishes of parents could be overridden since that time.

The Hon. A. J. Melrose—But has the Chief Secretary overridden the consent of parents? That is the point.

The Hon. C. D. ROWE—I agree that the position is in reverse. At present, when parents do not consent, the Chief Secretary has the power to override their decision and to give consent. What we are proposing now is that between the ages of 12 and 16 for girls and 14 and 18 for boys the Chief Secretary shall have power to prevent a marriage if he believes that the future of the marriage is not bright or is not likely to succeed. In principle I cannot see any difference between those two things, and I feel that rather too much has been made of this aspect. It seems to me that in all our discussions on this matter we have not assumed, as I think we must assume in a democracy, that any Minister administering an Act will do so in a proper and considerate manner. I believe that if we act on the basis that Ministers are not responsible we will be acting on a basis which is a complete negation of all our democratic principles.

The Hon. F. J. Condon—Why put the onus on Ministers to decide social questions?

The Hon. C. D. ROWE—I believe that if a Minister were considering this matter he would obviously have regard to the wishes of the parents, and that if there were very strong representations from the parents on both sides that the parties should be permitted to marry, he would think seriously before he made a different decision. The reason I feel that it is necessary to have Ministerial consent is that it seems to me that in many of these cases, by virtue of the very facts of the situation, and by virtue of the fact that they are so vitally involved, the parents are precluded from forming an independent and intelligent judgment. They are overawed by the unfortunate circumstances in which they find themselves; they are naturally mentally upset by the whole situation and tend to clutch at what looks like a solution to the problem, whereas in many cases it does not prove a solution, and, as the Principal of the Women Police has said, only results in making confusion worse confounded and generally making the position much more difficult than if the marriage had not been permitted.

The cases which the Minister might have to consider would vary from one side where probably it is quite clear that he could give his consent to the other side where it is equally clear that perhaps his consent should not be given. There may be a case where perhaps the parties concerned are almost of the respective ages; it may be that they have lived in the same community and are of equal social status; it may be that there is adequate finance, and that in general terms there is every prospect of the marriage being successful. In those circumstances, I cannot imagine any Minister withholding his consent. We go from that to the other extreme where there is a man of perhaps 35 years of age and a girl of under 16. The man need not seek the consent of anybody. It may be that although he has not known the girl previously the girl's parents might feel they are doing the right thing by consenting to the marriage, whereas in all the circumstances that may be the very worst thing that can happen. As we have seen from the reports of the women police, it could lead to disaster and bring problems on the parents and the whole of the State.

The Hon. Sir Arthur Rymill—How can the Minister prognosticate that?

The Hon. C. D. ROWE—He would have all the details from the women police in this matter.

The Hon. L. H. Densley—We do not want a police State.

The Hon. C. D. ROWE—We are trying to improve the present situation. I know it has been thought that in these matters we are dealing with special cases, and it has been said during this debate that hard cases make bad laws. My reply to that is that that quotation is misplaced if it is used in this particular context, because that was not the original meaning of it. In any case, a very large amount of this type of legislation deals with special cases; it deals with the drunken motorist because he is a particular case, and it deals with people who steal motor cars, not because they are general cases but because they are special ones. It seems to me that with this problem either we sit back and see these marriages being celebrated, in many cases with disastrous consequences, as is evidenced by the information I have produced, or we attempt to improve the position. The evidence which we have had from all the reliable sources is that we will be improving the position by raising these ages to 18 years and 16 years respectively.

The Hon. A. J. Melrose—The Minister has not spoken much about avoidable illegitimacy.

The Hon. C. D. ROWE—I think there is a complete answer on that point. The position in this State is that there are more parents who cannot have children of their own and who are prepared to adopt children than there are children available for adoption. Last year in this State there were 800 children adopted into what I believe must have been very satisfactory homes which will give them every comfort and every opportunity in life. It has been my privilege to act for parents who have adopted children, and I have been amazed at the number of people who have adopted children and given them a much better prospect in life than they would have had under different circumstances. I believe that is the answer to the question of illegitimacy. A home is now available for every illegitimate child born in this State, and I believe that in those circumstances the prospects for the child are much better.

The Hon. L. H. Densley—Is that where the pressure for the Bill comes from?

The Hon. C. D. ROWE—No, it comes from the fact that so many of these early marriages are broken up and result in children being neglected or becoming wards of the State. The pressure comes because people feel that something can and should be done to amend the situation.

The Hon. K. E. J. Bardolph—I see in this morning's *Advertiser* that the League of Women Voters claim the kudos for having this measure brought in.

The Hon. C. D. ROWE—If it claims that it shows that there is interest in the Bill and support for the Government's proposals. The other matter with which I wish to deal is whether consent, if it is to be given, should be given by the Minister or by a magistrate. This can be more properly dealt with by a Minister of the Crown than by a magistrate. I say that because the foundation of the Judicature is to settle disputes which involve law and facts; it finds out what the facts are and what the law is on a particular matter, and for that purpose there are special rules of evidence and special procedure which should be applied. In such matters as those with which we are now dealing there are no difficult questions of fact or law to be decided; it is a question of administration, and therefore I believe that it properly falls within the responsibility of a Minister.

It seems to me that the Chief Secretary, or whatever Minister may have the jurisdiction in this matter is in a far better position to acquire all the evidence which he requires than a magistrate would be, because he can do so informally and without publicity. He has the facilities afforded by the Women Police, the Children's Welfare Department, the Police Department, and all other bodies, and in fact he has exercised this jurisdiction since 1867 and I have not heard one case of criticism of a decision he has made in these matters. I believe that in the interests of the justice of the situation and the rights of everybody concerned, the matter is better left in the hands of a Minister than being placed in the hands of a magistrate. That argument can be amplified and I will do so, if necessary, at the proper time.

In conclusion, it seems to me that the following points are perfectly obvious with regard

to this Bill: firstly, there is substantial demand for the Bill; secondly, there are numerous precedents for this type of legislation; thirdly, where this legislation has been introduced it has worked very satisfactorily; fourthly, the people who are most competent to express an opinion and who have done so are wholeheartedly in favour of the Bill; and fifthly, we either do nothing to improve this situation or we attempt to meet it in the way that is provided in the Bill.

I know that it is impossible to legislate adequately for the intimate and personal relationships of marriage, but I believe that we must do what we can to maintain and protect this institution and to see that it is lifted to a higher plane. It is because the Government is of this opinion that it has pursued this matter and introduced the Bill. As I indicated earlier, as soon as the Bill reaches the Committee stage I propose to move immediately that progress be reported so that members will have an opportunity to consider the matters which I have raised this afternoon, which I feel perhaps put a different aspect on this matter and may make them inclined to support the measure.

Bill read a second time.

In Committee.

Clause 1 passed.

Progress reported; Committee to sit again.

ADJOURNMENT.

At 4.13 p.m. the Council adjourned until Wednesday, September 25, at 2.15 p.m.