

put out of existence as rapidly as possible. In the absence of the fears I previously entertained and for the reasons I have given, I have come to the conclusion that, having ceased to exercise price control, we should not revive it. Therefore I shall oppose the second reading.

On motion by Mr. Perkins, debate adjourned.

House adjourned at 9.26 p.m.

Legislative Council

Thursday, 12th August, 1954.

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The PRESIDENT took the Chair at 2.15 p.m., and read prayers.

ADDRESS-IN-REPLY.

Presentation.

The PRESIDENT: I desire to announce that, accompanied by other members, I waited upon His Excellency, the Lieut.-Governor and Administrator and presented the Address-in-reply to His Excellency the Governor's Speech at the opening of Parliament. The Lieut.-Governor was pleased to reply in the following terms:—

Mr. President and hon. members of the Legislative Council: I thank you, on behalf of His Excellency the Governor, for your expressions of loyalty to Her Most Gracious Majesty the Queen, and for your Address-in-reply to the Speech with which he opened Parliament.

BILL—INQUIRY AGENTS LICENSING.

Read a third time and returned to the Assembly with amendments.

BILLS (2)—REPORTS.

- 1, Lotteries (Control).
 - 2, Warehousemen's Liens Act Amendment.
- Adopted.

BILL—RENTS AND TENANCIES EMERGENCY PROVISIONS ACT AMENDMENT.

Assembly's Message.

Message from the Assembly notifying that it had agreed to amendments Nos. 1 to 13 inclusive, Nos. 17 to 25 inclusive, and Nos. 27 and 28 made by the Council; had disagreed to Nos. 14, 15, 16 and 29; had agreed to No. 26, subject to further amendments; and proposed an alternative amendment to No. 29 now considered.

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

No. 14. Clause 10, page 5—

After the word "fifty-four" in line 16 insert the following words and brackets:—"and before the thirty-first day of August, one thousand nine hundred and fifty-five)."

The CHAIRMAN: The Assembly's reason for disagreeing to this amendment and to amendment No. 15 is as follows:—

These amendments are disagreed to because it is considered reasonable that the proviso should operate for the duration of the Act.

The CHIEF SECRETARY: I move—

That the amendment be not insisted on.

I think it must be agreed that the Legislative Assembly has been very generous in its attitude towards the Council's amendments, and that we have reached a stage where we, too, could be generous and agree to the Assembly's requests. There are only four or five amendments in respect of which that House requires some alteration. The Assembly has given way on—

Hon. H. K. Watson: Two or three!

The CHIEF SECRETARY: Actually, over 20. Admittedly some are consequential amendments. However, I think we should hold out the olive branch on this occasion, without detriment to anybody, and agree to accept the Assembly's proposals.

Hon. L. A. LOGAN: I think the Committee should insist on this amendment. When I moved it originally, it contained the words "thirtieth day of April." The Chief Secretary said that if the "thirty-first day of August" were substituted he would accept the amendment. I conceded that point. This amendment deals with Clause 10 of the Bill and has reference to a landlord giving notice to a tenant to quit, without thereafter increasing the rent of the premises except by determination of the fair rents court. We considered that the proviso should remain in force only until the 30th April; but, as I have said, at the suggestion of the Chief Secretary the period was extended to the 31st August.

It seems to me that another place did not realise what this provision means. Surely the inclusion of a few words does not so upset the meaning that it is difficult to see what is intended. The intention should be clear to anybody.

It has been said that the Assembly has given a lot away. From what I can gather, it has agreed to all the consequential amendments, but rejected the important ones. It has given nothing away at all. There may be some directions in which we can concede something in respect of later provisions, but we cannot do so in this instance.

Hon. H. K. WATSON: I hope the Committee will insist on this amendment, and I shall vote against the Chief Secretary's motion, particularly as the amendment was accepted by the Government when it was moved by Mr. Logan in the circumstances he mentioned. I trust that the Committee will not be unduly impressed by what the Chief Secretary said, and what we read in blazing headlines in this morning's paper, to the effect that the Assembly agreed to 23 of the 29 amendments requested by the Council. It is true that numerous amendments, such as the one deleting the word "is" and substituting "are," have been agreed to by another place; but so far as substantial alterations are concerned, it disagreed with three amendments entirely, and with three others partly, and accepted only two or three.

To anyone who has read the report of the discussion that took place on this amendment in another place, it is obvious that our brethren there, for some extraordinary reason, have no idea what it means. Yet it only has to be read and it will be found to be very clear. Paragraph (a) of Clause 10 is a transitional proviso designed to stop any landlord who gives a tenant notice to quit from thereafter increasing the rent of his premises without going to the court. The amendment is intended to put a limit to that provision for this reason: Although the Act as it stands is due to expire on the 31st December, 1955, we know from experience that it has quite a good chance of continuing to the 31st December, 1965; and, unless there is some limitation to this provision, all sorts of complications will be created in the future, when actually it is only being inserted to cover the transitional period of the few months which we are considering.

We say that this provision should apply only to notices to quit issued between now and August of next year. If there were not such a limiting proviso, we could have an extraordinary anomaly. A man might have been charging a rent of £5 on the 29th April last. On the 1st May, either with or without the consent of the court, he could have increased that rent to say, £8, and for the next couple of years could be charging that rent. Then, in two years'

time he might give notice to the tenant to quit, not with a view to increasing the rent, but with the object of putting in another tenant at the same rent. As soon as he gave that notice to quit, the rent would automatically be reduced to what it was on the 29th April, 1954—unless there is some such limitation as the amendment provides. That is why I suggest that 12 months for this transitional protective provision is adequate.

The CHIEF SECRETARY: I am surprised that the hon. member has to go to such extraordinary limits to prove his case. He referred to the measure lasting until as late as 1965. This Act, however, operates only to December, 1955. The difference between what the amendment seeks and what the Legislative Assembly wants is the difference between the 1st August, 1955, and December, 1955. If there were any continuance of the Act beyond December, 1955, would there not be ample time next year to insert safeguards?

Hon. H. K. Watson: There would be no opportunity to do it then.

The CHIEF SECRETARY: Of course there would! There would have to be a fresh Bill.

Hon. H. K. Watson: A continuance Bill.

The CHIEF SECRETARY: Well, a continuance Bill.

Hon. L. A. Logan: We could not alter it, because it would only be a continuance measure.

The CHIEF SECRETARY: That is not the only way measures can be altered. Has the hon. member never introduced a private member's Bill to amend an Act? Any Act of Parliament can be altered except in the way of imposing an extra burden on the community. I want to draw attention to the fact that when I introduced this measure I said I hoped, and I honestly believed, that this would be the last time this Act would be before us. I will be the most surprised man in Western Australia if there is any need to bring in a similar measure next year.

Hon. A. F. Griffith: What difference does the period of four months make?

The CHIEF SECRETARY: If it makes no difference, why alter it?

Hon. H. Hearn: Why did you accept the amendment when we were in Committee?

The CHIEF SECRETARY: Because August was better than April, and I wanted to get a longer period.

Hon. A. F. Griffith: Why did you answer my question by asking another one?

The CHIEF SECRETARY: That is a good way! The hon. member probably knows as well as I do that the best means of defence is attack.

Hon. Sir Charles Latham: Confound your enemies!

The CHIEF SECRETARY: That is all the argument is over—a matter of three or four months. The Assembly believes that the period should be for the duration of the measure, and I agree. If a certain period is given to a measure, why not let its provisions operate for that period?

Hon. H. K. WATSON: The Chief Secretary has over-simplified the position. I would like to assure the Committee that, unless some provision is inserted here, there will be confusion. It could be December, 1955; but there must be some limiting provision in the section, or in one year's or two years' time we will find ourselves in an extraordinary position through our incompetence on this occasion.

Question put and a division taken with the following result:—

Ayes	11
Noes	14
<hr/>	
Majority against	3

Ayes.

Hon. C. W. D. Barker	Hon. R. F. Hutchison
Hon. G. Bennetts	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. G. Fraser	Hon. W. F. Willesee
Hon. J. J. Garrigan	Hon. R. J. Boylen
Hon. E. M. Heenan	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. Sir Chas. Latham
Hon. L. Craig	Hon. L. A. Logan
Hon. L. C. Diver	Hon. J. Murray
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. C. H. Henning	Hon. J. McI. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. H. Hearn
	(Teller.)

Patr.

Aye.	No.
Hon. F. R. H. Lavery	Hon. Sir Frank Gibson

Question thus negatived; the Council's amendment insisted on.

No. 15. Clause 10, page 5—After the word "notice" in line 19, insert the following words:—"or the first day of August, one thousand nine hundred and fifty-four (whichever is the later)."

The CHAIRMAN: The Assembly's reason for disagreeing to this amendment is the same as that which applied to No. 14.

The CHIEF SECRETARY: I move—

That the amendment be not insisted on.

Hon. L. A. LOGAN: I must ask the Committee to insist on the amendment. This proves the confused thinking that went on in another place, because the reason given for disagreement with this amendment is the same as that given for No. 14, but the amendments are entirely different. One deals with limiting the time of the Bill, and the other with the retrospective portions of it. To add to the confusion, the Minister for Housing said that he had received expert advice on this clause, and the one before it, and no one could give him a suitable answer except the office boy, and his answer could not be printed. Yet we are asked to accept amendments that have been passed to us from down there.

Members will recall that all we endeavoured to do here was to take out of the Act any reference to actions of the landlords from the 1st May until the coming into being of the legislation, or the 1st day of August, our contention being that any man who made a contract within the law was quite entitled to keep it, and that there should be no retrospectivity to the 1st May. Surely we are not going to ask that landlords who did something according to the law should have to refund any increased rent they might have received during the period in question! If this measure comes into operation, there will be nothing to prevent the tenant from going to the fair rents court and asking it to adjudicate on what rent shall be charged.

The CHIEF SECRETARY: It is just as well that the Committee should know what it is doing. If a person has committed an offence since the 1st April by overcharging for rent—

Hon. H. Hearn: He cannot have committed an offence.

The CHIEF SECRETARY: It is just a matter of how we look at it.

Hon. N. E. Baxter: Do you mean a moral or a legal offence?

Hon. H. K. Watson: There is no offence at all.

The CHIEF SECRETARY: Not in the hon. member's eyes. But if a landlord raises the rent from £2 to £10 and the tenant gets an order from the court, are we going to say to the landlord, "Although you robbed the tenant during that period, you may get away with it"? That is what members will be doing if they agree to the amendment. We can raise technicalities about the law, but these are the bare facts.

Hon. A. R. Jones: What about the position when the landlord decreased the rent?

The CHIEF SECRETARY: That could be corrected; but the hon. member might as well think he is going to the North Pole tomorrow, as that rents have been decreased. If members agree with Mr. Logan, they are going to say that no matter how much the landlord robbed people during that period, he will be whitewashed.

Hon. A. R. Jones: You are using very strong words.

Hon. L. A. LOGAN: The amount of rent that would be involved would be the increase that applied during the three months. The Chief Secretary wants to make criminals, almost, of people who have acted according to the law. He is endeavouring to make the law retrospective.

The Chief Secretary: Did the hon. member, or did he not, make his proposal retrospective?

Hon. L. A. LOGAN: No. I took out the words that made it retrospective.

The Chief Secretary: You had it carried.

Hon. L. A. LOGAN: I asked afterwards that those words be taken out. It was in my mind at the time.

The Chief Secretary: They would have been left there.

Hon. L. A. LOGAN: No. I asked of my own volition that they be taken out.

The Chief Secretary: After you got the cane about it!

Hon. L. A. LOGAN: No. Of my own volition I asked that those words be taken out. I went to the other members and said, "I think we should take these words out; what do you think?" That was of my own volition.

The Chief Secretary: And you put them in of your own volition, too, did you not?

Hon. L. A. LOGAN: Yes. The only amount concerned is the three months' rent from the 1st May to the 1st August. The Chief Secretary wants to make criminals of men for three months' rent. We should not do that.

The CHIEF SECRETARY: I would not have risen again if Mr. Logan had not said that I want to make criminals of these people.

Hon. A. R. Jones: You just about called them robbers.

The CHIEF SECRETARY: I said that if there were people who robbed others, they should be made to disgorge what they had taken. If a judgment were given by the court, there would be a readjustment over the period in accordance with the court order. That is not making a criminal out of anybody.

Hon. N. E. Baxter: Has it ever happened that rent has been increased by the fair rents court?

The CHIEF SECRETARY: I do not know what has happened at the fair rents court. I am dealing with the actual position here, and not with what might happen. When people made application to the court, the court would say, "The rent should be so much." If the amount charged by the landlord was excessive, then there would be a readjustment. This is not making a criminal out of anybody.

Hon. A. R. Jones: According to you, they are robbers.

The CHIEF SECRETARY: Ned Kelly used a gun, but these people have not. They have used the silence of the law. That is the difference. I am surprised that members should aid and abet this sort of thing. A person who is not a sworn valuer would not know the value of his property; but the court, after investigation, would decide what it should be. What fair-minded man would object to a readjustment over the period during which the extra amount was charged?

Hon. A. R. JONES: I hope the amendment will be insisted upon because it involves a principle. The owner has never had a reasonable chance of collecting the rent to which he was entitled. When the court previously gave a ruling, it was not back-dated three months, six months, or any other period. The person who rented a property for a period beforehand, and had his rent increased, smiled to himself and said, "I got away with it for a long time." If landlords are charging greater rents today, they are entitled to them. There may be 4 or 5 per cent. of the landlords who would do the wrong thing, just the same as there would be 4 or 5 per cent. of the tenants who would do the wrong thing; but to legislate for that percentage would be doing the wrong thing.

Hon. R. F. HUTCHISON: To say that 5 per cent. of the landlords are charging too much is just guesswork. Members know that it is more like 90 per cent. of them who are charging too much.

Hon. A. R. Jones: Where do you get your information from? Are you guessing just the same?

Hon. R. F. HUTCHISON: I know more about it than does the hon. member. I recently received the case of a woman whose landlord increased the rent from £4 18s. to £10. I have noticed many £10 rents about. I did not know why, but I have found out the reason. When this woman's rent was raised, and she agreed to pay it, the landlord immediately took her to the Supreme Court; and because she was paying more than £10 in rent, got an order against her. This seems a dreadful thing to me. She has a registered apartment house and now that she has to get out she will have to find room for her family.

Hon. L. C. Diver: She was getting a rake-off.

Hon. R. F. HUTCHISON: I do not think she was. People with apartment houses cannot do as they like in them.

Hon. Sir Charles Latham: Some of them do.

Hon. R. F. HUTCHISON: It is entirely wrong for the Opposition to say that the rents are not retrospective. The rents charged today are exorbitant, and it is no use the Opposition saying that the landlord is not getting what he should. I have found that very few of the 1939 houses are still owned by the original owners. I have never agreed that a landlord should be denied his just rights; but to say that people are not suffering now is completely untrue. A landlord can raise the rent to any figure he likes, and then he can follow it up with an eviction order. That happened in my case.

Hon. A. R. Jones: You might have been a bad tenant.

Hon. R. F. HUTCHISON: No, I was not. I have a recommendation from my landlord that I am a very good tenant.

I have been in my place for 18 years. He has no quarrel with me, but he wants to auction the premises.

Hon. Sir Charles Latham: You said that you had an eviction notice.

Hon. R. F. HUTCHISON: Yes. He raised the rent to £8 5s. 3d. a week, but later compromised by reducing it to £6, and then he gave me an eviction order a week after. It was a registered apartment house, and all he wants to do is auction it. The rents and tenancies legislation has a deeper meaning to me, now that I hear these amendments being opposed, than it had before. This follows upon the pegging of the basic wage and the margins for skilled workers. It is an impudent attack on the standard of living.

The CHAIRMAN: I ask the hon. member to keep to the Bill.

Hon. R. F. HUTCHISON: I am keeping to it. I have raised these points because this Bill is the basic reason for them.

Hon. H. K. Watson: On a point of order, Mr. Chairman, I think the hon. member might confine her remarks to the subject matter before the Chair.

The CHAIRMAN: The hon. member has already been told to do that.

Hon. R. F. HUTCHISON: I am confining my remarks to the Bill, because it is the basic reason for the cost of living rising, and the workers are being cheated out of their rights.

Hon. Sir Charles Latham: That is nothing to do with the Bill.

The CHAIRMAN: I ask the hon. member to keep to the Bill.

Hon. R. F. HUTCHISON: It is only just that there should be retrospective payment, and I hope that the amendment will not be insisted on.

Question put and a division taken with the following result:—

Ayes	.....	.....	.....	.....	11
Noes	.....	.....	.....	.....	14
Majority against	.....	.....	.....	.....	3

Ayes.

Hon. C. W. D. Barker	Hon. E. M. Heenan
Hon. G. Bennetts	Hon. H. C. Strickland
Hon. R. J. Boylen	Hon. J. D. Teahan
Hon. E. M. Davies	Hon. W. F. Willesee
Hon. G. Fraser	Hon. R. F. Hutchison
Hon. J. J. Garrigan	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. Sir Chas. Latham
Hon. L. Craik	Hon. L. A. Logan
Hon. L. C. Diver	Hon. J. Murray
Hon. H. Hearn	Hon. C. H. Simpson
Hon. C. H. Henning	Hon. J. McI. Thomson
Hon. J. G. Hlalop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. A. F. Griffith

Pair.

Aye.	No.
Hon. F. R. H. Lavery	Hon. Sir Frank Gibson

Question thus negatived; the Council's amendment insisted on.

No. 16. Clause 10, page 5—Insert before the word "and" in line 25 the following words:—"For the purposes of this proviso a notice to quit which has been issued and subsequently withdrawn shall be deemed never to have been issued."

The CHAIRMAN: The Assembly's reason for disagreeing is:

This amendment is disagreed to so that a lessor will not be entitled to attempt to use a notice to quit as a means of obtaining agreement by the lessee to an increase of rent and then if the lessee agrees to an increase withdrawing the notice to avoid the necessity of obtaining a determination by the Court or Inspector.

The CHIEF SECRETARY: I move—

That the amendment be not insisted on.

Hon. L. A. LOGAN: I agree with the Chief Secretary that we should not insist on the amendment. However, I would like to put the matter a little straighter than it is at present. The reasons given by the Legislative Assembly are not in keeping with the one we submitted. When I moved the amendment I gave the reason that there were certain persons who, when they knew that another rents and tenancies measure was to be introduced, immediately gave their tenants notices to quit, although they had no intention of putting them into effect. That was the reason submitted by the Legislative Council. However, such a position relates only to a few, and I agree that the amendment should not be insisted on.

Question put and passed; the Council's amendment not insisted on.

No. 26. Clause 18, page 8—After the word "repealed" in line 28 add the following words:—"and re-enacted as follows:—

20B. (1) On and after the first day of May, one thousand nine hundred and fifty-four, the lessor of premises other than premises in respect of which there subsists a lease entered into after the thirty-first day of December, one thousand nine hundred and fifty) shall not during the operation of this Act commence proceedings to recover possession of, or eject the lessee from, premises unless he has given to the lessee notice to quit of at least twenty-eight days or such longer period as that to which the lessee is entitled at law.

(2) Upon any application pursuant to the provisions of section thirteen of this Act being lodged by a lessee (other than a lessee under notice to quit or to terminate the tenancy of premises) with a Fair Rents Court or an inspector (as the case may be) for the amount of the rent of the premises to be determined, a notice to quit or

terminate the tenancy shall not thereafter be issued in respect of those premises until after such application has been determined by a Fair Rents Court or the inspector (as the case may be) or the expiration of a period of three months from the date of the lodgment of such application whichever is the sooner.

(3) Upon the hearing by the Supreme Court or a Local Court of any summons for the recovery of possession of premises (other than premises in respect of which there subsists a lease entered into after the thirty-first day of December, one thousand nine hundred and fifty) the Court hearing such summons may at its discretion, on account of any special reason of severe hardship which may be proved by the lessee, suspend the operation of any judgment or order thereon for such period not exceeding three months from the date of the hearing as the Court may determine.

(4) The provisions of subsections (2) and (3) of this section shall continue in force until the thirty-first day of August, one thousand nine hundred and fifty-five and no longer.

The CHAIRMAN: The Assembly agreed to the Council's amendment, subject to the Council's making further amendments as follows:—

No. 26. New Section 20B.

Subsection (2)—Delete all words after the word "until" in line 13 down to and including the word "or" in line 16.

Delete the words "whichever is the sooner" at the end of subsection (2).

After subsection (2) insert the following proviso:—

Provided that where the amount of the rent determined by the Court is less than eighty per centum of the amount of the rent being charged or requested by the lessor at the date of the application as aforesaid, a notice to quit or terminate the tenancy shall not be given to any such lessee until after the expiration of a period of twelve months from the date of that determination of the rent by the Court.

Subsection (3)—Line 11—Delete the word "special."

Line 16—Delete the word "three" and insert the word "six" in lieu.

The Committee will deal with these amendments in order, the first being—

Subsection (2)—Delete all words after the word "until" in line 13, down to and including the word "or" in line 16.

The CHIEF SECRETARY: I move—

That the amendment be agreed to. This amendment deals with the notice to quit.

Hon. H. K. Watson: No, it deals with an application to the court for a fair rental.

The CHIEF SECRETARY: It deals with Subsection (2) of proposed new Section 20B.

Hon. H. K. Watson: Yes.

The CHIEF SECRETARY: Mr. Watson is quite correct. It has reference to the notice to quit after a determination has been made by the fair rents court. This amendment is linked with the one which follows.

Hon. H. K. WATSON: When proposed Section 20B (2) left this Chamber it provided that if a tenant applied to the court for a determination of his rent, no notice to quit could be issued against him until the case had been heard, or until the expiration of a period of three months from the date of the lodgment of the application, whichever was the sooner. The Legislative Assembly requests that it be altered in this way: Once a tenant has applied to the court, he automatically gets a fixed period of three months' protection and no notice to quit can be issued against him in that time.

I am not violently opposed to the suggestion of the Assembly; but I would point out that, as the provision left this Chamber, there was an obligation on the tenant to hasten the hearing of his case. We have to be careful to see that this provision, which is inserted to protect the bona fide tenant, is not abused. I have no pleasure in saying that on previous occasions responsible Ministers have urged tenants to do certain things; and the same may apply in this instance. There would be an incentive for some responsible Minister to invite tenants to submit applications for a review of their rent for no other purpose than to get three months' protection from eviction, even though the tenants might have no intention of pursuing the applications.

I offer these observations to the Committee for consideration. The period of three months seems too long. The idea of this clause was to overcome the weakness pointed out by the Government; namely, that when a person applied to the court under the Act as it stood, he could be given 28 days' notice and evicted before the court had heard the case. With the appointment of a fair rents court, cases could be heard without limit, and very speedily. Therefore, to give a tenant three months' protection, even if he had no intention of pursuing his application, would be unfair. As I say, I am not violently opposed to the amendment of the Legislative Assembly.

The CHIEF SECRETARY: There is this further point. Under the amendment, everyone will know where he stands, whereas previously that was not the case.

Hon. L. Craig: Any tenant can, of course, extend that period of fixed rent to three months.

Hon. H. Hearn: That seems to be a blanket cover.

The CHIEF SECRETARY: That is what it appears to be. Members need not be afraid of the point raised by Mr. Watson. Very few average persons would go to court. People even have a horror of appearing in court when taken there by landlords. The redeeming feature is that there is now a definite period of three months.

Question put and passed; the Assembly's amendment to the Council's amendment agreed to.

The CHAIRMAN: The next amendment made by the Assembly to the Council's amendment is:

Delete the words "whichever is the sooner" at the end of subsection (2).

The CHIEF SECRETARY: In view of the previous amendment having been agreed to and the present amendment being consequential thereon, I move—

That the amendment be agreed to.

Question put and passed; the Assembly's amendment to the Council's amendment agreed to.

The CHAIRMAN: The next amendment by the Assembly is:

After subsection (2) insert the following proviso:—

Provided that where the amount of the rent determined by the Court is less than eighty per centum of the amount of the rent being charged or requested by the lessor at the date of the application as aforesaid, a notice to quit or terminate the tenancy shall not be given to any such lessee until after the expiration of a period of twelve months from the date of that determination of the rent by the Court.

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

I can confidently look to members to agree to this, because it will impose an extra penalty on the person who is over-reaching in his charges. It appears to be of great value.

Hon. H. K. WATSON: In principle, I do not oppose this amendment. The Committee will recall that this provision was originally part of proposed Section 20C in Clause 19. That was deleted largely because of the very high percentage indicated. I feel that the Committee should consider reducing the 80 per cent. to 60 per cent. If it is altered to 60 per cent., it will be worth while. As the Chief Secretary said, this proviso will be a further brake on the landlord going for an excessive rent. The object is to put a brake on such a landlord, not on one who may be

10s. to 30s. over the fair rent. I would like to hear other members speak before I move any amendment.

Hon. N. E. BAXTER: I agree with Mr. Watson's view, and to the principle of this proviso. I consider that 80 per cent. is entirely too harsh. If a landlord charges a rental of 50s. a week, and then when the case goes before the court the rent is determined at 39s. 6d., the difference is not very big. It would be very harsh if, within the following 12 months, the landlord was prevented from giving his tenant notice to quit. I also consider that the period of 12 months is too long. One might just as well say that the tenant has a lease of the property for 12 months at the rental assessed by the court. The landlord, for those 12 months, would be bound, and he could not terminate the tenancy in that time. I consider the 80 per cent. and the 12 months too harsh; it should be watered down to 60 per cent. and six months. I move—

That the Assembly's amendment be amended by striking out the word "eighty" in line 3 of the proviso with a view to inserting another word.

Hon. H. HEARN: I am not in sympathy with this amendment. I think that even the term of 12 months is not too long; because, obviously, the people concerned are those who let premises as a regular thing. What I have in mind—and this particularly applies to flats within the city area—is that the rentals are based on the buildings not as residences but as office accommodation. There is a very great difference between the rental for office accommodation and that for residential purposes. I consider this would be a safeguard in the settling down process. While Mr. Baxter's amendment to reduce it to 60 per cent. is all right, I am prepared to accept 80 per cent. The overcharging of rentals for premises near the city should at least be curtailed. I support the amendment.

The CHIEF SECRETARY: I hope the Committee will not agree to the deletion of the words. We have got down to a very fair basis in agreeing to 80 per cent. That figure was not suggested by members on this side of the House.

Hon. L. A. Logan: The Opposition in the Assembly suggested 75 per cent.

The CHIEF SECRETARY: The 80 per cent. was a compromise. The Government wanted 85 per cent.

Hon. H. K. Watson: That is not correct. The Opposition moved for 70 per cent., but the Minister tinkered with that figure and brought about the 80 per cent. There was no compromise.

The CHIEF SECRETARY: I was speaking purely from hearsay. I have not read "Hansard," and I do not know what happened in the Assembly.

Hon. H. K. Watson: The fact is that 75 per cent. was suggested by the Opposition and 80 per cent. was insisted on by the Minister.

The CHIEF SECRETARY: The Minister for Housing desired to go higher than 80 per cent. Is not 20 per cent. a fair margin? It would be 20 per cent. not on the previous rent, but on the new rent to be charged—20 per cent. over and above what the court determined to be a fair rent. I cannot imagine that any landlord making the calculation would get so wide of the mark unless he was setting out to obtain the last ounce.

Hon. C. H. Henning: Then there is the 12 months' eviction proposal.

The CHIEF SECRETARY: That would be the penalty for charging in excess of the fair rent as determined by the court, and it is not too great a penalty for anyone who attempts to take advantage of the situation.

Hon. N. E. BAXTER: Landlords for many years had to accept low rentals; and, if they decided to collect some arrears in order to make repairs to the premises, they should not be severely penalised for the sake of the few extra pounds received in the course of a couple of months.

The Chief Secretary: You now want to make it retrospective.

Hon. N. E. BAXTER: Not at all. The landlord would have the money to carry out repairs that had fallen into arrears—something that he could not do on the low rental previously charged. Yet for that he is to be severely penalised.

The CHIEF SECRETARY: Why should a landlord wish to evict a good tenant?

Hon. N. E. Baxter: This proposal is equivalent to a 12 months' lease.

The CHIEF SECRETARY: It is a penalty if a landlord overreaches himself to the extent of 20 per cent. He would still receive a fair rental as fixed by the court, but would not repay what he had received in excess of that amount. When money has been taken from a tenant wrongly, the tenant should not be subject to eviction for 12 months. Mr. Baxter wants to make it retrospective to 1939 so that landlords can recoup themselves.

Hon. A. R. JONES: I support the amendment. Eighty per cent. is too high and a lower rate should be inserted. A fact that should be borne in mind is that, before the recent increase in rents, quite a number of landlords had agreed to carry out long delayed renovations and improvements for the comfort of the tenants, and they could be penalised if the margin were made too low. It may be said that this sort of thing does not happen, but I was told of a tenant of a furnished apartment whose landlord had agreed to have the furniture re-upholstered and a new carpet laid because the tenant

was agreeable to paying more rent. Consideration should be given to landlords of that type. I agree that provision should be made to curb the robber or bushranger landlord.

Hon. L. A. LOGAN: I have previously made it clear that I have no time for the bushranger landlord, and this is an endeavour to mete out some punishment to him. I consider that 80 per cent. is too high and that 75 per cent. would be fair. To allow a period of twelve months to some tenants would be 364 days too long, because the tenant could do considerable damage in that time, and the landlord would have no redress.

The Minister for the North-West: He could be put out if he was unsatisfactory.

Hon. L. A. LOGAN: The tenant could not be evicted; the proposal is that notice to quit shall not be given until after the expiration of 12 months. Consequently, if a tenant damaged the premises, he could not be evicted.

Hon. Sir Charles Latham: He could be sued for damages.

Hon. L. A. LOGAN: The bushranger landlord should receive some punishment because he deserves it.

Hon. J. G. HISLOP: I agree in principle with the Assembly's amendment. I cannot see that we shall be doing an owner any great injustice, except from one point of view. If the rent has been fixed, it is obvious that the landlord will desire that payment to be continued. There may not be any reason to evict a tenant in 12 months unless he is undesirable.

Hon. Sir Charles Latham: You are not making provision for that.

Hon. J. G. HISLOP: I was about to say that provision should be made by including the conditions relating to unsatisfactory tenants. If that were done, the 80 per cent. and the 12 months could well be allowed to stand. I suggest that further consideration of the Assembly's amendment be postponed to permit of the insertion of the provisions in the original Act applying to unsatisfactory tenants.

Hon. C. H. HENNING: In my opinion 80 per cent. is definitely too high, and 60 per cent. is too low. I favour 70 per cent., which I consider would be fair and reasonable.

Hon. A. F. GRIFFITH: I am not opposed to the 80 per cent. A landlord would not wish to get rid of a good tenant, but if the tenant were unsatisfactory, the landlord should be entitled to get rid of him. If a landlord overcharged and the tenant obtained a determination, he could do considerable damage to a property. If Mr. Logan's interpretation is correct, it would mean that in no circumstances whatever could the landlord give a bad tenant notice to quit during the 12 months. As Dr. Hislop said, it might be as well to insert

words and bring the Bill back to a position where the landlord can get rid of a tenant for damaging the property or anything of that sort.

Hon. C. H. SIMPSON: I am inclined to support Mr. Baxter's amendment. Despite the contention that 80 per cent. would be bushranging, I think that if there were a variation on the lower-scale rentals, as could easily happen, there might be a wider variation than some people think, when it came to a matter of application.

We have been putting forward hypothetical cases; but I know of an instance where a bank leased premises at 35s. per week, for a certain period, with a proviso that the lease could be extended at a new rental to be mutually agreed on. It made certain alterations to the premises to suit its business; but before it was obliged to pay a higher rental, it said to the landlord, "Times have changed, and we agree that a new rental should be assessed."

Before doing that, it asked a Government rent inspector his idea of a fair rental and the figure he gave was 35s. They applied to a qualified valuer, with a life-long experience in rentals, who was next door, and he thought the rent should be 50s. The bank then suggested to the landlord that it should pay £2 15s. per week all clear; or £3 5s. per week, the landlord to pay rates and taxes; and I understand the rent was fixed at £2 15s. per week. Taking the original rent at 35s., and saying it was raised to 55s.—the court agreed with the view of the Government assessor that 35s. was correct—the 35s. is equal to about 63 per cent.

This provision provides that if the amount is more than 80 per cent, or if the courts's assessment is more than 80 per cent. of the figure charged, the landlord shall be penalised. There we have an instance of an equitable agreement arrived at as to the £2 15s.; but the landlord would have to accept a penalty for having overcharged, except for that fact that the premises were leased. In the same circumstances, without the lease, a legitimate difference of opinion of perhaps 20 per cent. or 40 per cent. between the assessors might easily occur; and so I think the figure proposed by Mr. Baxter would cover cases such as I have mentioned. For those reasons I support the amendment.

Hon. N. E. BAXTER: I am endeavouring to protect both parties, and particularly the landlords. If the Chief Secretary is so concerned over the position, why was not a proviso inserted to deal with it? If a landlord charged 120 per cent. above what the court said was fair, the period could have been made 18 months; and where the overcharge was only 100 per cent., it could have been made 12 months; and so on. That would deal with the rack-renters without penalising landlords who thought they were charging a fair rent.

Amendment on amendment put and a division taken with the following result:—

Ayes	....	....	....	11
Noes	....	....	....	15

Majority against 4

Ayes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. L. Craig	Hon. C. H. Simpson
Hon. L. C. Diver	Hon. J. McL. Thomson
Hon. C. H. Henning	Hon. H. K. Watson
Hon. A. R. Jones	Hon. A. F. Griffith
Hon. Sir Chas. Latham	(Teller.)

Noes.

Hon. C. W. D. Barker	Hon. J. G. Hislop
Hon. G. Bennetts	Hon. F. F. Hutchison
Hon. E. M. Davies	Hon. L. A. Logan
Hon. G. Fraser	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. J. D. Teahan
Hon. Sir Frank Gibson	Hon. W. F. Willsee
Hon. H. Hearn	Hon. R. J. Boylen
Hon. E. M. Heenan	(Teller.)

Amendment on Assembly's amendment thus negatived.

Hon. L. A. LOGAN: The Chief Secretary was not in his seat when I referred to the position of the landlord who might have to put up with a tenant for 12 months. Would he give some guarantee that this position will be met?

The CHIEF SECRETARY: I can give no guarantee, apart from the provisions of this measure; but I believe a person damaging property would be covered by the law.

Hon. Sir Charles Latham: The landlord could take action at common law, but the tenant might have nothing.

The CHIEF SECRETARY: In that case, no matter what penalties were provided, the law could not help much.

Hon. H. Hearn: No; but the landlord could get the tenant out of the premises.

The CHIEF SECRETARY: I would be prepared to reinsert something that has been deleted, as Dr. Hislop said, but I do not think that would find favour with the Committee. If we try to get away from what is before us, the position will become too involved. If weaknesses are discovered in the legislation in the next few months, there will be time for something to be done before the end of this session. There will not be many cases of this kind, and only those who have exceeded the period would come under this provision.

Hon. H. K. Watson: Mrs. Hutchison said 95 per cent. would be involved.

Hon. H. Hearn: She was speaking in symbols.

The CHIEF SECRETARY: The number will not be large, and I think common law would give the landlord protection against wilful damage to property.

Hon. H. K. WATSON: Common law does not override statute law, but vice versa. We have a provision in this measure that if the landlord has charged

more than 20 per cent. above a fair rent, he has the tenant on his hands for 12 months. On the other hand, I agree with the Chief Secretary that the insertion of the refinements suggested by Dr. Hislop would clutter up the provisions of the measure. Let us keep it as clear-cut as possible. I think the right way to deal with the problem is to reduce the period of 12 months a bit.

Hon. Sir Charles Latham: Let the magistrate determine it.

Hon. H. K. WATSON: No; I think Parliament should fix the figure. Six months would be a reasonable figure because a vindictive tenant could play havoc with a place in that time; certainly over 12 months. While the landlord would have an action against the tenant for damages, that would not be worth a cracker. The only effective right of the landlord is the right of eviction; but here we are definitely precluding him from evicting a tenant until the period of 12 months has elapsed.

Hon. A. F. Griffith: The only thing that would make a tenant cross would be the loss of his suit.

Hon. H. K. WATSON: We are dealing with the other angle.

Hon. L. Craig: Is there anything in the Act dealing with damage to property?

The Chief Secretary: No; you have taken it out.

Hon. H. K. WATSON: The simple way to cover the point raised by Mr. Logan is to reduce the 12 months' period to six months.

Hon. L. A. LOGAN: I must disagree with Mr. Watson, because a vicious individual could do as much damage in six months as in 12 months.

Hon. H. Hearn: In one month.

Hon. L. A. LOGAN: I am not worrying about cluttering up the Bill. I do not mind if it is cluttered up so long as a landlord is protected against that type of tenant. Unless something is put in to cover that position, I will vote against the proviso; and I hope that other members will do the same. A landlord should have the right to evict a vicious tenant, or one who is damaging his property.

Hon. L. CRAIG: I believe that we should add some extra words to this proviso, such as the following:—"Provided that nothing in the foregoing will prevent the landlord from appealing to the court for such and such a purpose." That would cover the position and would be quite easy to include. Mr. Griffith suggested to me that we use these words—"Provided that the tenant continues to maintain the property in good order and condition." I am not in favour of that wording; and I take the view that if a landlord finds that a tenant is knocking the property about, he should have a right of appeal to the court.

Hon. Sir CHARLES LATHAM: I think we had better leave this as it is. The landlord would not find out what damage had been done until he had made an inspection; and what benefit would it be for him to put the tenant out then?

Hon. J. G. Hislop: The tenant would deserve to be put out.

Hon. Sir CHARLES LATHAM: If the tenant is put out, the property must be repaired and another tenant installed. The same thing could then happen again, and we know that some of the people who rent houses have not the slightest respect for property. I have given instances in this Chamber. When Parliament meets again, we can overcome any difficulties that have occurred in the meantime, and I think we should leave things as they are. However, I intend to vote against the Bill in its entirety.

The MINISTER FOR THE NORTH-WEST: Like Sir Charles Latham, I think the wisest thing is to leave the Bill as it stands. Why would a tenant be vicious in this particular case? This has been inserted to stop vicious landlords from taking action against decent tenants who have taken advantage of the fair rents court. It does not penalise the landlord because he gets a fair rent as fixed by the court, and one tenant, from a monetary point of view, is as good as another. I do not believe that the problem that members have mentioned exists.

Hon. A. R. JONES: I suggest to the Chief Secretary that we would not clutter up the Bill if, after the words, "determination of the rent by the court" we added the words, "unless according to common law the lessor may evict for unfair treatment or damage to his property." That would mean that, unless the tenant looked after the property, he could be evicted. Unless something of that nature is put in, I will vote against the whole proviso.

The CHIEF SECRETARY: I hope that the Committee will leave things as they are, because it is too dangerous to try to provide for something that may not eventuate. In reply to Mr. Watson, I did not try to get the Committee to think that some action at common law could override a statute; but I was attempting to convey that the owner would have the right, at common law, to sue for damages to property. However, there would be so few cases that it would not be worth while.

Hon. Sir Charles Latham: I agree.

The CHIEF SECRETARY: Sir Charles mentioned that in many cases an owner would not know that his property had been damaged until after the people had left.

Hon. A. R. Jones: You have not been a lessor.

The CHIEF SECRETARY: I would say that few landlords would enter their premises except to get the rent. If we

adopt some of the suggestions that have been made, we will be giving the landlord a loophole; and it will be possible for him to evict a tenant by saying that he has damaged the property.

Hon. L. A. Logan: The court would have to be convinced.

The CHIEF SECRETARY: It would be ineffective. I cannot support such a proposal.

Hon. E. M. HEENAN: A landlord has the right to inspect his premises once a month.

Hon. H. Hearn: Once every two months.

Hon. E. M. HEENAN: And penalties are provided for people who maliciously damage property. I think we should agree to the proposal as it stands.

Hon. L. C. DIVER: I agree, because the people we deal with under this provision are those who have endeavoured to exploit the position. A tenant would not have the money to pay for any damages if a landlord had overcharged with his rent for a fairly long period. I support the amendment as it stands.

Hon. N. E. BAXTER: Previously I agreed with this in principle, under certain conditions. But I am inclined to think that over the years this and another place have lost their sense of balance on property rights.

Hon. Sir Charles Latham: Why blame us?

Hon. N. E. BAXTER: Members will find, if they look back over the statutes, that we have provided penalties against the landlord on every occasion; but in no statute is there a parallel to this proviso. If a man is found guilty of driving a motorcar while drunk, nobody denies him the right to do what he wishes with his motorcar afterwards.

The Minister for the North-West: This is a light penalty.

Hon. N. E. BAXTER: Under the price-fixing laws, if a trader overcharged for an article he was fined; but he was not stopped from selling a similar article again. The Minister for the North-West can smile, but it is a parallel case. As the Committee was not prepared to alter the figure to a reasonable one, I shall vote against the proviso.

The MINISTER FOR THE NORTH-WEST: This is not a penalty on the landlord.

Hon. N. E. Baxter: Of course it is.

The MINISTER FOR THE NORTH-WEST: How does it penalise him? It is a protection for the tenant who has gone to the fair rents court and asked for a fair rental and against whom the landlord might want to take action.

Hon. A. R. JONES: This is important, and we should debate it fully. I support the view held by Mr. Baxter. If this amendment is to be left as it is here, we will give protection to one person, and to one person only, and the one who owns property can go hang. That is what it amounts to. Quite a lot of us sank our principles to let this Bill get as far as it has; and to ask us to swallow further principles we might have is asking too much. If the Minister would be reasonable, it would help to get the Bill passed. I will not support something that provides for only one section of the community.

Question put and a division taken with the following result:—

Ayes	....	....	....	....	20
Noes	....	....	....	....	5
Majority for					15

Ayes.

Hon. C. W. D. Barker	Hon. C. H. Henning
Hon. G. Bennetts	Hon. J. G. Hislop
Hon. R. J. Boylen	Hon. R. F. Hutchison
Hon. L. Craig	Hon. Sir Chas. Latham
Hon. E. M. Davies	Hon. J. Murray
Hon. L. C. Diver	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. A. F. Griffith	Hon. J. McI. Thomson
Hon. H. Hearn	Hon. W. F. Willsee
Hon. E. M. Heenan	Hon. J. J. Garrigan

(Teller.)

Noes.

Hon. N. E. Baxter	Hon. H. K. Watson
Hon. A. R. Jones	Hon. C. H. Simpson
Hon. L. A. Logan	

(Teller.)

Pair.

Aye.	No.
Hon. F. R. H. Lavery	Hon. Sir Frank Gibson

Question thus passed; Assembly's amendment to the Council's amendment agreed to.

The CHAIRMAN: The next amendment made by the Assembly to the Council's amendment is:

Subsection (3), line 11—Delete the word "special".

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

I hope the Committee will agree to this. It makes no difference whether we keep it in or take it out. The court will decide the question of severe hardship.

Question put and passed; the Assembly's amendment to the Council's amendment agreed to.

The CHAIRMAN: The next amendment made by the Assembly to the Council's amendment is:

Subsection (3), line 16—Delete the word "three" and insert the word "six" in lieu:

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

We had a pretty fair debate on this when it was here before. It is a question of giving the court power to grant an extension of six months instead of three.

Legislative Assembly

Thursday, 12th August, 1954.

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The SPEAKER took the Chair at 2.15 p.m. and read prayers.

QUESTIONS.

EDUCATION.

(a) As to Promotion of Trade Class Instructors.

Mr. JOHNSON asked the Minister for Education:

Further to my previous questions relating to promotions for instructors in trade sections of technical education, what promotion is available to instructors who have passed the examinations mentioned in the Minister's reply?

Hon. J. G. Hislop: Is that Kathleen Mavourneen?

The CHIEF SECRETARY: No; in cases of hardship the time can be extended up to six months.

Hon. C. H. Simpson: It could be seven or eight months in actual practice?

The CHIEF SECRETARY: It is the time from when the court deals with it, and the court will say what it should be.

Hon. H. K. WATSON: I ask the Committee to stand by the provision already in the clause; namely, three months and not six. We should vote against the Assembly's amendment. In its wisdom the Committee decided that three months was a fair limit. To summarise a few of the reasons. I would mention that it is a nominal three months, but an effective five months. The tenant has to be given 28 days' notice, and then the case has to come before the court, and the court has the discretion to extend the period by three months.

In December last the Act was amended to provide that as from the 1st May, any person could obtain possession of his property by giving 28 days' notice to the tenant. Many hundreds of young married couples bought houses on the assurance that they could get possession after 28 days' notice; and we are now telling them that, after 28 days, they must wait a further three months. I think even that is unwarranted; but I will not oppose a three-month period.

Hon. J. G. HISLOP: Would not this be one of the cases in which the State Housing Commission would provide a house within three months, after the special extension given by the court?

Question put and negatived; the Assembly's amendment to the Council's amendment not agreed to.

Progress reported.

House adjourned at 4.28 p.m.