the investigations which, in a limited way, were being carried out. But above all I was impressed by the manner in which she spoke to the natives and further still by the manner in which they responded to her attentions. The second part of the problem is that of the half-caste. So far as I am aware I think we have completely shirked the responsibility of making any decision as to the status which these people are to occupy in the economic life of our country. We find people prepared to make statements about the unreliability of the character of these half-castes, but I have spoken to others who have lived amongst them and who have diverging views. The real position is that no one wants the half-caste; no one wants to mix with the half-caste and there is a very limited number of occupations open to him.

Hon. G. B. Wood: What about that of a farm hand? The farmers would welcome him, but he will not work.

Hon. J. G. HISLOP: The result is that he wanders this country unwanted, and feeling, unwanted, in many cases with a marked inferiority complex which grows until in some it can be mistaken for a superiority complex. I have met men in the North who believe it would be possible in a place like Derby to build a half-caste town giving to half-castes the responsibility of caring for themselves under a commission. But we, in turn, have ourselves to blame because whilst we are not prepared to find a vocation for them, or even a location, we raised no protest when the Commonwealth Government decided to grant to all natives the 5s. per week child endowment. If members travel in the northern parts of our State they will find many who will tell them of half-castes who were once good workers but who now, with their large families, have migrated into the towns and there live on this amount with only occasional work.

I passed through a station a few weeks ago to find one white woman whom I have known for years, standing up to the strain of the immense amount of work involved. I am sorry to say that she was showing signs of that work and strain. Travelling on about 100 miles I came to a town where the colour question is becoming acute and where there is an area becoming known as the "black" part of the town. Conversing with the womenfolk I found they were incensed about this migration to the town, and the local policeman expressed to me his growing anxiety about the ill-feeling; and yet we do nothing! I do trust that more constructive thought can be given to this problem than has been devoted to it in the past, and I hope this House does not rest until some decision has been reached or some assurance received that the work of caring for the natives is placed on a higher plane as is demanded by the growing public sense of duty towards these people.

In conclusion I do sincerely trust that the allegations read by Mr. E. H. H. Hall can be disproved. If there is even a semblance of truth in them I do trust that we can receive from the Government an assurance that our responsibility to these people will be carried out with increasing efficiency and that immediate steps will be taken to rectify all past mistakes in an attempt to treat these people in a humane and christian manner. I support the second reading.

On motion by Hon. C. F. Baxter, debate adjourned.

House adjourned at 5.23 p.m.

Legislative Assembly.

Thursday, 2nd November, 1944.

The SPEAKER took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (2).

RAILWAYS.

As to Freights on Tobacco.

Mr. KELLY asked the Minister for Railways:

(1) Is he aware that packages of tobacco are received by the Railways goods section at goods rate, and are then conveyed by Government motor vehicle, under the charge of a driver and escort, to the parcels section, rehandled by officers of this

section and placed in vans with goods already consigned at passenger parcel rates?

(2) Is it a fact that packages thus consigned at goods rate receive the benefit of passenger transit?

(3) Does not this practice represent a decided loss to the Railway Department?

(4) What is the reason for such action?

(5) What is the rate on tobacco from Perth to Collie (a) 56 lb. per passenger, 56 lb. per goods; (b) 3 cwt. per passenger, 3 cwt. per goods?

The MINISTER FOR WORKS replied:

(1) Yes, in certain cases.

(2) Yes.

(3) No.

(4) For the department's convenience to fill vans to capacity, and to minimise pilfering and loss to the department by payment of claims.

(5) (a) Passenger 4s. 9d., goods 2s. 9d.; (b) passenger 21s. 3d., goods 13s. 9d.

TEXTILES.

As to Labelling and Description.

Mr. WATTS asked the Minister for Industrial Development:

(1) Is it the intention of the Government this session to bring down a Bill to provide for the correct labelling and description of textile articles, setting out the fibre contents of such articles as asked for by the Australia Woolgrowers' Federation?

(2) If so, will this Bill be an amendment to the Trade Descriptions and False Advertisements Act, or will it be a new measure?

(3) If it is not intended to bring down such legislation, will he give the reasons in view of the fact that uniformity in respect of this legislation has been recommended and steps already been taken in other States in respect thereof?

The MINISTER replied: (1), (2), (3) Cabinet will make an early decision regarding the proposed Bill.

BILLS (4)—FIRST READING.

1, Stamp Act Amendment.
Introduced by the Premier.

2, Licensing Act Amendment.

3, Legislative Council (War Time) Act Amendment.

4, Electoral (War Time) Act Amendment.
Introduced by the Minister for Works (for the Minister for Justice).

BILL—CHURCH OF ENGLAND DIOCESAN TRUSTEES (SPECIAL FUND).

Report of Committee adopted.

BILL—RURAL AND INDUSTRIES BANK.

In Committee.

Resumed from the previous day. Mr. Marshall in the Chair; the Minister for Lands in charge of the Bill.

Clause 91—Bank not to be "owner" within Road Districts Act, 1919-1943, or the Municipal Corporations Act, 1906-1943. (partly considered):

Mr. WATTS: It would be far better for everyone concerned if this clause were deleted and the position of the bank made the same as that of all other institutions similarly situated under the common law. Hitherto the Agricultural Bank has accepted no responsibility whatever for the payment of rates, even though it might have become a mortgagee in possession. Other institutions knowing their responsibilities, as mortgagees in possession, for rates, have refrained, except in the last resort, from going into possession. To that extent they have absolved themselves from the obligation to pay rates which they might otherwise have to meet.

I oppose any special provision which will apply to this institution and not to any other institution that may be similarly situated. There is no question that the attitude of the Agricultural Bank in the past in regard to rates has not been satisfactory to the local authorities. There has been considerable feeling that this special privilege should not be extended to the Bank, and that the Bank has not sought to assist its clients, except in rare and favourable cases, in the payment of rates to local authorities. The activities of local authorities in relation to road, health and vermin matters are of assistance to the financial institutions that are providing finance for the farmers. It is impossible to expect efficient farming unless reasonable transport facilities are provided. It is impossible to expect the control of vermin unless the cost incurred by local authorities is met, and it becomes a greater burden on other settlers if the charges have to be met by a proportion only of the ratepayers of the district.

I shall give information to show that this has been a source of considerable complaint on the part of local authorities, that there should be a minor change in the Act, and that there should be a considerable change in the policy of the institution in regard to obligations for rates due to local authorities and the activities of clients in relation thereto. A report of the proceedings of the executive committee of the Road Boards Association of Western Australia, dated the 11th October, 1943, reads—

Agricultural Bank rates. Following the submission of the conference resolution in connection with rates owing to road boards on properties mortgaged to the Agricultural Bank, a reply was received from the Hon. the Premier as follows:—

> I referred the subject matter of your letter to the Agricultural Bank trustees and have received from them a report of the position.
>
> The general manager states that, so far as settlers in occupation are concerned, the collection of rates is a matter entirely between the road board and the ratepayer. The Agricultural Bank's claim against farm proceeds is strictly limited to the statutory lien provided in the Agricultural Bank Act and Industries Assistance Act.
>
> In cases where properties have reverted to the bank, and the bank grants a lease of six months or more, the Commissioners endeavour to protect the road board by the insertion of a clause in the lease agreement that the lessee is responsible for the rates.
>
> It appears that the road board officials have at times stated in support of their claim that the Agricultural Bank takes the whole of the farmers' income. This is not correct. The Bank's claim is limited by Acts of Parliament and extends only to farm proceeds. This season an amount of over £500,000 has been paid to farmers in this State direct for wheat acreage compensation, not a penny of which can be claimed by the Bank under its statutes.

I interpolate that that was an unsual state of affairs which will not extend to any great distance in the future and did not prevail before the war.

> The Commissioners of the Bank state it appears that road boards are averse to issuing summonses against ratepayers or taking drastic action for the recovery of their rates, and the Commissioners feel that if this drastic action were taken, the position would be much more satisfactory.
>
> Your association, I think, appreciates the difference between the powers of the Agricultural Bank and those held by ordinary trading banks. The Agricultural Bank is not a trading bank—it is merely an agency for advancing money under mortgage. A trading bank, on the other hand, as a rule, handles the whole of its clients' proceeds and can arrange with its client for the payment of his debts. The Agricultural Bank, as already stated, is entitled to receive only the moneys provided for under the Agricultural Bank Act and the Industries Assistance Act. It is true that the Agricultural Bank, as a Government instrumentality, has a prior claim against the lands mortgaged to it over any other creditor, which does not apply in the case of a mortgage taken by a trading bank. To set aside this priority in favour of road boards would be to place the local authorities in a position superior to the State Government—a position which, I think you will agree, could not be contemplated.

The report goes on to say—

The committee, before taking any further action, decided to make the above reply available, through the minutes, for the information of road boards generally.

There are three points in the Premier's letter to which I desire to make reference. The first is—

In cases where properties have reverted to the Bank, and the Bank grants a lease of six months or more, the Commissioners endeavour to protect the road board by the insertion of a clause in the lease agreement that the lessee is responsible for the rates.

I want to evidence how that procedure works out in practice. I submit that it does not work out at all well for the local authority. I have correspondence which has passed between the local authorities, including the Kent Road Board, which is in my electorate, starting in March, 1943, and extending up to the present. On the 30th March, 1943, the General Manager of the Bank wrote to the secretary of the Kent Road Board in these terms—

Re Roe Locations 454 and 735—late V. Elliott: Mrs. E. Clarson, of Lake Magenta, has applied to the Commissioners for a further grazing lease over the abovementioned property for a period of twelve months. The Commissioners have agreed to the proposal conditionally upon your board certifying that Mrs. Clarson has made satisfactory arrangements in regard to the payment of the road board rates due under the previous agreement.

I interpolate again that the rates were not paid. The secretary of the road board replied under date 9th April as follows—

Re Roe Locations 494 and 735. I have to acknowledge your letter of 30th ultimo, File 939/30 A.B., re above locations. I have to inform you that no rates have been paid on the two locations by Mrs. Clarson. My board experiences the greatest difficulty in the collection of rates from leased properties. This board feels it would be a commendable action on the

part of the Agricultural Bank to refuse all leases where no arrangements have been made to pay road board rates. I feel sure from my own experience of this area that no difficulty would be found by the Bank to lease all Bank properties. My board will be pleased to co-operate with you in this direction.

On the 13th April, 1943, the Agricultural Bank replied to the road board's letter as follows:—

The contents of your letter of the 9th instant have been noted. So far as Mrs. Clarson is concerned, the branch manager has been instructed that she is not to be given possession of the property again until you have notified him that your rate account has been satisfactorily adjusted. Regarding the payment of road board rates generally, where properties are leased, you are advised that by far the majority of the road boards do not experience great difficulty in obtaining payment from the lessees. It would therefore penalise the majority by holding up their applications while inquiries are being made. If at any time the lessee does not meet his commitments to your board, you should advise to that effect immediately and the Commissioners will do what they can to assist you in obtaining payment.

Unfortunately, since the time the lessee has been given possession of the property, the rates have not been paid, and the Kent Road Board is in the unfortunate position of not having any remedy whatever, except against this particular person. The board, in order to establish its position, took proceedings for the recovery of the rates, but has advised that it was unsuccessful. The tenant is in possession of the property and the board is in a most difficult position. In a return supplied to me by the board—it is one of many which I have received during the past few years—there is a list of outstanding rates owing on Agricultural Bank properties and other properties as at the 30th June, 1934. The particulars are as follows:—

Ward.	Rates.	Agricultural Bank Properties. £ s. d.	Other Properties. £ s. d.
Badgeminup	Road and Loan	164 12 0	4 7 0
	Vermin	37 18 1	1 0 11
Kwobrup	Road and Loan	79 0 2	0 16 6
	Vermin	12 15 4	0 1 2
Nyabing	Road and Loan	186 10 10	131 1 2
	Vermin	28 17 4	18 14 8

I shall not give particulars of rates owing on properties in other wards, because I do not wish to detain the Committee too long. The total amount of road and loan rates owing, according to the rate book, is £1,578 16s. 5d.; of this amount there is owing in respect of Agricultural Bank properties the sum of £1,406 3s. 11d., and in respect of other properties £172 12s. 6d. Therefore, approximately 12½ per cent. is owing on other properties as against 87½ per cent. on Agricultural Bank farms. In respect of vermin rates there is owing on Agricultural Bank properties the sum of £263 1s. 6d., and in respect of other properties, £23 12s. 0d. Members will note that a very substantial sum is owing by clients of the Agricultural Bank for rates in that district. I have been advised that 50 per cent. of the settlers are clients of the Agricultural Bank and 50 per cent. clients of other institutions. I have also a return from the Corrigin Road Board, which includes particulars of both occupied and abandoned Agricultural Bank properties. There are approximately 30 of them and the rates outstanding on them are as follows:—

	£ s. d.
Road rates	1,087 8 6
Loan rates	242 18 4
Vermin rates	201 19 4

Again, members will note that the amount involved is substantial; and, as I said, the position of the local authorities is obviously becoming exceedingly difficult. Moreover, there will be the necessity for increasing the rates in order to carry on the business of the boards in normal times, and the burden will fall much heavier on the ratepayers who do pay their rates. I have dealt fully with the position because of its seriousness. In a later portion of the return of the Road Boards Association, appears the following reference:—

It appears that road board officials have at times stated, in support of their claim, that the Agricultural Bank takes the whole of the farmers' proceeds.

To my knowledge two boards have taken proceedings by way of summons and garnishee against a farmer. In one case the magistrate directed that no order could be made because there were no proceeds unattached; they had all passed into the control of the Agricultural Bank, and consequently the garnishee or attachment order was refused. In the other case proceedings were taken and a similar line of action adopted. A solicitor practising in the metropolitan area was instructed to garnishee the proceeds of this particular farmer, who was indebted to the road board for rates of various kinds. After the solicitor had taken out the garnishee, he advised the board not to proceed with the

case, because in his opinion it could not succeed, and that its best course was to discontinue the proceedings. It will therefore be seen that the position is not as simple as the paragraph which I have read would appear to indicate. On the contrary, it is very difficult, and that covers the paragraph in this report which reads—

> The Commissioners of the Bank state it appears that road boards are averse to issuing summonses against ratepayers or taking drastic action for the recovery of their rates, and the Commissioners feel that if this drastic action were taken, the position would be much more satisfactory!

When one board takes up the attitude that it is going to issue a summons for the purpose of recovering rates and another board takes the same process and meets with the same decision, it is unlikely that any other local authority—and they are all linked together in their association—is going to, as it were, send good money after bad in an endeavour to recover rates. Last of all, I desire to draw attention to this paragraph—

> Your association, I think, appreciates the difference between the powers of the Agricultural Bank and those held by ordinary trading banks. The Agricultural Bank is not a trading bank—it is merely an agency for advancing money under mortgage. A trading bank, on the other hand, as a rule, handles the whole of its client's proceeds and can arrange with its client for the payment of his debts.

This Bill aims at putting an end to such a state of affairs in the Agricultural Bank. In those circumstances the argument, tenable though it may have been in November, 1943, falls down in the face of this Bill. I have no desire to impose on this institution any special liability for rates, but I desire that it should be placed in exactly the same position as every other institution; so that if, as mortgagee in possession, it becomes the holder of a property which is rateable, it shall be under obligation to pay the rates due. Speaking generally, there are indications that there is to be a substantial change in the methods adopted so as to enable them to resemble more closely trading bank methods under which clients and customers are assisted to pay rates; and so that the position in regard to local authorities may be improved, and that they may feel they have the co-operation of the institution.

The MINISTER FOR LANDS: I understand from the comments of the member for Williams-Narrogin last night that he does not intend to move his amendment. The reason is obvious. Members opposite have preferred to speak against the clause and vote against it rather than have amendments ruled out of order and be unable to persist with them, because it is not within their province to impose a charge on the Crown. So they have decided to seek to impose a charge upon the Crown by attempting to have removed from this Bill specific mention of the exemption of the Crown. I would draw the attention of the Committee to the remarkable attitude adopted by members opposite where the Crown has some liability or assumed liability or, in their view, some moral responsibility; and on the other hand, their entirely opposite view where debts are due to the Crown. Tens of thousands of pounds are annually written off by the Crown in connection with rates due to it for money actually spent and charges incurred in rendering services. For example, £49,000 has been written off in connection with one section of the Goldfields Water Supply Scheme in respect of rates due during the past ten years. There has been written off in respect of the Barbalin, Kondinin and Narembeen sections of the scheme £50,000 as being uncollectable by the Crown.

I wonder what is the position in the most favoured district of the member for Murray-Wellington, where water rates are at an almost irreducible minimum, no drainage rate is paid and there are still some uncollected rates? What is his attitude in regard to the insistence that the Crown should get its rights? In spite of the assistance given to local authorities by the Crown—in some cases amounting to tens of thousands of pounds—the Crown is to be held liable and pressed for payment of rates. I was interested in one of the final remarks of the Leader of the Opposition when he said he had no desire to impose any special liability for rates in this section of the institution. I shall be interested to hear his comments on a subsequent amendment to justify that viewpoint. In this case, it is obvious that in one section of this institution, where land really again becomes the property of the Crown because of forfeiture or abandonment —or, in fact, repossession—the Crown is not even morally liable for rates.

Believing firmly, as I do, that the Government does not seek advantages for that section that are not given to other trading institutions; and after mature consideration extending over many months, and even con-

sidering the approach by the Local Authorities Association, I am prepared to say that in its trading section the Crown, as mortgagee in possession, may be liable for rates. But it is not possible for members opposite to move, as was intended by the member for Williams-Narrogin, to apply to the 2,000 odd abandoned properties the imposition of rates; and, since that cannot be done, I submit that those properties should specifically —if any specification is necessary—be exempted from rates. However, to indicate the Government's desire to meet the position expressed by me in replying to the second reading debate; and in order that no unfair advantage should be sought, or that the bank should be placed in no disadvantageous position, I move an amendment—

> That the following proviso be added:—
> Provided that, in respect of rates assessed upon land comprised in any security held by the Bank in the Rural Department of the Bank, the Commissioners, when they enter into possession as mortgagee, shall be liable for and pay the amount owing at the time of the entry for such rates up to an amount not exceeding one year's rates and payment of current rates as they fall due during such time as the Commissioners remain mortgagee in possession.

I submit that in moving the amendment I am going the full way, not only to do a fair thing but also to place this institution in the competitive position it should occupy. It will mean that even if any properties in the agency section sponsored by the Crown are exempt from rates, in the trading section there is a responsibility on the Crown. If, through the instrumentality of its Commissioners, it enters into possession, it is then liable for rates.

Mr. DONEY: The amendment is a pleasant surprise. It applies only to what we will call arrears of rates after transfer to the rural bank. It leaves entirely out of account the old debts to the local governing bodies. But I am not disposed unduly to quibble at that. It is an improvement on the position and will prevent the old state of affairs from recurring. I recall the Minister saying that in the remarks I made yesterday I desired that the exemption should apply to 2,000 abandoned farms. I would like the Minister to understand that was certainly not my intention; nor did I set out my views in such a way as to allow the Minister to make that interpretation. My reference was only to the duty impliedly falling on the rural bank when it becomes mortgagee in possession. I did not intend it to go beyond that. In general, the view adopted by the Minister is quite a proper one. It is the Treasury outlook and not so much the normal, ethical outlook. But I am ready to admit that, in the case of members of the Cabinet, that is rather too much to expect. Where accounts have been written-down in respect of services of the Agricultural Bank and in future by the new bank, in what is termed "other directions," I cannot see that that can be construed into an argument for making local governing bodies carry the burden of the Government's liabilities.

The Premier: Following a good example!

Mr. DONEY: Quite so, but there is no reason whatever why it should be at the expense of local governing bodies which, because of the action of the Agricultural Bank in withholding these amounts, have been impoverished, and, in consequence, roads have got into an appalling condition.

The Minister for Lands: That is not the point at all.

Mr. DONEY: It is one of the points as I see them, and one of the arguments I advanced yesterday.

Mr. McDONALD: Although the Minister's amendment relates only to a comparatively minor phase associated with the operations of the bank, it touches on a principle of very considerable importance. I am glad that the institution is accepting the obligations that are incidental to any other trading institution, for by that attitude it entitles itself to require that those it deals with will accept the same principle and be prepared to carry out any incidental obligations in their relations with the bank. Whatever the position of the Agricultural Bank may have been in the past as a developmental agency, probably as to its trading functions it has been in the same position as any other trading institution. I am not materially concerned about the 2,000 farms that have been referred to, but I feel fully sympathetic with the position of local governing bodies. I am hopeful that in the not far distant future the position created may be such that those farms will be disposed of to new owners who will pay the rates in the ordinary way. I certainly hope that the position will be rapidly cleared up and the abandoned pro-

perties, in addition to other vacant holdings, will be disposed of.

Amendment put and passed; the clause, as amended, agreed to.

Clause 92—agreed to.

Clause 93—Bank may require other creditors to postpone claims before bank postpones its claim:

Mr. WATTS: I move an amendment—

That in lines 4 and 5 the words "creditors of the borrower both secured and unsecured" be struck out and the words "secured creditors, if any" inserted in lieu.

The Bill makes generous provision for the suspension and postponement of certain obligations due by a settler or borrower, and I have no word of adverse criticism to offer in that respect. Unfortunately, that generosity is minimised by the provisions of Clause 93, which sets out that the commissioners may make it a condition of agreement to any suspension or postponement, that the other creditors, both secured and unsecured, must enter into a mutually binding scheme or arrangement between themselves, the commissioners, and the borrower on such terms and conditions as the commissioners consider reasonable. I have no objection to the secured creditors being subject to those conditions, for it would not be reasonable for one institution to suffer postponement while other institutions were able to proceed gaily to recover their secured debts. On the other hand, I am not so certain regarding the position of the unsecured creditors. As the clause stands, there could be no exceptions and it would be easy for grave hardships to follow, particularly among unsecured creditors carrying on business in a small way. That is the possibility I seek to avoid by means of the amendment. The unsecured creditor may be a country storekeeper who has done his best to enable the farmer to carry on. Such a man should be exempted from the application of the provision in the clause.

The MINISTER FOR LANDS: This clause is almost a proviso to the preceding clause. It empowers the commissioners to make it a condition of writing-down or postponement or suspension of debt, on which no interest is paid, that unsecured creditors must also come into such a scheme. The clause says that the commissioners "may" make this condition. The clause deals with a desire on the part of the commissioners to help the debtor over a temporary period of embarrassment. We may assume that the new institution will have very few other secured creditors interested in the security. I am hoping that there will be very few second mortgages and that the Crown will be the first and only mortgagee in respect to the accounts being handled. Therefore, if the amendment is agreed to, it will impose upon the Crown the responsibility of all the writings-down. The commissioners wish to assist the farmers by asking other creditors who are unsecured to suspend or postpone payment in common with them. This clause and the one preceding it have been framed with a view to doing much good to the farmers. But is it reasonable to give to unsecured creditors, many of whom have come in knowing the position full well—machinery firms, oil companies, and the like—the right to have all their debts and responsibilities under a bill of sale met by the farmer while the Crown suspends its debts and the interest payable on the debts?

Mr. Watts: Under a bill of sale, the firm would be a secured creditor.

The MINISTER FOR LANDS: There will be instances in which machinery firms and others will, if the amendment is agreed to, have a preferential right. This will militate against the best interests of the farmers because, while this is a voluntary arrangement, it is discretionary with the commissioners to assist the farmers by having all the creditors coming in, saying, "We want you to help this man temporarily by postponing or suspending the debt and absolving him from payment of interest meanwhile." The Crown would be unwilling, through this instrumentality, to accept all the burden. Therefore, to avoid a process of bankruptcy and to avoid foreing a farmer under the farmers' debts adjustment scheme, this is a voluntary scheme generous to the farmer, and the proviso adds to this generosity, so that the farmer will know where he stands with the secured creditors, and the unsecured creditors will not be able to take advantage of him during that temporary period. Because of the responsibility being accepted by secured and unsecured creditors, we shall have an easy and inexpensive way of tiding the farmer over this temporary period.

Mr. McDONALD: I hope the amendment will not be pressed. Seemingly it is eminently designed to assist the farmer, and I think it is also designed to assist the unsecured creditor. If the unsecured creditor is to be free to take action to enforce his debt and thereby get in before the bank or before other people, I am afraid the institution will conclude that the time has come to realise on the security. In that event, as the bank would be a secured creditor and would come in first, the unsecured creditor would be worse off. This provision will authorise the bank to make arrangements that will be in the interests not only of the farmer but also of all the people concerned with the farmer's financial position.

Mr. WATTS: The clause states that the commissioners may make this condition, and I gathered that the Minister was of the opinion that they could make provision in regard to one or more unsecured creditors and exclude another unsecured creditor whose position might be unfavourable. If he feels that his is the correct interpretation of the clause, I shall be more satisfied.

The MINISTER FOR LANDS: This clause is giving to the commissioners a discretionary authority; and it may be necessary because they, having the just obligation from the farmer, are in a position of temporarily suspending their claim but not forcing any section of creditors into a like position. It might be that some institution or firm, or even a storekeeper, might be prepared to carry on the farm, so that the institution itself would say, "We are not going, for the time being, to press, in your temporary embarrassment, for the immediate payment of our claims. In that case you can pay your current liabilities." And that is the intention in the designed clause, to enable other creditors, any or all, to come in and share with the bank the burden of temporarily giving way to certain other creditors.

Mr. WATTS: It struck me that the commissioners were in this position, that they would insist that every creditor who came into the scheme, whether large or small, and whether the debt was in respect of supplies recently furnished or not, should come into the arrangement. Suppose there came a seasonal operation when the farmer was in debt for things of a current nature. If the commissioners in their discretion decided to have a writing-down by suspension, they could not complete unless they had all the creditors, at the moment, part and parcel of it. The farmer would be placed in a very difficult position. However, I am quite prepared to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause put and passed.

Clause 94—agreed to.

Clause 95—Power to write down over-capitalised securities:

Mr. WATTS: I move an amendment—

> That after the word "carry" in line 5 of subparagraph (i) of Subclause (1) the following words "but not more than the value so assessed" be inserted.

The clause provided for a writing-down of securities; but it seems to me that the intention is to have the value of the property assessed by the bank's valuers, and then to write off, with the approval of the Minister and the Governor, so as to reduce the aggregate to the amount that the property may reasonably be expected to carry. That of course implies that the commissioners may reduce the value below the value assessed. It will be useless to write down the debt to a figure greater than the value so assessed, because if the value were £2,000 and the debt £2,500, it would be useless to write down the debt to £2.250, which amount is greater than the assessed value, if the desire is, and I believe it is, to reconstruct the security and place the farmer in a position where he has not a debt greater than his total assets. In that case it must be the intention to write down at least to the value of the property as assessed by the valuer. My amendment is intended to make it clear that the writing-down figure, which must be less than the value, must not be greater than the value so assessed, in order that there may not be a continuous state of insolvency, although in relation to a smaller sum.

The MINISTER FOR LANDS: The amendment would remove from the commissioners the control of the assets of the institution, and would prevent the commissioners from assessing a value which they knew would be recoverable if in the opinion of the valuer the property should be written down below what the recoverable value would be. That is what the amendment would do. Many other repercussions

would ensue if the amendment were carried. Under the clause the commissioners may, if they are satisfied that the value of the security as assessed by the bank's valuer is less than the amount of the indebtedness, and there is no reasonable anticipation of an appreciation in value to cover the amount of the indebtedness, with the approval of the Minister and the Governor reduce the sum to an amount such as they think the security may be reasonably expected to carry.

If the commissioners in the exercise of their discretionary authority for writing-down must write off the excess over the value as assessed by the bank's valuer, I submit that in many cases they will not use their discretionary power, and therefore there will be many debtors who will get no assistance and no writing-down because in the opinion if the commissioners the property has a commercial value, which may be due to a market trend or even to a seasonal anticipation or experience, and instead of having the property at their discretion, will have it not at its value as assessed today but at something more in keeping with the property according to its recovery value. But because it is made incumbent on the commissioners to write off anything in excess of the value, they will in their discretion decide not to write down at all. So that while the commissioners have the authority to give some relief according to the prospects of the property, not necessarily on its present-day valuation, they should under this clause have that right to give other relief. It may be that in practice there would be very little difference in most cases; but to make it mandatory would, in my opinion, be rendering a disservice to both farmer and institution.

In a case where a property, owing to lack of manpower and lack of superphosphate and many other war-caused disabilities, suffers a severe shrinkage in value, it has a potential which cannot be assessed by a valuer today. It would be very unwise to say that its value must be reduced to not more than the value so assessed. Any harsh administration—if it were harsh—could well make such a provision operate against the interests of the farmer. Quite apart from the prospect of reducing the assets of the bank, to take the property away from the commissioners and place it in the hands of a valuer would be unwise. The principle is unsound, particularly today when, with restrictions and higher prices, it would be difficult to ascertain the true value of the property.

Amendment put and negatived.

Mr. WATTS: It is not my intention at this stage to move another amendment appearing in my name on the notice paper, because I prefer to ask the Minister to explain to me, as he did on my previous amendment, what he has in mind in regard to writing-down. I wish to be assured of this, that there will be no further writing-down of unsecured debts, especially in the circumstances which I detailed when moving my last amendment.

The MINISTER FOR LANDS: The clause deals with the power to write-down over-capitalised securities; but the commissioners may make it a condition of agreeing to any such writing-off and reduction that the other creditors of the borrowers, secured and unsecured, enter into a binding scheme or arrangement between themselves, the commissioners and the borrower for the reduction and adjustment of their claims. The principle has been applied in the case of marginal area securities. In those cases the bank has voluntarily, without reference to unsecured creditors, written-off large portions of the sums owing to it. In this respect, the clause sets aside the Bankruptcy Act. It is a means of overcoming the need for a farmer to go bankrupt. The clause, in fact, treats the farmer not only with discretion, but with generosity. There is no other State in the Commonwealth which uses such a power to set aside the provisions of the Bankruptcy Act in order to assist the farmer. In South Australia, no consideration was given to the farmers in the marginal areas; they had to assign their estates in bankruptcy. We desire to give the farmer here the opportunity to ascertain how he stands; if his case were not one for adjustment under the Rural Relief Fund Act, then we would apply the words which the Leader of the Opposition said he intended to move to strike out. That is the interpretation which I assume the new commissioners would place upon the provision.

Mr. WATTS: I hardly think assumption is good enough. I feel that if the commissioners decided to make it a condition that there was to be an agreement between the secured and unsecured creditors of the

borrower for a writing-down, there would be no exemption. I cannot escape from that feeling as I read the clause. While they have discretion and can exercise it to the extent of saying, "We do not want to worry any outside creditor," once they decide to make it a condition of agreement between creditors it is doubtful whether they can leave any out, whatever may be their good intentions. I am prepared not to move an amendment if, in the meantime, the Minister will be good enough to seek legal opinion on the points I have raised, and if he finds them in any way tenable will seek to clarify the position when the Bill reaches another place.

Mr. McDONALD: Since the Leader of the Opposition raised the point regarding the preceding clause whether all the creditors, secured and unsecured, would need to come into any arrangement imposed by the commissioners, I have been looking carefully at the preceding clause and the proviso to Subclause (1) of this clause, and I agree with him that there is an element of doubt whether in these cases the commissioners would not be compelled, as a condition to making any such arrangement, to bring in all the creditors. It is always possible that there may be a creditor for a small amount—it might be a pound or fifteen shillings—and it might not be possible to communicate with him or he may be cantankerous and refuse to come in at all. I suggest to the Minister that he might give consideration to inserting after the word "that" in line 31 of Subclause (1) the words "all or any of."

The MINISTER FOR LANDS: The principle involved in the amendment suggested by the member for West Perth is to give to the commissioners discretion in these cases to bring into any mutually binding scheme, after a mutual arrangement has been agreed upon, all or any of the unsecured creditors. That is how I interpret the clause, even without the addition of the words suggested. It is unreasonable of the Leader of the Opposition to expect that I can anticipate or do other than assume in what manner any commissioner will implement this clause. I cannot anticipate what the decisions would be in discretionary matters. My assumption that this is what they would do in their discretion is based on discussion with legal authorities. However, I have no objection to clarifying the position by saying that the commissioners may, in regard to a mutually binding agreement, take in all or any unsecured creditors. I therefore move an amendment—

> That in line 31 of Subclause (1) after the word "that" the words "all or any of" be inserted.

Hon. W. D. JOHNSON: I am afraid of this. It is placing a big responsibility on the commissioners. Commissioners should not be allowed to discriminate between unsecured creditors. If a man is outside an agreement he can do as he likes. I cannot imagine how there can be peace between borrowers and the commissioners unless the mutually binding scheme covers the whole of those likely to harrass the borrowers. The clause provides that they can all be embraced but the amendment declares that some can be left out. When an attempt is being made to bring peace and mutual understanding between borrowers and the bank, none should be free from the agreement.

Mr. McDonald: Suppose a farmer owed £20 and you could not find him?

Hon. W. D. JOHNSON: I cannot imagine that. Take the point raised by the member for West Perth! I have had some experience in adjusting liabilities. Some people are most careless in regard to their liabilities. Those who are within ten minutes' walk of the office have to be sent notice after notice, and still will not respond. Creditors who live some distance away get in early. But I do not argue from that point of view but from the angle that, if there is to be a mutually binding scheme, it must be comprehensive. If it is not, it will not be an agreement that is likely to bring comfort to the farmer, in particular.

Amendment put and passed.

Mr. DONEY: On behalf of the member for York I move an amendment—

> That at the end of Subclause (1) the following proviso be added:—Provided that whenever the security taken by the Bank under this Act or vested in or held by the Bank by or under the provisions of this Act comprises a mortgage of land used for the purpose of rural industry the value of such security shall be assessed on the basis of the productive capacity of the said land having regard to its existing stocking facilities and improvements and to the average market price of farm products in the State for a period of three years immediately preceding the date of the valuation and including in the estimate of the expenses required to produce income from the said

land reasonable remuneration based on the basic wage for the South-West Land Division for work done by the farmer or any other person in the production of such income.

This raises no major objection to the general sense of the clause, which deals with the writing-down of certain over-capitalised securities in cases where the borrowers are deserving of that form of help because of past satisfactory relationships between them and the Agricultural Bank, which will now be the rural bank. The clause goes on to show that the rural bank may make the writing-down conditional on other secured and unsecured creditors, also writing-down their debts by reasonable amounts. Members can see from the proviso that we do not want the Government to place its valuation on a too rosy idea of future values. The member for York has gone to considerable trouble to give rather precise procedure. The basis suggested is a fair one. Particularly do I commend to the Committee the last part of the proviso which is aimed to rule out a wage based on sweated conditions of labour. Members opposite are constantly asking that such conditions be not imposed. The idea of the member for York in including that portion of the proviso is to secure, as I hope he will, the support of members opposite for the proviso.

Mr. SEWARD: I support this amendment. It is most desirable to have some definite system for the valuation of the properties. I venture to say that much of the trouble in the years of depression was through the want of some such regulation as this in the days preceding the depression. There are frequent instances of values being made on a hit-or-miss style. Valuers drive around properties and simply give the values. The proper way to do it is to base the value on the productive capacity of the land. It is of no use saying that a property is worth a certain sum and will produce a certain income, if it cannot do so.

The MINISTER FOR LANDS: There is a great deal of misunderstanding regarding the term "productive valuation." It is clear in the minds of some people that the value of a property should bear a definite relation to its earning capacity. But what is lost sight of is the basis of the calculations, and the calculations themselves, necessary to determine the required value. The hon. member by this amendment has raised one of the most contentious aspects of the principles of land valuation attaching to the requirements of the Commonwealth Land Tax Assessment Act. Much litigation has been caused by those principles and, in addition, impractical theories are advanced as to how to arrive at productive values. One of the important factors in arriving at productive capacity is to assume competent and efficient management.

Sitting suspended from 6.15 to 7.30 p.m.

The MINISTER FOR LANDS: Before tea I was dealing with the misunderstanding and vagueness in the minds of many people regarding what is meant by productive value. I stated that many people did not understand the numerous and involved calculations necessary to arrive at the required value. One of the most important things to be borne in mind when valuing a property for a capitalisation of the prospective net income—assuming competent management and whether basing it on the existing development or on a full state of development—is that a great number of calculations are necessary, and reliable results can be obtained only by very experienced people. It is not possible to set down in a statute or as a basis of assessing values on productive capacity, a formula so rigid that every sum chargeable to a particular service or cost can be a sum that is inflexible and in connection with which no doubt can be raised. I will illustrate that point later.

So many calculations that are variable are necessary that the highest courts of Australia have stated in connection with litigation associated with land tax assessments that so much speculation occurs that the principle is not sound. Sir Isaac Isaacs, when a judge of the High Court in the case of Spencer v. The Commonwealth went so far as to say that, while the principles cannot be entirely disregarded, they must be handled with extreme caution. The reasons for this are very obvious. So numerous are the varying factors that it is extremely hard to arrive at the basis of net income which, capitalised at a certain rate of interest, represents productive value. Not only are those factors which are used to calculate the net income variable, such as seasons, prices, market trends,

whether an industry is bonussed or not, cost of labour and cost of material, but any figure varying even to the extent of half per cent. will give a very different result.

During the tea suspension I worked out what would be the effect of capitalising a net income at rates of interest varying from 6 per cent. down to 3½ per cent. I used 6 per cent. because it is the figure that was mentioned in the Chamber last evening for calculations on a productive capacity basis in another connection. If we take the basic wage figure mentioned in the amendment as approximately £5 a week for the South-West Land Division, we get £260 a year as what might be left after all expenses have been charged as the net income. If we capitalise £260 at 6 per cent., basing the productive value on the earnings from capital invested, we get a figure of £4,334 as the value of the property. If we capitalise it at 4 per cent., we get a terrific variation—the sum of £4,334 grows to £6,500. If we vary the figure from 4 per cent. to 3½ per cent., we get a variation from £6,500 to £7,410. Is it any wonder, therefore, that when such matters have come before the learned judges of the High Court of Australia they have advised the litigants that productive capacity valuations are unsound?

Let us take the variable component parts of cost in the running of a mixed wheat and sheep farm! They vary considerably in districts, but much more in regard to persons. On the principles of valuation used by valuers all over the Commonwealth—highly skilled and experienced men in land use, in market trends and valuation principles generally—we find that they use productive value as a guide rather than as a basis. To use in calculation of productive capacity the formula suggested by the member for York, one pays no regard to whether there is on the property a super-bag shack or a house with amenities and certain comforts. One pays little regard to many other important features, such as proximity to other amenities and comforts. I can produce to this Chamber the results of research by accepting various conditions of Commonwealth men who have had 15 years' experience in valuing, and Commonwealth authorities who have taken cases to the High Court of Australia; and the frailty of it all is this, that there are so many variable factors in arriving at the net income and the effect of capitalising without any income at varying rates of interest. One can get as regards properties such a wide variation in a district because of the personal factor. Why, we had men in this State showing a profit and paying income tax when wheat was 2s. per bushel; and the productive value based upon average farm ability and average farming practice can make within a district a terrific variation in adjoining properties.

I have here a standard formula used by acknowledged members of the Institute of Valuers attached to a very big Australian institution. It had the opportunity recently to study the very many principles involved in different types of valuation. I can assure members that the principles suggested in this amendment could react very prejudicially to the farmer. Let us take what would have happened if the value on a productive capacity basis had been assessed in 1930. Just imagine if members were appointed to assess the prospective value of property in the light of the prices of the three years before 1930. Of course it must be wrong. If you are to take a term of years that system of years must be a long term. We have the guide of such organisations as the Institute of Valuers, to whom the authorities in South Australia belong. I have here an extract from a recent report made by that institution which shows very clearly that they treat with great caution all the calculations which are so violently fluctuable in arriving at a net income. On the other hand, they treat also with great caution the principle acceptable to the courts, the principle of arriving at value for size.

We have the principle in the Commonwealth Land Tax Assessment Act for arriving at improved value of land, which is improved value in relation to the capital sum that the fee simple of the land may be expected to realise, if offered for sale on such reasonable terms and conditions as a bona fide seller would require. But that has been added to in recent legislation from New Zealand. At the end of the clause reading, "on such reasonable terms and conditions as a bona fide seller would require," are added the words "and what a purchaser desiring to buy is prepared to pay." And in the same Act we get an interpretation of "improved value." In spite of those inter-

pretations being very clear, according to the statute, there has been litigation in scores of cases connected with the determination of values on a productive value basis and on an unimproved value basis, and after removing all the values. All of the measures used in principles of valuation adopted by all expert valuers in Australia get down fundamentally to the dangers of using productive value in such conditions, because it is so difficult to define.

The hon. member in moving this amendment is adopting a principle difficult to define, but a principle which on a three years basis is, I submit, quite unsound. And it is quite wrong to assume that it is a simple matter firstly to arrive at the basis of net income, and consequently to ignore the violent fluctuations that can be obtained in assessing the value at varying rates of interest. So that I am opposed to the amendment not merely because of its unsoundness but because of cases to which the hon. member would desire to apply those things. The amendment is an endeavour to make in an arbitrary fashion in this Bill a rigid pattern for the commissioners to adopt, namely a formula which must prove very prejudicial to the farmer himself.

Mr. WATTS: I do not agree with the Minister that the difficulty in application of the principle of productive value is as great as he would have us believe. I think that if he looks back on the Farmers' Relief Fund Act in the days of the late W. A. White, he will find that that gentleman was prepared to accept such a principle as this in dealing with valuations. Whether or no he ever completed a formula in regard to it I am not aware, but it certainly is an aspect taken into consideration in all the values which were assessed by Mr. White in the days when he was the Director of the Farmers' Debts Adjustment Board and the Rural Relief Fund. I have always been interested to know the method of valuation adopted in cases where a valuation for the purpose of Section 65 of the existing Agricultural Bank Act was required. If the valuation were on the unimproved value of the land, plus the value of the improvements, then it was not as fair to the farmer—despite the observations of the Minister—as would be the calculation based on what the property would earn for the owner at some reasonable average.

Hon. W. D. Johnson: Over a number of years.

Mr. WATTS: Yes; three years is mentioned in the amendment. That is where I consider the Minister's argument is tenable. In valuing a property on the unimproved value of the land, plus the cost of improvements, one ignores altogether the fact that the improvements in some instances are incapable of producing anything or of adding to the production of anything. Consequently, they do not add to the value of the security in the slightest degree. For example, a person may erect upon a farm a house containing 17 rooms and costing £3,000. From the point of view of a purchaser of the property, that house would be worth to him only what it would cost to erect a house in which he was prepared to live, say £800 or £900. On that basis, the house costing £3,000 would be worth only £800 or £900, yet it must be taken to be worth £3,000. Again, a certain type of clearing may cost so much per acre. It is therefore worth that sum, or, alternatively, what it would cost to clear land in a similar manner today.

Dealing with the question of unimproved value, what right has anyone to say that land has an unimproved value of a certain figure? Land may have been priced by the Lands Department at one stage of its history at 10s. per acre; now, because of changed circumstances, it might be worth only 2s. 6d. an acre or only 1s. per acre. I think that is the case with respect to land in the Boscabel district near Kojonup. Land of a similar type varies in value according to the district in which it is situated. Some land may have a greater value because of its proximity to a particular centre, yet it will not produce one extra bushel of wheat or one extra pound of wool by reason of that fact. Other land, not so favourably situated, but with good transport facilities, may be worth just as much. In my opinion, to take as a basis the alleged unimproved value of the land, plus estimated value of the improvements, is not satisfactory. We must therefore find some other method. It has always seemed to me that what a property will produce—the value of its production—must be the true criterion of its value.

No one will deny that 1,000 acres worked by one man will produce in income twice as much as another 1,000 acres worked by an-

other man. Therefore, it should be worth twice as much. Why? Because the return to be derived from it is twice the amount that would be derived from the poorer property. That is the more desirable way in which to ascertain the value. I turn for a moment to the Minister's ideas on the basic wage question, which is mentioned in the amendment. The Minister proceeded to arrive at his estimated value by capitalising the basic wage at various rates of interest.

The Minister for Lands: I said, assuming that the net income from the property was equivalent to the basic wage.

Mr. WATTS: That is, after the basic wage has been paid to the farmer?

The Minister for Lands: Yes.

Mr. WATTS: If the property will pay the basic wage to the farmer, as well as all costs of management and administration, the wages of other persons that may have to be employed, the cost of putting in and taking off the crop, the cost of repairs and improvements, rates, taxes and insurance—all these items, including at least the basic wage for the proprietor of a property—and still leave an amount equivalent to the basic wage, then the property would be worth a great deal of money.

The Minister for Lands: That is so.

Mr. WATTS: And the figures mentioned by the Minister would probably meet the case in respect of a property of that kind.

The Minister for Lands: You can assess it at any figure you like.

Mr. WATTS: Not many people would think twice about paying a reasonable sum for such a property.

The Minister for Lands: That is not the point. The point is the variation in the capital.

Mr. WATTS: I am aware the rate of interest can be varied and so the value of the security would be increased or decreased. But there must be the normal somewhere. I do not suggest at the moment that it is in the amendment. There is not any satisfactory method that I know of by which to arrive at values, and the method I suggest is in all probability as accurate as any other.

Hon. W. D. Johnson: It will not work.

Mr. WATTS: It will. It is constantly being used as the basis of values by people in other ways. Many a farm has been sold on the basis of its carrying capacity for sheep or cows; if it will carry so many sheep, its value is so much. That is the estimation of its productive capacity and nobody denies that can be put into practice with reasonable success, although somewhat surrounded by difficulties. This amendment does not suggest it is necessary to capitalise land at any figure at all. The amendment does not compel the commissioners to use that method. They could fall back on any other method of calculating the fair and reasonable productive capacity of the farm. The amendment recognises the right of the individual to some reasonable return for the services he has rendered, which is claimed today to be the undoubted right of every adult person in our community; but which is not by any means a clear right, so far as the agriculturist is concerned, however energetic he may be and whatever the return from his land may be.

It is high time we arrived at some system whereby we could recognise the right of the average efficient farmer to an income out of his earnings which is reasonably tied to the basic wage. I agree with the Minister that it is necessary to take some factors into consideration which are taken into consideration in a different way in regard to the calculation of the basic wage for the ordinary Arbitration Court award. It has to be realised that in the basic wage for the South-West Land Division at the June assessment, 19s. 11d. was included for house rent. A farm house may be worth 19s. 11d. or it may not. If it is worth 19s. 11d., that would be a charge wholly or partly dealt with in the interest charge on the property, because it would have some relation to the mortgage on the property. It is also necessary to take into consideration the question of what the farm itself can produce in the way of the necessary supply of food, and some regulation of the figure would have to be made in that aspect of the case.

Certain adjustments to the figure would be required, having taken into consideration the different circumstances between the farming property and the things it produces and the town property and the things that have to be paid for in cash. Nevertheless, it would involve the acceptance of a principle which we can no longer afford to cramp or overlook, but which in the future we must face. I feel like pressing for an amendment of this character. I do not think it is impracticable. It does not necessarily involve

the system so ably covered by the Minister for Lands. It may and could involve quite another system, more easily adaptable to the circumstances of the case. It will be more desirable than the basis of simply adding the alleged unimproved value to the cost of the improvements and would ultimately at least begin to recognise the right of the proprietor of a property to some reasonable share in the production of that property.

The MINISTER FOR LANDS: The Leader of the Opposition has given adequate reason why he should not press this amendment. He outlined the various principles and methods adopted in arriving at valuations. He used the per head of stock basis, the sales basis and the productive capacity basis, as he interprets it. He asks the Committee to agree to a formula, even though it may be interpreted widely, with which to restrict the commissioners in arriving at a valuation. If there are varying factors in all principles adopted for valuation of properties—rural and urban—why should we accept a hard and fast principle when there is so much doubt and so many assumptions are used in the basis of calculation for all of them? One objection in connection with the productive capacity basis in this restricted form is that it anticipates looking only into the past. If we are to have a sound basis on which to build up productive capacity valuation, it must not only include a long-term view of the past but must also anticipate possible future trends. So it would be foolish for this Committee to agree arbitrarily to tie the commissioners to a system of valuation which is based on so many calculations and assumptions.

Mr. McDONALD: With the argument of the Leader of the Opposition I have every sympathy. It would be a great achievement if we could find a formula by which the agricultural and other lands in this State could be accurately valued; but I regret that I find difficulty, especially in this State, in finding a formula that is going to be satisfactory in the valuation of land, particularly rural land. This valuation proposed is quite rightly based, to a large extent, on the income-producing capacity of a farm. All treatises on valuation of land of which I know demand that the first consideration in arriving at the capital value shall be the income the land is capable of producing; but in all cases, in addition to income, other factors are taken into account, and they are important factors. In the case of rural properties, they may include the kind of dwelling and the proximity of the land to a school, and to a town where shopping may conveniently be done, climatic conditions, the attractions of the neighbourhood, or the prospect of improved value or production. For example, a property may be in a district where it is expected within a short time to have irrigation facilities.

A property may be in an area where it is likely to get improved transport. There are many factors which make up the value of land, especially farming land, which could not be found in any one formula. I would be happy if a formula could be found upon which we could rely to do justice to the farmer and to the institution lending money. I would call this a depreciatory formula. It tends to bring the value of the farm down to a low average figure. It would set the standard for the approach of the commissioners to the value of all farms if we include it. If they were compelled to approach every farm or every application for a loan with this basis in mind, knowing that the farmer could afterwards call upon them to apply it if he desired a writing-down, then they would have to estimate the value of many farms at a figure far lower than they might otherwise feel disposed to do. That would mean reduced credit facilities for the farmers.

The Minister for Lands: How could you do it today with restrictions, or guaranteed prices?

Mr. McDONALD: It would mean that if the farmer desired additional credit he would be faced with an arbitrary method of valuation, and the farm might be valued at much less than he thought it was worth. This must be regarded not only from the point of view of the farmer who desires a writing-down, but also of the farmer who is going to succeed and who wants extra credit. I do not think this amendment would make any difference to the bank, except to make it more cautious and restrict its business, but I am afraid it would make a big difference to farmers. I am afraid that when they bring their farms into the market the rural bank will not be of the same service to them as it would if the commissioners were allowed a freer hand in estimating the amount they could lend on that farm. If we establish by Act of Parliament a formula for

valuation which in many cases would be depreciatory, it might tend to create a value that will be accepted by the investing public but that may do our farm lands less than justice having regard to the many factors I have mentioned.

Mr. Doney: Do you think the amendment would lead to an unduly high valuation?

Mr. McDONALD: No, to an unduly low valuation in some cases, because it would leave out of account the factors in relation to farm lands which would have an influence on increasing their value both for the purpose of increasing credit and securing more——

Mr. Doney: Such as?

Mr. McDONALD: I mentioned some, namely, the proximity of a town for marketing, the nearness to a school or the prospects of better transport facilities.

Mr. Doney: These things would have an appreciative effect, and allowance could be made for them.

Mr. McDONALD: I do not think the commissioners would be completely bound to eliminate all those factors. What I think is that they would realise that if the farmer got into a difficult position he would expect them to write down on the basis of that value, and they as prudent men would know that they would have to take into account that method of valuation when first advancing money to the farmer. They would have to act cautiously. If they were going to lend money they might think that the farm is in a situation so that it would be bound to increase in value in five years because of some irrigation scheme that the Government had agreed to. But they would have to realise that if it came to a writing-down the farmer would say, "Put that out of your mind because it is not in the formula."

Mr. Doney: That would be an ample excuse——

The CHAIRMAN: Order!

Mr. McDONALD: I fully appreciate the difficulties in connection with this amendment, but I am reluctant to see a hard and fast formula introduced in connection with such a matter as the valuation of farms in a State where farms are notoriously hard to value. Every man, who in his daily work, has the duty of arriving at an estimation of the value of a farm in this State, will say how difficult it is. Many factors have to be taken into account, especially in a pioneering State where the future has to be considered as well as the existing circumstances. If a formula could be brought forward which could be relied upon to be just in the circumstances of this State, I would be happy to see it.

Mr. Doney: This one has been subscribed to for many years. The late director of the Rural Relief Fund subscribed to it readily.

Mr. McDONALD: Precisely, but the more I consider the matter of formulae, especially at times like these when there may be developments of no small magnitude, the more I fear that they may react against the very people in whose favour it is sought that they should act. This matter might well be not pressed at the present time. If in some more stable times some basis which would take into account all the relevant factors could be evolved, then I would be happy to see it. I cannot convince myself that we would be doing a service to the farmers and their credit facilities by adopting this basis of valuation.

Hon. H. MILLINGTON: This amendment sets out the basis of valuing securities. The first apparent failure is that it applies to an individual holding. It does not even apply to a district. When we attempt to take an individual holding, irrespective of the holder, we find that the yardstick here is a very fallacious one. I know of a holding in the district I represent on which three men failed, but where the fourth man has done remarkably well. Each had an equal chance. If the value of the holding were to be assessed on the basis of the three failures it would be very fortunate for the man who eventually secured it. In any given district we find men who because of their superior knowledge and practice in agriculture, especially in their anticipation of markets, are outstanding successes. In my district I know of an exceptionally good and experienced man who can get on the market early with perishable products such as, for instance, beans, which he can dispose of at 6d. a lb. whereas in a fortnight's time other growers, who get their produce on the market late, have to be content with a return of 6d. per bag. Then again in some districts it has been usual in the past to cultivate valuable swamp land. But someone discovered that by going on to the higher land that looked hungry, sinking wells and reti-

culating the water at a cost of £100 per acre, more productive results were achieved than on the valuable swamp land.

The Minister for Mines: And the higher land was much easier to work.

Hon. H. MILLINGTON: Quite so. If we attempt to value a holding without taking into account the personal equation and records, any such method would be a long way from being reliable. In its endeavour to arrive at values that can be regarded as reasonably accurate, the Agricultural Department's method is not to carry out an experiment on one holding and then go a mile away and conduct the same experiment there. Experiments are carried out side by side, hence the results are more accurate. We must take account of the individual. One may be particularly capable while another may be a comparative failure, and most of these proposals are submitted in the interests of the failures. It is what can be done with the land that counts. If we are to attempt to arrive at a formula it must be on the basis of the average results achieved in a given district. There are variations in soil in any given district and it would be possible, especially on the part of a man with local knowledge, to determine whether what had been accomplished represented the utmost to be produced and whether the individual responsible represented an average for the district.

Mr. Doney: You could not take an average case for the district because the capacity of the land is so highly variable.

Hon. H. MILLINGTON: I propose to take the average farm, not an individual farm. It is a question of what can be done in a district, and it is certainly incredible what can be done on the same land by different farmers. The formula proposed cannot be accepted. I am aware that the utmost difficulty attaches to arriving at a formula regarding the productive value of land. As the Minister pointed out it is the great problem. It is not merely sufficient to throw a formula into the ring like this—and then retire to York! I do not blame the member for York for having a stab at it, but I hope he does not consider he has solved the problem. The formula proposed is undeniably fallacious. I do not know what can be said for it; I know there is much to be said against it. I would prefer to leave the matter to the discretion and the judgment of the commissioners. Whether the farmer has been successful or a failure is not referred to in the formula, and that is one phase upon which the commissioners would have to satisfy themselves and, in my opinion as well as in the opinion of those who have had experience in such matters, that is the main factor.

Mr. DONEY: Neither the formula proposed nor any other that could be adopted could be rigidly observed in all circumstances when we tackle farm valuations. The proposal does not pretend to be the complete formula for adoption as the basis for assessing land values. Much must be left to the discretion of the commissioners through their inspectors. The details mentioned in it represent a basis on which to start, and I cannot think of anything more suited to general farming conditions. It is undeniable that during the discussion no attempt has been made in any way to improve upon the method suggested and the comments have been merely critical.

Hon. W. D. Johnson: It is beyond improvement!

Mr. DONEY: That is the type of interjection one would expect from the hon. member. To arrive at this has taken many years, but for three or four years it has been adhered to by all the farmers' associations in the State, by members sitting on this side of the Chamber and by many valuers. It is rather a pity that members, instead of condemning the proposal, have not tried to improve it. This is only a suggested basis, and I regret that the Committee has not yet found a way to improve it. However, since every speaker has implied that there must be a basis or some factors that can be adhered to, the Minister ought to get together a body of men accustomed to dealing with these matters and arrive at a formula.

Mr. SEWARD: Most members have disagreed with the proposed formula, but no one has suggested any improvement. The member for Williams-Narrogin said we had adopted this formula for the last three or four years. It was adopted by one of the leading banks in Australia 30 years ago, and is still being used by that bank, because there is no other system that can be used. The case for this amendment was proved by the member for West Perth. The member for Mt. Hawthorn indicated that, unless there is a formula, we could not have a set valuation for a district or for two farms

in the one district. I know of no State in Australia where the land varies so much in quality as it does in Western Australia. Consequently, it would be difficult to arrive at a basis of valuation that would apply to two farms on opposite sides of the road. How can the value be assessed in any other way than by what the land produces? The amendment proposes to confine the period to three years. I think we should adopt a much longer period in order to get a fair spread of the years. The member for Mt. Hawthorn indicated that he would not take the valuation of individuals, but would take the average for a district. If he did so, he would have half the farmers becoming failures while the other half would be unduly successful. The reason is that there is no common value other than that based on what the particular land produces.

As was pointed out by the Leader of the Opposition, we cannot take the unimproved value and add the value of the improvements. It would be possible to add greatly to the improvements on a property and yet not add one pound to its productive value. Reference has been made to the individual work on a farm. That would have to be taken on the basis of an efficient farmer working his property in an efficient manner and on the produce he could raise, taking the average of prices over a period of years. I was struck by the Minister's explanation of the variations in the value of a farm based on different rates of interest. I venture to say that he adopted an extravagant variation. He gave calculations based on rates of 6 per cent. down to 3½ per cent. I recall that 30 years ago, in my banking days, the average rate of interest was five to six per cent. and today it is still five to six per cent. Consequently, there have been no big variations in interest rates.

The Minister for Lands: Are not we hoping that the rate will be 3½ per cent.?

Mr. SEWARD: If the Government can get money for nothing as a result of the Commonwealth's printing bank notes, the rate might be brought down to that. While I have the highest regard for the legal opinion of Sir Isaac Isaacs when it comes to a question of land valuation I would prefer the opinion of leading bankers. Sir Isaac Isaacs was a legal man dealing with legal matters all his life. A banker constantly deals with land values. Some years ago I was pleased to find that the Commonwealth department had adopted the system that was in operation in the bank I worked in 30 years ago, namely to value the land on the productive capacity. I recall that some years ago experienced farmers were complaining on the score that the land valuations in the district were too low. When they were asked to put the figures on paper and prove from the production on their own properties that the valuations were too low, they could not do it. Just before the depression a leading banker came here to take charge of an institution and he immediately said, "Your valuations are too low. Put them up." The bank put the money out and in 12 months was calling it back. I think that man was solely responsible for the inflation of values in this State in the period 1928 to 1930.

Hon. W. D. Johnson: What basis of valuation did he adopt?

Mr. SEWARD: I do not know; he simply said that our valuations were too low and must be increased. I do not know whether other banks followed his advice: they might have been forced to do so in order to compete. The valuation has to be based on something solid. Let us be on safe ground. In past years we have had our lessons as to the results from inflated land values. Although in Western Australia we can produce crops on a rainfall which would be too small in the Eastern States, yet we have had land values inflation. It is useless to attempt to increase the price of land which in its natural state will carry only a sheep to four acres.

The MINISTER FOR LANDS: The member for Williams-Narrogin suggested that certain examinations should be made, and possibly I could find time to assist in that research. I am disappointed to think that the present position is what has been arrived at. I mentioned that certain research was being undertaken in Australia as to this subject. Unfortunately, the responsible report and the summary of the views of experts have fallen to my lot. At this moment there are six acknowledged authorities on the subject undertaking research all over Australia in an endeavour to solve the problem. I did not wish to raise the problem, but I raise it now deliberately because there is still insistence on including a method of valuation which is to be introduced until something better can take its place. There is still in Australia a body of

men, acknowledged authorities, some of them with 20 years' experience in land matters and principles of valuation, attached to institutions to which land values mean millions. They are associated closely with the farming community and farming interests, and it is expected that before the end of January next there will be crystallised not merely the history of the subject and an adequate survey of it, but definite recommendations from acknowledged experts. I am hoping that as an outcome of research, all Australia will derive some benefit and be able to adopt a uniform system interchangeable between the States, based on fundamental factors that are sound and acceptable to all the States. I oppose the amendment.

Mr. LESLIE: I was pleased to hear the Minister make mention of the formula in course of preparation. I am still more interested in the debate on the amendment, probably because it might be taken as a shadow, or foretaste, of things to come. The agreement between the Commonwealth and the States on soldier settlement makes some reference to arriving at a basis of the capital value of properties on net income returns. From that aspect the amendment interests me. The existing system of valuation merely takes into consideration the value of the production of properties, omitting to take into consideration a vital portion of what should be legitimate charges against that production. For that reason I would like the Minister to change his attitude and the amendment considered from a different standpoint. The banks consider a loan proposition purely from the aspect of the value of what that property will produce. In the early days banks did take into consideration the net value of property plus the cost of development; but it was useless to go to a financial institution with a formula of that kind, stating the cost of the property to be so much, and the cost of bringing it into production and of carrying it on so much. Banks went on the figures of what the land could produce.

By carrying the amendment, the Committee will pledge itself to an alteration of the system. It is wide enough to allow the commissioners to carry it out without placing any restrictions on the farmer. Many farmers today are suffering because their properties have been over-valued and they have received advances of a greater amount than the value of the properties warrant. In assessing the value of properties, all the cost of production, including a reasonable labour reward to the farmer, should be taken into consideration. That has not been the case in the past. I hope the amendment will be carried.

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

Ayes	7
Noes	25
Majority against	18

AYES.

Mr. Berry	Mr. Seward
Mr. Kelly	Mr. Watts
Mr. Leslie	Mr. Doney
Mr. Mann	*(Teller.)*

NOES.

Mrs. Cardell-Oliver	Mr. Millington
Mr. Coverley	Mr. Needham
Mr. Fox	Mr. North
Mr. Graham	Mr. Panton
Mr. Hawke	Mr. Rodoreda
Mr. J. Hegney	Mr. Shearn
Mr. Hoar	Mr. Smith
Mr. Holman	Mr. Tonkin
Mr. Johnson	Mr. Triat
Mr. Keenan	Mr. Willcock
Mr. Leahy	Mr. Wise
Mr. McDonald	Mr. Cross
Mr. McLarty	*(Teller.)*

PAIRS.

AYES.	NOES.
Mr. Stubbs	Mr. Styants
Mr. Abbott	Mr. Collier
Mr. Perkins	Mr. Telfer
Mr. Thorn	Mr. Wilson
Mr. Hill	Mr. Withers
Mr. Willmott	Mr. W. Hegney

Amendment thus negatived.

Clause, as previously amended, put and passed.

Clause 96—Bank may consolidate securities:

Mr. WATTS: I move an amendment—

That in line 6 before the word "fix" the words "subject to the provisions of this Act" be inserted.

This deals with a uniform rate of interest.

The MINISTER FOR LANDS: In any case, the application of a uniform rate of interest would be subject to the provisions of this measure. The amendment is unnecessary. It is the difference between Tweedledum and Tweedledee. I am not speaking for it, nor am I objecting to it.

Amendment put and negatived.

Clause put and passed.

Clause 97—agreed to.

Clause 98—Accounts:

On motions by the Minister for Lands, clause consequentially amended by striking out in line 3 of Subclause (1) the word "June" and inserting the word "September" in lieu; by striking out in line 2 of paragraph (a) of Subclause (1) the word "June" and inserting the word "September" in lieu; and by striking out in line 4 of paragraph (b) of Subclause (1) the word "June" and inserting the word "September" in lieu.

Clause, as consequentially amended, put and passed.

Clause 99—Appointment of special auditor by Auditor General. Reports. Comments and powers of Auditor General:

The MINISTER FOR LANDS: Following previous amendments, it is necessary to amend this clause. At first sight, it would appear that the time allowed by the amendment I propose to move would be insufficient, as from the day that the annual balance takes place on the 30th September, to enable the Auditor General to submit reports in connection with accounts that may be made to him by his auditors during the year. But it is a safe assumption that there will be in constant attendance in this institution a representative of the Auditor General and it will therefore be necessary for him, after receipt of the reports, to have them available as early as possible, particularly since he has the obligation of furnishing them in time to be laid on the Table of the House. I move an amendment—

> That in line 4 of paragraph (b) of Subclause (3) the word "first" be struck out and the word "thirtieth" inserted in lieu.

Amendment put and passed; the clause, as amended, agreed to.

Clause 100—Report to be made annually to Parliament:

The MINISTER FOR LANDS: This clause deals with the furnishing of a report to the Minister "for the 12 months ending on the then next preceding 30th day of June," this to be tabled at the first meeting of Parliament following. With the alteration in the date of the annual balance sheet to September there will be little opportunity in some years for a complete report to be made and tabled in that time. I have first to move an amendment—

> That in line 1 of Subclause (1) the word "first" be struck out and the word "thirtieth" inserted in lieu.

Amendment put and passed.

The MINISTER FOR LANDS: I move an amendment—

> That in line 6 of Subclause (1) the word "June" be struck out and the word "September" inserted in lieu.

To make sure that Parliament has an opportunity to get the report for the current year tabled, I intend subsequently to move for the insertion of a proviso.

Amendment put and passed.

The MINISTER FOR LANDS: I move an amendment—

> That the following proviso be added to Subclause (1):—Provided that where in any year it is impossible to comply with the provisions of this paragraph within the time provided, the Auditor General shall prepare and forward to the Commissioners for submission by them to the Minister an interim report before the thirtieth day of November in that year and the Minister shall cause the same to be laid on the Table of each House of Parliament at the next sitting of each such House respectively.

Because of the limited time afforded the Auditor General to make reports on balance sheets on certain activities of the State, there is often a delay of 12 months in their receipt by Parliament. In order, in the case of this institution, to avoid misunderstanding by this House and also lack of information, which may be a serious prejudice to the institution, I desire to provide by this amendment that, if a complete report is not available, it shall be incumbent upon the Auditor General to provide an interim report.

Amendment put and passed; the clause, as amended, agreed to.

Clause 101—Settlement of disputes:

Mr. SEWARD: I move an amendment—

> That in line 7 after the word "two" the words "the Solicitor General, and whatever award or determination is made by the Solicitor General shall be final" be struck out and the words "two arbitrators, one to be appointed by the Commissioners and the other to be appointed by the other party to the dispute and the arbitration shall be conducted as, and have all the incidents of, a reference under the Arbitration Act, 1895," inserted in lieu.

This is to be a Government institution, and to refer disputes to a Government officer whose decision would be final would not be likely to inspire confidence in an aggrieved person.

The MINISTER FOR LANDS: I quite understand the anxiety of the hon. member

regarding this matter, but instead of amending the clause as he suggests I think it will be preferable for this institution, in the event of disputes, to follow the ordinary course of law. I would prefer to see the clause deleted rather than amended.

Amendment, by leave, withdrawn.

Hon. W. D. JOHNSON: I notice from the marginal note that this clause is taken from the New South Wales Act. I hesitate to agree to the deletion of a provision that has been found necessary in New South Wales. The fact that this appears in the New South Wales Act is an indication to me that it was put there for a purpose and was not drafted until experience had shown that something of the kind was necessary. I like to profit from experience. Whilst the Minister thinks the bank could get on without this, the fact remains that we have copied the New South Wales Act. We should endeavour to make our own Act as popular and as efficient as that one. I hesitate to delete from a measure of this kind something which has been found necessary as a result of experience in New South Wales.

The MINISTER FOR LANDS: The very reasons why I desire to have this clause deleted are those suggested by the hon. member. They are not based on the likelihood of popularity for this measure, or the method adopted in this clause to decide a dispute. Since the insertion of this clause by the Solicitor General, I have given it a lot of consideration and have sought an expression of opinion from the other side of Australia. I find that it is one of those contentious matters that seeks, without any prospect of arbitration, but in an arbitrary way, the opinion of a particular person whose decision is to be final. I understand that this matter is contentious in the State whose Act we are following to some extent, but not slavishly. We are using 15 sections out of 140 in that Act. This clause is so contentious that it would arouse some distrust. After discussing it with the Solicitor General who as a person would, perhaps, be less fallible than some who might succeed him, I have come to the conclusion that it could cause much contention.

Clause put and negatived.

Clauses 102 to 107—agreed to.

Clause 108—False statement:

Mr. DONEY: I move an amendment—

> That at the end of line 17 the following words be added:—"but no person shall be convicted of such an offence by word of mouth on the uncorroborated testimony of one witness."

I agree that there should be a penalty for this wrong, but we should go to some trouble to assure ourselves that the person is actually guilty. One cannot be certain if it is taken on the uncorroborated evidence of one witness. A verbal statement of that kind should be corroborated.

The MINISTER FOR LANDS: The clause indicates the offence as well as the penalty. Subclause (2) provides that such an offence shall be dealt with summarily under the Justices Act. The charge would be laid against the person in the ordinary way and would be dealt with by a court properly set up and constituted. It would be for the court to conform to the laws relating to the evidence upon which it would base its decision. It would be wrong to prescribe upon what basis or within what limits the justices should act when such a case was presented before them in a duly constituted court.

Mr. DONEY: The Minister is perhaps overlooking the fact that this clause, as printed, regards the guilt of the person as an accomplished fact at the time he goes before the court.

Mr. WATTS: The offence in this case is of two kinds. The first is the obtaining of a loan by fraud on a written statement which is false, and secondly the obtaining of a loan by fraud on word of mouth which is false. Let us take an example: A, an applicant for a loan, goes to B, an officer of the bank, and a verbal discussion ensues. Subsequently B alleges that A said something to him which was false and on the strength of which A obtained the loan. Because B, the officer of the bank, has authorised the loan and it has not turned out satisfactorily, he is probably in trouble with his head office. The only way to overcome that difficulty is to prosecute A and have him convicted of the offence of making a false verbal statement under this clause.

It is an accepted principle of law that in cases arising out of a verbal statement some degree of corroboration is required. In such a case as the one I have mentioned it is desirable that there should be some corroboration. The magistrates are much better

able to arrive at a verdict on corroborated testimony than on any other kind. He would be a foolish man, in my opinion, who, in proceedings for an offence of this kind, committed by word of mouth, did not have some corroboration. I can see no objection to providing that no person shall be convicted of an offence by word of mouth on the uncorroborated testimony of one witness. If the offence is in writing the writing itself is a record, and a conviction would be recorded as soon as the falsity of the statement was proved. It is reasonable to accept this amendment.

Amendment put and negatived.

Clause put and passed.

Clause 109—agreed to.

Clause 110—Protection to Commissioners:

The MINISTER FOR LANDS: I intend to move to amend the clause by deleting the reference to police officers, for the reason that the use of them for the purposes of eviction has already been deleted from the Bill.

Mr. SEWARD: I oppose the clause. Subclause (1) is most unfair in that it purports to absolve any officer, servant, valuer or agent of the commissioners from liability respecting anything done by him. An inspector may go out to value a property and may leave a gate open or leave it insecurely fastened. The farmer's sheep may get out and roam over poison country with the result that all may be lost. Under the subclause, the inspector would not be liable for his action. That should not be agreed to. Then again, the Bill will convert the bank into a trading institution. A customer may issue a cheque and later stop payment. Should an officer pass the cheque for payment, the bank will not be liable. That would be an injustice and should not be agreed to.

Subclause (2) provides that no action or proceeding shall be brought against the commissioners until after the expiration of three months, and further that no action can be taken after the expiration of six months from the time when the cause of action arose. It is conceivable that considerable time might elapse before a farmer could ascertain who was responsible for damage that he had suffered. If he did not find out until six months had elapsed, he could not take action at all. I am viewing the matter as a layman, but I would like to hear what legal members have to say on the point. The clause will relieve the commissioners of all responsibility, whereas they should stand up to their responsibilities.

The MINISTER FOR LANDS: The clause is designed merely as a protection to the bank when acting in good faith, and it is essential, despite some defects, which I acknowledge. I have indicated that in the amendment I have mentioned, and I also acknowledge the point raised by the member for Nedlands in his second reading speech. I have conferred with the Solicitor General on that aspect of Subclause (2). While it is necessary to give the bank the requisite time to prepare its defence against any claim, it is possible that the period of three months is too long. Although it is not wise to allow an interminable time to elapse before action is taken, it may be that six months is too short a period. On the advice of the Solicitor General, I intend to ask the Committee to amend the subclause by reducing the former period to one month and by extending the latter to 12 months. The Solicitor General considers that would be reasonable. On the point raised by the member for Pingelly that the clause contains provisions that the Associated Banks do not enjoy, I shall read to him a clause from a mortgage issued by a bank in the city. Paragraph 22 of that bank's mortgage, which is in use in this State in its thousands, reads as follows:—

> That in addition to the powers and authorities hereby expressly conferred upon it and without in any way limiting or affecting the same the bank shall have and may exercise all powers and authorities now or hereafter by any Act conferred upon mortgagees and that neither the bank nor any officer employee or agent of the bank shall be accountable for any loss which may happen or occur in the exercise or attempted exercise or through the non-exercise of any power or authority hereby or by any such Act as aforesaid conferred nor shall the bank or any such officer employee or agent be chargeable or liable as mortgagee in possession by reason of the exercise or attempted exercise of any such power or authority.

That is used by the Associated Banks. It is unreasonable to expect that the institution we are endeavouring to found, to act in the interests of clients and of the State, should have shorn from its statutory authority all of the things that seem to be of some benefit to it. Actually, when the position is understood, there is no benefit to the

bank, except that it will be afforded protection when acting in good faith. I move an amendment—

That in line 3 of Subclause (1) the words "or any officer of police" be struck out.

Amendment put and passed.

The MINISTER FOR LANDS: I move an amendment—

That in lines 7 and 8 of subclause (1) the words "or officer of police" be struck out.

Amendment put and passed.

Hon. N. KEENAN: I cannot follow the reasoning of the Minister on Subclause (1). The quotation from a mortgagee instrument of some trading bank is not quite the point, because the subclause is so worded that it would apply to all acts done in good faith by the commissioners themselves, such as the dishonouring of a cheque. If a client drew a cheque and it was presented and he had a credit, a mistake might be made and the cheque might be dishonoured. As a result, the client's credit would be damaged, and he would have the right of action, not against the individual, but against the bank. Over and over again actions of this sort have been brought before the courts and damages have been recovered. Would Subclause (1) prevent an action of that sort from being taken on the ground that what was done had been done in good faith? What is done is always done in good faith. It might happen through carelessness or accident, but the man's credit would be damaged and he would have the right to recover damages. I am afraid that under Subclause (1) it would be a sufficient defence to show merely that the bank had acted in good faith. This would introduce an entirely new and dangerous principle.

The MINISTER FOR LANDS: No-one knows better than does the member for Nedlands what governs decisions on matters such as he has illustrated. They are governed by the Commonwealth Bills of Exchange Act, and the wording of the subclause is not in conflict with that Act. In order to understand the clause clearly, I raised the point as to what governs actions in good faith that would be detrimental to clients of the institution, and I have been advised by the Solicitor General that there is nothing in Clause 110 in conflict with the Bills of Exchange Act. However, I am quite prepared to obtain verification of the position and have the point raised by the hon. member fully examined, and, if it is found necessary to modify the clause, to have it suitably amended.

Mr. McDONALD: I support the remarks of the member for Pingelly in relation to the whole of the clause. I am opposed to a provision of this sort. There might have been some justification for applying it to the bank in its original capacity as a developing agency but, when it becomes a trading institution, there is no justification at all for such a provision. In the instrument referred to by the Minister, the trading bank, by contract, provided some protection for itself and servants in connection with its powers of sale and other statutory powers. This, however, was done by contract; in other words, the bank said to the customer, "If you want the money from us, you must agree voluntarily to accord the bank the protection set out in that clause of the mortgage." The customer would be quite entitled to say, "I will not sign it," and the bank would then consider whether it would do without the business or eliminate the clause and transact the business. Both parties to the transaction are on an equal footing. But here this particular institution in its trading character is to have a statutory protection beyond any other institution carrying on a similar kind of business.

I see no reason today why the Crown, which has a command of funds beyond ordinary institutions, should not stand up to the ordinary legal obligations and liabilities of any other person or institution engaging in the same kind of trading, or why the Crown in carrying on a trading bank should not be liable under the ordinary law in the same way as the Broken Hill Proprietary Company or the Westralian Farmers. Neither of those corporations has special privileges by Act of Parliament. Both have to meet by the ordinary law applicable to everybody else what they should meet. The principle which the Minister previously expressed in remarks on this Bill should be applied to this particular clause; and this bank, in its trading capacity, should willingly offer to the general public—that is, the people—to undertake exactly the same liabilities, and to make the same redress if there was wrong or injury, as any other private institution or individual would have to do. Therefore on principle—and I feel it to be an important principle—I am opposed to the whole clause.

The MINISTER FOR LANDS: It is all very well for the member for West Perth to develop that argument. This institution is being founded by statute in which must be expressed the provisions which govern its conduct. The institution is not privileged, in

acting under charter, even foreign charter, as some banks have the privilege of doing in this State. There must be, simply because of its association with the State, prescribed limitations, and also a limit on how far the institution can have authority. The authority should be prescribed. If it could be that this bank was founded under the same kind of charter as the Western Australian Bank was founded under in 1837, it would be an entirely different proposition. So I think it holds good that persons acting in good faith, in conformity with the Bills of Exchange Act, should have this protection.

Mr. McDONALD: There is nothing to stop this rural bank bargaining on equal terms in the same way as any private institution can do and actually does. There is, as far as I know, in the case of most if not all institutions, especially in the case of the ordinary trading bank, no special statutory privilege by charter or otherwise at all; nor have trading companies like stock and station companies any privileges. On the broad principle it seems to me that the practice has come down from the old days, when the Crown had a particular function, of very limited character; whereas if the Crown enters into the commerce of the people it should willingly and as an example say, "We will not shelter ourselves by Act of Parliament and special privilege against any liability which the ordinary law of the land prescribes."

The MINISTER FOR LANDS: I move an amendment—

> That in line 1 of paragraph (a) of Subclause (1) the word "three" be struck out and the word "one" inserted in lieu.

Amendment put and passed.

The MINISTER FOR LANDS: I move an amendment—

> That in line 1 of paragraph (b) of Subclause (1) the word "six" be struck out and the word "twelve" inserted in lieu.

Amendment put and passed; the clause, as amended, agreed to.

Clauses 111 to 121, First Schedule—agreed to.

Second Schedule:

Mr. WATTS: The dates mentioned in this schedule are December and June. Does the Minister think it necessary to alter these dates in view of the amendment to the Bill under which borrowers pay interest in September and March?

The MINISTER FOR LANDS: I think there is some point in the comments of the Leader of the Opposition; but in adjusting the accounts with the bank it would not matter, because debenture interest would have to be paid half-yearly in every case, and would simply appear within the appropriate six months. It would not affect either the debenture holders or the bank, as it would come in the appropriate six months. It is unlikely that the clause relating to debentures would be used. I see no conflict with the adjustment of accounts of the bank, nor in the payment of sums due in the usual statutory half-yearly period of the year used by the institution.

Schedule put and passed.

Third Schedule—agreed to.

New clause:

Mr. WATTS: It is not my intention to move for the insertion of proposed new Clause 69A, standing in my name on the notice paper. The Committee has already decided by 25 votes to seven against a proposal recognising the right of the farmer to the basic wage as a first charge on his proceeds, which proposal dealt with the valuations of properties. It is, therefore, apparent that to move a new clause embodying the principle of allowances up to the basic wage for the South-West Land Division for the farmer would be wasting the Committee's time. At this stage in the proceedings I do not wish to do that.

Mr. DONEY: I move:—

> That a new clause be inserted as follows:—
>
> 90A: (1) In the case of a fixed loan, an amortisation loan or a long term loan secured by a mortgage of land used for the purpose of carrying on rural industry the Commissioners shall not exercise any of the powers, discretions or remedies conferred upon them by Subsections (2) and (3) of Section fifty-three, paragraph (c) of Section sixty-eight, Subsection (1) and (2) of Section eighty-five, paragraph (a) of Subsection (2) of Section eighty-six, or Section ninety of this Act, or any powers, discretions, or remedies to the like effect contained in any other Act or conferred by any security, without first having obtained from the resident magistrate within whose magisterial district the mortgaged lands (or the greater part thereof) are situate an order for leave to proceed (hereinafter called "an order to proceed").
>
> (2) The application by the Commissioners for an order to proceed shall be made in the prescribed manner and in open Court, upon notice to the borrower who with his witnesses shall be heard if he so desires in opposition to the application, and in dealing with the applications the resident magistrate shall consider—
>
> (a) the general conduct of the borrower and his past relationship with the Bank, the Agricultural Bank, or any of the transferred activities;

(b) whether the default has been brought about by circumstances beyond the control of the borrower;
(c) whether the security is likely to be seriously prejudiced if the borrower remains in possession of the lands and property comprised therein;
(d) whether there is a reasonable likelihood of the borrower satisfactorily farming or utilising the mortgaged lands so as in future to meet his liabilities to the Bank as they accrue.

(3) The resident magistrate shall not grant the order to proceed if having regard to the conclusions arrived at on the aforesaid questions he shall be satisfied that it would be unjust or inequitable to do so; otherwise the resident magistrate may grant the order subject to such conditions (if any) as he considers just and expedient, or may adjourn the application for such period as he thinks fit.

(4) When a resident magistrate has refused to grant an order to proceed such refusal shall operate so as to preclude the Commissioners from making any further application for an order to proceed in respect of the default which gave rise to the application for a period of three years from the hearing of the application or for such shorter period as the resident magistrate may direct.

(5) The decision of the resident magistrate granting or refusing to grant an order to proceed shall be final and conclusive and there shall be no appeal therefrom, nor shall any costs be awarded to either party to the application.

(6) The Commissioners may make and be represented at the hearing of any such application by any officer of the Commissioners.

In general, the new clause means that when a farmer reaches what might be termed a dangerous crisis, probably through no fault of his own, he shall have what every Britisher is entitled to, namely, the right to appear before a court of law so that justice may be done. The amendment is obvious, and because that is so, I do not think there is much sense in labouring it.

Mr. SEWARD: I support the new clause, which would give the farmer the same right as other mortgagors now enjoy under the Mortgagees' Rights Restriction Act. A farmer may incur the disfavour of an inspector, who in consequence might be severe in his reports to the bank about the farmer. It must be borne in mind that the farmer, who is judged on those reports, is not permitted to inspect them. He would be protected if he had the right of appeal to a magistrate.

Point of Order.

The Chairman: I have given close consideration to this proposed new clause and have also considered certain clauses to which it refers. If effect were given to some of them, it would restrict, and in one or two instances ultimately prevent, the bank from enforcing its rights to secure repayment of its loans. Mr. Speaker has ruled on several occasions that it is not within the prerogative of a private member to move in any direction which would increase the financial burden on the people or appropriate funds from Consolidated Revenue. In accordance with those decisions, and having regard to the fact that I consider this proposed new clause would have that effect, I rule it out.

Committee Resumed.

New clause ruled out.

Dissent from Chairman's Ruling.

Mr. Doney: Then I must dissent from your ruling. In my view the interpretation which you put upon the new clause is not right. You say, Mr. Chairman, that some parts of the new clause would increase the financial burdens of the State, or appropriate in some way or other money from Consolidated Revenue, but you have not stated what part or parts of the amendment offend in that way. I have glanced through the new clause and cannot see in what way it is against the Standing Orders.

[*The Speaker resumed the Chair.*]

The Chairman having stated the dissent,

Mr. Doney: I dissented from the ruling of the Chairman of Committees on the score that the clause under consideration does not deprive the bank of one penny of revenue. I claim that it merely gives the magistrate power to delay proceedings.

Hon. W. D. Johnson: Or stop proceedings.

Mr. Doney: If the result of the processes of the court was that the rural bank was deprived of certain revenues, it would be seen from the judgment of the court that those revenues would wrongfully have gone to the bank. Therefore it would mean that the bank was not entitled, in the circumstances, to that part of the revenue. Quite apart from that, it has not been shown by the Chairman of Committees exactly where that clause offends. Opportunity should have been afforded the Committee in this connection to come to some judgment reasonably near the mark. I point out also that a clause with the same wording as

given in this one, was allowed in a Bill that passed this Chamber in 1937.

Mr. Marshall: In disagreeing with my ruling, the member for Williams-Narrogin contended that his proposed new clause in no way interfered with the rights and authority of the bank to enforce its own securities. The first few lines of the proposed new clause read—

In the case of a fixed loan, an amortisation loan, or a long-term loan secured by a mortgage of land used for the purpose of carrying on rural industry, the Commissioners shall not exercise any of the powers, discretions, or remedies conferred upon them by Subsections (2) and (3) of Section fifty-three, paragraph (c) of Section sixty-eight, etc.

Section 68 (c) reads—

Any transfer, mortgage, charge, assignment, letting or subletting of such land holding or tenure or any part thereof in contravention of this section shall be void, and the Commissioners may cause the estate and interest in such land holding or tenure of any person guilty of any such contravention to be sold.

But the proposed new clause would not permit that. It would prevent the bank from enforcing its rights and the Crown from collecting its legal debt. The greatest anomaly in the new clause, however, appears in the words succeeding those I previously quoted. Those words are, "Subsections (1) and (2) of Section 85." I ruled against the member for Toodyay, refusing to permit that provision to be interfered with, other than by a Minister of the Crown, for the same reason: That it interfered with and checked the bank from enforcing its rights when dealing with its own securities; and it was only because the Minister finally moved to strike out Subclause (1) and amend Subclause (2) that it became quite correct and in accordance with Parliamentary procedure. The member for Williams-Narrogin knows that, and yet declares that this proposed new clause is in no way an interference. The proposed new clause is identical in substance with —though of different phraseology from— amendments of a like character ruled out on the principle that it is not the prerogative of a private member to usurp the right of the Crown to appropriate revenue or impose a financial burden on the people.

Mr. Watts: I distinguish very strongly between this clause and the provision referred to by the member for Murchison a moment ago. The one to which he referred dealt with the power of distress for interest; and it was proposed to delete the subclause granting that power and taking away completely from the commissioners of the bank any right to recover money by distress that they had by virtue of that subclause. This proposal, however, does nothing of the kind. It does not take away from the bank the right to recover money due to it. It merely has the effect of delaying its right to take that course, so there is a very considerable distinction between those two proposals. That is quite clear from the provision in Subclause (4) of the proposed new clause, which states—

(4) When a resident magistrate has refused to grant an order to proceed such refusal shall operate so as to preclude the Commissioners from making any further application for an order to proceed in respect of the default which gave rise to the application for a period of three years from the hearing of the application or for such shorter period as the resident magistrate may direct.

It does not say the bank shall not recover the money. It does not reduce or alter the rate of interest chargeable in the meantime but merely says that for that period— whether it be three years or less—the right of sale or foreclosure, as the case may be, shall be postponed.

The Premier: Therefore they would get no wages for three years and could not live.

Mr. Watts: They will get interest. So far as I can see the annual payment of interest will continue, and will be recoverable. It will only be in respect of moneys due for an order of foreclosure or possession at the time of the application and will not have any reference to future charges. But the point is of much greater interest than that. In 1937 the ex-member for Greenough introduced a Bill to amend the Agricultural Bank Act. Clause 8 of that Bill sought the insertion of new Section 54A following on the then sections 51, 52, and 53, which gave the bank the statutory lien and the right to advance and recover certain moneys relative to these subjects. The proposed new section was as follows:—

A new section is inserted at the commencement of Division 4 of Part IV of the principal Act as follow:—

54A. (1) The Commissioners shall not exercise any of the powers, discretions, or remedies conferred upon them by Section forty-four, Subsections (1) and (2) of Section fifty-five, Subsection (2), paragraph (a), of Section fifty-six, Subsections (1) (c) and (1) (e) of Section sixty, or Section sixty-one of this Act, or any powers, discretions, or remedies to the

like effect conferred by any security, without first having obtained from the resident magistrate within whose magisterial district the mortgaged lands (or the greater part thereof) are situate an order for leave to proceed (hereinafter called "an order to proceed").

That is the first part of the clause in the Bill which, with the exception perhaps of the clauses that are numbered in the amendment, refers to exactly the same process and is almost word for word with the first paragraph of the amendment before us. That clause continues—

(2) The application by the Commissioners for an order to proceed shall be made in the prescribed manner and in open court, upon notice to the borrower who with his witnesses shall be heard if he so desires in opposition to the application, and in dealing with the applications the resident magistrate shall consider—

(a) whether the default giving rise to the application has been caused or contributed to by any reprehensible conduct, or by mismanagement on the part of the borrower, rendering him undeserving of the benefit of this section;

(b) the general conduct of the borrower and his past relationship with the Bank or any of the transferred activities;

(c) whether the default has been brought about by circumstances beyond the control of the borrower;

(d) whether the security is likely to be seriously prejudiced if the borrower remains in possession of the lands and property comprised therein;

(e) whether there is a reasonable likelihood of the borrower satisfactorily farming or utilising the mortgaged lands so as in future to meet his liabilities to the Bank as they accrue;

(3) The resident magistrate shall not grant the order to proceed if having regard to the conclusions arrived at on the aforesaid questions he shall be satisfied that it would be unjust or inequitable to do so; otherwise the resident magistrate may grant the order subject to such conditions (if any) as he considers just and expedient, or may adjourn the application for such period as he thinks fit.

(4) The decision of the resident magistrate granting or refusing to grant an order to proceed shall be final and conclusive and there shall be no appeal therefrom, nor shall any costs be awarded to either party to the application.

(5) The Commissioners may make and be represented at the hearing of any such application by any officer of the Commissioners.

We find on a perusal of the amendment before the Committee that with the exception of Subclause (2) (a) of the 1937 Bill there is no difference between this amendment and what was proposed then. Subclause (2) (a) was left out of the present amendment, in my opinion, because the wording of it was such, at the time the Bill was discussed, as to have caused considerable concern to the then Minister for Lands. I have already read that paragraph and its words have been left out of this amendment. The remainder of the reasons to be considered by the magistrate has been left in. As you, Mr. Speaker, can see, there is a very substantial resemblance between the clauses, and their effect is precisely the same. The Bill that I have mentioned was introduced by the then member for Greenough after another Bill, which contained different provisions, had been ruled out of order in the previous session. The Bill went before the House.

We find that the then member for Greenough, Mr. Patrick, moved on the 25th August to have the Bill restored to the notice paper. That appears at page 296 of the 1937 "Hansard." The Minister for Lands dealt with the Bill at page 744 of the same volume. The debate was resumed on the 15th September, and very considerable discussion took place. Many members, including myself, spoke on the proposal. The debate was again adjourned, and on the 27th October it was resumed by the member for West Perth. Subsequently, on the 18th December, at page 2923 of "Hansard," we find that the Bill was put to the vote of this House and defeated, the voting being 17 for and 21 against the second reading. At no stage of those proceedings, over a period of four months, was objection taken to any provision of the Bill which, as I said, contained a provision precisely similar in character, intention and effect to that to be found in the present amendment. Consequently there is a distinct precedent, aside from all other arguments which may be adduced, and to which I made reference earlier, to evidence the fact that there is nothing wrong with a clause of this nature from the point of view of the right of a private member bringing forward in a Bill of this kind a safeguard of this character.

Consequently, while I have the greatest respect for the Chairman of Committees, the member for Murchison, and while I raised no objection to his earlier decision because, as I said, in that case the bank was being deprived of a remedy for all time, I consider that he has misinformed or misdirected himself on this question, and that the member for Williams-Narrogin is entitled to have this amendment debated, as the member for Greenough was entitled to have his Bill, deal-

ing with the same institution and the same matter in almost precisely similar terms, debated in 1937.

Mr. McDonald: I take it that the Chairman of Committees is relying on the Constitutions Act Amendment Act, Section 46 (8). It reads—

> A vote, resolution, or Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor to the Legislative Assembly.

I think there is no other section relevant to this question, and I am assuming that that is the one involved and upon which the Chairman of Committees relies. I am for the moment not concerned with the merits or demerits of the amendment. It is one of the drawbacks to this kind of discussion that there is no time at one's disposal to study the precedents cited in "May" or other authorities. In the latest edition of "May's Parliamentary Practice" there are a number of additional precedents cited, which indicate the extent to which the interpretation has been extended in the proceedings of the British House of Commons. In the absence of any study of "May" and in the light of as much reasoning as one can bring to bear on this matter, I do think that the Chairman of Committees seems to have gone a very long way from the matter of a "vote, resolution or Bill for the appropriation of revenue or moneys."

We quite understand that a private member cannot introduce a Bill, say, to appropriate £100,000 for expenditure in providing kindergartens in all parts of the State or for some such proposal. On the other hand, here is a Bill before the House to establish a bank that does not even exist, a bank which has no revenues, Crown or otherwise. The Bill says that should it become an Act on a certain date to be proclaimed, there shall be established a bank to carry on certain trading operations and in that bank there shall be placed certain Government assets in the way of mortgages and so forth, now held by other institutions. It is to be given certain assets now held by other Crown instrumentalities, and it may secure payment by the exercise of certain powers.

Hon. W. D. Johnson: Which you want to limit.

Mr. McDonald: A clause might say that the rural bank may, to reduce the matter to an absurdity, take money out of the pockets of a farmer and his wife as one means by which the bank can be paid. Is there to be no possibility of any member voting against that clause, because such action would deprive the Crown of its remedy? Is there no possibility that any member could move an amendment to any such provision, the effect of which would confine the Crown's remedy to taking money out of the pocket of the farmer and deprive it of the right to take money out of the pocket of the farmer's wife?

The Premier: If that were ruled to be in order, the House could take exception to it by voting against the proposal. If it were ruled out of order, the matter would be finished.

Mr. McDonald: The House could decide in what way it pleased. I am dealing with the power of a private member to move something in connection with the framing of legislation. Honestly, this interpretation goes, in its refinement, so far as to render the use of a private member almost non-existent. Under the interpretation, almost anything could be ruled out of order. Every time a member introduced a Bill or moved an amendment or suggested a new clause, the ruling could be applied. For example, if a member introduced a Bill or moved a motion the object of which was to provide that more motorcars should be built in Western Australia in order to increase our industries, it might be said that it was out of order because the Crown would be required to expend money seeing that more traffic police would be necessary to control the additional cars on the road and that more men would have to be employed in other directions, all of which would involve extra charges upon the Crown. I am becoming most alarmed.

While admitting the soundness of the basis of the original interpretation, I am alarmed at the extension of it. If a remedy against the subject is contained in a Bill such as this, and a private member cannot suggest a limitation of time, if the Crown proposed to take certain action forthwith and a private member cannot say that the people should be allowed a day, a week, or a month's grace—this would seem to bring the position of Parliament into a parlous state. I do not wish to be rhetorical, but

I think members are entitled to regard this matter seriously and to decide whether we are not proceeding on a tremendous journey away from words that appeared so simple when first used—"a vote, resolution or Bill for the appropriation of revenue or moneys." They should seriously consider the application of the ruling to an amendment which seeks merely to delay the exercise of a remedy by the Crown as mortgagee in connection with the recovery of money due to it by a mortgagor. I certainly hope this matter will receive a very serious consideration.

Hon. W. D. Johnson: I do not think there can be any doubt but that the ruling by the Chairman of Committees is sound and correct. The Standing Orders in many respects are, I agree, too rigidly enforced. I do not think members get the latitude they are entitled to as private members, but that does not apply in a case of this description. We must be particularly careful that a private member can never interfere with the privilege of the Crown to protect the revenues of the State. The very clause particularly concerned gives the right to the commissioners representing the Crown to make loans and advances. When it comes to collecting them, members opposite want to limit that right and want to say that a resident magistrate should investigate the matter before the commissioners can exercise the right to have their just dues paid to them. The proposed new clause contains the following:—

> The decision of the resident magistrate granting or refusing to grant an order to proceed shall be final and conclusive.

If the new clause were adopted the resident magistrate could prevent the State from recovering its just dues. It is all very well for members to approve of the creation of an authority to advance money to farmers and then, having got Parliament's approval, to support a provision limiting the power of the Crown to obtain payment of its just dues. The hon. member, by trying to limit the operation of various provisions relating to the advancing of money and its repayment, is certainly seeking to interfere with the Crown, and in my opinion there is no question that the Chairman's ruling is sound.

Mr. Speaker: After hearing the arguments for and against, I have no option but to uphold the Chairman's ruling. I think the ruling was perfectly correct.

Committee Resumed.

Title—agreed to.

Bill reported with amendments.

House adjourned at 10.32 p.m.

Legislative Council.

Tuesday, 7th November, 1944.

The PRESIDENT took the Chair at 4.30 p.m., and read prayers.

QUESTION—CHILDREN'S COURT.

As to Prosecutions, etc.

Hon. E. H. H. HALL asked the Chief Secretary:

(i) How many children were brought before the Children's Court (a) for the 12 months ended 31st December, 1943; (b) six months ended 30th June, 1944?

(ii) (a) How many were boys (b) how many were girls?

(iii) How many were committed to institutions (a) boys; (b) girls?

(iv) How many were released on probation (a) boys; (b) girls?

(v) How many first offenders (a) boys; (b) girls?

(vi) How many Probation Officers are there (a) male; (b) female?

(vii) How many children at the present time are out on probation (a) boys; (b) girls?

(viii) How many children at the present time are held in all institutions by order of the Court?

(ix) What are the names of the institutions?

(x) How much was paid to each for the six months ended 31st December, 1943; the six months ended 30th June, 1944?