# Legislative Council.

*Wednesday, 11th October, 1939.*



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

## MOTION—RAILWAYS, GOODS RATES BOOK.

*To Disallow By-law.*

**HON. A. THOMSON** (South-East) [4.34]: I move—

That Railway by-law No. 55—Goods Rates Book—dated the 1st March, 1935, made under the heading of the Western Australian Government Railways, as published in the "Government Gazette" on the 29th September, 1939, and laid on the Table of the House on the 3rd October, 1939, be and is hereby disallowed.

A great deal of the time of the House has been occupied in dealing with Government measures imposing upon private individuals and businessmen restrictions against increases in the price of commodities after the 31st August last, unless such increases are approved by the price-fixing commissioner. One naturally looks to the Government to set an example by precept, and does not expect it to say, "Do not do as I do, but do as I tell you." Recently the Railway Department increased freights in a manner that will apply only to country districts. The average increases in the metropolitan area are infinitesimal. Since I gave notice of this motion I have received from the Katanning Chamber of Commerce the following message:—"We protest against the proposed increases in railway freights." The schedule for "minimum smalls" deals with parcel rates, and the railways have increased these by an average of 20 per cent. Whereas the freight on an article was previously 1s., it is now 1s. 3d. I will not read all the items. The Railway Department has also increased the rate per ton in the case of "miscellaneous class," and "C class goods" by 10 per cent. I have the rate book before me. For ready reckoning I have taken the rates over a distance of 261 miles, and the charge according to the rate book was 60s. per ton. If we add 10 per cent. to that figure, we find that the increase in the freight on C Class goods is 6s. per ton, and on miscellaneous goods the increase is approximately 2s. per ton. Members may be interested to know the class of goods on which the Railway Department is increasing its charges, most of these being transported into the country. I will take first the "M" rates, cornsacks and jute. The present is not an opportune time to increase freights upon these articles. Because of the probable shortage of cornsacks, there is not likely to be much increase in revenue to the department on such goods by reason of the increased freight. I now come to everyday requirements of people in the country. The list is as follows:—piecegoods (clothing), crude oil, tea, coffee, cocoa, paper, dried and canned fruits, jams, canned meat, tinned milk, rice, sago, soap, tapioca, canned vegetables, binder twine, aerated waters, arrowroot, bacon and ham, baking powder, pearl barley, beans, non-intoxicating beer, blue, starch, bluestone, grain-food preparations, butchers' small goods, cheese, preserved cream in tins, beehives and materials, butter preservatives, disinfectants, dripping, lard, fish, cornflour and rice, flour, etc. I have selected these items to show that the proposed increases will affect the cost of living in country districts. The Government should set an example to the people whilst endeavouring to dragoon them and prevent them from profiteering. In this instance we find the Government Railways increasing freights by 10 per cent. on goods that are so necessary for people in the country. I trust the motion will be agreed to.

On motion by the Chief Secretary, debate adjourned.

## BILL—PROFITEERING PREVENTION.

*Assembly's Message.*

Message from the Assembly received and read notifying that it had agreed to the Council's amendments.

## BILL—FINANCIAL EMERGENCY ACT AMENDMENT.

*Third Reading.*

**THE CHIEF SECRETARY** (Hon. W. H. Kitson—West) [4.42]: I move—

That the Bill be now read a third time.

**HON. J. NICHOLSON** (Metropolitan) [4.43]: May I offer some observations in connection with the Bill?

The PRESIDENT: The hon. member is entitled to speak on the third reading.

Hon. J. NICHOLSON: To deal with a measure at the third reading stage may be somewhat unusual, although, as you have pointed out, Mr. President, a member is in order in doing so. The Bill calls for special consideration before it actually passes into law. Certain speeches were delivered on the second reading, particularly yesterday, that emphasised the necessity for the measure to be no longer allowed to pass into law. I was impressed by much that was said regarding the instances of hardship, to which Mr. Miles made reference. They were of a nature that I feel sure must have appealed to members generally, more especially as instances of grave disabilities were mentioned, not only on this occasion but in previous years when earlier Bills were submitted for the renewal of the principal Act. The measure, being one for the extension of the Act for one year, may be regarded as small and harmless, but members must realise that the legislation originally covered many more persons and has now been whittled down until it is limited almost entirely to cutting down the rates of interest that were in force prior to the passing of the original Act.

Hon. G. Fraser: Do not you think that a minimum of 5 per cent is reasonable?

Hon. J. NICHOLSON: I think the hon. member will admit that his interjection hardly fits the many instances of hardship to which I have alluded.

Hon. G. Fraser: Hardship with a minimum of 5 per cent!

Hon. J. NICHOLSON: In many instances property is depreciating rapidly in value and the security for the principal sum invested is becoming less each year. When a loan is floated, the custom is to allow for a certain margin between the actual amount advanced and the true value of the property concerned. Some people provide for a margin of 50 per cent, which is not too much in the light of experience, particularly when we consider the rise and fall in prices that take place under varying conditions. Others have not gone so far in providing a margin and in more stable years it was commonly recognised that a good investment would provide a margin of 33 1/3 per cent. Nowadays that margin has to be increased to about 50 per cent in order to safeguard the interests of the investor. Despite the fact that that position has prevailed for some considerable time, the essential safeguard was unfortunately effected, in many instances, after the Act had been proclaimed. Prior to that date investors worked more or less on a smaller margin of security. Then the days of hardship arrived and that is where the difficulty arose. At that time we were faced with a grave situation because the Act adversely affected persons—many were widows, as has been explained from time to time—who had invested money in various securities and today, bearing in mind the other measures that originated about the same time, many mortgagors have taken undue advantage of the provisions of those particular Acts.

I refer to the Mortgagees' Rights Restriction Act which operates in combination with this particular measure. The result is that securities which, prior to the passing of the Act, had a margin of safety no longer have that margin. In a number of cases the marginal security has entirely disappeared, and the position is dangerous in the extreme. My interest in this matter was further stimulated by a letter I received a few minutes ago, and which I opened as I came into the Chamber. That letter emphasises the hardships that are being experienced by some people. It indicates the disabilities suffered by men with limited means. The writer says—

> My brother, aged 53, not physically equipped from birth to earn a livelihood, was left a weatherboard property at Fremantle by his deceased mother, in order to provide for his future welfare. This was her sole possession.

The writer adds that the property was eventually sold and realised £600, which was invested in a mortgage two years or so before the Act that we are seeking to continue, came into operation. The mortgage money remained invested at the date the Act was passed, and efforts have been made to have the money repaid so that it

might be invested at a better rate of interest, because this poor man is unable to earn his own living beyond doing an odd job or two such as clipping a lawn, or something of that sort. The only income he can depend upon is the interest from this particular security. Every pound means something to a man in a position like that, and if such a man can earn more than 5 per cent. why should he not be entitled to do so? The State would thus be saved the necessity of having to support this individual who obviously deserves assistance. However, he cannot obtain the money because it is tied up, being one of those old mortgages.

Hon. E. M. Heenan: He should have received £300 in interest up to date.

Hon. J. NICHOLSON: He would only receive up to 5 per cent. That is £30 a year.

Hon. E. M. Heenan: That would amount to a total of £300.

Hon. J. NICHOLSON: Ten years have not yet passed, so the hon. member is wrong in his calculation. The Act came into force in 1931. However, that is by the way. The hon. member should realise that this man has no other income, and the difference between £30 and £36 a year is considerable to a man living so close to the margin as that. If he could obtain 1 per cent. extra, the additional £6 would mean a lot to him. We should give encouragement to cases such as his. It would mean much to him if he could obtain 6 per cent. instead of 5 per cent., but as the mortgage is tied up, he cannot sell. He can dispose of it only at a considerable loss of capital, since the mortgage is hampered by the conditions attaching to mortgages made previous to the passing of the Act. This man cannot do anything with his security. The passing of this measure should be reconsidered. The more members examine the situation the more they will perceive that this measure is not in the same category as the Mortgagees' Rights Restriction Act. If the latter remains in force, no harm will be done to it by the removal from the statute-book of the Act under discussion. This Act can be abolished practically without injury to anyone, and its abandonment will place everyone on an equitable basis, which does not obtain at the present time. The deductions that were made in salaries and in remuneration of members of Parliament and others have been restored. Those cuts no longer exist except so far as mortgages are concerned. I hope the House will reconsider the matter and will realise the desirability of voting against the third reading of the Bill.

**THE CHIEF SECRETARY** (Hon. W. H. Kitson—West—in reply) [5.0]: I feel that I must reply to the hon. member because I have seldom heard such weak arguments as a reason for voting against a third reading. The fact that the hon. member received a letter this afternoon which outlines a case of hardship, is, in his opinion, sufficient justification for endeavouring to induce the House to reverse its decision on the second reading. Whilst it may be possible for any member to quote cases of hardship under the Act, I venture to assert that it would be equally possible for them to quote scores of cases of hardship that will arise if the Bill is not agreed to.

Hon. H. S. W. Parker: Quote one.

The CHIEF SECRETARY: There is no necessity to do so on this occasion. Whenever a member receives from someone a letter containing certain information are we to accept it?

Hon. J. Nicholson: I will show you the letter.

The CHIEF SECRETARY: And because of what it contains are we to ask the House to reverse its previous decision? May I point out that the Act it is proposed to continue does provide that when a mortgagee desires to take action against a mortgagor—

Hon. J. Nicholson: But this is the Financial Emergency Act.

Hon. J. Cornell: And a person has no remedy.

The CHIEF SECRETARY: Of course a person has a remedy. He can apply to the Commissioner and the Commissioner can determine whether the original rates of interest shall be restored or not. This only shows how little the hon. member knows about the Act.

Hon. J. Cornell: Does the Minister know of one case where the original rate has been restored?

The CHIEF SECRETARY: Under the Act it is proposed to continue, a mortgagee has the right to approach a commissioner appointed under its provisions and ask that the original rates of the mortgage be restored. The Commissioner will take into consideration certain facts, and if he thinks fit he can restore the original rate of interest or

he can fix a higher rate than that prevailing at the present time. I suggest that nothing could be fairer than that. May I add also that had it not been for the exceedingly high rate of interest being charged at that time there would have been no necessity for this measure. I would point out further that in many of these cases a higher rate than five per cent. is being paid to-day.

Hon. H. S. W. Parker: Of course it is.

Hon. J. Nicholson: That is where the mortgage carries a higher rate. The minimum is five per cent.

The CHIEF SECRETARY: In most cases we should be perfectly satisfied with five per cent.

Hon. J. Nicholson: You should not impose deductions.

The CHIEF SECRETARY: The hon. member is too late because the cut has been imposed for a considerable number of years. The hon. member supported the Bill when it first came before this House. The conditions to-day are such that we cannot afford to defeat the Bill. There must be hundreds of cases in respect of which, if the Act is not continued, the rate of interest will be increased from whatever it is to-day by 22½ per cent. If there was any justification for the discontinuance of the Act in recent years, that justification does not exist to-day.

Hon. J. Cornell: Why not?

The CHIEF SECRETARY: Has not the hon. member a pretty good idea of the state of affairs existing at the present time? How many people are in a better position to-day than that in which they were a year ago? This measure affects the rate of interest and it is because of that that Mr. Nicholson desires to defeat it.

Hon. E. H. Angelo interjected.

The CHIEF SECRETARY: We have provided in the Bill a fair condition indeed. If the mortgagee is of opinion that the interest rate should be restored he should make application to the commissioner. There is nothing wrong with that.

Hon. J. Nicholson: It costs a good deal to do that, and the person to whom I have referred has not the money. He cannot go before a court or a commissioner without having to pay and he cannot afford to pay.

The CHIEF SECRETARY: Would the hon. member say that the case he quoted was sufficient justification for allowing the Act to lapse?

Hon. J. Nicholson: I do.

The CHIEF SECRETARY: Then I have nothing further to say. For every case that the hon. member can quote, other members may be able to refer to scores of instances where the hardship would be greater if the Bill for the continuance of the Act for another year were not agreed to. What does the Bill amount to? It means that the Act shall be continued for twelve months. No one knows what is in store for us; nobody can say what we may have to face 12 months hence.

Hon. J. Cornell: That is a new excuse.

The CHIEF SECRETARY: The hon. member may call it that, but I am stating what is obvious. I consider there is every justification for the continuance of the Act.

Hon. J. Cornell: If the war continues we will have to face the whole issue.

The CHIEF SECRETARY: I intend to do my best to see that the Act remains on the statute-book while conditions are as they exist today.

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

| | |
|---|---|
| Ayes .. .. .. .. | 15 |
| Noes .. .. .. .. | 9 |
| Majority for .. .. | 6 |

| Ayes | |
|---|---|
| Hon. C. F. Baxter | Hon. W. H. Kitson |
| Hon. J. A. Dimmitt | Hon. W. J. Mann |
| Hon. J. M. Drew | Hon. H. V. Piesse |
| Hon. J. T. Franklin | Hon. A. Thomson |
| Hon. E. H. Gray | Hon. C. H. Wittenoom |
| Hon. E. H. H. Hall | Hon. G. B. Wood |
| Hon. V. Hamersley | Hon. G. Fraser |
| Hon. E. M. Heenan | *(Teller.)* |

| Noes | |
|---|---|
| Hon. E. H. Angelo | Hon. J. Nicholson |
| Hon. L. B. Bolton | Hon. H. S. W. Parker |
| Hon. J. Cornell | Hon. H. Seddon |
| Hon. J. J. Holmes | Hon. H. Tuckey |
| Hon. G. W. Miles | *(Teller.)* |

Question thus passed.

Bill read a third time and *passed.*

## BILL—CONTRACEPTIVES.

Read a third time and *passed.*

## BILL—RIGHTS IN WATER AND IRRIGATION ACT AMENDMENT.

*Second Reading.*

Debate resumed from the 26th September.

**HON. J. NICHOLSON** (Metropolitan) [5.13]: The Bill is somewhat formidable, and I must admit that I have had diffi-

culty in precisely following the effect of it. Its purpose will be noted in Clause 2, which seeks to amend Section 27 of the principal Act, and it is interesting to read what that section provides and also to note what it is intended to substitute for it and what the effect is going to be. Section 27 is brief, as hon. members will notice, if they refer to it, and in the Bill we note that what is going to be substituted for that section is a new section which begins at the end of the first page of the Bill and is carried on to the fifth page. The section in the Act occupies five lines and reads—

Provided that excepting in so far as it applies to artesian wells, and to rivers, streams, watercourses, lagoons, lakes, swamps, or marshes, the water from which is required for irrigation under Part IV. of this Act, Part III. of this Act shall apply only to irrigation districts constituted and defined under Section twenty-eight of this Act.

We see that by the amending clause proposed to be substituted the first portion deals with artesian wells, and that is the point I wish to refer to in the few remarks I have to make. Clause 2 says—

This part of this Act shall be deemed to have applied to—

I would like hon. members to note that particularly.

—to have applied to and to have had effect in relation to artesian wells as from the commencement of this Act, and shall continue to apply and to have effect in relation to artesian wells throughout the State.

I want hon. members to appreciate what they will be doing if they pass the clause. They will make its provisions retrospective to the fullest extent as regards artesian wells—which I submit is absolutely wrong unless we provide for compensation to the man or people to whom those artesian wells belong. Although some persons might contend, I do not contend, that provision should be made here for compensation to be allowed for deprivation of the right to that water. I do not think it should be provided in such a case as this.

Hon. A. Thomson: Why not?

Hon. J. NICHOLSON: There may be something to be said in favour of that view; but we have to realise that certain rights in waters, streams and so forth were taken away by the Act of 1914. I do not seek to interfere with that at all. However, we know that even prior to 1914, as well as since 1914, men in our country districts generally and especially in the North-West have as a matter of fact put down artesian bores at considerable cost. I am told that an artesian well has also been put down in the Claremont Showground by the Royal Agricultural Society at its own expense. We are told in quite simple but emphatic language that this part of the Act, Part III.—I shall draw attention to what Part III. of the Act is and what Part IV. is—shall be deemed to have applied to and to have had effect in relation to artesian wells as from the commencement of the 1914 Act. I ask hon. members whether that is fair?

The Chief Secretary: How will it affect those people?

Hon. J. NICHOLSON: In what way does the Chief Secretary mean?

The Chief Secretary: You are asking whether it would be fair or not. Can you show how it would be unfair?

Hon. J. NICHOLSON: Yes, and that is what I am endeavouring to do.

The Chief Secretary: Where does the unfairness come in?

Hon. J. NICHOLSON: Suppose I constructed a building and—

The Chief Secretary: This is the case of an artesian well.

Hon. J. NICHOLSON: Suppose I have constructed, in this case, an artesian well, at considerable cost. Am I not entitled to be compensated for that cost? I put the well down. If I had not tapped water in the process of putting down the bore, I would have had nothing to show for the money I invested, I admit; but if I am fortunate in tapping water, then it is something of value. But here the Government proposes to confiscate my water right, and declares by this clause that the provision shall be deemed to have had effect in relation to all these artesian wells. What does Part III. provide for? Confiscation.

The Chief Secretary: That is a strong word.

Hon. J. NICHOLSON: I care not what the Minister says. Strong words are necessary to make this matter plain. I do not know who is responsible for the drafting of the clause. I see in it no mention whatever of compensation; and therefore if the well becomes the property of the Government there is no responsibility or liability or obligation to pay compensation. Naturally the Government would say, "We cannot pay you any compensation. Here is

the Act; you are not entitled to compensation." This may be just something overlooked, shall I say? I will use my own language now. I will suppose it has been overlooked by the Government. If the Minister will be good enough to refer to Part III., he will observe that the Act provides that natural waters vest in the Crown As I have said, I raise no question at all as to the right in the water. I look at the matter only from the standpoint of my having expended money on an artesian bore. Of course I have not expended such money personally; I have never sunk an artesian bore in my life. However, I am looking at the case of people who may have expended money on an artesian bore, found water, and then, if we pass this clause into law, will have nothing paid to them. The clause will be subject to the provisions of Part III. of the Act. Now, Part III. provides that the right to the use and flow of water, and to the control of the water at any time in any water-course and in any lake, lagoon, swamp or marsh—the artesian well is not mentioned—and in any spring and subterranean source of supply shall, "subject only to the restrictions hereinafter provided, and until appropriated under the sanction of this Act, or of some existing or future Act of Parliament, vest in the Crown."

Hon. A. Thomson: It is proposed to do that under this Bill, which is the future Act.

Hon. J. NICHOLSON: Yes. To explain all the provisions of the Bill would take too long. Many things are provided for, but the point is that the section proposed to be repealed was really the salvation of artesian wells until such time as an irrigation district was established: and then, but not until then, could this be brought under the operation of the Act. The section proposed to be repealed, No. 27, expressly enacts that excepting insofar as Part III. applies to artesian wells and to rivers, streams, watercourses, lagoons, lakes, swamps or marshes the water from which is required for irrigation under Part IV. of this Act, Part III. of this Act shall apply only to irrigation districts constituted and defined under Section 28 of the Act. Now, Section 28 comes under Part IV; and not until an irrigation district with boards and various other matters comes into existence would these particular provisions or rights contained in Part III. come into existence. It is more than ever essential that we should, in the circumstances, have some provision for compensation. I have been endeavouring to prepare certain amendments. I did not notice the effect of this Bill until recently, and unfortunately I have not yet been able to draft an amendment which I think would meet the case. However, I would suggest to the Minister that the matter be considered most carefully, and that an amendment be prepared safeguarding the rights of owners of artesian wells. I admit that in view of the provisions of the 1914 Act in regard to water in streams and so on, there are certain rights that might be regarded as public rights.

Hon. J. J. Holmes: Would it meet your objection if we excluded artesian wells?

Hon. J. NICHOLSON: There is something to be said for that in regard to artesian wells in certain districts; but it would not be sufficient to exclude any part of the State. An endeavour would have to be made to meet the position in some other way. It should go further. There should also be a right given to the party who put down the artesian well to get a license for a certain definite period at some nominal sum, under perhaps some reservations. It is one of those cases which are very hard for a layman, a man like myself who do not pretend to be an expert dealing with artesian wells and suchlike, to understand. However, one can realise—

Hon. J. J. Holmes: Did not the owner of the well have the right to all the water he required?

Hon. J. NICHOLSON: In connection with an ordinary well he would have the right to all the water he might pump; but in an artesian well, where the flow comes naturally, the position is different. From the public standpoint I view the matter somewhat in this light: Providence sent the rain and the water, and thus created the streams. In a stream the water flows naturally, and all the people through whose properties that particular stream may pass have certainly been regarded in the past as having what I referred to recently as riparian rights. But these rights have been gradually taken from most of the riparian owners with the passage of years and the advance of industry, because it was recognised that people further back also had a claim in some way or other to the water flowing there, it being a providential supply.

The man himself did not take the water there; it was taken there by some other influence or power.

Hon. G. B. Wood: Man helped by ring-barking the trees.

Hon. J. NICHOLSON: The man further away from the water may have helped in that way also, just as the man whose property is right on the river boundary. The flow is influenced by action on the part of man, as the hon. member says. In addition, we have to bear in mind the fact that an artesian well is practically a subterranean river.

Hon. G. W. Miles: It might cost a thousand pounds to tap it.

Hon. J. NICHOLSON: Admittedly. That is why we should reserve the owner's right to compensation. If this Bill is passed his right to compensation will be lost, as the Bill contains no provision for payment of compensation. Just as water flowing along a stream or river on the surface has become vested in the Crown, so will water feeding an artesian well become vested in the Crown if the Bill is passed. True, water tapped in an artesian well has been discovered by the effort of man and the expenditure of money. Nevertheless, that water might be essential to the development of a particular district and so should be controlled by some authority. Obviously that authority should be the Government. The Act of 1914 cannot come into operation until an irrigation area is proclaimed. I advise members to read the Act. Although Part III. makes provision for certain things, Section 27, which we are now asked to repeal, contains a safeguarding provision which requires that before Part III. can take effect, it is necessary for an irrigation area to be declared. The provisions respecting irrigation districts and irrigation boards are contained in Part IV. of the Act. The matter of compensation is of great importance and requires further consideration. I admit there is much in what some members have said. They may argue with force that the man who discovers a subterranean flow of water is entitled to compensation if his rights are interfered with, but those members must bring forward amendments to cover the point. I draw attention to these matters so that they may receive ample consideration.

The Chief Secretary: Could you explain to the House what the difference would be if we agree to Subclause (1) of Clause 2?

Hon. J. NICHOLSON: The effect would be that artesian wells would automatically vest in the Crown. The Crown would obtain full rights without creating an irrigation district at all, as no necessity would arise to take action under Part IV. of the Act. There would be no irrigation board. That would be the position, and without any compensation.

The Chief Secretary: I think we will give you a chance to look at the Bill again.

Hon. J. NICHOLSON: I shall be pleased to do so. I admit I have perused it rather hurriedly, but that is the way it strikes me. If I have made a mistake I shall be only too pleased to admit it. The matter is one, however, that deserves consideration.

**HON. H. TUCKEY** (South-West) [5.36]: Mr. Nicholson has raised an important point and I hope the Chief Secretary will reply to it in due course. If necessary, it can be further considered when the Bill reaches the Committee stage. I do not propose to deal with it at the moment, as I am not conversant with the section to which Mr. Nicholson referred. Although I am sympathetic towards the Canning River farmers, I have always held the view that when a stream is over-taxed, thus causing a shortage of water and dissatisfaction on the part of the settlers, it is essential to have departmental control to ensure to such settlers a fair share of the available natural water. This Bill makes provision to declare only those streams or areas recommended by the Commissioner as coming under the Act. I would strongly oppose any attempt at control where there was no problem in regard to supply. Perhaps this is the concern of those opposing the Bill. They may hold the view that every stream would automatically come under the Act, but that is not so. I find that the streams said to cause the Government concern at the moment are the Canning River, Wongong Brook, Byford Brook, Logue's Brook, Bancell's Brook, Drakesbrook and the Harvey River. It is principally because of the friction between some of the farmers in these areas that this measure has been introduced. If any member can bring forward a better plan to overcome that friction and at the same time do justice to those concerned, I will support it. My opinion is that no brook or area should be brought under the Act unless absolutely

necessary. It should be entirely on the recommendation of the commission and not on the advice of some unreasonable person or persons. Possibly no unnecessary action will be taken concerning the Canning River, as the settlers in that area appear to be opposed to any form of control.

I have also had brought under my notice the fact that the condition of the Kent-street weir is very bad, so much so that considerable loss of water has occurred. It has been suggested that if the weir had been in first-class order, much of the trouble that has taken place on the Canning River would not have occurred. It is a wonder to me that the authority which could deal with this matter did not take steps some time ago to conserve the water so necessary for irrigation purposes. I have mentioned the brooks with which the Government is principally concerned, but am aware there are other water problems to be solved in the South-West. We shall have no satisfactory solution unless there is some form of control. What I am pleased about is that the Bill does not intend to bring every stream automatically under this law. There are many brooks, particularly in the South-West, with abundance of water. People have settled along these brooks and they should continue to have the right to use the water to the best advantage for the development of their farms. I have tried to explain to some of the farmers that they have little to worry about so far as this legislation is concerned.

Hon. G. B. Wood interjected.

Hon. H. TUCKEY: I assure Mr. Wood that on this occasion I happen to know just exactly what I am talking about. Only yesterday I met a man who has a property on the Serpentine River. He has an almost unlimited supply of water, yet he was very concerned about the Bill because he felt that, if it became law, the stream would automatically come under the Act. On being assured that that was not so, he did not take such a serious view of the matter. Farmers are protected to some extent, because when it is desired to bring a stream under the Act application must be made to the Irrigation Commission. Two representatives of the farmers are members of the commission and it is unlikely that they would allow injustice or something foolish to be done. Farmers have some protection in the personnel of the commission. Broadly speaking, I recommend that the Bill be passed. It is a wise measure and one that will overcome many of our water troubles.

Hon. J. Nicholson: Surely you would not like it to pass without provision being made for payment of compensation to those who have gone to the expense of putting down artesian wells?

Hon. H. TUCKEY: No. On the face of it, as I said a little while ago, Mr. Nicholson raised an important point, which should be thoroughly investigated. I agree that compensation should be paid to people who, after having sunk an artesian well, are deprived of their rights to it. But an artesian well is different from an ordinary stream such as we have to deal with in my province. I support the second reading; and, if there is anything in Mr. Nicholson's contention, he will receive my support when the Bill reaches the committee stage.

**HON. C. F. BAXTER** (East) [5.43]: This Bill is designed mainly to provide for water boards to be formed in districts where it is desired to control streams or brooks. Reference was made to a meeting of settlers at Cannington on the 11th September last, and I wish to inform the House that that meeting was not called to deal with this Bill nor with anything relating to it. The meeting was called to discuss the Kent-street weir. That weir has been the cause of trouble for many years past. As a matter of fact, it was constructed not to dam the fresh water, but to stop the flow of salt water upstream. All sorts of contrivances were tried with this object in view, but they failed in their purpose. The Kent-street weir is necessary to protect the fresh water in the stream. The settlers concerned in the weir, however, are not interested in this Bill, which, as I say, provides for the establishment of water boards. Certain riparian rights were created under the Act of 1914 and, in order to obtain those rights, settlers paid extraordinarily high prices for properties which they pioneered in various parts of the State.

Member: So as to obtain the right to the water.

Hon. C. F. BAXTER: Yes. They spent large sums of money in pioneering operations and if this Bill passes they will lose those rights. Under the Act, the Government has power to stop persons obstruct-

ing the flow of water in a brook or stream. Section 10 makes pollution of the water an offence under the Act; Section 11 gives the Crown authority to prevent interference with the water; Section 13 empowers the Minister to institute proceedings against any person diverting a stream, and Section 14 gives riparian rights to holders of adjacent property, but those rights entitle a person to water only for domestic and other use about a home and for irrigating an area of five acres of land. Those are the only rights given to settlers. No person has any right to the bed of a stream; the beds of all streams in the State are under the entire control of the Government.

The provisions of this Bill are far-reaching and drastic, and I cannot support the measure. It will interfere with the rights of people established by the expenditure of large sums of money on the purchase and building up of their properties. Under this measure those rights are to be taken away. Members should appreciate that such settlers have built up certain works on the banks of the streams for which they require so much water. All their activities have been based upon the right to get water, but if an area is declared and a board is constituted, those settlers will not be able to continue their activities.

On motion by the Chief Secretary, debate adjourned.

## BILL—RAILWAY LEVEL CROSSINGS.

*Second Reading.*

Debate resumed from the previous day.

**HON. H. TUCKEY** (South-West) [5.48]: This Bill does not go far enough to deal with the problem of level crossings. It merely contemplates the closing of crossings, whereas in some centres there is greater need to open new crossings than to close existing ones. In addition, there is the need for subways or bridges to eliminate certain death-traps in the metropolitan area. If the object of this Bill is the closing of country crossings only, I should say that the elected representatives of the people have the greatest knowledge of the requirements of their districts. The Government, under the measure, would have two votes compared with one vote by the representative of the local authority. Another aspect that might be considered is the cost of constructing an ordinary crossing suitable for farm traffic. The Railway Department expects local authorities to pay for the work, which must be carried out under departmental methods. In some instances work so performed would be very costly.

Let me quote an instance in the Murray-Wellington district. An application was made by 14 settlers for the construction of a level crossing over the railway south of Coolup. The department agreed to the construction of the crossing, and the board was told that the cost would be £80, and that if a cheque for the amount was forwarded, the department would undertake the work. The cost was too great for the board, and a suggestion was made that the board might carry out the work. To that the department would not agree, but said that if the board constructed the earthworks and gravelling, the amount would be reduced to £60. Even that was too large a sum for the board to pay for an ordinary crossing to carry farm traffic, and the result is that those people are still without a crossing. They are unable to gain access to the main road unless they travel some distance parallel with the railway before they can cross the line. Some arrangement should be made to permit of cheaper crossings being constructed. In my view the opening of new crossings is just as important as the closing of existing ones.

It is high time steps were taken to close some of the level crossings between Midland Junction and Fremantle. I marvel that the work of constructing subways at important points has not been undertaken, because employment would thus be provided for men out of work. The Bill should certainly be framed on broader lines so that the board would have authority to recommend the construction of new crossings, as well as the building of bridges or subways to minimise danger to the travelling public. The Bill impresses me as being one-sided and falls so short of requirements that I shall oppose the second reading. There is need to deal with level crossings, but a more satisfactory measure will be necessary to secure my support. Let me refer to a passage in a letter from the Gos-

nells Road Board, dated the 28th September, as follows:—

In January, 1937, we received a letter from the Local Government Association in which it was stated that the Western Australian Government Railways recommended the closing of five crossings in our district. This meant that it would only be possible to cross the line at the railway stations.

It was even suggested that the local authority should provide the required traffic facilities necessary after the crossings had been closed. To-day the people have reasonable facilities by using the existing crossings —the main Albany Road and the required subsidiary roads. Yet these facilities for their convenience and the well-being of the district—which they have paid for—must be scrapped, and they must pay again for other re-arranged facilities.

The cost in our case would be at least £1,500 and the inconvenience would be incalculable. Why should this action even be suggested? What is the purpose? Surely if the people want to use the Albany-road and its convenient bus service, they are entitled to do so!

There are many points to be considered. If a crossing is closed it might necessitate the construction of a considerable length of road in order to reach some other point on the railway, and furthermore people would be inconvenienced and would suffer loss of time in conforming with the new arrangements. This is a very important matter, one that should be viewed seriously, and the only course to adopt is to frame a measure on broader lines and take into account every aspect of the problem. I oppose the second reading.

**HON. G. B. WOOD** (East) [5.55]: I, too, shall oppose the second reading, because the Bill proposes to give to a board powers that should rightly belong to the local authorities. Local governing bodies, wherever they may be located, should surely be the best judges of whether a crossing should be retained or closed. If the second reading is passed, I hope the Bill will be amended in Committee with a view to giving the local authorities the powers that the Government ask for the Commissioner of Railways. I have no objection to a board being constituted mainly of railway men provided it acted in the capacity of an advisory body. Most of the local authorities would welcome such a body to advise them, but the final decision should rest with the local authority. If the Bill provided that the decision of the board must be unanimous, that would be satisfactory. An hon. member who spoke yesterday suggested that if a difference of opinion arose between the local authority and members of the board, a resident magistrate should give the decision. I am not altogether in favour of that proposal.

Hon. C. F. Baxter: The resident magistrate would not know anything about it.

Hon. G. B. WOOD: No; it would be quite outside his jurisdiction and knowledge as to whether a crossing should be closed or retained.

The Honorary Minister: He would decide on the evidence submitted.

Hon. G. B. WOOD: I maintain that members of local authorities are reputable men, the elect of the people they represent, and they should have the best knowledge of prevailing conditions. To guide them in their decision, they have statistics as to how often crossings are used, and would be able to offer sound evidence if the Commissioner of Railways was of opinion that a certain crossing should be closed. Any local authority, I feel sure, would be only too pleased to receive and consider advice by departmental experts.

**HON. C. F. BAXTER** (East) [5.57]: We are now dealing with the one Government department that is practically a law unto itself, and this Bill is fully in keeping with the actions of that department. If members peruse its provisions, they will realise that the object is to close crossings, but there is no stipulation that where a new crossing is needed, it shall be provided. The question whether a new crossing shall be constructed will be left entirely to the decision of the Commissioner of Railways. Any member who has had experience like mine in trying to get crossings that are urgently needed knows how difficult it is to move the railway authorities. Years often elapse before a new crossing can be obtained, notwithstanding that the lack of it heavily penalises settlers who desire to get to the railway with their produce.

Hon. H. Tuckey: In the instance I quoted there were 14 settlers.

Hon. C. F. BAXTER: Yes, I have had as many who had to travel 10 or 12 miles unnecessarily because the department would not provide a crossing for their convenience. Last year the Railway Department was

starved for funds. A sum of £100,000 was usually provided on the Estimates for belated repairs, but that sum was cut out because the elections were approaching and the Premier desired to produce a more favourable budget by clearing off portion of the deficit. Accordingly, the railways had to suffer. When the department is penalised in that way it must necessarily act harshly. Under this Bill, we are asked to give the department power to close crossings. Certainly a board is proposed to decide which crossings shall be closed, but I find no proposal in the Bill to extend consideration to the local authorities that have spent much money on constructing roads to existing crossings and would have to provide additional funds for building roads to other crossings. The outstainding provision is that the Railway Department shall be empowered to close all the crossings it can. I cannot give my support to such a measure, and therefore shall vote against the second reading.

**HON. V. HAMERSLEY** (East) [6.0]: The constitution of the board proposed in this Bill is sufficient to condemn the measure. The Commissioner is in charge of the railways and has practically all the say. Local authorities know best the requirements of their own districts, and constructed across the line certain roadways that have been laid down ever since the railways were built. It is now proposed to close railway crossings at the behest of the Commissioner. The effect of that will be very far reaching.

The Honorary Minister: Do not forget the public.

Hon. V. HAMERSLEY: The Commissioner has very little regard for the people who require to use the crossings. One of my objections to the Bill is that the local authorities would be obliged to discuss a particular railway crossing with the board, and would have only one voice against two voices at the command of the Commissioner. The local authority, therefore, would have very little say in the deliberations of the board. The interests of the community are more or less in the hands of the local road board or municipal council. All concerned naturally desire to see the district go ahead and prosper, and the leaders of the community know best what is required to bring about satisfactory developments. The Commissioner knows only what is required for the railways. For some reason he wishes to reduce the number of crossings, whereas, I daresay, in many districts a greater number of crossings would be found very convenient.

Hon. J. J. Holmes: The Bill does not provide for new crossings.

Hon. V. HAMERSLEY: No, only for the closure of those already in existence. As a district progresses the residents certainly do not desire to be cut off from their usual thoroughfares. If that occurs they may have to travel a mile or two miles out of their way to reach some part of their property that happens to be on the other side of the railway. That sort of thing applies everywhere. I know of one man who lives alongside a railway line. The crossing he had been using for a number of years was closed, and he has had to travel two miles down the line and back again to gain access to another portion of his property. This Bill will apply not only to one or two individuals who may be scattered about the country, but also to the more closely settled areas. Much inconvenience will be caused to thousands of settlers. The Bill overlooks the claims of those people who are, in many instances, the mainstay of the railway traffic. Through the work they are doing they bring a lot of business to the railways. Many of them have their properties intersected by a railway and have to work the two parts equally. Others have businesses on both sides of the railway line. If railway crossings are closed these people may have to travel many miles out of their way with resultant loss of time. The Bill does not appeal to me. I am inclined to suggest that probably more crossings will be required, not that the number should be reduced. I oppose the Bill.

**HON. E. H. ANGELO** (North) [6.5]: We can all realise that a Bill dealing with railway crossings is a necessary piece of legislation, but this one seems to be altogether one-sided. Apparently it has been drafted according to the ideas of the railway officials, and, that being so, I cannot support it. I suggest that the railway authorities should discuss the whole matter with the representatives of the Road Board Association.

The Honorary Minister: That has been done.

Hon. E. H. ANGELO: Apparently many road boards have lodged complaints against the closure of level crossings.

The Honorary Minister: No.

Hon. A. Thomson: You must have received several complaints.

The Honorary Minister: Only one.

Hon. E. H. ANGELO: Apparently the local authorities concerned are not unanimous in their ideas, according to the number of complaints I have heard. The number of motor cars nowadays is greatly in excess of the number of trains that run. The rights of the travelling public, apart from passengers on the train, have to be considered. Something like 60,000 motor cars and trucks have been registered in Western Australia, and probably at least 200 motor cars pass through a particular town compared with one train.

The Honorary Minister: That is an argument in favour of the Bill.

Hon. E. H. ANGELO: I look at the matter in a different light. Many years ago when I was travelling in South Australia I used to see wooden sign posts bearing the inscription "Beware of the train." On other occasions I would see a signpost bearing the inscription, "Beware of the Buick car," an advertisement in favour of that particular make. This gave one the idea that railway traffic would, to a large extent, have in time to give way to motor traffic. In a Bill of this kind we like to see both sections treated fairly, and all sides should be consulted before it is brought down for our approval. Until all sections concerned have been consulted, I must refrain from voting for the second reading.

On motion by the Honorary Minister, debate adjourned.

## BILL—INCREASE OF RENT (WAR RESTRICTIONS).

*Second Reading.*

Debate resumed from the previous day.

**HON. A. THOMSON** (South-East) [6.8]: We seem to have arrived at the stage when we are called upon to deal with panic legislation. On several occasions an attempt has been made in this House to restrict rents, but each time it has been defeated. Most members believe that it is not in the interests of those who wish to rent houses that legislation of this kind should be placed on the statute-book. The Commonwealth Government has already passed certain regulations, to which this Bill would be subsidiary, and consequently it seems to me that there is no necessity to pass this measure. Last night the Minister stated he intended to move for the insertion of a new clause to provide that when the local legislation was at variance with the Federal law, the latter would be the deciding factor. This is one Bill that could have been left alone until it had been proved to be necessary.

Hon. G. Fraser: You would shut the door after the horse had gone.

Hon. A. THOMSON: We have heard that argument before. When a Bill of this kind was previously before us we were told that certain rapacious landlords were endeavouring to extract the last shilling from their tenants. For my own part I would not dream of erecting a house for letting purposes only. To do so would be a bad investment.

The Chief Secretary: That would not help the man who had to live in a rented house.

Hon. A. THOMSON: No. It can be said of the Bill that it protects only one of the parties concerned. I admit that the landlord will be permitted to charge rent at the rate of 6 per cent. on his capital. If then he has to effect certain repairs, he would be permitted to charge six per cent. on his capital expenditure. There are instances in which the tenant pays no rent at all. When the landlord has got rid of him he is often faced with a big bill for the renovation of the building.

Hon. J. J. Holmes: A man will not be allowed anything for that.

Hon. A. THOMSON: No. The house may be left by the tenant in a badly damaged condition. I have had that experience myself. A landlord may experience considerable difficulty in getting rid of a tenant who may have deliberately caused damage to the property. An interesting case came under my notice recently. In one of that suburb's the local health inspector demanded that a bathroom and certain flooring should be provided. The house itself was in the care of one of the trustee companies, and the work was duly carried out. Later on the inspector called to see if his instructions had been obeyed. When he opened the bathroom door he was amazed to find himself stepping down to the ground. The contractor swore that he had installed the bath and had put in the new flooring, but both the bath and the flooring had disappeared. We can imagine the disgust of the trustee company, which had

no redress. The tenant had gone and had left the house in a disgraceful condition.

Hon. H. V. Piesse: He even took away the flooring?

Hon. A. THOMSON: Yes.

Hon. J. J. Holmes: The flooring in some of my houses has been pulled up and burnt.

Hon. A. THOMSON: According to this Bill, no matter how badly damaged the house may be, the landlord will have no right to increase the rent in the case of the incoming tenant, to cover any extraordinary expenditure he may have had to incur.

Hon. G. Fraser: Special circumstances would have to be taken into consideration.

Hon. A. THOMSON: Legislation of this kind would prove very costly to the landlord. I have made inquiries of land and estate agents and rent collectors in the city, but have not met one man who is in favour of this measure.

*Sitting suspended from 6.15 to 7.30 p.m.*

Hon. A. THOMSON: I have indicated that I am not altogether satisfied with the Bill, which I do not think is necessary, particularly in view of the fact that the Commonwealth has promulgated regulations dealing with the matter. If the Bill should pass the second reading stage, I shall move at least one amendment when it is dealt with in Committee.

**HON. J. NICHOLSON** (Metropolitan) [7.31]: When the Bill was introduced, we were told it was to be regarded as supplementary to the legislation passed by the Federal Government. I observe that the Minister has an amendment on the notice paper somewhat similar to that which we embodied in the Profiteering Prevention Bill so as to obviate, as far as possible, any question of conflict between the Federal and State legislation and regulations. I was somewhat impressed by Mr. Thomson's suggestion that there is apparently no necessity for such a Bill as that under discussion. No one desires conditions that will enable a person to make undue profits as a result of the present crisis, but various views have been presented to us from time to time when discussing such matters, as to the effect such legislation will have in nullifying the desire of the Government to maintain industries and keep employment at as high a level as possible. The axiom is admitted that restrictions calculated to hamper industry or to cause investors to turn aside from their ordinary procedure—and in this particular instance that applies to builders and contractors or investors who have done so much in extending building throughout the more populous neighbourhoods—inevitably result in an increase in unemployment. The Bill is more extensive in its application than the regulations promulgated by the Federal Government under the National Security Act. The Bill shows that "land" is defined as including "any land, messuages and premises of any description or any part thereof." That will apply to country land as well as to town blocks. If such legislation is to be passed, surely there is no necessity to introduce a Bill to limit the rental of such properties as farms, many of which have reverted to mortgagees and others, the farmers having left their holdings. In many instances the mortgagees have let properties at merely nominal rentals, which amounts to a sort of caretaking arrangement. There are other provisions that set out what "standard rent" shall mean, and references are made to rentals that are not adequate or suitable for any of the holdings mentioned. That phase appears in paragraph 3 of Subclause 1 of Clause 5, which relates to leases of "any farm, grazing area, orchard, market garden or dairy farm which prior to the said 31st day of August, 1939, was leased at a nominal or caretaking rent," and the subclause concludes with the words "the rent to be charged and payable under a lease of such land and premises, shall be a fair rent as hereinafter provided." All this will involve quite unnecessary trouble and expense. Reference should not be made in the Bill to such properties as those I have indicated. If we limit its scope to ordinary dwelling-houses and shop premises, that should be sufficient.

Hon. J. J. Holmes: The Federal legislation covers them.

Hon. J. NICHOLSON: Precisely; that is what I was coming to. The Federal regulations provide that—

> "Dwelling-house" means any premises leased wholly or in part for the purposes of residence by a lessee, and includes—(a) any part of any such premises separately leased; (b) any land or appurtenances leased with any such premises or part thereof; (c) the

premises of any lodging-house or boarding-house; and (d) any premises any part of which is used for the purpose of residence and part as a shop, but does not include—(e) any premises licensed for the sale of spirituous or fermented liquors; (f) any premises ordinarily leased for holiday purposes; or (g) the premises of any grazing area, farm, orchard, market garden or dairy farm.

Thus these various properties that we seek to include under our legislation are expressly excluded under the Commonwealth regulations. For the life of me, I cannot understand why we should include such properties as farms, orchards and market gardens. The Federal regulations also include a definition of "shop," but I shall not weary members by reading those particulars. As for the exclusion of hotels and other such premises, we know that invariably they are subject to a premium or something of the sort. Nevertheless those premises will be covered if we pass the Bill in its present form.

Hon. A. Thomson: And, as usual, Government activities are exempt.

Hon. J. NICHOLSON: Yes. We would, of course, exclude State hotels, but we are asked to include private hotels! I can see no justification for such a proposal. Under the Federal statutory regulations, provision is made for the appointment of a fair rents board, and other matters connected with the particular premises to which I have alluded. We are concerned only with the interests of ordinary individuals when considering this problem, and naturally desire to protect the man who wishes to have a roof over his head. Here we have the necessary protection provided under the Federal regulations, so I cannot comprehend why we are asked to pass the legislation under discussion. The State measure is bound to cut across the Federal provisions in one way or another. The introduction of this legislation is therefore quite unnecessary. Previously I alluded to the importance of the Government endeavouring to keep industry going and maintaining employment. Indeed, that is the duty of every one of us. But in this Bill we have something that will kill industry. Suppose, for example, that I have improved some premises partly before the 31st August and partly afterwards. The maximum amount of increased rent I can charge is 6 per cent. of the sum expended on those improvements. Any land agent will tell us that a 6 per cent. return on buildings is quite inadequate and would not justify any man—unless he were a fool—in undertaking building operations or making that a form of investment. Consequently, if we pass this law, building will cease. Is that good for the State? It is not; it is the worst thing we could do.

The Chief Secretary: What percentage would you suggest?

Hon. J. NICHOLSON: It would need to be much higher than 6 per cent. The Chief Secretary could ascertain from any land agent what would be a reasonable figure.

The Chief Secretary: You were criticising 6 per cent.; I thought you might have an idea of what the amount should be.

Hon. J. NICHOLSON: The Minister should have a better knowledge than I of these matters, but I have been told that 6 per cent. would result in men ceasing to invest their money in that direction. If we are to carry out the express wish of the Premier and his Ministers to maintain employment, the only way we can do so is to reject the Bill.

**HON. J. CORNELL** (South) [7.47]: After having heard the remarks of Mr. Nicholson, I am wondering to what this Bill will apply—if it is passed—after the Federal regulations are put into operation. The application of the Bill seems to be far-reaching, but I do not think we should have any fears about its wide ramifications. With regard to the renting or leasing of land for agricultural purposes after the 31st August last, we can leave that matter to the contracting parties themselves. If a man wants to rent an orchard or a farm, he is not forced to rent either as a home but can regard his choice as an enterprise. I think such a man would be capable of assessing the property at its true rental value; he would not need much help.

Hon. W. J. Mann: And he would not be compelled to take it.

Hon. J. CORNELL: That is so. But the man I would be concerned about, if we were enjoying an era of prosperity, would be the man compelled to find some place of shelter. However, when we consider the mobilisation that is taking place and the number of married men that are being drafted into camps, we can rest assured that there is not likely to be an increased

but a decreased demand for houses. From Mr. Nicholson's remarks I understand that the question of house rent is covered by the Federal regulations.

Hon. J. Nicholson: That is so.

Hon. J. CORNELL: Then there is the question of shops.

Hon. J. J. Holmes: They are covered by Federal regulations.

Hon. J. CORNELL: Then what is left?

Hon. J. Nicholson: Hotels.

Member: Orchards.

Hon. J. CORNELL: I am not much concerned about the hotels, unless there is a lineal successor to Mr. Lamstead who took over the Darling Range hotel before the outbreak of war in 1914. Perhaps certain hotels in Northam may benefit, but on the whole there is likely to be more or less of a slump in the hotel trade. Such a slump occurred during the last war and must of necessity occur during this one. When we remember that the large number of men who go into camp will receive half the wage they obtained before enlistment, we will realise that there is not much need to concern ourselves about the hotels. The hotelkeepers themselves will rectify the position by adopting a similar expedient to that adopted when a tariff is imposed, namely by reducing the size of the glass. If that reduction continues much longer, I do not know whether glasses will be supplied at all. I think customers will have to obtain their liquor by evaporation instead of by drinking. So I am not concerned about hotels. But there is a clause in the Bill that I would like the Minister to explain. I refer to Clause 4 relating to a 6 per cent increase in rent. The clause reads—

(1) Subject as hereinafter provided rent accruing or to accrue due and payable during the operation of this Act under any lease shall not be increased above the standard rent as hereinbefore defined. Provided that—

(i) Where the landlord has since the said 31st day of August, 1939, or partly before and partly since such date, incurred, or during the continuance of this Act incurs, expenditure on the improvements or structural alteration of the leased premises (not including expenditure on decoration or repairs), an increase of rent over the rent which was payable prior to such improvement or alterations being effected at a rate not exceeding six per centum per annum on the amount so expended shall not be deemed to be an increase for the purpose of this Act.

The renovations and repairs that have been made to the Palace Hotel have involved a large expenditure. Evidently any rate can be charged in respect of those improvements, but if a structural alteration were to be made with a view to improving the accommodation, the 6 per cent would apply. To-day I spoke to a prominent young architect who really has no axe to grind. He told me he was confident that if the 6 per cent remains—and that is net—as not more than 6 per cent of the capital expenditure for alterations or extensions can be charged—such work will not be undertaken.

Hon. J. J. Holmes: Commonsense will tell you that.

Hon. J. CORNELL: He said such work would not be done because the margin that is allowed as a rule for such improvements varies from 8 to 10 per cent and people are not likely to invest their money for less than that. After all, real estate is the best security. It is a better security than money in the bank; but improvements will not be carried out to properties if that provision remains. The architect suggested that the question be an open one for whoever inquired into the matter to decide. That is to say, when money was spent on premises and the rent was raised accordingly, if the lessee of the premises thought he was being overcharged, he would have his remedy by being able to approach a tribunal and have a reasonable figure assessed. On the other hand, to include a hard-and-fast provision in this measure will mean that money will not be found for improvements. The present is the time when we should place as few obstacles as possible in the way of individuals who are prepared to invest money and so provide employment. Many people in the community long ago realised that the only real security—that is the only real tangible security—is real estate: property and improvements on property. Consequently, we should endeavour to persuade such people to spend their money in real estate and not leave it in the trading banks. Mr. Nicholson said that the Act would not apply to the Crown. From that we are to assume that the Workers' Homes Board, which has a number of houses to let, will not exploit the people, but that private individuals who own houses or shops, will do so. The Workers' Homes Board is equally a landlord with other landlords. The board erects houses on certain set con-

ditions, but a number of those houses have been vacated by the people for whom they were built, and the board is compelled to rent them. Every day members can see in the "West Australian" particulars of houses in certain localities that are being offered by the board for renting purposes. I understand also that the Railway Department is a renting authority. The only supposition we can gather from the way in which the Bill has been framed is that the Crown will not exploit people, whereas private individuals will do so. But I have yet to learn that in the tendency to exploit others there is any fundamental difference between the Crown and private landlords. If one enters a State hotel one is likely to receive half the service that is provided by a private hotel. I support the second reading.

On motion by Hon. E. H. Wittenoom, debate adjourned.

## BILL—MORTGAGEES' RIGHTS RESTRICTION ACT CONTINUANCE.

*Second Reading.*

Debate resumed from the previous day.

**HON. E. M. HEENAN** (North-East) [8.0]: The object of the Bill is to continue the operation of the Mortgagees' Rights Restriction Act, for another year. The Act itself imposes certain restrictions on mortgages entered into prior to August, 1931. The Act is termed an emergency measure and it seemed improbable when it was first passed that it would be re-enacted for so many years. However, rightly or wrongly it has been re-enacted, and I cannot say that the present is an opportune time to permit it to lapse. I would say there is more warrant for it now than even in some years past, due to the fact that we are at war. Furthermore, I cannot agree that the measure is such an evil one as some members have suggested. The rights of mortgagees are fairly well protected, and the procedure is comparatively simple and inexpensive. Thus I cannot see that there can be any hardship in continuing the Act for another year.

Hon. J. Nicholson: Inexpensive did you say?

Hon. E. M. HEENAN: I repeat, inexpensive. All said and done, in debates such as this we want to know the truth, and it is not right that the House should be misled in any way. I have no hesitation in saying that the approach to the court is comparatively easy and inexpensive. I have taken the trouble to make inquiries and have learnt something about the procedure, which is that an application is made in the Supreme Court and the total fees involved amount to something under £1. I am informed, and I know this to be a fact, that the application is made to a judge in chambers, and in many instances solicitors are not engaged to appear. It is purely a question of outlining certain facts, and no question of law is involved. Thus it is unnecessary for a person to engage a solicitor. I have been told by an officer of the court that a great number of applications have been made, and that in many instances solicitors have not been engaged by either side. That statement was made to me by a responsible official, and it is very different from what we have been told by members in this House that an application to the court involved an expenditure of between £50 and £100. Statements such as that are misleading to members who possibly have not had the opportunity to make inquiries for themselves. I sympathise with the views expressed by some members that it is necessary to continue legislation of this type. I shall summarise my viewpoint by saying that if the Act has been warranted in the past its continuance is more than ever justified now. Judging by the remarks made by some members, one would not imagine that we were engaged in a war. Some people do not stop to think what might happen within the next 12 months. If we are going to carry on and try to maintain the status quo, I suggest that a measure such as this should be re-enacted, and while I do not say that cases such as those quoted by Mr. Nicholson and others do not exist,—and I have no doubt that some people who have invested money would be very grateful to get it back—there is no reason, however, why those people should not get relief under the Act. I assure members that the method of putting the Act into operation and getting relief is much more simple than some members would have the House believe. I support the second reading.

**HON. G. B. WOOD** (East) [8.8]: Mr. Craig the other night referred to this as an iniquitous measure, but there are on the statute-book Acts that many of us would not countenance except for the strenuous times through which we have passed and are now passing. I venture to assert that all shades of political thought have supported the Mortgagees' Rights Restriction Act. Mr. Fraser told the House that if a certain measure was necessary when it was passed in 1931, it was necessary now; also that The Mortgagees' Rights Restriction Act, which was required when it was originally passed, is still necessary. Definitely conditions are worse now than they were in 1931 when the Act was first introduced. We have been through some very bad times, knowing as we do that wheat recently went down to as low as 1s. 2d. a bushel, and wool to 10d. a lb. If the Mortgagees' Rights Restriction Act were not on the statute-book there would be a great opportunity for some financial institutions to step in in the anticipation of better times within the next few years because of war prices. We know what mortgagees have done, though not all have acted in the same way. We do know that but for the existence of the Act, certain mortgagees would take this opportunity of foreclosing. This legislation should remain on the statute-book until some of the mortgages have been written down. Mr. Cornell told us by way of interjection when Mr. Dimmitt was speaking a year ago that mortgages should be written down. It is said by some people that mortgagors can go to a financial firm and take up the mortgages; but that is absolutely impossible today. It is not possible even to get any financial establishment to take up mortgages on the old figure in vogue in 1931. I am quite prepared to admit that hardships have been experienced, but I do not agree with Mr. Heenan when he said it is quite an easy matter to approach the court. I can give the other side of the picture by relating that a man who had a mortgage of £250 and who could not get his money consulted a firm of solicitors. He was advised to approach the court and was told that the cost would be between £30 and £40. He was asked by the firm of solicitors to put up that sum of money. Although it has nothing to do with the Bill before us, which is merely a continuance measure, I consider that instead of having to approach the court a mortgagee could go to a commissioner who might be a person such as Mr. White who is administering the Farmers Debts Adjustment Act and in that way cut out the lawyers altogether. Many farmers approach Mr. White and get their wrongs righted without going to a lot of unnecessary expense. I intend to support the second reading of the Bill.

**HON. C. H. WITTENOOM** (South-East) [8.10]: As one who is familiar with the unfortunate position in which the farmers find themselves and in which they have been for a considerable time, I hope the House will continue the operation of the Act for a further term. Of course everyone would like to see the Act lapse but at the same time I do not regard it as an iniquitous measure as it has been called by some members in this House. But for the Mortgagees' Rights Restriction Act many farmers in this State would have gone to the wall in the last few years. I shall support the second reading.

**HON. H. SEDDON** (North-East) [8.11]: Although a good deal has been said about the necessity for continuing the Act as far as the farmers are concerned, I do not consider any case has been made out for a continuance in respect of property. Anyone who has been in touch with the operation of mortgages, especially in the city, will realise how the measure has been imposed upon by people who could very well have met their obligations but who have taken advantage of the existence of this legislation. A short while ago I had a case brought under my notice of a man who had advanced a sum of money on property. The mortgagor died and the estate fell into the hands of a trustee who contented himself simply by collecting the rent. He made no attempt to effect repairs, but paid interest to the mortgagee; then when he had sucked the property dry, and left it in a state of disrepair he was ready to hand it back to the mortgagee.

This is one illustration of the manner in which the Act has been abused. Year after year the Government has been approached with requests to reverse the position, to provide that where the mortgagor is in difficulties he may proceed to the court and ask for relief. If such an amending Bill had been brought down, I do not think any objection could have been taken to it. But the Government has simply con-

tented itself with, year after year, bringing down this Bill for the extension of the legislation, notwithstanding that instances have been brought to the Government's notice again and again of the harshness with which the Act operates against people who have advanced their money, in all good faith, to others to assist them with regard to their housing. The Government would be well advised, especially at this juncture, to reverse the position. Arrangements could be made for the continuance of the Act in rural areas, but in respect of other properties for a reversal of the position so that the mortgagor, as I have said, might apply to the court for relief. I would be prepared to support such a Bill. However, if there is one thing that has been made perfectly evident, it is that this Government's policy has been on every occasion to penalise people who have been investors, and those institutions which have the handling of finance. That has been the Government's deliberate policy, as has been proved again and again. The reactions of that policy are more and more evident in the community, because we find people turning away from this class of investment. It is now recognised that anyone who builds houses to rent may be considered a fool. It is also becoming recognised that any person who advances money on mortgage is simply placing himself in a position where he can be shot at.

If there is one thing that has been beneficial to the people of Western Australia, especially those who have been trying to provide homes of their own, it is the fact that they have been able to obtain cheap money on mortgage in order to build homes. But a state of things is rapidly being established where a man who is asked to invest his money in mortgages will say no, because he is quite aware of the general opinion, which has been carefully fostered in this community, that the man who advances money on mortgage is simply there to be shot at and stands a chance of losing that money. It is far better for the man—and he realises it—to refrain from investing money on mortgage. While this legislation was brought in to cover mortgages existing at the time of the depression, it is no fault of the present Government that it has not been extended to all mortgages. We have had repeated attempts by this Government to introduce amendments of the Act bringing current mortgages also under it. It is the recognition of that fact that has had the effect of restraining people from providing money on mortgage which otherwise would have been forthcoming.

**THE HONORARY MINISTER** (Hon. E. H. Gray—West—in reply [8.19]: It is not necessary to make a lengthy reply to the second reading debate. The most effective reply to the arguments of opponents of the Bill was made by Mr. Heenan. People have been subjected to injustice. We admit that. The excuse for such people not applying to the court for relief has been that application to the court is too expensive. I have made inquiries and have satisfied myself as to the correctness of the statement that in glaring cases such as those quoted by Mr. Seddon and Mr. Nicholson, application can be made to the court and justice secured at practically no cost.

Hon. J. Cornell: What about the case Mr. Wood quoted?

The HONORARY MINISTER: That is a case where the mortgagee went to a private lawyer and was squeezed pretty hard.

Hon. E. H. H. Hall: How can assistance be secured cheaply?

The HONORARY MINISTER: Mr. Heenan explained that. No doubt other members of the House could also give the explanation. The cost can be as little as under £1. The reason why the Act should be continued is that the present is not the time to drop it. Only a very small minority of mortgagors abuse the Act. The House would be unwise in even attempting to drop the legislation.

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

| | |
|---|---|
| Ayes | 14 |
| Noes | 9 |
| Majority for | 5 |

| Ayes | |
|---|---|
| Hon. C. F. Baxter | Hon. W. H. Kitson |
| Hon. J. M. Drew | Hon. H. V. Piesse |
| Hon. G. Fraser | Hon. A. Thomson |
| Hon. E. H. Gray | Hon. H. Tuckey |
| Hon. E. H. H. Hall | Hon. C. H. Wittenoom |
| Hon. V. Hamersley | Hon. G. B. Wood |
| Hon. E. M. Heenan | Hon. H. S. W. Parker (*Teller.*) |

| Noes | |
|---|---|
| Hon. J. Cornell | Hon. G. W. Miles |
| Hon. L. Craig | Hon. J. Nicholson |
| Hon. J. J. Holmes | Hon. H. Seddon |
| Hon. J. M. Macfarlane | Hon. E. H. Angelo |
| Hon. W. J. Mann | (*Teller.*) |

Question thus passed.

Bill read a second time.

*In Committee.*

Bill passed through Committee without debate, reported without amendment and the report adopted.

## BILL—INSPECTION OF MACHINERY ACT AMENDMENT.

*Second Reading.*

Debate resumed from the previous day.

**HON. H. SEDDON** (North-East) [8.27]: In supporting the Bill may I say that there appears to be some misunderstanding with regard to it. Various members appear to think that the measure extends the department's powers of inspection. As a matter of fact, those powers exist in the present Act; and to that extent there has been misconception of the intention of the Bill. It does, however, endeavour to bring the Inspection of Machinery Act up to date. It does try to effect a more efficient control over classes of machinery which have been developed, and become more commonly used, since 1921, when the parent Act was last revised. The Bill also provides a highly important departure in so far as it introduces for the first time in Western Australia the principle of issuing certificates to engineers, and thus ensures that there shall be a minimum of efficiency provided, especially when it comes to dealing with large and important plants and the most modern machinery. I understand that many provisions of the Act are brought up for amendment in order that they may be more in conformity with modern Australian standards, and also with the practice which obtains in South Africa.

The first part of the Bill which has been criticised is that dealing with refrigerating machinery. I would ask hon. members to look at the table of refrigerants set out in the Bill. If they will inquire from their chemical friends, they will learn that a number of those gases are exceedingly irritant, that some of them are dangerously so, and that it is necessary they should be handled by people who understand what they are dealing with. Other gases may be classed as definitely poisonous. When we realise that the process of refrigeration demands that these gases shall be worked at pressure, and in some cases at pretty high pressure, we must acknowledge that the type of plant which is used in connection with them is such as requires more than ordinary precaution and more than ordinary skill and experience in dealing with refrigerants. Danger may arise in the operation of plants, and from that standpoint it is desirable that the department should be given power, first, to see that plants conform to safe practice—that is in the interests of the owners—and secondly, to see that plants are handled by competent workmen.

With regard to engineers' certificates, if there is one thing that has been made evident to us in this State, it is the fact that we have unfortunately lost many of our most promising young men in the professions, and it should be realised that engineering is a profession. I have had not one but many instances brought under my notice of young men who have qualified not only in their trade but also in the technical side, obtaining diplomas. Having made themselves efficient, however, they were unable to obtain recognition and so frequently accepted positions on ships. Subsequently they have come under the notice of enterprising engineering firms who have offered them sufficient inducement to leave the State, and so they are lost to us. On the other hand, we have had instances of men placed in charge of important plants, who, because of dissatisfaction, left their employment. Investigation has then disclosed that the companies or firms concerned have suffered serious financial loss over a period of years owing to the inefficient way in which their plants were operated. By way of illustration: some years ago a friend of mine was asked for a professional opinion on a mining plant of one of the biggest mines on the Kalgoorlie field. He inspected the plant and reported to the company concerned that not less than 37 per cent. of the power generated by the engine was lost in transmission, owing to the inefficient layout of the plant and the transmission of power. When it is realised that that plant generated hundreds of horsepower, one realises the penalty the mine was paying for having employed an inefficient engineer. The resident engineer had worked on the plant for a number of years. It was only when my friend made the examination that the facts were brought to the notice of the management.

Hon. C. F. Baxter: He was an engineer—not an engine-driver?

Hon. H. SEDDON: Yes. I was not referring to an engine-driver. Another instance came under my notice recently. A new plant was installed at a mine; the electrical portion involved the transmission of power of fairly high voltage to various units connected with the working of the mine. As the man who laid out the plant could not appreciate the economy which could be effected by the utilisation of high voltage, he caused that mine a loss of about £1,200 a year, by loss in transmission and transformation of current. In these instances, had trained men been employed, economies would have been effected. Coming to a simpler state of affairs, the mining industry is strewn with tragedies of attempts to carry on engineering work by men who did not know the first principles of engineering science. This applies especially to mines not strong financially. Therefore the provision for first and second class engineers' certificates is a step in the right direction, a step which I think will repay the country, because it will ensure that skilled engineers will be placed in charge of plants such as I have mentioned.

Some years ago the director of an English company visited Western Australia and, in conversation with me, suggested that it might be the function of the Mines Department to institute a technical audit of mining machinery, the report to be made to the directors of the company and also to be filed in the Mines Department. I understand the suggestion was conveyed to the Minister for Mines of the day, but so far it has not been acted upon.

Reference has been made to the man holding a marine engineer's certificate. Such a certificate is regarded all over the world as the diploma of a practical man. The test is a practical and theoretical investigation of experience, and the holder of such a certificate gets preference in many cases when applying for employment. The Bill endeavours to provide a similar standard for land engineers. As I say, the provision for the certificate is one to which I give my whole-hearted support. I have referred to the loss of our young men who, having completed their training, have been forced to leave the State in order to secure adequate remuneration. The same thing happened in connection with men trained in our School of Mines. Owing to the state of our mining industry some years ago, those men were in the same position as are our engineers to-day. A few other matters are well worthy of consideration, but they can be dealt with in Committee. I content myself with dealing with the Bill from the standpoint of the engineer, in the hope that members will support it.

**HON. J. CORNELL** (South) [8.41]: You, Sir, have heard the interlocking engineer on this Bill; you will now hear the engineer's labourer. First, I would point out that the Bill was drafted some considerable time ago. The views of one organisation, with ramifications throughout the State—the Engine-drivers, Firemen and Cleaners' Union—are not expressed in the Bill, although the union had many conferences with the Minister. Finally, it gave the matter up as a forlorn hope. I warn members that this Bill, outside of an institution of bum engineers, will not have a far-reaching effect, or any effect, on the goldfields of our State, but that it will affect other parts of the State. One provision of the Bill exempts internal combustion or steam engines with 12-inch cylinders from inspection. Formerly such engines with 16-inch cylinders were exempt from inspection. Why is it proposed to reduce the diameter to 12 inches? It means that in the rural parts of the State, engines not now subject to inspection will become subject to inspection.

Member: That is what I am afraid of.

Hon. J. CORNELL: I am pointing that out to members. The Bill, if passed, would embrace heating boilers in clubs, hospitals and hotels if they are above a certain pressure exempted today. I understand it is also proposed to bring under inspection many containers in garages which today are exempt. I am also informed by a competent authority that any refrigerating process in which ammonia is used will be brought under the measure. I can quite understand, for argument's sake, that the plant in a factory such as that of Peters' Ice Cream Co., should be subject to inspection, and I understand that up to a certain point it is inspected to-day. I cannot understand, however, why the small refrigerating plant of a butcher at Bruce Rock or Gwalia, which to-day is exempt from inspection, should be now subject to inspection.

The Chief Secretary interjected.

Hon. J. CORNELL: I am given to understand that where ammonia is used, the plant will be subject to the provisions of this measure.

Hon. W. J. Mann: The measure would have State-wide application, too.

Hon. J. CORNELL: Yes. I believe that there has been only one fatal accident in connection with refrigerating processes in this State. Mr. Seddon, I think, made out a very thin case. What does the Bill propose? It will affect the whole of the goldfields. It proposes that after the passing of this measure—

> Every person who is employed or is acting as an engineer or foreman in charge of the erection, repair or maintenance of any works having machinery capable of developing from prime movers more than two hundred and fifty horse-power, or on which any unit of plant is capable of developing more than seventy-five horse-power, or having machinery driven by electric motors, the combined power of which exceeds three hundred and fifty horse-power, or in which an electric motor exceeds one hundred horse-power, shall hold the required engineer's certificate under this Act.

If the measure becomes law, an engineer holding a certificate will have to be placed in charge of all such plant. Who is going to set the qualifications? The Bill, in a later clause, provides for the constitution of a board consisting of the Chief Inspector of Machinery, a departmental man and a representative of the Engine-drivers and Firemen's Union. Now the proposal is to have a man holding a first-class engineer's certificate under the Act or a certificate equivalent to it. To get a man for the board to guide other members in the issuing of certificates, it will be necessary first to pass one or to find one. There is nothing in the Bill about the qualifications or the standing of this engineer. That matter will be left to regulations. With all due respect to the Chief Inspector of Machinery, I do not think he could get a job in any mine at £1,000 a year. However the board I have indicated is to lay down the standard and conditions for this new class of engineer. I become angry at the presumption of the Chief Inspector of Machinery, especially when I visualise the conditions on the Golden Mile at the time I started work there 40 years ago and when I recall the men who pioneered the erection of the big plants there. Let me mention Mr. George Ridgway, who was the engineer on the Great Boulder mine. The present manager of the Lancefield mine, Mr. Jack Fox, started as a boy in knickerbockers to serve his apprenticeship as a fitter on the Great Boulder mine. Those men served their time as fitters or turners. To-day, but for the vision of such men, the Lancefield mine would not be working because they evolved a system of transporting the ore underground out of practical, not theoretical, engineering experience.

I could mention dozens of such men. One that occurs to my mind is the son of a one-time member of this House, a former colleague of yours, Sir, and of mine—Mr. Dodd. If anyone had gone to the Central Norseman gold mine four years ago while Mr. Leslie Dodd was re-erecting the old plant, and could revisit it now and see the display of electrical and other machinery, he could be excused for seriously questioning whether it is necessary to set up a standard of engineering when we can get such men as he. He served his time as a fitter on the Ivanhoe mine. Take Mr. Bob Jones, the man in charge of the main power house at Kalgoorlie. Whatever theoretical training he might have received, he picked up his knowledge largely through his own studious methods. Take Mr. Tom Smythe, Jones's offsider. He worked as a turner on the Great Boulder mine 35 years ago. Consider the lay-out, reconstruction and installation of the oil flotation process on the Lake View and Star mine as carried out by Mr. Stevens, who was a metallurgist. To say that at this stage of the industry we must have an examination by the Chief Inspector of Machinery based on regulations made by himself is ridiculous.

What is the position of the big mining companies to-day? Take Tindal's, which has one of the latest plants erected on the goldfields. Ruwolts, the big engineering firm, contracted for the plant and erected it on plans drawn by the firm's own draftsmen and supervised by its own engineer. Our University should turn out engineers for us; we should not seek to create them under a set of regulations laid down by the Inspection of Machinery Branch. Take the engineer who went to Wiluna, Mr. Lou Nowland. I was working as a moulder's labourer in the Kalgoorlie Foundry while Nowland was serving his

time there as a fitter and turner. I become angry when I think that some chap who can fluke through an examination and obtain a certificate must have charge of the erection of such plant. The new plant on the Great Boulder mine was erected by the Kalgoorlie Foundry, the drafting, plans and everything having been undertaken by that firm. It is ridiculous to set up such a board to grant engineering certificates to men to take charge of plant. Consider the old Amalgamated Engineers Union; that is now a misnomer. Marine engineers certainly do join the union, but at one time in this State a majority of the members consisted of tradesmen—fitters and turners. It is not so now. Let me mention the late Charles Valentine, at one time engineer on the Boulder Perseverance mine and for many years engineer on the Sons of Gwalia mine. If he was alive, I make bold to say that he could not answer the questions that would be set by the board to be constituted under this measure. Take Mr. Albert Faull, who recently resigned from the de Bernales service. He, too, is a fitter.

Hon. H. Seddon: On a point of order, I do not wish to interfere with Mr. Cornell's presentation of his case, but I think he would be wise not to introduce personalities. Some of the men to whom he has referred are professionally trained men, and I think he is rather casting a reflection on them. Certainly I believe he would be wise to refrain from introducing personalities.

Hon. J. CORNELL: I am dealing not with personalities but with persons. I venture to say that of all the men I have mentioned not one of them ever graduated in any school of engineering or went beyond serving his time as a fitter and turner.

Hon. J. M. Macfarlane: Except the school of experience.

Hon. J. CORNELL: Yes, the hard school of experience. What a man mostly needs to make him a competent mining engineer, apart from some technical training, is to be sound in what is above, not below, his shoulders. The proposal in this Bill is going to lower the status of what I call competent engineers. If it is necessary in this State to have a recognised school of engineers, let it be properly based and properly constituted and established on a definite and not problematical standard of examination. I do not think for one moment that the Inspection of Machinery Branch is the body to conduct examinations for the granting of engineers' certificates. This branch was formed for the better protection of the life and limb of men engaged in the operating of machinery, and I think Mr. Seddon will agree that the men who carried the greatest responsibilities were the engine-drivers, firemen and cleaners. Day in and day out in the mining industry the winding engine-driver carries in his hands the lives of hundreds of men. It redounds to the credit of the organisation that it has done such excellent work and adopted such a reasonable attitude towards the industry. The considered opinion of the union is that the granting of these engineers' certificates are granted they will cut right across the livelihood of the men who had to study and pass examinations for the positions they now hold. Although the proposal will confer an additional status upon engineers, it will not give them the right to drive winding engines.

Hon. H. Seddon: The Bill does not propose to give that.

Hon. J. CORNELL: No, because the winding engine-driver is a man apart. A marine engine-driver cannot come ashore and drive on a winding engine-driver's certificate. He has to do a certain amount of work on another engine, without passing another examination. Everyone knows the responsibility carried by the winding engine-driver. In his hands are the lives of men, as he hauls them up from the 3,000 feet level, or between that level and the surface. When a winding engine-driver begins to feel the pinch, as he must do after focussing his attention upon his work for so many years, the practice in the mining industry of this State has been for the managers of mines to give him a position as driver of a stationary engine. These well-trained servants have been viewed benevolently and every endeavour is made to find them a job on a stationary engine. The present proposal is that these engineers shall cut across the line of engine-driver. It should not be the province of an engineer to drive an engine.

Hon. E. H. H. Hall: What do you mean?

Hon. J. CORNELL: The Bill proposes to give the holder of an engine-driver's certificate the right to drive any propelling power engine except a locomotive or winding engine. The reference to a locomotive is qualified by a provision relating to the 3ft. 6in. gauge. Mr. Hall knows the Wiluna

mine, and Mr. Seddon knows the Golden Mile. They understand that the gauge of the railways used on mines is less than 3 feet 6 inches, and that the locomotives running on those rails are only small engines. If the gauge were 3 feet 6 inches, the engine-drivers in question could not drive the engine running on the rails.

The Bill provides that one member of the board shall be a member of the Federated Engine-drivers and Firemen's Association of Australasia. I am authorised to say that the union did not ask for that and does not want it. Members of the union state that the principle and the practice are both wrong. Whoever serves on the board as an engine-driver does so not in the interests of other engine-drivers, but in the interests of the whole community. That is the view of the union. The Bill lays down that one member of the board shall be a person holding a first-class engineer's certificate, or a certificate equivalent thereto. The union declares that to be a privilege it has never asked for. For some 35 years the member of the union serving on the board has been a first-class engine-driver.

Hon. H. Tuckey: Has not another unionist claimed the right to be the representative?

Hon. J. CORNELL: That may be so, but I do not know. If the Bill were passed, I do not know that the Amalgamated Engineers or the Engine-drivers' union would ask for the appointment of a representative to the board. The policy is altogether wrong. If it is intended to establish an institute of engineers, the Government is going the wrong way about it. I agree with Mr. Seddon that many bright and enterprising young men who have received technical training at the School of Mines and at the University, have left the mining industry in this State, and that most of them have joined the Federal service. That not only applies to the mining industry, but is of general application. The field of promotion and the outlook are bigger in the Federal sphere, and the pay and the conditions are better. I know of a young fellow who became a qualified surveyor and has joined the army for lack of opportunity in the civil life of this State.

Hon. C. H. Wittenoom: In Western Australia the only certificate such young fellows can get is a first-class engine-driver's certificate. They cannot go higher than that and that is why they leave Western Australia.

Hon. J. CORNELL: Why do the young surveyors leave the State? This sort of thing is going on everywhere.

Hon. C. H. Wittenoom: You were talking about the School of Mines. It might as well be abolished for all the good it does in keeping young fellows in the State.

Hon. J. CORNELL: Mr. Seddon cited two or three instances. The circumstances to which I refer are not peculiar to the mining industry, but are general. Young men leave the State because the field of opportunity and the pay and conditions are better elsewhere. I could instance numbers of people I know of. This Bill will not raise the status of engineering. I admit that an engineer should be qualified to drive machinery, but do not think he should be called upon to do it. He could see that the engine was in repair and could possibly start it up, but he should not drive it as a means of earning his livelihood, which is what this Bill would bring about. If competent engineers are wanted they should receive more pay than is given to the ordinary engine-driver. Their ordinary qualifications would also be higher. It should be laid down that if we are going to set up a Faculty of Engineering, men should serve as fitters or turners, or both, in an apprenticeship extending over five or six years. I hope the House will give the Bill the treatment it deserves. I have already pointed out that the measure brings within the Act classes of machinery, such as refrigeration machinery, that are at present excluded from this legislation. The Bill will also apply throughout the State. Mr. Seddon said that it contained very extensive powers. If members will go through it they will find that in Clause 2 six entirely new provisions are included. Clause 5 contains three new provisions, and in Clause 10 there is the new principle relating to certificated engineers. The provision relating to cylinder capacity is new, and that relating to refrigeration and air compressors is new. The proposal to increase the number of members to serve on the board from four to five is also new. Although the board would be presided over by the Chief Inspector of Machinery as chairman, we are not told who the other two members will actually be. The whole Bill bristles with new departures. We have the first and second-class engineer, the first and second-class refrigerating machinery

engine-driver, and many other new provisions. Seventy per cent. of the measure is entirely new. Surely members will not think this is the time to introduce all these new principles. The alternative is to refer the Bill to a select committee, but in view of all its ramifications the best thing we can do is reject it on the second reading. I shall vote against it.

On motion by Hon. E. H. H. Hall, debate adjourned.

## BILL—TESTATOR'S FAMILY MAINTENANCE.

*Second Reading.*

Debate resumed from the 20th September.

**HON. E. M. HEENAN** (North-East) [9.16]: I have looked through the Bill and commend it to the House. The present law sets out that where no adequate provision has been made by a testator for the widow, widower or children, an application may be made to the court for an order granting such provision. The Bill seeks to amplify the powers of the court and appeals to me from that point of view. The law as it stands is re-enacted with certain additions that are necessary. At present an order can be made by the court, but apparently that order cannot be varied or rescinded at a later date in the light of facts that may become known. The Bill provides power for the court to vary or rescind any order it may make. Then again the present Act contains no limitation upon the time within which a person concerned may apply to the court. That should be rectified, and the Bill fixes the period at six months. When placing the measure before the House Mr. Parker explained that New Zealand and the Eastern States had passed similar legislation. In New Zealand and New South Wales the period within which an interested party must apply to the court for an order is fixed at 12 months; in Queensland, South Australia and Victoria the period is six months, and in Tasmania three months. The period fixed in the Bill appeals to me as fair and reasonable. I certainly commend the measure to the House.

**HON. J. NICHOLSON** (Metropolitan) [9.19]: I agree with Mr. Heenan on the desirability of the introduction of the Bill and also with the statements made by Mr. Parker when he moved the second reading. The legal profession appreciates the measure as one that will be of advantage in many directions. You, Mr. President, Mr. Drew and others who were members of this Chamber in 1920 will recall how the first provision for the maintenance of a testator's family came to be introduced. We had before us a measure that had been on the statute-book under the style of the Guardianship of Infants Act. At the instance of the late Mr. Jabez Dodd, a clause was inserted that conferred the right upon a testator's dependants, who might not have been adequately provided for or might even have been excluded from the will, to make application to the court, and many such applications were made, so that they might receive some benefit. That idea followed the lines of a very ancient law in Scotland where for over a hundred years certain legal rights have existed known, as it affected the interests of children, as the right to legitim. Children in that country can claim that legal right, should they be excluded from a will, to the extent of one-third of the personal estate of the testator. A couple of months ago an instance of that was brought under my notice and the matter is pending at present. Then again, under that ancient Scottish law, a widow has the right known as jus relictae, which enables her to apply to the court claiming her legal dues. The provision in the Bill seeks to place the court in a somewhat similar position and follows lines that have been found of benefit in other States. That was explained by Mr. Parker when he moved the second reading of the Bill, and I consider that legislation under the Title now proposed will be found much more satisfactory than the provision, which has certainly conferred benefit on many, contained in the existing Guardianship of Infants Act. Members will recollect that when amendments were moved to that statute, the Title had to be amended before it was finally passed. That, however, is by the way. Such memories are revived as the years pass, and it is interesting to note that this particular phase of our statutes is again receiving attention. Mr. Parker is to be congratulated upon introducing the legislation. I understand the Bill has been based principally upon the South Australian and New South Wales

Acts, although other States have passed legislation along similar lines. In England legislation of this character has been urged for years and I think was recently passed by Parliament. One point should be considered by Mr. Parker who has embodied in the Bill a definition of "widow." Would it not be fair and reasonable to insert a definition of "widower," along somewhat similar lines? Circumstances might arise where it would be fair and reasonable to give the court power to grant benefits to a widower. At first glance one might be inclined to ask why a man who had ceased to enjoy the relationship of husband and wife should be granted relief. His marriage may have been dissolved or his former partner in life may have died. The property of the wife may have been provided from the funds of the husband. True, the status of husband and wife in the case of a dissolved marriage, would no longer exist in such circumstances, but members can appreciate, how during the matrimonial life of the partners, who in the end may have become divorced, the husband may have provided funds to enable the wife to secure property. Later on the man reaches a stage in life when he no longer is able to earn his living. He may have provided originally the funds that were left by his wife on her death. He, having been divorced, the court would have no power under this Bill to confer a benefit on him unless we give the same wide meaning to the word "widower" as we are giving to "widow." The word "widow" is defined as including any woman divorced by or from her husband and who at the date of the death of such husband was receiving or was entitled to receive permanent maintenance from such husband by order of the court. A corresponding definition should be given to the word "widower." No order will be made by the court without the fullest investigation. Every application must come before the court, and the court has discretion to determine whether or not a person applying should be entitled to a benefit. I have known instances in which such a situation as I have mentioned has arisen.

Question put and passed.

Bill read a second time.

*In Committee.*

Hon. J. Cornell in the Chair; Hon. H. S. W. Parker in charge of the Bill.

Clause 1—agreed to.

Clause 2—Interpretation:

Hon. V. HAMERSLEY: I am concerned about the fact that a man may, in effect, have two widows if the definition of "widow" as it appears in this clause is allowed to remain. One would be the woman from whom he was divorced and the other the one he married after his divorce. In the event of provision having to be made for both, and there being insufficient means to provide for them, which would have to give way, the first or the second? If a divorced woman has the right to receive maintenance during the lifetime of her ex-husband, and is then to have the right to further benefits upon his death, will that leave the second wife and the children of the second marriage with nothing? I move an amendment—

*That the definition of "widow" be struck out.*

Hon. H. S. W. PARKER: Mr. Hamersley misunderstands the position. Under the present divorce law, when a woman divorces her husband the court makes an order for alimony if she applies for it. On rare occasions, even if the woman is the guilty party, the court will make an order for her maintenance in certain circumstances. But that applies only during the joint lives of the husband and wife, so that when the husband dies the maintenance of the wife ceases. I do not consider that is correct. If the husband leaves any estate, a divorced wife should be entitled to participate in it if she has an order for maintenance from the court at the time of her former husband's death. Mr. Hamersley need have no fear about the position of the second wife and family of a divorced man, because the next provision stipulates that the court may at its discretion order that such provision as it thinks fit shall be made out of the estate of the testator for the maintenance of that wife and family.

Hon. V. HAMERSLEY: I still have my doubts. I think this will be a direct incentive to many people to enter marriage lightly and then break their marriage vows with the object of having provision made for their future.

Hon. E. M. HEENAN: Mr. Hamersley has raised an interesting point. Such a circumstance might possibly arise, but I think it is very improbable. Even if it did, however, the court would have discretion

in the matter, and I have no doubt as to how that discretion would be exercised.

Amendment put and negatived.

Clause put and passed.

Clause 3—agreed to.

Clause 4—Application to be made within six months:

Hon. H. S. W. PARKER: I move—

That the following proviso be added:—"Provided further that the court may extend the time for making an application as the justice of the case may require although such application be not made until after the expiration of the time appointed."

This is designed to give the court power in extreme cases to extend the time.

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

Clauses 5 to 9—agreed to.

Clause 10—Executor may distribute after notices to creditors:

Hon. G. FRASER: I should like some information about this clause. It is stipulated earlier that application must be made within six months. That seems to conflict with this clause. Reference is made to Section 47 of the Administration Act, 1903-1934, under which notice to claimants must be given by an executor. It seems quite possible under this clause for an executor to distribute the estate and the whole business to be completed before the expiration of six months. Consequently it appears that the clause giving a person six months in which to apply should be omitted.

Hon. H. S. W. PARKER: Section 47 of the Administration Act provides that there must be an advertisement for creditors. The notice is fixed by the Master who decides where it shall appear and how many times. The clause provides that where the notice to creditors has appeared and been duly advertised, after the expiry of that notice, if no claim has been made by the widow, the executor may distribute the estate. If Clause 10 were not included the distribution of all estates would be held up. Then the court has power to say, "Quite true, you have distributed the assets but we are going to follow them to the various people amongst whom they were distributed." The clause appears in the Acts in the other States.

Hon. G. FRASER: The hon. member has said that in the ordinary course it would take seven weeks, but above that there would be the period during which advertisements would have to appear, so that altogether the best part of about four months would be occupied before the winding up.

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

Clause 11—Order deemed a codicil for probate duty:

Hon. H. S. W. PARKER: This clause really should not be in the Bill because it has something to do with taxation. It should appear in another Bill. I ask the Committee to vote against it.

Hon. J. Nicholson: I think it would be wise to keep the clause in the Bill.

Clause put and negatived.

Clauses 12, 13—agreed to.

New clause:

Hon. H. S. W. PARKER: I move—

That the following be inserted to stand as Clause 11:—"Section 5, Subsection (4), and Sections 7 and 8 of this Act shall apply to orders heretofore made under Section 11 of the Guardianship of Infants Act of 1920, prior to the commencement of this Act."

New clause put and passed.

Title—agreed to.

Bill reported with amendments.

## BILL—GUARDIANSHIP OF INFANTS ACT AMENDMENT.

*Second Reading.*

Order of the Day read for the resumption of the debate from the 21st September on the second reading.

Question put and passed.

Bill read a second time.

*In Committee.*

Bill passed through Committee without debate, reported without amendment and the report adopted.

*House adjourned at 9.55 p.m.*