

areas available to the State Housing Commission in the metropolitan area and that therefore there could have been no need to acquire further land. I have on several occasions announced that we were reaching the stage—if we continue building houses at the present rate we will be at that stage in a matter of months in the Fremantle district—of having no land in particular localities, and I ask what is the good of having 8,000 acres at Wanneroo to house people whose employment takes them to South Fremantle, or somewhere else—

Mr. Bovell: Why not build some houses in the country?

The MINISTER FOR HOUSING: If the member for Vasse wishes to discuss housing, we can do that on some other occasion, but the gigantic resumptions undertaken by the previous Government were ill-conceived in every respect. Fancy, in a metropolis the size of ours, acquiring enormous areas such as that, as though every person could be made to reside in the one area! Obviously, there must be areas of land available to serve the people in Midland Junction, Bassendean, Welshpool, Fremantle and so on—

The Premier: And in Pinjarra.

The MINISTER FOR HOUSING: Land is required in many different localities and notwithstanding the fact that grandiose resumptions were carried out by the McLarty Government, it was necessary, in order to have a reasonably balanced programme, that land should be acquired in other areas.

Hon. Sir Ross McLarty: We did not put the wind up the people, as you did.

On motion by Mr. May, debate adjourned.

House adjourned at 9.53 p.m.

Legislative Council

Thursday, 15th September, 1955.

CONTENTS.

	Page
Questions: Water supplies, Allanson reticulation scheme	592
Wittenoom Gorge asbestos, decision by Tariff Board	592
Motion: War Service Land Settlement Scheme Act, to disallow fee simple regulation	592
Bill: Rents and Tenancies Emergency Provisions Act Amendment, Com., recom., report	593

The PRESIDENT took the Chair at 3.30 p.m., and read prayers.

QUESTIONS.

WATER SUPPLIES.

Allanson Reticulation Scheme.

Hon. J. MURRAY asked the Chief Secretary:

Will he inform the House—

(1) Whether the Government is satisfied with the water supply at Allanson?

(2) When, if ever, residents in Allanson can expect a reticulated supply from the present dead-end supply?

(3) What is the estimated cost of a reticulated scheme?

The CHIEF SECRETARY replied:

(1) No.

(2) As soon as funds can be made available without affecting progress on higher priority water supply works already in hand.

(3) £5,000.

WITTENOOM GORGE ASBESTOS.

Decision by Tariff Board.

Hon. H. K. WATSON (without notice) asked the Chief Secretary:

(1) Has the Government given consideration to the effects of the Tariff Board's decision regarding asbestos from Wittenoom Gorge?

(2) If so, what is proposed to overcome the problem besetting the industry in the district?

(3) If not, will he make an early announcement?

The CHIEF SECRETARY replied:

I will pass the question on to the Minister for the North-West, who is the one concerned in this instance, so that the hon. member may have an answer to his questions at the next sitting of the House.

WAR SERVICE LAND SETTLEMENT SCHEME ACT.

To Disallow Fee Simple Regulation.

HON. J. McI. THOMSON (South) [3.35]: I move—

That regulation No. 23 made under the War Service Land Settlement Scheme Act, 1954, published in the "Government Gazette" on the 4th February, 1955, and laid on the Table of the House on the 9th August, 1955, be and is hereby disallowed.

If this regulation is allowed to remain in its present form it will give the Minister and his officers powers that are far too sweeping in regard to the purchase of war service properties by the settlers. It places a settler completely in the hands of the Minister in this regard. It will

be noted from the regulation that the Minister has complete control in fixing the price. The regulation states—

... and on payment of such purchase price for the fee simple as is fixed under the scheme by the Minister in accordance with the conditions

These conditions can be varied from time to time by the Minister for the Interior and at any time he so desires. There is nothing to prevent the Minister from charging a settler the added value which the settler himself has given to the property by the expenditure of his own capital. Improvements made by the settler can be disregarded in due course when a determination of the price to be charged to the settler is made. Such action in itself will have a detrimental effect on the policy of encouraging settlers to be thrifty and to undertake their own improvements as far as possible with the expenditure of their own money.

If that be the case, under this regulation it is evident that irrespective of his improving the value of his asset a settler will eventually be charged in the purchase price the cost of any improvements effected by himself. Also, there is nothing to prevent the Minister from adding any moneys that have been wasted by the board on to other farms in the same or some other group. Under this regulation the purchase price could be built up to such a high figure that the settler would be unable to pay it and would be forced to quit the property, regardless of any improvements he had made.

The Minister for the North-West: An economic price is fixed.

Hon. J. McI. THOMSON: The settler is completely at the mercy of responsible officers of the War Service Land Settlement Board and the Minister who, by their actions and their attitude, can place the settler in a state of trepidation and uncertainty. For the reasons I have outlined, I trust that this regulation will be disallowed.

On motion by the Minister for the North-West, debate adjourned.

BILL—RENTS AND TENANCIES EMERGENCY PROVISIONS ACT AMENDMENT.

In Committee.

Resumed from the previous day. Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Postponed Clause 2—Section 4 amended:

The CHIEF SECRETARY: We are no further advanced now than two days ago. Many suggestions have been put forward as to the definition of a lodger, but unfortunately no solution has been found. I

therefore ask the Committee to agree to the clause, because there is some doubt whether lodgers come under the Act. With the inclusion of this provision, any doubt will be removed. A number of people have approached the department on the question of lodgers and inquired whether they were protected by the Act. We could not inform them definitely that they were; and when they were told this, they just walked out of the office. If the clause is agreed to, places which are not to be controlled might face some difficulty, not in regard to charges, but in regard to evicting lodgers. I give a guarantee that no one so affected would be harassed if the clause is agreed to. If it is not, then a test case could be made if some lodger cared to take the risk. But we do not want to take such a course.

Hon. H. K. WATSON: In view of the expressions by the Committee during the last few days on the subject of lodgers, I am disinclined to move the amendment in my name which has the effect of declaring that lodgers are not covered by the Act. At the same time, I feel that the Committee should not agree to the clause. The result will be that the present position will remain. It is possible for the Chief Secretary to introduce a Bill later on if he can arrive at a definition of a lodger.

The present position has obtained since 1950. I direct attention to Section 5 (2) of the Act which says that a court having for determination a question arising under the Act, may declare the arrangement to be a lease of premises to which the provisions of this Act apply if the arrangement, although made otherwise than in the form of a lease, should in the opinion of the court, having regard to the special circumstances of the arrangement, be regarded as a lease for the purpose of giving effect to the objects and intention of this Act. If some arrangement, which is not a tenancy, ought, in the opinion of the court, to be regarded as a tenancy, then it has the power to so declare. In view of the uncertainty which exists, the Act should be left as it is. I shall not proceed with my amendment; but at the same time I ask members not to agree to the clause.

Hon. N. E. BAXTER: I cannot agree to this clause unless the Chief Secretary can submit a definition of a lodger. In spite of what he said about people not being harassed if the clause is agreed to, the position will be left wide open. After two days, and with the assistance of his officers and the Crown Law Department, the Chief Secretary has been unable to arrive at a definition of a lodger. It appears that those officers have not tried very hard. Whenever a definition was required for the purpose of some Act in the past, it was readily found. The Chief Secretary does not seem to treat this matter as very important.

Hon. H. K. Watson: It is very difficult to arrive at a definition of "lodger."

Hon. N. E. BAXTER: The Chief Secretary has not been able to do so, but I offer the following definition for consideration—

A lodger, for the purposes of this Act, shall be a person who has leased a room or rooms in a premises for a period of not less than seven days, provided that in such premises more than one room is leased as a regular practice. This definition shall not apply to a boarding-house, private hotel, or hostel as controlled under the Health Act, 1911-1954.

If the Chief Secretary were to consider this definition we might be able to get somewhere. My proposal stipulates that a lodger shall be a person who leases a room or rooms for a minimum period of seven days in premises regularly leased in that way. That is all we require. Premises that take boarders and are controlled by the Health Department would be excluded.

The CHIEF SECRETARY: It is wonderful how great minds think alike. This morning we considered a provision almost word for word with that suggested by Mr. Baxter. One of my staff must have been in touch with him.

Hon. N. E. Baxter: Not at all.

The CHIEF SECRETARY: Last night we must have considered about 50 definitions. We had in mind the many points raised during the discussions here and endeavoured to meet all wishes. Every angle was taken into consideration. There is a weakness in Mr. Baxter's proposal. Anyone conducting a lodging-house could refuse to give an engagement for longer than one week and insist on renewing it every week, thus creating great uncertainty and opening the door wide for an evasion of the Act. We were unable to frame a definition that would cover all the points that have been raised.

I thank the hon. member for his suggestion; and, if the Committee is prepared to accept it, I shall do so. It would leave a lot of loopholes for contracting out of the Act, but would probably be better than nothing at all. We will need some sort of tacit agreement as to what will follow before we take a vote on the question before the Chair. If members would indicate whether they are prepared to accept Mr. Baxter's definition, the way would be cleared considerably.

Hon. L. A. LOGAN: The correct procedure at this stage would be to vote against the clause. We could make a start with Mr. Baxter's definition, and it should be possible for the Government to suggest any amendment it might desire. We are agreeable that there should be some control, but it would be wrong to adopt something that might prove to be incorrect. The Chief Secretary now has something to work upon, and it might be

taken as a recommendation to the Government to devise a satisfactory definition and submit it for our approval.

Hon. N. E. BAXTER: The Chief Secretary said that rooms could be leased from week to week, but once a weekly lease was renewed, it would come within the definition.

Hon. H. K. Watson: The lodger could be shifted to another room.

Hon. N. E. BAXTER: But the mention of "room or rooms" would cover that.

The Chief Secretary: I was not objecting; I was just pointing out the weakness.

Hon. N. E. BAXTER: If a lodger occupied a room for seven days and rebooked for another seven days, obviously he would have been leasing a room or rooms for more than seven days. If a man were rebooked after seven days, it would be too much to ask the court to find that he was not a lodger. I am prepared to move my proposal as an amendment.

The CHAIRMAN: Where does the hon. member propose that it should be inserted?

The CHIEF SECRETARY: The question we are discussing is the definition of "lease" and its extension to include a lodging-house. The amendment could not be inserted in this clause, but the hon. member could move to have his definition inserted as a new paragraph in Section 5 (1).

Hon. H. K. WATSON: I think we should have before us something more concrete than what has been submitted. Mr. Baxter has expressed the point in principle.

Hon. L. A. LOGAN: To accept Mr. Baxter's suggestion, we would have to agree to the clause as it stands, because it is no use putting in a definition of "lodger" if "lodger" is not included in the terms of the lease.

Hon. C. H. SIMPSON: The amendment, if accepted, will be dealt with in another place as the considered opinion of this Chamber, and it will be either accepted, rejected, or replaced by something in lieu. I think Mr. Watson's suggestion that we delete the clause is a good one; and then the Crown Law Department could be asked to draw up a considered definition, possibly along the lines of that contained in the Health Act. An amending Bill could then be brought down; and, if substantially on the lines of the debate that has taken place, I think it would do what we want and might save trouble from a legal point of view.

The CHIEF SECRETARY: The Crown Law Department has given this definition consideration for many weeks but, like the legal authorities in England, has not been able yet to arrive at a satisfactory

definition of "lodgings". The final definition that I got from the Crown Law Department was that which I mentioned earlier in the debate on this measure—premises in which living accommodation with services, including the supply of at least three meals per day, is provided by the proprietor for the occupants at an inclusive charge. That did not appeal to me as entirely satisfactory, and so I did not put it forward. The only weakness of Mr. Baxter's suggestion is that those who wished to contract out of the Act could do so by giving only a week's tenancy from time to time. Apart from that, I think the suggestion made would largely meet the situation.

The CHAIRMAN: Has Mr. Baxter considered where he would want his proposed amendment to go into the Bill?

Hon. N. E. BAXTER: I realise that it is a bit awkward, and so I will not move the amendment, but would ask the Chief Secretary to bring down a further measure in a couple of weeks' time, giving a definition of "lodger".

The CHIEF SECRETARY: We do not want to have to deal twice in one session with a rents and tenancies measure.

Hon. H. K. WATSON: This would be non-contentious.

The CHIEF SECRETARY: I do not know about that! I would like the matter finalised now.

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

Ayes	10
Noes	11

Majority against	1
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Ayes.

Hon. C. W. D. Barker	Hon. R. F. Hutchison
Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. E. M. Heenan

(Teller.)

Noes.

Hon. N. E. Baxter	Hon. H. L. Roche
Hon. L. Craig	Hon. C. H. Simpson
Hon. L. C. Diver	Hon. J. McI. Thomson
Hon. H. Bearn	Hon. H. K. Watson
Hon. L. A. Logan	Hon. A. F. Griffith
Hon. J. Murray	

(Teller.)

Aye.

Pair.

No.

Hon. W. F. Willesee	Hon. Sir Frank Gibson
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Clause thus negatived.

Hon. H. K. WATSON: In view of the division which has just taken place, I do not propose to move the amendment I have on the notice paper.

New Clause:

Hon. C. H. SIMPSON: I move—

That the following be inserted to stand as Clause 4:—

The principal Act is amended by repealing Sections ten, eleven, twelve and twelve A.

I think the Leader of the House is sympathetic in this regard but I understand that the printer must be given the necessary authority to excise those sections from the Act.

New clause put and passed.

New clause:

Hon. C. H. SIMPSON: I move—

That the following be inserted to stand as Clause 5:—

The principal Act is amended by repealing Sections seventeen, eighteen, nineteen, twenty and twenty A.

New clause put and passed.

New clause:

Hon. H. K. WATSON: I move—

That the following be inserted to stand as Clause 6:—

Section twenty-four A of the principal Act is amended by inserting after the word "of" in line one and again in line twelve of Subsection (1), the words "Subsection (2) of Section thirteen of."

Last night we adopted Clause 6 of the Bill and I would refer members to its provisions. Section 24A states that an inspector may inspect any land or premises, and that he may require persons to furnish information and produce books and answer questions, and that sort of thing. But cases have come to my notice in which an inspector purporting to act under Section 24A has sought information which has taken him out of his domain. Section 13 (2) of the Act sets forth the premises that do come under the rent inspector, namely, premises leased as part of premises. I do not wish to limit the powers of the inspector in any way, but it would be none of his business if, say, he went to Victoria House and called upon them to produce particulars of their premises.

The CHIEF SECRETARY: I hope the Committee will not accept this amendment, because it would restrict the powers of the rent inspector to purely a determination of rents. I am informed that the other powers are necessary for the inspection of rents and the investigation of unlawful charges, if a complaint is received and after notice to quit has been served on a lessee, he has vacated, and the premises are subsequently let at a rent higher than that charged on the first day of the month prior to the month in which notice was given. An alleged breach of Section 26 is one in which it is alleged that a lessor has interfered with the normal use or enjoyment of premises by a lessee, and the rent inspector would have no power to require information or inspect premises in that connection. Nor would he have that power in an investigation into rents being charged subsequent to a determination; and any investigation would mean relying on voluntary statements from interested persons. There would

be no power to require information from an agent, and lessees would not volunteer information for fear of resultant action against them.

The inspector would not be able to make investigations against alleged cases of key money being charged under Section 274, and experience has proved that in most cases during the last 12 months, evidence and other information obtained could not have been secured without the power conferred on the inspector requiring persons to supply information and produce documents. The department is firmly convinced that if the amendment is carried there will be no effective means of administering those sections of the Act which are not concerned with the determination of fair rents. If it is carried the amendment will strip the inspector of all those powers, and accordingly I ask that it be rejected.

Hon. H. K. WATSON: I would point out that so far as it relates to the determination of a fair rent with respect to shared accommodation, the rent inspector may, pursuant to Section 13 (2), exercise all those powers which the Chief Secretary said he may not exercise. The Chief Secretary said he may not investigate cases of interference. Is the rent inspector an adjudicator, chief prosecutor, counsel, judge and everything else? His position is more a judicial one and he should not deal with matters that are no concern of his. For example, he could go to the owner of a flat and say that he wanted particulars of the rents being charged. Flats are under the jurisdiction of the court. Any question between the owner of the flats and the tenants that cannot be settled between themselves should be settled before the court by their respective advisers. It is not for the rent inspector to interfere. Cases have been brought to my notice where he has asked for gross rents, expenses and the net return, and I object to that.

The CHIEF SECRETARY: The only cases of that nature investigated by the rent inspector are where complaints have been made of overcharges, and similar matters. This amendment will only permit him to make investigations in determining rentals. He will have no power to investigate any overcharging of rent. There are certain provisions in this Bill which give certain powers and say that certain things should be done, and unless we retain those powers and reject the amendment, we will whittle away the power of the rent inspector.

Hon. H. K. WATSON: I have no desire to diminish the powers of the inspector in respect to his legitimate activities. If the Chief Secretary will assure me that the exercise of the inspector's powers will be confined to his legitimate activities, I may not press the amendment. But cases I have already mentioned have been brought to my notice where a rent inspector has gone on

a roving mission, and I would not support any section of an Act which enabled him to do that.

The CHIEF SECRETARY, I would point out that no inspector has gone on a roving mission.

Hon. H. K. Watson: He did in regard to flats 12 months ago.

The CHIEF SECRETARY: That was when complaints were received from tenants of the flats, and he investigated the matter. Inspectors have too many cases on hand without looking around for more. In the past, they have only investigated cases where complaints have been received, and they will continue to do so in future.

New clause put and negatived.

Title—agreed to.

Bill reported with amendments.

Recommittal.

On motion by Hon. C. H. Simpson, Bill recommitted for the further consideration of Clause 1.

In Committee.

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

Clause 1—Short Title and citation:

Hon. C. H. SIMPSON: I move an amendment—

That after the word "Tenancies" in line 9, page 2, the words "Emergency Provisions" be inserted.

Had the amendments originally put forward in the Bill been accepted, obviously the wording of this clause would have been correct. But as it has been decided that this shall be a continuance Bill, it is necessary that these words "Emergency Provisions" should be placed in the position I have indicated.

The CHIEF SECRETARY: The insertion of the words will not alter the contents of the Bill, and I do not raise any great objection.

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

Bill reported with a further amendment and the report adopted.

House adjourned at 4.37 p.m.