and still sell profitably at the price they were compelled to charge. The Prices Commissioner is doing quite a good job, but unfortunately is governed by the laws we make here. The point I want to stress is that those making minor overcharges are just as liable to penalties as those who commit offences of some magnitude. I hope the Committee will agree to reduce the amount to £750, but when the Bill reaches the third reading it will not pass with my vote.

Hon. H. C. STRICKLAND: I oppose the amendment. I cannot agree with Sir Charles that by reducing the maximum penalty we are helping dishonest people.

Hon. Sir Charles Latham: Do not you think that the present penalty is high enough?

Hon. H. C. STRICKLAND: It is discretionary. It may be nothing or it may be the maximum. If the maximum is reduced, we leave the magistrates and judges no recourse other than to imprisonment.

Hon. H. Hearn: Would not £750 be pretty solid?

Hon. H. C. STRICKLAND: It would not be much to a big concern. I have been in business and have had experience with the Prices Branch. An employee put a wrong price ticket on fruit of a certain type. But I was not marched off straight away. People in that position are given plenty of latitude. We have only to consider what happened when retailers increased the price of butter by 10d. a lb. before they were entitled to do so. The people who thus overcharged have not been prosecuted. I consider that the penalty should stand at £1,500; otherwise, when there are serious cases, magistrates will be encouraged to imprison the offenders.

Amendment put and passed.

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

Ayes	15
Noes	8
Majority for	7

Ayes.

Hon. L. Craig	Hon. L. A. Logan
Hon. E. M. Davies	Hon. J. Murray
Hon. G. Fraser	Hon. H. S. W. Parker
Hon. Sir Frank Gibson	Hon. C. H. Simpson
Hon. E. H. Gray	Hon. H. C. Strickland
Hon. W. R. Hall	Hon. G. B. Wood
Hon. E. M. Heenan	Hon. R. J. Boylen
Hon. C. H. Henning	*(Teller.)*

Noes.

Hon. N. E. Baxter	Hon. A. R. Jones
Hon. R. M. Forrest	Hon. A. L. Loton
Hon. H. Hearn	Hon. H. K. Watson
Hon. J. G. Hislop	Hon. Sir Chas. Latham
	(Teller.)

Clause, as amended, thus passed.

Title—agreed to.

Bill reported with an amendment.

BILL—COAL MINING INDUSTRY LONG SERVICE LEAVE ACT AMENDMENT.

Second Reading.

Order of the Day read for the resumption from the 22nd November of the debate 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 6.13 p.m.

Legislative Assembly

Tuesday, 27th November, 1951.

CONTENTS.

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

QUESTIONS.

HOUSING.

As to Stoppage of Material Supplies to Building Firm.

Mr. McCULLOCH asked the Minister for Housing:

(1) Is it a fact that a ban on building material has been placed on the firm of Messrs. Snowden and Willson, Builders, of 45 St. George's Terrace, Perth?

(2) If the answer to (1) is in the affirmative, what are the real reasons therefor?

(3) Is he aware that a large number of clients for whom the above firm have built homes under the ready-made homes scheme, are highly satisfied with the homes provided, also with the financial arrangements entered into prior to any contract or agreement being signed by the parties concerned?

The MINISTER replied:

(1), (2) and (3) The Commission decided not to grant any further releases to Snowden & Willson for controlled materials for "ready-made" houses, but as no application for such releases has since been made, the decision has not been put into effect.

As a result of a conference with the company, satisfactory arrangements have now been made to issue releases.

FRUIT.

As to Distribution of High Prices for Apples.

Hon. A. R. G. HAWKE asked the Attorney General:

Would he ask the Commissioner for Prices to ascertain the share of the high prices now ruling for apples as obtained by—

(1) the growers;

(2) the cool storage depots;

(3) the wholesalers; and

(4) the retailers?

The ATTORNEY GENERAL replied:

Apples are not subject to price control, and therefore the Prices Control Commissioner has no authority to require from persons having the knowledge, the necessary information to enable him to ascertain the particulars requested by the hon. member.

I have been informed that a number of factors contributed to the high prices now being received at auction for apples, including the shortage caused by the very severe hailstorm which occurred in January in the Mount Barker-Kendenup district, and which is estimated to have resulted in a diminution of the crop by 200,000 bushels.

EDUCATION.

As to New Schools, South Bayswater.

Mr. OLDFIELD asked the Minister for Education:

(1) When will a start be made on the proposed South Bayswater school?

(2) Is he aware of the rapid growth of population in this area?

(3) Will he give consideration to the erection of a Bristol building for an infants' school in the immediate future?

The MINISTER replied:

(1) I am unable to anticipate the date on which the work will be commenced; plans and cost estimates are now being examined.

(2) Yes, as also in many other places.

(3) A Bristol prefabricated building has been listed for erection at the Bayswater school.

HOSPITALS.

As to Plans for Manjimup.

Mr. HOAR asked the Minister for Health:

(1) What are the Government's building plans for the Manjimup hospital—

(a) long term;

(b) short term?

(2) Does the short term plan include a new midwifery section; if so, have plans been prepared; what is the estimated cost and when is it proposed to commence work?

(3) If not, what is the cause of the lack of Government action in regard to these urgent requirements?

(4) What are the plans, if any, in regard to general renovations and repairs at the hospital, including electricity; what is the cost and what progress has been made?

The MINISTER replied:

(1) Two proposals are being considered, namely, a new general hospital of 28 beds with the use of the existing hospital as a midwifery hospital, or, alternatively, a new midwifery hospital of 16 beds.

(2) Answered by (1).

(3) Because of the anticipated delay in building in conventional materials, extensive investigations have been made into various forms of prefabrication. Deficiency in Loan Funds is now likely to delay building operations.

(4) General renovations, including electrical overhaul and new work, have been authorised. The Public Works Department will now endeavour to arrange for the work to be done.

RAILWAYS.

As to Locomotive Spark-Arresters.

Mr. ACKLAND asked the Minister representing the Minister for Railways:

(1) Is there any foundation for the statement being made in the country that some of the railway engines being used in the country are not fitted with spark-arresters?

(2) Is it a fact that some of the recently imported engines are being sent out on the track without being fitted with the most efficient spark-arresters known to the Commission?

(3) Is it a fact that several outbreaks of fire were caused by railway engines along the Clackline-Miling branch line during October?

(4) Is it a fact that although the District Superintendent at Northam was notified that railway gangs had not burned the grass joining the line near Calcarra, no action had been taken?

(5) Is it a fact that a further fire was caused in this area on the 12th inst.?

(6) Is it the duty of a train crew to help put out a fire started by their engine?

(7) If these questions are in accordance with fact, will he see that—

(a) all engines being used in the country areas are fitted with the most efficient spark-arresters;

(b) the railway employees take all reasonable precautions to minimise the risk of fire?

The MINISTER replied:

(1) No.

(2) No.

(3) Yes.

(4) The District Officer was notified on the 27th October, 1951. Burning off the railway sidewidths commenced on the 8th November, 1951, as the growth was considered to be too green to enable an effective burn before that date.

(5) No report has yet been received.

(6) Yes, as far as practicable.

(7) (a) Answered by (1).

(b) All practicable precautions are taken. Instructions are repeatedly issued for the information of footplate and supervisory staff to ensure that all spark-arresting equipment is in good working order, and that the maximum care is taken in engine management. During the season of fire risk an inspector is specially appointed to supervise the maintenance of spark-arrester equipment and ensure that all possible precautions are taken to minimise fire risks. This officer has the sole use of a motor vehicle which is equipped with a two-way radio set with which close liaison is kept with the Forests Department officials.

NORTH-WEST.

As to Air Freight Subsidy on Perishables.

Mr. RODOREDA asked the Treasurer:

(1) Has a decision been reached on the introduction for this summer of the subsidy on perishables sent by air to the North-West?

(2) If so, what will be the commencing date?

The TREASURER replied:

(1) Yes.

(2) 1st December, 1951.

SHIP TIMBER DUNNAGE.

As to Destruction and Possible Use.

Hon. J. B. SLEEMAN (without notice) asked the Premier:

(1) Is he aware that there are hundreds of tons of timber, out of boats at Fremantle wharf, being taken away and burnt every year because of what appears to be a foolish Customs regulation? Apparently if the Customs duty is not paid, the wood must be burnt.

(2) Will the Premier take the matter up with the Minister for Customs and, if the wood must be burnt, will he endeavour to make arrangements to see that it is made available to some of our institutions that are badly in need of firewood?

The PREMIER replied:

(1) and (2) I was not aware that large quantities of wood were being burnt, but I will make inquiries and, if possible, have the wood diverted to the channels suggested by the hon. member. The supply of firewood for the metropolitan area during the coming winter is giving the Government serious concern, and it is doing all it can to ensure increased supplies. I will certainly make inquiries along the lines suggested.

ASSENT TO BILL.

Message from the Governor received and read notifying assent to the Country Towns Sewerage Act Amendment Bill.

BILL—TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT.

Introduced by the Minister for Local Government and read a first time.

BILL—THE PERPETUAL EXECUTORS, TRUSTEES AND AGENCY COMPANY (W.A.) LIMITED ACT AMENDMENT (PRIVATE).

Recommittal.

On motion by the Attorney General, Bill recommitted for the further consideration of Clause 5.

In Committee.

Mr. Perkins in the Chair; the Attorney General in Charge of the Bill.

Clause 5:

The ATTORNEY GENERAL: I move an amendment—

> That in line 5 of paragraph (b) of proposed new Section 16 (1) after the word "estate" the words "the arrangement of insurances" be inserted.

As members know, this clause contains a provision that a company could receive a commission from an estate for the preparation of income and land tax returns, etc. This was struck out of the Bill that was introduced at the same time as this one, but owing to an oversight on my part was not struck out of this Bill. I also propose, at a later stage, to move that Subclause (2) of proposed new Section 16, be struck out.

Hon. J. B. SLEEMAN: It seems to me that the author of the Bill has "ratted" on the people for whom he introduced it.

Mr. Graham: And on those who supported him the other day, too.

Hon. J. B. SLEEMAN: I thought that the least he could do was to put up a fight, and I will tell him now that he will not get very far with it unless he does.

Hon. A. H. Panton: He put a good fight last Saturday.

Hon. J. B. SLEEMAN: That was not too good, either; it was only three to one. I cannot understand the Attorney General's object in moving this amendment. When the representatives of the companies appeared before the Select Committee, they pointed out that they were quite capable of handling stocks and shares, and could employ a broker to do the job, and also an insurance man to handle the insurance work. With this proposed amendment, the company will not be able to collect brokerage and will have to pass the work on to a private firm, which will not do anybody any good. Mr. Glynn, who is an expert in this business, said this:

> I cannot see any objection to this at all, and I have had my senior officers go through it very carefully.

Mr. Glynn, who is engaged on similar work and is in opposition to the companies has said that he cannot find anything wrong with the Bill. I will vote against the amendment, and I hope the author of the Bill will put up a fight against it.

Mr. TOTTERDELL: I do not like being accused of "ratting" on the people for whom I brought the Bill forward. That is a nasty word.

The Minister for Lands: The hon. member is an expert on that sort of thing.

Mr. TOTTERDELL: This Bill, prepared by Mr. Stow, of Parker & Parker, was presented to the Attorney General in regard to the commission on insurances, and now the Attorney General and Mr. Stow have agreed that these words should be inserted, and also that Subsection (2) of proposed new Section 16 should be struck out which, I understand, the Attorney General proposes to do by a further amendment. To satisfy the Attorney General and to make the wording more legal, I agreed to the proposed amendments.

Hon. J. B. Sleeman: Well, wouldn't it!

Amendment put and passed.

The ATTORNEY GENERAL: I move an amendment—

> That Subsection (2) of proposed new Section 16 (1) be struck out.

This provision enables a trustee company to receive insurance brokerage. The trustee companies object to this subsection because they regard the commission that will be received under the provisions of the Bill as in the nature of secret commission.

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

Bill again reported with amendments.

BILL—ELECTORAL ACT AMENDMENT (No. 2).

Message.

Message from the Governor received and read recommending appropriation for the purposes of the Bill.

BILL—WEST AUSTRALIAN TRUSTEE, EXECUTOR AND AGENCY COMPANY LIMITED ACT AMENDMENT. (PRIVATE).

Recommittal.

On motion by the Attorney General, Bill recommitted for the further consideration of Clause 5.

In Committee.

Mr. Perkins in the Chair; the Attorney General in charge of the Bill.

Clause 5:

The ATTORNEY GENERAL: The Perpetual Executors, Trustees and Agency Company (W.A.) Limited Act Amend-

ment (Private) Bill and this Bill are the same. The Committee struck out the provision in this Bill which was to enable the company to receive brokerages. I move an amendment—

> That in line 5 of paragraph (b) of proposed new Section 16 (1) after the word "estate" the words "the arrangement of insurances" be inserted.

Mr. BOVELL: I was a member of the Select Committee. This seems to me to be a turn about face and that we are now as we were. I am not going to oppose the amendment, but I think the matter raised by the Attorney General creates some doubt as to who is to pay these commissions. If the beneficiaries have to pay them I will oppose the amendment. That is the point I made when I supported the member for West Perth. If the Attorney General can assure me that the beneficiaries will not have to pay these commissions I will support the amendment.

The ATTORNEY GENERAL: This merely permits the company to charge a reasonable amount on the work done in connection with insurances.

Mr. Bovell: To whom will they charge it?

The ATTORNEY GENERAL: To the estate, naturally. But there is no reason why the cost of the insurance should be more to the estate than it would in the other way, because if the insurance company is not going to pay a commission it will give a discount to people in connection with its charges.

Hon. A. H. Panton: I have never heard of insurance companies giving away anything.

The ATTORNEY GENERAL: I think this is the proper way to do it, as the other method was most objectionable.

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

Bill again reported with an amendment.

BILL—TRAFFIC ACT AMENDMENT.

Message.

Message from the Governor received and read recommending appropriation for the purposes of the Bill.

Second Reading.

THE CHIEF SECRETARY (Hon. V. Doney—Narrogin) [3.57] in moving the second reading said: This Bill to amend the Traffic Act provides for amendments regarding the staggering of the issue of licenses for motor vehicles. It deals with the matter of licensing omnibus conductors as well as with penalties applicable in cases of drunken driving, and of driving where the driver is under some form of disqualification. The principal Act makes provision for a local authority to assign to manufacturers or dealers a general identification disc for use on vehicles on trial by intending purchasers. Members know that refers to the yellow plates we see at the back of motor vehicles when they are taken out on a trial by intending purchasers.

It is proposed to amend the definition of a motor vehicle so as to include a trailer, a semi-trailer or a caravan attached to or drawn by a motor vehicle. This will enable manufacturers or dealers to use these plates on trailers and so forth whilst on trial by an intending purchaser. The principal Act provides that a holder of a license shall within 15 days of expiry return the number plates to the Commissioner of Police. There is no penalty for not licensing a vehicle until 15 days after the expiry date and, according to a case decided in the courts, if a vehicle owner renews a license say on the 14th day after expiry, a license must be issued from the date of application, which means that the owner can obtain up to 15 days' grace for the vehicle, without licensing, in each year. That, of course, is obviously not desirable.

Mr. J. Hegney: Has not that been the practice in the past?

The CHIEF SECRETARY: It has not been the practice, but as I intimated a while ago a case did come to the court and the court's determination was that the applicant's license should date as from a date 15 days away from expiry. It is proposed now to amend this provision so that, in the case of an application for a renewal of such license within 15 days, such license shall be deemed to be continuous with the present license and have effect as from the day following the expiry date of the previous license. That will give an answer to the point raised by the hon. member. The principal Act empowered the Commissioner of Police to stagger the licenses for vehicles licensed after the commencement of the Traffic Act Amendment Act, 1946. This precludes the staggering of all licenses that may be transferred from country areas and it is proposed to amend the provision now operating authorising the Commissioner to stagger all licenses.

During the last session of Parliament the principal Act was amended to authorise the Commissioner of Police, subject to appeal by the person concerned, to exercise the right to refuse to issue or suspend the operation of a driver's license issued in respect of an ordinary vehicle as well as of a passenger vehicle. It is proposed now to amend the Act to give the Commissioner the same right in connection with the issue or suspension of conductors' licenses. The Bill will also give power to the Commissioner to issue conditional motor licenses subject to the prescription of conditions by way of regulations.

This provision is in order to meet extreme cases in outback areas, particularly with regard to the driving of vehicles on stations by natives, and it will also permit, under special conditions, the issuing of licenses to persons under the age of 17 years. The principal Act provides penalties for a first offence of a fine of £20, and for any subsequent offence one of £50 or imprisonment for three months upon the driver of a motor vehicle without his having been duly licensed as a driver.

Mr. Yates: Is that the minimum penalty?

The CHIEF SECRETARY: That, of course, would be the maximum penalty. The Bill seeks to bring the provisions of the Act into line with the proposed Australian uniform traffic code recommendation to provide that any person driving a motor vehicle whilst under suspension, disqualification, cancellation, or having been refused the issue of a license. The penalty provisions are: Arrest without warrant by any member of the Police Force and liability on summary conviction to imprisonment for not more than 12 months and a fine not exceeding £100 and, where the disqualification or suspension is in force at the time of the offence, automatically to disqualify the offender from holding a license for a further period of six months. The principal Act provides penalties for a person driving whilst under the influence of drink or drugs to such an extent as to be incapable of having proper control of the vehicle. The present penalties are:—

> Fifty pounds or imprisonment with or without hard labour for three months and—
>
> (a) in the case of a first offence suspension of driving license for a period of three months.

Mr. Marshall: Did you say that was for the first offence?

The CHIEF SECRETARY: Yes, that is so. To continue reference to the additional penalties—

> (b) second offence, suspension of license for a period of six months,
>
> (c) third offence, suspension of license permanently.

Hon. A. H. Panton: That ought to be done on the first offence.

The CHIEF SECRETARY: That is what it is at present. The amending Bill proposes that the penalties shall be as follows:—

> (a) In the case of a first offence —penalty of £50 or imprisonment with or without hard labour for three months and disqualification from holding a driver's license for three months.
>
> (b) Second offence—a fine of £100 or three months' imprisonment and disqualification from holding a driver's license for six months;
>
> (c) Third offence—a fine of £100 or six months' imprisonment and permanent disqualification from holding or obtaining a license.

Mr. Styants: Will the magistrate have discretion regarding the imposition of those fines?

The CHIEF SECRETARY: Yes. I think that has been so throughout.

Mr. Styants: That is the weakness under the present Act. The magistrate can fine the man £50, but fines him £30.

The CHIEF SECRETARY: I do not know that I have any fixed view regarding the point the hon. member refers to. What I am seeking is not so much my own opinion as that of the House.

Hon. A. H. Panton: We will give you that.

The CHIEF SECRETARY: These have been laid down as, in all the circumstances, fair penalties such as the situation seems to require.

Mr. Yates: Actually only the fines are being increased, and the other penalties are substantially similar to those contained in the Act.

The CHIEF SECRETARY: I am not concerned how the actual position regarding the time penalties will pan out. Members may move any amendments they think fit.

Hon. A. H. Panton: But what do you think about it?

The CHIEF SECRETARY: The principal Act provides for special licenses for visitors with motorcars, and authorises the Commissioner of Police to issue licenses subject to a maximum period of three months. The amending Bill proposes that this shall apply to visitors from oversea only as, generally speaking, all States now recognise licenses issued in other States. The principal Act contains a similar provision with regard to business people on a visit to the State. The Bill proposes to delete that section, and to substitute a provision that the driving license issued under the law of the State or territory of the Commonwealth of Australia in which the holder usually resides shall, subject to certain conditions, be deemed to be equivalent in Western Australia to, and accepted in lieu of, a driver's license authorising the holder thereof to drive in Western Australia.

During the last session of Parliament the principal Act was amended to make it an offence for any person to drive on a road a vehicle of a greater overall width, including the load, than 8ft., except under

special conditions as may be authorised by the Minister on the recommendation of the Commissioner of Police. The Bill proposes that the person employing the driver shall be liable as well as the driver for a breach of this provision.

Certain regulations have been promulgated under the Act authorising the Minister for Local Government, after recommendation by the Commissioner of Police, to approve of the issue of permits for lengths of loads in excess of those specified. The Minister has also been empowered to approve of a style of forms and registration certificates to be used under the Act and, in certain cases, to delegate such power. In order to remove any possible legal doubt, the amending Bill proposes to give this authority. I move—

That the Bill be now read a second time.

On motion by Mr. Marshall, debate adjourned.

BILL—FISHERIES ACT AMENDMENT.

Second Reading.

THE MINISTER FOR FISHERIES (Hon. A. V. R. Abbott—Mt. Lawley) [4.12] in moving the second reading said: As members are aware the crayfishing industry has expanded enormously during the last few years. I propose to give members some figures.

Hon. A. H. Panton: That expansion seems to be tending in the right way to stop the industry, does it not?

The MINISTER FOR FISHERIES: In 1947 the quantity taken was 2,336,000 lb.; in 1949, 5,121,000 lb.; and in 1950-51, 7,786,985 lb. Those figures will enable members to appreciate the tremendous expansion that has taken place. The industry is a very profitable one, which accounts for its very great expansion.

It has been found necessary that, if the crayfish grounds are to be preserved, certain restrictions should be imposed relating to the taking of crayfish in spawn, and also relating to the size of the crayfish that may be taken. Members have no doubt read a statement in the newspaper in which certain parties suggested that, if crayfish were caught from three miles off the coast, no regulation made by the State or Commonwealth could prevent, not only their taking crayfish of any size and in spawn, but also their doing as they liked with it.

When it appeared that the regulations under the Act and, indeed, the Act itself were to be challenged, I took the advice of counsel. I considered it a matter of the utmost importance to the State, and to the fishing industry, that regulations considered by the superintendent of fisheries and other experts to be advisable to preserve our fishing grounds should be valid. The advice of the Crown Law Department was first taken, and it was considered that the regulations under the Act were ultra vires the Act and, further, that no regulations could be passed under the existing Act that would give the necessary protection. I had that advice confirmed by outside counsel in Western Australia and also by senior counsel in the Eastern States.

This presented a very serious position. I took further advice as to whether this Parliament could pass legislation that would afford the requisite protection and was informed, not only by the Crown Law Department but also by the counsel to whom I have referred, that the State has power to do so.

Hon. A. H. Panton: Outside the three-mile limit?

The MINISTER FOR FISHERIES: Yes; although we could not prevent ships outside the three-mile limit from fishing and taking away what fish they chose. So long as they did not bring them into Western Australia, it is questionable whether any action could be taken against them, but if the fish were brought into Western Australia, then the State has a right by legislation to say what fish should be brought in and what ship should catch them.

Mr. Kelly: Under the Act, any boat that fishes outside the three-mile limit would be able to take the fish to any other part of the Commonwealth.

The MINISTER FOR FISHERIES: Yes; if the fish were caught outside the three-mile limit, the Act would not apply, even though the fish were undersized or in spawn. If they were brought into the State and dealt with here, any regulation under the existing Act would be ultra vires.

Hon. A. H. Panton: Suppose they were processed on a mother ship and taken straight to America, where would the Act come in?

The MINISTER FOR FISHERIES: It would not apply. If the fish were caught outside the three-mile limit by a ship that did not come into our territorial waters, no authority could be exercised over them. It is questionable under international law whether the State or even the Commonwealth could legislate in that direction, but it was thought undesirable that the State should attempt to do so because it would be difficult to deal with people fishing outside territorial waters and the international aspect might be raised.

Hon. A. H. Panton: I am wondering of what value the measure will be.

The MINISTER FOR FISHERIES: The Act does not deal with ships unless they come into territorial waters.

Mr. J. Hegney: Suppose a ship had Commonwealth registration, would this measure prevent the catch of fish from being brought ashore and disposed of in Western Australia?

The MINISTER FOR FISHERIES: Yes.

Mr. J. Hegney: Then what about the provision in the Commonwealth Constitution prohibiting restraint of trade?

The MINISTER FOR FISHERIES: The Bill will give authority to prohibit or regulate the bringing of fish or portions of fish into Western Australian waters or on to land. Members are probably aware that the definition of "fish" in the Act includes crayfish. The Bill also provides for—

> Prohibiting or regulating the storage, cutting up, treatment, handling, preserving, dealing with and disposal of fish or portions of fish;
>
> the protection of fish spawn and undersized fish;
>
> delegating powers and discretions under any regulation to the Minister or to a licensing officer;
>
> regulating the movements and use of boats in relation to the taking, storage, cutting up, handling, treatment, preserving, dealing with or disposal of fish; facilitating proof of any matter in a prosecution for an offence under a regulation.

The next proposal in the Bill is to deal with the advisory committee which advises the Minister on fishing matters. At present the members of that committee hold office for three years and then their term expires. That does not provide any continuity; and it is therefore proposed to give power to the Minister, when he makes an appointment, to make it for 18 months or three years at his discretion, so that he will be able to stagger the appointments in order that all the members of the board will not retire at the same time.

The third amendment deals with the situation that arises where undersized fish are consigned for sale. Section 24 of the Act provides that anyone who consigns undersized fish for sale is liable to a penalty. It is extremely difficult to prove that fish have been consigned for sale.

Mr. Marshall: It is a pretty fishy subject.

The MINISTER FOR FISHERIES: Yes. The Bill proposes to delete the words "for the purpose of sale" and provide that anyone who "gives or consigns" undersized fish will be liable to prosecution.

Hon. J. B. Sleeman: Whalers are still classed as fishing boats, are they not?

The MINISTER FOR FISHERIES: I am not quite sure. There is a Whaling Act and I do not think they would be classed as fishing boats.

Mr. Marshall: This Bill would control them.

The MINISTER FOR FISHERIES: I do not think so, but I could not be sure. I move—

> That the Bill be now read a second time.

On motion by Mr. Kelly, debate adjourned.

BILL—METROPOLITAN MARKET ACT AMENDMENT.

Second Reading.

MR. W. HEGNEY (Mt. Hawthorn) [4.25] in moving the second reading said: The original measure was passed in 1926 when the Labour Government was in office and Mr. Troy was Minister for Agriculture. It is not a long measure; and since it was passed it has been amended only once, and then merely to a minor degree. I took the trouble to read the debates that occurred in this Chamber when the original Bill was introduced, but found no strong reference to interests directly nominating appointees to the trust, apart from the Perth City Council. That authority nominates one of the five members of the trust and the Governor ratifies that appointment. The other four members of the trust are appointed by the Governor.

In the Act there is reference to a consumers' representative and a producers' representative. The main provision of my Bill seeks to give to certain interests direct representation. It is provided that buyers shall be entitled to a seat on the trust and their representative shall be selected by the Buyers' Protection Association. Although producers are mentioned in the Act, no provision is made for them to have their own representative on the trust, the Governor appointing that representative.

The proposal in the Bill is that a ballot of members of growers' organisations should be conducted with a view to the growers selecting their own appointee to the trust. The two organisations chiefly concerned are the Market Gardeners' Association of Western Australia, Inc., and the Western Australian Vegetable Growers' Association. I am informed by the president of the latter body that steps have been taken to make it an incorporated organisation.

In this connection I may mention that the member for Maylands, when speaking on the recent market gardeners' dispute, stated that the membership of the Market Gardeners' Association was only in the vicinity of 100 and that of the Vegetable Growers' Association was approximately 300. I contacted the president of the Buyers' Protection Association, and on the 14th November he indicated that there were 200 financial members in that association. I was advised by the secretary of the Market Gardeners' Association that its financial membership is 293. I was advised by Mr. Davies, Secretary of the Vegetable Growers' Association on the 14th November that their financial membership was 181. That is the information I have gleaned from the officials of the bodies specifically referred to in the Bill.

The measure makes provision that regulations can be made by the Minister for the purpose of conducting any ballot that is necessary. In support of my contention that the growers should be empowered to select their own representation, I would remind members that this House has passed other legislation including a provision for the setting up of boards to administer or direct particular industries. I will refer to what I think are reasonable examples of such legislation.

The Marketing of Potatoes Act, No. 26 of 1946, provides for a board of six members appointed by the Governor, one to be nominated by the Minister and, after consultation with the Potato Growers' Association executive, two to be persons who are commercial producers and elected by such commercial producers for appointment by the Governor as members of the board. Section 8 of that Act provides for the election of executive members of the board to be held and conducted in such a manner and at such times and subject to such conditions as shall be prescribed by regulation.

Section 8 of the Dairy Products Marketing Regulation Act, No. 34 of 1934, refers to the constitution of the board. The board is to be of six members appointed by the Governor. One shall be nominated by the companies and persons engaged in business as manufacturers and licensed under the Act. Two shall be nominated by the producers, other than the producers who are manufacturers within the State, whether incorporated or not, and one shall be nominated by the dealers licensed under the Act who purchase more than one ton of the same class of dairy products per week.

Under the Marketing of Eggs Act, No. 58 of 1945, there is provision for the setting up of a board of six members, of whom two shall be persons who are commercial producers, and are elected by the commercial producers for appointment by the Governor as members of the board. Under the Marketing of Onions Act, No. 52 of 1938, it is provided that the number of elective members who shall sit on the board shall be two, both of whom shall be growers.

The Wheat Marketing Act, No. 49 of 1947, provides for a board to consist of five members, of whom four shall be elected by the growers and one nominated by the Minster. Members will therefore see that this provision in the present measure is by no means an innovation. On the contrary, all we are seeking to do is to allow the members of the growers' organisation the right to select their own representative to take a seat on the Market Trust.

The Premier: What about the fruitgrowers?

The Minister for Lands: Who is the producers' representative today?

Mr. W. HEGNEY: The producers' representative is a gentleman named C. W. Harper. I do not know him personally, but he is described as a company director and he represents the producers. I do not know whether he is a grower or not, but the point I am making is that the growers did not appoint him. I do not suggest that the provisions of this Bill are water-tight, and if members desire to improve the measure by amendment in Committee I will be reasonable. The Bill is an honest attempt to give the growers representation on the Trust.

The Minister for Lands: You mentioned two small vegetable growers' organisations.

Mr. W. HEGNEY: Will the Minister allow me to finish introducing the Bill? I am not speaking from notes. I do not read my speeches.

The Minister for Lands: If you did your information would be more reliable.

Mr. W. HEGNEY: I pay this much courtesy to the House that, before rising to introduce a Bill I study it as far as I can and try to give an intelligent interpretation of it. It is probable that the Minister for Lands will secure the adjournment of the debate and, if he wishes to read his speech at a future sitting I will be quite happy about that.

The Minister for Lands: I will give the correct information, when I do read my speech.

Mr. W. HEGNEY: Under the present Act the Perth City Council has the right to nominate a representative on the Market Trust because, according to the debate that took place in 1926, the by-laws of the Perth City Council might in certain ways transgress the by-laws that the Trust is empowered to make, and where the two clash the by-laws of the Trust are paramount. There was apparently some liaison considered necessary between the Perth City Council and the Market Trust and consequently the Perth City Council was given a representative on the Trust, but I, personally, believe the time has arrived when consideration might be given to the question of whether the Perth City Council is still justified in having power to nominate a representative on the Trust.

The next provision in the Bill is that the Trust should be brought under the jurisdiction of the Minister. I was recently asked to introduce a deputation from the Market Gardeners' Association to the Minister for Agriculture, and in reply to the deputation he intimated that he had no power to direct the Trust to ensure that the auctioneers were to sell the growers' produce on the growers' terms. In other words, if a grower intimated to an auctioneer that he desired his produce to be sold separately from the container and the auctioneer declined to do it the Minister—he said—had no power to direct

the Trust. He intimated further that the Trust had no power to direct the auctioneers to sell on the growers' terms.

In quoting the following I do not do so in any critical way, but I am merely showing the position as it now stands and the reason for some amendment to the legislation. In reply to the deputation, the Minister sent this extract of a letter dated the 20th October to the secretary of the Market Gardeners' Association—

> In accordance with my promise made at the deputation yesterday I immediately took the matter of bagged prices up with the Market Trust who, fortunately, were having a meeting at the time with a member of the Auctioneers Association who attended at our request.
>
> After a very long discussion I came to the conclusion that I was powerless as was the Market Trust to force any alteration in the method of selling by the Auctioneers Association. The Representative of the Association who was at the Conference promised that he would take this matter up with Members of the Association.
>
> I regret that at present anyway I am unable to assist you further in this matter.

In that letter the Minister has indicated that neither he nor the Trust had the power to instruct the auctioneer to sell on the growers' terms. On the 25th October, among other questions, I asked the following of the Minister representing the Minister for Agriculture:—

> Does he, or the Trust, still contend that under Section 13, Subsection (1), paragraphs (4), (5) and (7) of the Act, the Trust does not possess the requisite authority to instruct auctioneers that, when growers indicate as a condition of sale that the crates and/or bags containing produce are to be sold separately or made available to the growers, the requirement of such growers must be carried out?

The Minister for Lands replied as follows:—

> Section 13 empowers the Trust for certain purposes stated in subsections to make by-laws. Any by-law so made could state conditions under which sales are to be made.

As members probably know, I intend to deal only with principles. Some time ago a dispute took place between the Market Gardeners' Association and the auctioneers as to the conditions of sale, which dispute has been aggravated, as everyone knows, by the high price of bags. When the cost of bags was infinitesimal, it was not so pronounced. To illustrate how important a factor the cost of bags is, I was speaking to a market gardener at Osborne Park, who is only an average grower, and he told me that it costs him £150 a year for containers for which he gets no return. The point is that if the growers are directly represented on the Trust, they will be able to state the growers' viewpoint before it and with this object in view the Bill seeks to bring the Trust under the direction of the Minister.

The Bill proposes to give the Minister power to make regulations—a power which is vested in the Trust now. Power will also be given under the Bill to conduct any necessary election and the Trust will have to submit audited accounts and balance-sheet—as it does now—to the Minister, together with an annual report of its activities. That proposed amendment should not be at all contentious. Another provision in the Bill seeks to confine the authority of the representative on the Trust to the particular interest for which he was appointed. As far as I am concerned there is nothing personal in my remarks.

To give an illustration in support of this amendment, I point out that the gentleman who represents the Perth City Council on the Market Trust is an auctioneer in the markets. No man can serve two masters. I am not criticising that gentleman, but I would emphasise that he represents the Perth City Council on the Trust and is one of the principals of an auctioneering firm in the market itself.

The Bill proposes that a nominee, or a person elected as a member of the Trust, shall cease to be a member if he is directly associated with any other activity in which the Trust is interested. Those are the main provisions of the Bill.

The Premier: I think I can see a weakness there. The growers' representative shall represent the vegetable growers. What about the fruitgrowers?

Mr. W. HEGNEY: I am not absolutely wedded to the provisions of the Bill as they now stand, but the two organisations I have mentioned are quite distinct. The Market Gardeners' Association is an incorporated body and the secretary of the Vegetable Growers' Association has indicated that they have taken steps to become an incorporated body also. The vegetable growers apparently are the men most concerned in the marketing of their products, and they believe that they should have on the Trust a representative who is elected by the growers. I am not wedded to the idea that the Bill should provide for only those two organisations, but the Market Gardeners' Association has been active in an endeavour to rectify some matters considered by them to be working unjustly against the growers.

Mr. Oldfield: What about the fish and poultry sections of the market?

Mr. W. HEGNEY: That may be a relevant interjection, because I understand that there are fish and poultry sections in the market. I do not regard my Bill as being the last word. If any member con-

siders it should be amended in some way to give representation to other producers, but to allow those producers to elect their own representative, I would not take umbrage or violent objection to such a course. The two associations I have mentioned apparently have a substantial membership. According to the secretary of the Vegetable Growers' Association, that organisation has 181 members and the Market Gardeners' Association has approximately 300 members, making a total of approximately 500. Even if those two bodies were given the right to elect a representative, surely it would be more democratic than the present method. The Minister responsible, although having no actual jurisdiction over the Trust, in accordance with the Act, can now nominate and appoint the consumers' representative and the other two representatives, apart from the man representing the Perth City Council.

The Attorney General: Do you not think that is a better method?

Mr. W. HEGNEY: The Attorney General, and members of the Opposition when they were in office, have introduced measures similar to those which I have quoted, and which have passed this Chamber, giving growers the right to elect a representative to a particular board. If it is logical and reasonable in those instances, surely it is not extravagant to ask that the same principle be extended to market gardeners.

The Attorney General: You think that is undoubted?

Mr. W. HEGNEY: The Act has been in operation for approximately 25 years and, as far as I am aware, when passed there were very few producers' organisations. As far as I know there was no market gardeners' association, as such.

Hon. A. H. Panton: The market gardeners in those days were mostly Chinese.

Mr. W. HEGNEY: Yes, and, of latter years, Jugo-slavs and Italians and their Australian-born children who, incidentally, have developed the sandy wastes around the metropolitan area! They have performed excellent service to the people, not only in the metropolis but also for those throughout the length and breadth of the State. One has only to visit the market gardens at Spearwood, Osborne Park and other areas to see how industrious, thrifty and hard-working these people are. Undoubtedly they are an asset to the State. The Minister for Lands will recollect that in his electorate of Toodyay, and only a few miles from Perth in the Swan district, there was nothing but sandy wastes a few years ago. Now Jugo-slavs and other Europeans have taken over that land and turned it into a smiling countryside.

The people who desire representation on the Market Trust are the market gardeners but, if members consider that representatives of other producers should be on the board, then I shall be quite in agreement. I hope the second reading will be agreed to and that the measure, as introduced, will be passed; but if there is any amendment which will grant to genuine producers a voice in the selection of their representative on the Market Trust, I shall be happy to consider favourably any such proposal.

On motion by the Minister for Lands, debate adjourned.

BILL—ROYAL VISIT, 1952, SPECIAL HOLIDAY.

Second Reading.

Debate resumed from the 21st November.

MR. W. HEGNEY (Mt. Hawthorn) [4.52]: I am pleased to say at the outset that the Minister for Lands and I are in accord on the provisions contained in the Bill. Provision has rightly been made for the Governor to be in a position to cancel or alter the date of the holiday, as circumstances warrant; that is to say, if there is any alteration or cancellation of the proposed Royal visit—which we hope will not occur—the Governor will be able to meet any such emergency as it arises. When the proposal for the Royal visit to Perth was first mooted, the secretary of the State executive of the A.L.P. found that the date of the visit would clash with Labour Day, which is generally held on the first Monday in March by arrangement with the Employers' Federation and industrial organisations.

When we were advised by the Department of Labour that it was considered the Royal visit would take place in the first week in March, the A.L.P. was requested to consider some other date than the first Monday in March for the holding of Labour Day. Various trade unions were consulted and agreement was reached, and they were quite happy to have Labour Day held on a date subsequent to the Royal visit. It was agreed that the date should be Monday, the 24th March, and it is to be hoped that there will be no other alteration, but, if it should become necessary, the Bill is so drafted that the Governor will be in a position to make any adjustment considered essential. I have much pleasure in supporting 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.

BILL—MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT.

Second Reading.

Debate resumed from the 22nd November.

HON. A. R. G. HAWKE (Northam) [4.57]: I support the Bill. I would like to know whether the Chief Secretary made any corrections to the "Hansard" proof of his speech when he explained the Bill at the second reading. I ask that question because the "Hansard" proof of his speech which I received and read carefully did not explain at all clearly the effect which a certain portion of the Bill would have if it is to become law. The Minister said—

> The amending Bill provides that the nominated members of the Underwriters' association shall hold office for a period of five, four and three years respectively—that is, in the year of their nomination and following re-nominations which will take place in January, 1952.

I think the word "in" as reported there should have been the word "from." That part of the Bill to which I refer states that the body known as the Fire and Accident Underwriters' Association of Western Australia would have three members upon the board set up under the Act, and that those three members, from the date when they are next nominated to the board, shall hold office for five, four and three years respectively. Actually, the Bill aims at giving the representatives of this association more continuous representation upon the board than has been possible under the existing Act, where they are all elected at the one time and remain on the board for the same period.

The Minister pointed out that the three existing members could fail to be re-nominated when further nominations were required, with the result that three entirely new representatives of the association would be appointed to the board or the trust, and because of that none of them would be at all well informed as to what had happened in the past or as to the basis upon which the trust operated. In the circumstances, the proposal in the Bill appears to me to be one warranting the support of members generally.

There are two other proposals concerned, one of which the Minister mentioned in his second reading speech and the other to which, for some reason, he made no reference at all. The one he mentioned is very largely a machinery provision and does not require any discussion by me. The provision he did not mention deals with a section of the Act which lays down the responsibility of the trust in regard to keeping separate ledger accounts in respect of each year's operations in connection with a number of matters. The Bill proposes to include in the Act three additional matters as to which the Trust must keep separate ledger accounts, and they are—

> (1) the total amount paid by the Trust in respect of claims, including costs and other expenses incidental to claims, arising from—
>
> (i) insurances effected during that year, and
>
> (ii) accidents occurring during that year in respect to which claims are made under section seven, subsection (3), or section eight of this Act.

The proposed alterations to the Act are not extremely important but, when made, they will enable the trust to operate more efficiently and to carry out its duties better than has been possible in the past. Therefore the Bill is one deserving the support of the House.

On motion by the Premier, debate adjourned.

BILLS (2)—RETURNED.

1, Acts Amendment (Superannuation and Pensions).

2, Nurses Registration Act Amendment. Without amendment.

BILL—FRUIT GROWING INDUSTRY (TRUST FUND) ACT AMENDMENT.

Second Reading.

Debate resumed from the 21st November.

MR. HOAR (Warren) [5.5]: I have no objection to this small Bill, which seeks to increase the levy of one halfpenny per bushel now being paid by fruitgrowers to one penny per bushel. The principle of collecting money from the growers in the fruit industry existed long before the trust fund Act came into being in 1942, and it is desirable that some protective legislation and fund should be provided for growers in the event of their incurring serious and distressing losses due to diseases over which they have no control.

For the ten years from 1932 to 1942, the Fruitgrowers' Association instituted a deed of trust by which money could be collected on a voluntary basis, and expended in respect of fruit exported from the State at that time. I understand it was quite a successful way of handling that particular situation. But it made no provision for other important eventualities which, much to our distress, we have experienced in recent years. It does prove, however, that the principle of affording some protection for the industry in times of need has long since been recognised; and so it should be, because the fruitgrowing industry is one of the most important primary industries of our State. In the last season, well over 13,000 acres were planted to apples and pears, and well over 1,000,000 bushels were harvested as a result.

Unfortunately, however, we are not entirely free from some of the dread diseases that afflict the fruitgrowing industry in some of the Eastern States. We have not at any time suffered to anything like the

same extent as growers over there, but that is all the more reason why we must be constantly on the alert and have a properly equipped organisation ready at any time to counter and eradicate as far as possible the dreadful diseases of codlin moth and black scab, which we have already experienced to some extent and which could well nigh prove disastrous to growers if prompt action were not taken.

I think that up till now the fund has been administered in a most efficient manner. The trust has been fully aware of its responsibility to the growers, and the fund is governed by an Act which lays down just how the money shall be expended. Part of the responsibility of the trust is to provide payment for the whole or any portion of the costs and expenses of measures taken to prevent or eradicate pests and diseases affecting fruit trees and the fruit thereof; the payment of compensation to growers in respect of the whole or portion of losses suffered by them as a result of measures taken; and the payment of costs of encouraging scientific research.

We can easily perceive that the Act was well framed; and the committee appointed to control it on behalf of the growers has, over the years, done a very good job. I have not the slightest objection to the measure because, at this very moment, we are confronted with two very serious outbreaks of codlin moth—one in the Mullalyup area and one at Nannup, and they must impose a very great strain on the financial resources of the fund.

The Minister for Lands: We reckon it will be £10,000 in 1951-52.

Mr. HOAR: I know that the balance in the apple and pear fund at present is about £7,500. I suppose a good deal of it is invested. As this disease and, to some extent, apple scab, appear to be more prevalent now than in earlier years, it would be a big mistake for the trust to use entirely all the moneys it now holds; and if, in the event of this Bill passing, £5,000 a year will be provided; and if we get over our present trouble with respect to the present outbreak of codlin moth, I should think the trust would be able to put by a considerable sum of money each year against some future outbreak. With that I most heartily agree. I do not believe that a fund such as this, which is expected to do so much in times when the industry is stricken with disease, should be impoverished in any way. The stronger we can make the fund, the better the protection for the growers.

MR. HILL (Albany) [5.12]: As a grower who has contributed to this fund and also benefited by it, I want to thank the Minister for bringing down the Bill to which I hope the House will agree. I was one of the Fruitgrowers' Association executive which inaugurated this trust fund. At first we collected the money by an arrangement with fruit shipping firms to impose a levy on all fruit exported. However, the imposition was illegal and the firms had no right to impose it, though not one grower objected to it. When the export trade ceased to exist during the war, we had to collect money by other means, and this was achieved by the Act which is now being amended.

The fund is used for the benefit of the fruitgrowers' organisation and to assist in fighting any outbreak of disease. Two of the worst diseases against which we have to be on guard are apple scab or black spot, and codlin moth. A few years ago there was an outbreak of apple scab in the orchard of a neighbour of mine and I had to take extra precautions in spraying. The expense of that was borne by this fund. At present there is a serious outbreak of codlin moth in the Manjimup area, and I assure members I would sooner give a few pounds towards helping to stamp out the disease there than at the Kalgan River. I appeal to the House to support the Bill.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—COAL MINE WORKERS (PENSIONS) ACT AMENDMENT.

Second Reading.

Debate resumed from the 21st November.

MR. MAY (Collie) [5.16]: I support the Bill which really continues the principle contained in the Act that every employee in the industry shall contribute to the fund. There are three sets of contributors to the fund, namely, the employees and the employers in the industry, and the Government. Since the introduction of open-cut mining, various types of employees have come into the industry that were not previously known. One such class is the worker employed by the contractors who shift the overburden from open-cuts by motor trucks. Provision was made in the amending Bill last year so that a contractor, employing one or more truck drivers, paid into the fund as an employer, and the employee or employees contributed under the same arrangements as the coalminers.

Another type of worker has since come into the industry, and this is the one the Minister described as the "owner-driver"; that is to say, the owner of a truck that he drives himself, and who has no employees working for him. This type accepts a contract from the coalmining companies to remove overburden, and he drives the truck himself. The

Bill proposes to bring him within the scope of the Act and he will, if he remains in the industry, benefit as a result. Where a contractor employs several truck drivers, the contractor then takes the place of the employer, and so contributes to the fund.

The only other provision in the Bill concerns the Government contribution. Some two years ago the Government actuary made a survey of the fund, and estimated that from an actuarial point of view the fund would fall short of its requirements, and would not be able to pay a retiring pension to all those engaged in the industry. As a consequence the contributions of the employees, the employers and the State Government were increased. But since that time—November, 1950—the payments from the fund to retired personnel have been increased to keep in line with the increases made by the Commonwealth to all social service pensions. As a result, it is now found that the fund will still be actuarially insolvent and, accordingly, under the Bill it is proposed to increase the Government subsidy from £16,000 to £24,000 per annum.

This superannuation fund differs materially from other such funds inasmuch as, under the Act, an employee in the coalmining industry is forced to retire at the age of 60, and from then until he reaches the age of 65 he receives superannuation payments from the fund; but once he reaches the age of 65 he is forced, under the State Act, to apply for the Commonwealth age pension. If he is successful in obtaining that pension the amount he so obtains is immediately deducted from the coalminers' pension, so that he is, to all intents and purposes, cut off from the coalmine workers' pension. This applies to a large percentage of retired employees.

Where, however, a retired miner or employee is not affected by the means test when he applies for the age pension, and so does not receive that pension on account of owning property or other assets, then he does retain his association with the coalmine workers' pension which he draws in full until such time as he either comes within the ambit of the means test of the Commonwealth, or dies. I agree that the Bill is necessary in order that the fund of the coalmine workers' pensions tribunal shall be kept in the condition it should be, as advised from time to time by the actuary.

Although the fund at present has a large asset—to such an extent that the tribunal is able to invest certain moneys—the actuary who overhauls the pensions scheme periodically is still of the opinion that, unless the fund is increased considerably, it will not remain solvent. It is anticipated that as a result of recent increases in the Commonwealth social service pension payments, this fund will have to pay still larger pensions, and I have no doubt that if it does the employees and employers, together with the State Government, will again be called upon to increase their contributions. However, at present the fund seems to be working very well, and I trust that these two amendments to the Act will serve the useful purpose of consolidating the fund and keeping it solvent.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—RENTS AND TENANCIES EMERGENCY PROVISIONS.

In Committee.

Resumed from the 22nd November. Mr. Perkins in the Chair; the Chief Secretary in charge of the Bill.

Clause 5—Application of this Act to premises (partly considered):

Hon. A. R. G. HAWKE: The premises referred to in paragraph (b) of Subclause (1) were covered by the old legislation until, I think, about three years ago when the Attorney General—the ex member for West Perth, Mr. McDonald, now Sir Ross McDonald—was successful in persuading members to remove them from the controls which the Act laid down. Since that time I have received from licensees of hotels complaints to the effect that they have been severely exploited by their landlords who, because these premises were no longer under control in regard to rents or evictions, have been in a powerful position.

Whenever trade has improved appreciably in any part of the metropolitan area or country, the landlords concerned have not hesitated to come in and seek to grab more than their fair share of the increased business, which the licensees have been able to do under the improved circumstances. I do not see why licensees of premises such as these should not have the protection of legislation of this kind. It might be claimed that the class of business in which they are engaged is not an essential undertaking, and that consequently the tenants should be at the mercy of the landlords and should pay whatever the latter think desirable or necessary, according to the circumstances and conditions.

We know that there is a growing movement towards monopoly in the hotel business in Western Australia. In fact the Premier was so alarmed about this and other aspects of the situation that when the prohibition referendum was held he promised the people of Western Australia that he would set up a Royal Commission, or something of that kind, thoroughly to

investigate the whole matter. As far as I am aware the Government has made little or no attempt to set up that inquiry.

This movement towards monopoly ownership of the retail liquor trade is growing all the time, and from every point of view it has reached rather alarming proportions. We know that where the supplier of a commodity on a wholesale basis, or a manufacturing basis, has a monopoly, or near monopoly of supply, he can place in a most disadvantageous position the people to whom he is selling, especially if they happen to be licensees of premises that the supplier owns. That gives the supplier a double advantage and places him in a position of power and authority, and puts the licensee completely within the power and at the mercy of the supplier and the landlord because they happen to be one and the same person or company.

There is no doubt that licensees placed in that position require some protection from Parliament. I admit that placing those particular licensees or lessees under the protection of this measure would not be the complete protection they would need; that can come only from the commission of inquiry promised by the Premier. But to give these particular licensees or lessees the protection of this legislation would be a great help. It would mean that they could not be held up to ransom whenever it pleased the monopoly, or near monopoly. Therefore I move an amendment—

That paragraph (b) of Subclause (1) be struck out.

The CHIEF SECRETARY: I do not recall in any previous debates any great amount of talk upon this matter or any strong objection raised to this clause of the Bill. To the best of my knowledge it was brought over from the previous Act, although the Leader of the Opposition seems to think otherwise.

Hon. A. R. G. Hawke: The change was made in 1947 or 1948.

The CHIEF SECRETARY: There is no question of evictions arising in regard to the publicans' general licenses, hotel licenses or any of the others named in the paragraph. The lease arrangements are subject to agreement between the parties and these questions, as a rule, do not come to the court.

Hon. A. R. G. Hawke: What about rentals?

The CHIEF SECRETARY: I do not recall having heard any pleas from the licensees to intervene because their rents are too high. I do not know that the hon. member would waste a great deal of sympathy upon them if their rents were too high.

Hon. A. R. G. Hawke: Yes, I would.

The CHIEF SECRETARY: I do not know that I would, but it would seem that on the last occasion we debated this, and prior to that time, we were quite content to permit this paragraph to remain in the measure. Therefore I intend to oppose the amendment.

Hon. A. R. G. HAWKE: These premises were covered by the legislation prior to 1947 or 1948.

Mr. Graham: Nineteen forty-nine!

Hon. A. R. G. HAWKE: And they were covered all during the war under Commonwealth National Security Regulations; they have not been covered since the end of 1948. I have had complaints about the way that licensees of premises of this type have been exploited by those who have power to do so. They have been severely exploited from all accounts, and I have no doubt that other members have had similar complaints. The Chief Secretary suggested that because these licensees are engaged in the class of business in which they are engaged, they are not likely to get much sympathy from me and certainly not from the Chief Secretary. That is not the point of view which members of Parliament should take on a question of this kind; we are here to do the right and just thing.

These people carry on their business under the law and Parliament has passed legislation to control their operations. Therefore, they operate only by virtue of power given to them by Parliament, and we cannot now wash our hands of any responsibility we might have to them to see that they get a fair deal. For my part I have rather more concern for them than I have for their landlords, or the people who supply them with the liquids they retail to the public. It is their landlords, and the people who supply them with beer and the rest of it, who are using the fact that this class of premises is no longer covered by legislation, to exploit them.

Irrespective of what their business happens to be, or anybody's business happens to be, if it has been shown that they have been exploited, and are still being exploited because legislative protection has been taken away from them, there is an obligation upon us to see that that protection is restored. That is why I have moved my amendment. For 10 years, from about September, 1939, until 1949, they had reasonable protection and I did not hear, during that period, any complaints about the owners of the premises, or the people supplying the liquor, suffering any injustice or being forced out of business. Therefore there seems to be considerable justification for restoring the protection which Parliament took away some three or four years ago.

The CHIEF SECRETARY: I have not heard any complaints since I have been in charge of the department concerned in this matter, nor has any person mentioned anything to me about it. Therefore I cannot see how there can be this general dissatisfaction to which the Leader

of the Opposition refers. There are bound to be odd cases and probably these have been mentioned to the hon. member. Quite properly he has the idea that if there is one case it naturally follows that there are others. Surely it is not only within recent weeks or months that this dissatisfaction has arisen. It could hardly have arisen in the balance of 1949, and 1950 or in what has passed of 1951 because there has been ample time, and not a single statement of discontent has reached me. So I must still maintain my view that the amendment should not be accepted.

Mr. MARSHALL: I am sorry the Minister adopts this attitude because the fact remains that because we specifically excluded the right of lessees from protection under this Act it is encouragement to the owners of these particular premises to exploit the lessee. The attitude he adopts is that Parliament has given him an open invitation and has not brought him under the authority of the law, and has as good as told him to "go his hardest." I do not think that is the right principle to adopt. Whatever is good for one particular section should also apply to the others. It is little wonder the Minister has heard no complaints from the lessees because they grin and bear it to a degree, but this is passed on to the consumer and we always hear complaints from the consumer about the price he has to pay for his liquor.

Hon. A. H. Panton: And of the size of his glass.

Mr. MARSHALL: Yes. Everything seems to be on the decline so far as quality and quantity are concerned.

Mr. Styants: How do you know?

Mr. MARSHALL: Although I am not a consumer I have had the experience when I have been with people who are consumers.

Hon. A. R. G. Hawke: The licensees are too scared to make complaints to official quarters.

Mr. MARSHALL: They will not make complaints but they will pass it on to the consumer. I do not think the Minister is adopting the correct attitude; there should be no discrimination at all. Quite a lot of these hotels are owned by the brewery. There is practically only one brewery company in Western Australia and I think that is really owned and controlled from the Eastern States. I know of a case where tenders were called and unfortunately the Licensed Victuallers' Association, or its members, in order to secure possession of the premises offered fantastic conditions and rents for them. The Premier probably knows what happened when the Imperial Hotel was rebuilt and when the two men named Deacon and Barry went into it. The premiums they paid for fitting out those premises were enormous, and the cost had to be passed on. I do not know why alcohol is so cherished by the community but it is, and it plays a prominent part in the cost of living. So it is little wonder that lessees do not complain and they will not until they are squeezed and obliged to do so.

The Minister for Works: Do you think that the cost of living would go down if the lessees got cheaper rents?

Mr. MARSHALL: I do not.

Hon. J. T. Tonkin: The cost of living will go up if they get dearer rents.

The Minister for Works: If it acts one way, it will act the other.

Mr. MARSHALL: The lessee should not be forced into the position of charging enormous prices because of the fact that he retails liquor.

The Premier: He cannot charge enormous prices because liquor is controlled.

Mr. MARSHALL: I do not know how far it is controlled, but the quantity served is being constantly reduced.

Mr. May: They push the bottom of the glasses up!

Mr. MARSHALL: That brings to my mind one of the cleverest devices I have seen. The glasses are so made that at the bottom there is no capacity to hold anything but at the top, where there is the capacity, we find there is only froth. I do not see why brewers and other wealthy landlords should be excluded from the Act. I support the amendment.

The MINISTER FOR EDUCATION: The facts are that the protection afforded by the 1939 legislation has been withdrawn in two stages which have resulted in the necessary amendments being carried by this Chamber; one was carried in 1949, the other in 1950. The 1949 amendment took away from the licensed premises, that are the subject of this amendment today, the protection which they had in that part of the Act dealing with evictions. That will be found in the 1949 amendment to the Increase of Rent (War Restrictions) Act which reads as follows:—

> The provisions of the section shall not apply in respect of premises for which a publican's general license, an hotel license, a wayside house license, or an Australian wine and beer license under the Licensing Act, 1911-1948, subsists, at the expiration of not less than three months' notice to quit.

I think that was the provision referred to by the Leader of the Opposition as having been inserted by Sir Ross McDonald, when he was a member of the Government. That dealt with Section 15 of the parent Act as it was then and covered the provisions regarding evictions. In 1950 with

the agreement of both Houses the following section was added to the principal Act, as Section 4A:—

> The provisions of this Act shall not apply—
>
> (a) in respect of premises for which there subsists a publican's general license, an hotel license, a wayside house license, an Australian wine and beer license or an Australian wine license issued pursuant to the provisions of the Licensing Act, 1911-1949.

So by that means and in two stages Parliament has taken from the licensed premises the protection afforded between 1939 and 1949 when, in respect of rents, they could have been subject to the determination of a fair rents court, and in respect of evictions to the usual inquiry had they agreed to approach a court. It is a retrograde step to go back after Parliament has considered this matter in two stages and accepted it.

I agree with the Leader of the Opposition that during the greater part of the ten years to which he referred there were circumstances different from those prevailing in the last three or four years, which might have rendered the protection then given to them necessary. For example, as a war measure the Commonwealth had the power to deplete the population of any centre by taking away people for war service, or alternatively to increase the population of any centre by establishing a military camp in the vicinity thus making thousands of new customers available to the premises.

There was in fact a Commonwealth regulation under, I think, the national security regulation laws, which provided, quite apart from the Increase of Rent (War Restrictions) Act—and this was not State legislation at all—for a rebate of rent as declared by a magistrate or judge, depending on the size of the premises. All that came to an end with the war, and surely there is a desire to revert to normality as intended on Parliament's acceptance of these provisions in 1949-50. We should leave what we did last year.

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

Ayes	....	20
Noes	....	23
Majority against	....	3

Ayes.

Mr. Ackland	Mr. May
Mr. Brady	Mr. McCulloch
Mr. Graham	Mr. Moir
Mr. Guthrie	Mr. Needham
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Read
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Lawrence	Mr. Tonkin
Mr. Marshall	Mr. Kelly

(Teller.)

Noes.

Mr. Abbott	Mr. Nalder
Mr. Brand	Mr. Nimmo
Mr. Butcher	Mr. Oldfield
Dame F. Cardell-Oliver	Mr. Owen
Mr. Cornell	Mr. Rodoreda
Mr. Doney	Mr. Styants
Mr. Grayden	Mr. Thorn
Mr. Griffith	Mr. Watts
Mr. Hill	Mr. Wild
Mr. Hutchinson	Mr. Yates
Mr. Manning	Mr. Bovell
Mr. McLarty	

(Teller.)

Pairs.

Ayes.	Noes
Mr. Coverley	Mr Totterdell
Mr. Nulsen	Mr. Hearman

Amendment thus negatived.

Mr. GRAHAM: The drafting of the Bill is puzzling. Reference is made to various statutes, but the correct titles are not given. For instance, in paragraph (b) of Subclause (1) the "Licensing Act, 1911," is mentioned. That should read, "Licensing Act, 1911-1949." Earlier in the Bill, reference is made to the Municipal Corporations Act, 1906, Road Districts Act, 1919, Health Act, 1911, State Housing Act, 1946 and McNess Housing Act, 1930, and in each instance the reference to later years has been omitted. Is there some new system of describing these titles?

The CHIEF SECRETARY: What the hon. member has said is probably correct, and I am prepared to accept an amendment as indicated.

Mr. GRAHAM: I move an amendment—

> That in line 6 of paragraph (b) after the figures "1911" the symbol and figures "-1949" be inserted.

Other similar omissions should be rectified.

The Attorney General: I do not think it is necessary.

The Minister for Education: Instead of recommitting the Bill to make the corrections here, they could be made in another place.

Mr. GRAHAM: That is so.

Amendment put and passed.

Mr. GRAHAM: Premises to which the provisions of the Act shall not apply include a dwelling-house ordinarily used for the occupation of persons employed by the lessor while so used. That exception relates to evictions, but some form of rent control should be continued, and the proper place for the inclusion of this provision is Part IV of the measure. I move an amendment—

That paragraph (d) be struck out.

The owner should not have the right to charge what rent he likes, because that could have the effect of reducing the wages of the employee. I believe that a mistake has been made in including the paragraph in this part of the measure.

The CHIEF SECRETARY: I am not entirely wedded to the paragraph and I see wisdom in the hon. member's contention. I accept the amendment.

Amendment put and passed.

Mr. GRAHAM: I am not happy about paragraph (e), which proposes to except premises leased for holiday purposes where the period of the lease to any one lessee does not exceed 12 weeks. Provision might well be made by the Minister for Prices for the exercise of control over the rents charged for such premises. If a person goes away for a holiday and stays at a hotel, there is a form of protection because the Prices Branch would have determined the maximum charges allowable, but if he stayed at a private dwelling or a boarding-house or if he rented a house, the sky would be the limit. I am aware of premises for which most extortionate charges are made. I move an amendment—

> That paragraph (f) and the whole of Subclause (2) be struck out.

Subclause (2) would empower the Governor to declare that the Act should not apply to any premises or class of premises. I maintain that the questions of protecting tenants and controlling rents are matters for determination by Parliament. The Minister has been empowered to exempt certain building materials where a sufficiency of supply is available, but it is a different matter to empower the Minister to throw the whole of this legislation overboard contrary to the expressed wishes of Parliament. If we accept this provision, the Government tomorrow could remove from control the rent restrictions applying to all dwellings, and the protection for tenants of business premises against eviction. There is not likely to be any need to exempt such premises during the ensuing year. I am afraid that pressure groups might get busy, and I am not prepared to give the Minister a blank cheque of the nature suggested.

Sitting suspended from 6.15 to 7.30 p.m.

The CHIEF SECRETARY: Do I understand the amendment is restricted to one paragraph?

Mr. Graham: No, because Subclause (2) is the machinery part of paragraph (f), so that they must both go out or both stay in.

The CHIEF SECRETARY: The principle involved here is a repetition of what we have already had, and I see no more reason on this occasion to agree with the hon. member than on previous occasions, although I admit this is the first time he has brought the matter up. This is not intended to mean that the Government will whittle down this and that, in the form of premises, until no premises of any type are left. It is not possible to know precisely what is going to happen in the future. The reason why the premises were in no way classified is because we did not know what they may be. They are the odd and rare cases that crop up now and again and where control is not necessary. If they were obvious they would be included in the Bill. I see nothing wrong with the provisions, and propose to stick to them.

Mr. GRAHAM: I am astounded at the attitude of the Chief Secretary. As the Act stands there are considerable numbers of types of dwellings excluded from its application, such as properties owned by the Crown, etc. Under the provisions which I seek to have deleted, the Governor will be allowed to remove from control any type of premises whatsoever. I am not prepared to vest that power in the Governor. Can the Chief Secretary indicate to us any type of building he has in mind? Can it be reasonably assumed that there will be a surfeit of buildings, or that the housing, or industrial and commercial programmes will be so improved in the next 12 months that they can be excluded? The matter of saying which buildings shall be included or excluded is one for Parliament to determine.

The determinations of Parliament could in a week or a month be set at nought by decision of the Government. That is not fair. There has been some discussion about protection for ex-Servicemen. It would be possible for the Minister to remove such protection merely by proclamation. The least the Chief Secretary can do is to indicate to us what he has in mind, because it is of no use speaking in generalities. He will agree that the accommodation problem, both in respect of dwellings and business premises, is such that we as a part of this Parliament can see at least 12 months ahead. Accordingly there is no occasion for us to risk leaving in the Bill this all-embracing power because it authorises the Government, if it feels so disposed, or if it gives way to a pressure group, to release any type of premises.

The CHIEF SECRETARY: The hon. member asks me what type of premises I have in mind. Obviously I have no type at all in mind. Had any types been obvious to the Government when the Bill was constructed, we would have had them listed among the others that are excluded from its provisions. This is the provision usual in such circumstances. No proclamation would be made until concrete instances arose.

Hon. A. R. G. HAWKE: Would the Chief Secretary be prepared to substitute the word "regulation" for "proclamation" in this part of the clause?

The Chief Secretary: I would have no objection to that.

Hon. A. R. G. HAWKE: That would meet my objection and possibly that of the member for East Perth.

Mr. GRAHAM: If the Government decided to make some exemption in January or February next, Parliament would have no opportunity to disallow the regulation until the following August.

The Chief Secretary: The hon. member could trust the Government not to do anything unreasonable.

Mr. GRAHAM: The Bill contains a blanket clause that would enable the Government to exclude any type of premises from the provisions of the Act.

The Chief Secretary: You know that is not the intention.

Mr. GRAHAM: I am concerned with what is contained in the Bill.

The Chief Secretary: You have seen this type of provision before in similar circumstances.

Mr. GRAHAM: Yes, where there is likely to be some fluctuation in supplies, but no member would suggest that the shortage of housing will be overcome in the next 12 months. I ask leave of the Committee to withdraw my amendment, with a view to moving another.

Amendment, by leave, withdrawn.

Mr. GRAHAM: I move an amendment—

> That in lines 1 and 2 of paragraph (f) the words "any premises or the premises included in any class of premises declared by" be struck out.

I desire that it should be left to Parliament to determine the extent of the controls. I do not think the Government should be given power to exempt any particular class of building.

Mr. J. HEGNEY: I do not think the Government should be given the power it seeks under the Bill. If a difficulty arose it could be rectified at the end of 12 months, and such a period is not long in view of the years over which the shortage of houses and premises generally has extended. I do not feel that the Government should be given full power to exclude certain premises from the legislation by proclamation. I support the amendment.

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

Ayes	....	....	....	21
Noes	....	....	....	25
Majority against	....	....		4

Ayes.

Mr. Brady	Mr. Moir
Mr. Graham	Mr. Needham
Mr. Guthrie	Mr. Nulsen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Lawrence	Mr. Styants
Mr. Marshall	Mr. Tonkin
Mr. May	Mr. Kelly
Mr. McCulloch	*(Teller.)*

Noes.

Mr. Abbott	Mr. Manning
Mr. Ackland	Mr. McLarty
Mr. Brand	Mr. Nalder
Mr. Butcher	Mr. Nimmo
Dame F. Cardell-Oliver	Mr. Oldfield
Mr. Cornell	Mr. Owen
Mr. Doney	Mr. Read
Mr. Grayden	Mr. Thorn
Mr. Griffith	Mr. Watts
Mr. Hearman	Mr. Wild
Mr. Hill	Mr. Yates
Mr. Hutchinson	Mr. Bovell
Mr. Mann	*(Teller.)*

Pair.

Aye.	No.
Mr. Coverley	Mr. Totterdell

Amendment thus negatived.

Hon. A. R. G. HAWKE: I move an amendment—

> That in lines 2 and 3 of paragraph (f) of Subclause (1) the word "proclamation" be struck out and the word "regulation" inserted in lieu.

Amendment put and passed.

Hon. A. R. G. HAWKE: Will the consequential amendments be made, Mr. Chairman, or will they have to be moved separately?

The CHAIRMAN: No, they will have to be moved separately.

Hon. A. R. G. HAWKE: I move an amendment—

> That in line 2 of Subclause (2) (a) the word "proclamation" be struck out with a view to inserting another word.

Amendment (to strike out word) put and passed.

Hon. A. R. G. HAWKE: I move—

> That the word "regulation" be inserted in lieu of the word struck out.

Hon. J. T. TONKIN: The question arises as to whether we can, by regulation, prevent an Act from operating. That is the position in which we now find ourselves. We set out in this Bill that certain things are to be obtained regarding certain premises and the tenancy thereof, and the rents to be charged. We are now going to provide that a regulation may be issued that will debar this measure from applying either to rents or tenancies. I say it cannot be done.

The Chief Secretary: It is a pity the hon. member did not voice his objection a little while ago.

Hon. J. T. TONKIN: The Chief Secretary is in charge of the Bill.

The Chief Secretary: But you gave your support to the amendment moved by the Leader of the Opposition.

Hon. J. T. TONKIN: In the first place I supported the proposal to delete the clause.

The Chief Secretary: And later you supported the deletion of the word "proclamation" and the insertion of the word "regulation".

Hon. J. T. TONKIN: I submit for the consideration of the Chief Secretary the point that we cannot provide by regulation to debar an Act from operating, and that is what is now proposed. I draw the attention of the Chief Secretary to it and he can please himself what he does about it.

The Chief Secretary: The Bill can provide its own system of repeal; surely the hon. member realises that.

Amendment (to insert word) put and passed.

Hon. A. R. G. HAWKE: I move an amendment—

> That in line 2 of paragraph (b) of Subclause (2) the word "proclamation" be struck out and the word "regulation" inserted in lieu.

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

Clause 6—Rent inspectors:

Mr. GRAHAM: I move an amendment—

> That in line 3 of Subclause (2) after the figures "1904" the symbol and figures "-1950" be inserted.

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

Clause 7—Authority conferred upon Local Courts:

Mr. GRAHAM: I move an amendment—

> That in line 3 after the figures "1904" the symbol and figures "-1938" be inserted.

This will give a proper definition to the name of the Act.

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

Clauses 8 to 10—agreed to.

Clause 11—Rents of premises:

Hon. A. R. G. HAWKE: In subparagraph (ii) of paragraph (a) there is provision for an increase in rents of up to "10 per centum of the full amount of rent as the lessor and lessee agree from time to time in writing." In other words, this part of the Bill, if it were to become law, would permit a landlord, where he could obtain the agreement of his tenant in writing, to increase the existing rental by 10 per cent. We know that provision was made for rent to be increased by 20 per cent. generally in respect of dwelling-houses, and by a greater percentage in respect of business premises under the terms of the Bill which Parliament passed last year, and which has already been operating for practically the whole of this year. In the Bill which the Government introduced in September of this year no provision similar to the one we are now discussing was made. Therefore, in a period of ten weeks the Government decided that provision should be made in this Bill to enable the landlord, where he can obtain the agreement of the tenant in writing, to receive an increase on the existing rentals of up to ten per cent. We are in that way qualified to pass a provision of this kind and make it the law of the State.

We can have no approximate, let alone any exact knowledge, of whether it is right and proper by legislation to state that a landlord shall be legally entitled to increase existing rentals in the manner prescribed. The granting of this legal power would obviously place the landlords in a much superior position as compared to the position of tenants, especially as other parts of the Bill, if they become law, will give to landlords greater powers than they have ever had to evict tenants from their houses. If you, Mr. Chairman, were a landlord and this Bill became law, you would be able to approach a tenant with a written agreement and say, "This agreement has been drawn under the terms of new legislation passed by Parliament, and it provides for an increase in your rent of ten per cent." The average tenant would discuss the matter with you to some extent and I think that in approximately seven cases out of ten the tenant would sign the agreement.

If the tenant knew that under the law he could refuse to sign and go to the court, he would still be inclined to sign rather than face the prospect of going to court with all the legal costs in which he was involving himself and with the possibility, too, of the court granting some increase different to that set out in the proposed agreement. Furthermore, the tenant would know that you, Sir, as the landlord, would have within your hands the weapon of eviction if he were not prepared to sign the agreement that you were anxious that he should sign in order that you may have the rent increased by ten per cent. On more than one occasion within the last 12 months I have tried to persuade the Government to tackle this problem of fair rents on a scientific basis. On several occasions suggestions have been made to the Government that it should set up a system of fair rents courts or fair rents experts under whom every house, where the landlord thought an increase in rent was justified, could be considered as the subject of a separate and distinct application to the court, or expert for an increase in existing rentals.

The Premier: Is this to be a permanent court?

Hon. A. R. G. HAWKE: That could be at the discretion of the Government. If the Government wanted to make such courts, when established, subject to review by Parliament in respect of the period during which they should continue in operation, that could probably be approved, and these fair rents courts would be presided over by fair and expert men and would be available to landlords whenever they wished to take to the court an application for an increase in rentals.

The Attorney General: Has not the present magistrate had years of experience in this matter?

Hon. A. R. G. HAWKE: I would have no objection if the Government raised the court completely to the standard shown by the present magistrate, although I would much prefer a system along the lines I have suggested. We on this side of the Chamber are perfectly satisfied to leave the question to the existing courts, but we say it is most unfair, certainly unscientific and indeed crude to a large extent, for a body, such as we are, to lay down that rents shall be increased by more than such and such a percentage of the existing rentals. What qualifications have we, as members of Parliament, to say that this house, that house or a house in some country district, should have its rent increased? We have no knowledge as to what should be the fair thing in respect of individual houses or even in respect of individual premises.

When speaking during the second reading of the Bill I told members that I knew of houses in Northam in respect of which the existing rentals should be reduced because the houses are sub-standard, and also that several of them have been condemned as unfit for human habitation. The local authority has only refrained from serving an order for the demolition of those houses upon the respective landlords because of the housing shortage, otherwise it would have been served months ago and the houses would, by now, have been demolished. Yet this part of the clause asks us as members of this Committee to lay down, by Act of Parliament, that the landlords of those sub-standard houses will have the right to go along with a written agreement in proper legal form and bargain, on the basis of it, with the tenants of those places.

It would be something in the nature of a political crime if the members of this Committee voted to retain this part of the clause. It should be knocked out so that there will be no provision in the new law for any percentage increase in rentals to be agreed upon as between landlord and tenant. Where such a provision does exist, the tenant is obviously at a great disadvantage. He knows that if he refuses to sign the agreement the landlord could easily take action subsequently to have him evicted, because if this becomes the new law the landlord will have much greater power and liberty in that regard than he has had since the beginning of the war. Tenants will not willingly face the certainty of being dragged into court because of the cost involved, which tenants of sub-standard houses could not possibly afford to pay. So we will find a great majority of tenants being driven by circumstances, and perhaps by uttered threats, to sign agreements for a 10 per cent. increase in rent. It is not a fair proposition; it is totally wrong in principle.

Towards the end of last year, Parliament approved what was in effect a flat rate increase of 20 per cent.; now we want to go beyond that. Under the existing law the courts already have power—and they would have it under this new law—to consider applications by landlords for increased rentals or applications by tenants for reduced rentals. In all the circumstances, we should leave it to the courts to decide individual applications made to them from time to time. If we cannot have a special expert system such as I have advocated, over at least a year, and better still over two or three years, let us have the semi-expert system which has developed under the law now prevailing. I agree with the Attorney General that at least one of our magistrates must be fairly expert now in fixing rentals for dwelling-houses and business premises, because he has had a good deal of practical experience in that matter over the last three or four years. I move an amendment—

That subparagraph (ii) of paragraph (a) be struck out.

The CHIEF SECRETARY: I have listened to the hon. member's contribution very carefully, but I fear it will not change my point of view in regard to the proposed new figure. I feel no doubt whatever in my mind that the increase of 10 per cent. is a fair play figure in all the circumstances, and I do not think I am likely to budge from that idea. Of late months I have noticed that there is reluctance on the part of a number of house-owners to let their premises because the rent they get is insufficient to recoup their outlay, particularly with the cost of repairs so extremely high. On the other hand, tenants have had their incomes increased substantially. There should be at least a proportionate advance in the rents charged. As I said, it is no use pretending that 20 per cent. above the 1939 rentals is sufficient. We should take at least a commonsense view, if not a fair play view.

I would also draw the attention of the Leader of the Opposition to the fact that, when the Bill of 1950 left this Chamber, it then stood at a figure representing 25 per cent. above what prevailed in 1939. Members on the Opposition side who have spoken expressed the view that 20 per cent. was an adequate advance on the rent charged in 1939. The Opposition must be taken as having complied with the desire of the Bill to advance the 1939 figure by 25 per cent. because this was agreed to, so far as I can recall, without a division and without a dissentient voice. The figure today is little more than 5 per cent. above that, because the 10 per cent. proposed is 10 per cent. of £120 and not 10 per cent. on £100.

The Leader of the Opposition said that we here have no specific knowledge of what today's rentals should be. I do

not think he is right to claim that. We are in constant touch with this problem and surely we add to our knowledge on matters rental for that reason. I get daily reports on this matter from dissatisfied people, both tenants and house-owners, and I think I can claim to have acquired a fair knowledge during the two years I have been the Minister responsible. Not that I am very proud about this, for there are occasions when I would sell out for quite a small figure!

Hon. A. R. G. Hawke: I should not think there would be any buyers.

The CHIEF SECRETARY: I believe that if the Leader of the Opposition were in a position to let a house, he certainly would not be above taking the 30 or 32 per cent. over the 1939 figure that the increase represents. Taking the basic figure as 100 in 1939, a basic figure today of only 120 does not represent anything like a reasonable return. No form of investment has been so shabbily treated as investment in house property. I see no reason to change my mind on the subject.

Mr. J. HEGNEY: I support the amendment. There are quite a number of difficult cases in my electorate that indicate the extent to which some landlords will go. Admittedly some landlords are just, but others are out to extort all they can from their tenants. Here is a letter I received today—

> I am writing this letter to put my case to you to appeal for advice and help, if possible. I was evicted from the house I was renting at . . . . street, Belmont, by my landlord, Mr. . . . . on the ground that he wanted the house for his own use.
>
> Before the case was taken to court, I was told that I was getting put out so the daughter and son-in-law of Mrs. . . . . , who resides in Mr. . . . . 's house in . . . . street, would be shifting in as soon as I was evicted.
>
> When Mr. McMillan asked Mr. . . . . to take the oath and swear he wanted the house for his own use, he did this and stated he wanted the house to live in alone. So the case was granted against me. I had to be out by the 3rd September; I was eventually evicted on the 7th September, which was a Friday. Mr. . . . . shifted in on the Tuesday. Before the week was up, he had let all the house but one room to the young couple I had been forewarned about.
>
> Before I was evicted I offered Mr. . . . . accommodation with me, which he rejected, stating that he wanted to live in the house alone. The reason Mr. . . . evicted me in the first place was that, when the rents were allowed to be put up 20 per cent., he wanted to go well over it. I said I would pay the 20 per cent. rise willingly, but would not go any higher, so he went straight to his lawyer and had an eviction letter sent to me. Mrs. . . . . and his other tenant paid what he wanted, but sub-let after, and he never did a thing against her. I have been shifted to Guildford and find the flat is far from healthy and suitable for my family. I have six sons, five of whom are with me and the other expected home at any time.

I could quote other instances of people who have been evicted and are now occupying flats at South Guildford where the accommodation is very limited. Landlords should not be permitted to increase rents again, seeing that they were permitted to make increases last year. An analgous case is workers' compensation, under which we sought to get increases for injured workers last year and the Government refused. This year increases are being proposed. The same remark applies to increases to pensioners.

The Chief Secretary: Do those matters come under this Bill?

Mr. J. HEGNEY: I am pointing out how long-winded the Government has been in making necessary increases. The matter of granting increased rents could well be left to the decision of the magistrates. Many homes would not be worth the increase proposed in the Bill.

Hon. A. R. G. HAWKE: The Minister overlooks the fact that the Bill proposes to give judges, magistrates and rent inspectors the right to adjudicate on applications for increased rentals, and that would permit of applications being dealt with on their merits. Is not that a fair proposition? What objection has the Minister to that system?

The Chief Secretary: It would crowd the courts somewhat.

Hon. A. R. G. HAWKE: I do not think so, but even if that happened what is wrong with it?

The Chief Secretary: What is wrong with private treaty between the two parties?

Hon. A. R. G. HAWKE: Better to crowd the courts than put tenants in a weakened position where injustice could be inflicted upon them.

The Chief Secretary: If injustice is inflicted, they may approach the court or the rent inspector.

Hon. A. R. G. HAWKE: Why does the Minister suggest that, when two parties have signed a legal agreement, one can approach the court?

The Chief Secretary: Not in that case; only if they disagree.

Hon. A. R. G. HAWKE: That shows that the Minister does not appreciate the weakness of this provision, which would give the landlord the right to charge a 10 per cent. increase provided the tenant could be prevailed upon to sign an agreement. We have not the slightest objection to the landlord's receiving an increase if it is justified, but we strongly object to giving the landlord a strong bargaining power to get an increase in respect of houses, the rents for which, if anything, ought to be reduced. Surely there are some sub-standard houses in Narrogin, and surely the Chief Secretary knows from personal observation that instead of the rents of some of them being increased by up to 10 per cent. they should be reduced by anything up to 50 per cent.!

The Chief Secretary: I quite agree.

Hon. A. R. G. HAWKE: Then why does the Minister propose to give the landlords of those sub-standard houses a very strong weapon with which to bargain with tenants for the purpose of getting a 10 per cent. increase?

The Chief Secretary: I do not think you should assume that in every case the tenant is browbeaten by the landlord.

Hon. A. R. G. HAWKE: I am not assuming that in every case the landlord will browbeat the tenant. I am suggesting that in this part of the Bill we are proposing to give the landlords a very strong bargaining power, against which it will be very difficult indeed for tenants to refuse to sign any written agreement put before them. The Minister overlooks the fact that this Bill proposes to give much easier and much stronger powers of eviction to landlords than they have ever had at any time during the past 12 years. I think the Chief Secretary has knocked about the world enough to know what happens in circumstances of this kind. My experience at Northam is that sub-standard houses are owned by the worst landlords.

The Chief Secretary: I daresay you are right there.

Hon. A. R. G. HAWKE: Why should we in this part of the Bill give to the worst classes of landlords in the State who own sub-standard houses a bargaining power such as we propose?

The Chief Secretary: The answer is that if the landlord takes advantage of a weak tenant there is still the court to which the dissatisfied person can appeal.

Hon. A. R. G. HAWKE: There is no court to appeal to when the landlord prevails upon the tenant to sign the agreement. I suggest to the Chief Secretary that in many cases the tenants in these houses will sign on the dotted line when the written agreement is put under their noses.

The Chief Secretary: They may or they may not.

Hon. A. R. G. HAWKE: I am sorry the Chief Secretary has not had more practical experience in these matters. If he had had he would know that the tenant would sign.

The Chief Secretary: Do you, with your practical experience, think that ten per cent. is too much at this juncture?

Hon. A. R. G. HAWKE: I say that one per cent. is too much for the houses I have in mind. If anything were to be done by law in regard to the rentals of those houses it should be to effect a substantial reduction.

The Chief Secretary: Would you agree that for the generality of houses there should be a ten per cent. advance?

Hon. A. R. G. HAWKE: For the generality of houses, which are not sub-standard and have been kept in good condition, there could be a fairly reasonable case for the landlord to take before a judge, or a magistrate, or a rent inspector, according to the circumstances of each case; and that is the fair, proper and scientific thing to do. Why does the Chief Secretary want to deal with this question en masse as it were, in a wholesale fashion? Is he not prepared to trust the judges, magistrates and rent inspectors to fix fair rentals?

The Chief Secretary: Since I am suggesting that many could make approaches to them, I presume I must be.

Hon. A. R. G. HAWKE: The Chief Secretary is not prepared to trust judges, magistrates and rent inspectors completely, because in this Bill he is allowing those who want the Bill in this form to have their complete way; and he wants to give to the landlords in Western Australia, who own sub-standard houses upon which they do not expend a shilling from one year's end to the other, and upon which they will not expend a shilling in the future, to have a very powerful bargaining weapon with which to try to exact from tenants an increased rental of ten per cent. over the existing rental.

The Chief Secretary: Why does the hon. member restrict his reference to the bad class of landlord? Why does he not take ordinary normal cases?

Hon. A. R. G. HAWKE: Obviously because those instances highlight the objection which every member in this House should have to this part of the clause.

The Chief Secretary: You cannot get away with that.

Hon. A. R. G. HAWKE: I am not thinking I can get away with it insofar as the Chief Secretary is concerned. I am not trying to convert him. I am talking to the more fairminded and less hidebound members of the Committee. As a matter of fact, the Chief Secretary told us previously the reason the Bill

has been framed in this way, and in effect he told us who decided how the Bill should be framed and what it should contain. He told us very frankly the truth about that, although he did not go into detail; he did not need to.

The Chief Secretary: Exactly how did I put it, to give you that impression?

Hon. A. R. G. HAWKE: The Chief Secretary said that this Bill had been framed so as to make certain it would pass through the Legislative Council.

The Chief Secretary: Not certain at all.

Hon. A. R. G. HAWKE: Yes.

The Chief Secretary: No. If the hon. member will look up "Hansard"—

The CHAIRMAN: Order! The Minister can reply when the Leader of the Opposition has finished.

Hon. A. R. G. HAWKE: I do not want to debate that point, because it is outside the amendment, except in a very indirect way. I do not want to take up the time of the Committee in discussing that angle, because we will have a full opportunity to do so when the third reading stage is reached. But I say that the members of this Committee have no right at all, in view of the fact that Parliament allowed up to a 20 per cent. increase this year in all rentals, to try to impose upon that, by Act of Parliament, a further ten per cent. increase. We are not entitled to deal with this in a wholesale fashion.

As members of Parliament we should leave it to the judges, magistrates and inspectors, who I am sure can do the job expeditiously. That will ensure justice being done to every landlord who has a just claim for an increase in rent, and that is all the Minister wishes to achieve, I should hope, and that is what every member of this Committee who is reasonably minded should wish to achieve. Surely we do not want to bring about an increase in rentals where they are not justified, either in respect of dwelling-houses or business premises, but especially in respect of dwelling-houses. So why should we put into this Bill a provision which would allow, if not automatically, at least by very special persuasion, landlords to have an opportunity to increase rents especially to tenants of houses in respect of which no further increases should be permitted?

Mr. BRADY: I support the amendment. I know of some unscrupulous landlords who took advantage of the old Act and will probably take advantage of this, if it becomes law. I instanced a case here before of a retired railway worker who was paying 25s. a week rent under the old Act. A new landlord bought the house and said he would have to pay more. The tenant replied that he would pay the extra 20 per cent. and no more. The landlord took him to court and as a result the rent was increased from 25s. to £2—approximately 66 per cent. It would be outrageous for that man to have to pay another 10 per cent. Whilst landlords are receiving an increase in the value of their houses they are also getting an increase in the rents. A house worth £1,000 in 1940 is worth £2,000 today, which is 100 per cent. increase in value, and the owner also expects to get an increase of 100 per cent. in his return from the house. That is unjustifiable. This retired railway worker—

The CHAIRMAN: Order! The hon. member is not in order in discussing that case because this subclause does not deal with it.

Mr. BRADY: I think it does.

The CHAIRMAN: I am sorry, but the hon. member is out of order. A case that is determined by the court is specifically included.

Mr. BRADY: This says where it is "lawfully determined." I do not agree with you, Mr. Chairman.

Mr. GRAHAM: I wish to make my attitude quite clear. It is difficult to strike a fair balance between the landlord and the tenant. I venture to suggest there are cases where an increase of 50 or 100 per cent. would not be too great, whereas in other cases a rise of 10 per cent. would not be warranted. I therefore find myself in agreement with the viewpoint of the Leader of the Opposition. To suggest that a blanket increase of 10 per cent. should be permitted, subject to a mere formality, is to my mind not a fair way of approaching the question.

The proper thing to do is to authorise a judge, magistrate or rent inspector to make an increase if one is warranted. Such a method would ensure that where a landlord was entitled to a substantial increase he would get it, and where no increase were warranted no variation would be made; and in certain cases, as intimated before, there would possibly be a reduction. I realise that landlords are suffering an extreme disadvantage by virtue of the fact that renovations cost several hundred per cent. more than they did only a short while ago.

A room, not many years ago, could be calsomined for less than £1, whereas today it costs many pounds for the same job. Naturally an increase of 20 per cent. and a further increase of 10 per cent. would not be sufficient to recoup a landlord who sought to keep his premises in a reasonable state of repair. But it must be remembered that in addition to the 20 per cent. increase, provision has been made for the landlord to pass on other charges such as increases in rates and

taxes, insurance, etc. Therefore while the 20 per cent. increase has been permitted, the tenant is, in fact, paying a greater percentage increase than that.

Each case is separate and distinct, and so should be determined by people qualified to make a decision rather than that this Committee, or Parliament as a whole, should decide upon a flat rate of 10 per cent. which, I venture to suggest, cannot do other than cause an injustice to certain landlords on the one hand and to certain tenants on the other. I hope the Chief Secretary will relent and agree with the point of view that has been submitted.

Hon. J. T. TONKIN: The argument advanced by the Chief Secretary contains several weaknesses. The Minister made no attempt in the first instance to explain how it is that the Government has come to the conclusion that it is desirable to make provision for an increase in rent whereas two months ago it did not see that necessity. The Bill introduced in the previous session contained no such provision, so it was the considered opinion of the Government then that no further increase was justified. That Bill was defeated. It is pretty obvious that, following upon an intimation from another place, the new Bill now includes a provision for an increase. This provision means that the increase with respect to dwelling-houses will be 32 per cent. compared with 12 months ago and 43 per cent. for business premises.

The Minister endeavoured to point out that capital invested in houses was the worst treated of all capital, and that the comparatively small increase of 10 per cent. was a poor recompense to the landlords. I point out that a number of tenants who will be called on to pay the 32 per cent. increase will be on fixed incomes—men from the Government service who are on superannuation and who have not been given a 32 per cent. increase in their pensions, but whose increase has been limited to 10 per cent. They are worthy of consideration and in most cases their plight will be worse than that of the landlord. A landlord should receive a fair rent but many have refused to repair their properties. Such persons would receive the increased rental, although in a large number of instances it would not be justified.

Few persons buy houses today in order to let them and the result is that the premises still available for renting are almost all very old, and in a state of disrepair. Numbers of houses would have been condemned long ago had the local authorities felt that the tenants could get alternative accommodation. If we leave it to the court to decide the increase in rent many landlords will not apply, but if we write into the Act this 10 per cent. increase, that will be a direction to the courts that we think that increase should be granted. The Chief Secretary mentioned cluttering up the courts with applications under this provision, but he is not worried about the courts being cluttered up with applications for evictions; in fact, he has widened the provision with the result that there will be an increase in the number of applications for eviction.

The Chief Secretary: There is no other means of determining evictions.

Hon. J. T. TONKIN: The Chief Secretary is not worried about the evictions, but he said he was worried about the courts being cluttered up with applications for rent increases.

The Chief Secretary: Yes, I said that.

Hon. J. T. TONKIN: That is no argument against allowing the court to decide what is a fair rent. In the case of evictions the courts have said they will set aside one day only per week for the hearings.

The Chief Secretary: Do you insist that there is a benefit in the tenant going to the court?

Hon. J. T. TONKIN: It would be of advantage to the tenant to go to the court provided we did not give the court a direction that we thought rents should be increased by 10 per cent.

The Minister for Education: An increase not to exceed 10 per cent.

Hon. J. T. TONKIN: By up to 10 per cent.; it is the same thing. In most cases it will mean 10 per cent. at least.

The Chief Secretary: I have no means of determining that.

Hon. J. T. TONKIN: Only the application of commonsense and general experience! The great majority of landlords would take a 50 per cent. increase if it were provided for in the Act.

The Chief Secretary: Do you insist that 10 per cent. is unjust?

Hon. J. T. TONKIN: In the case of old houses that have been let for years and are in a state of disrepair, any increase is too much.

The Chief Secretary: I agree.

Hon. J. T. TONKIN: We should not provide for a blanket increase in this way.

The Minister for Education: Are you putting up a case for your new Clause 12 now?

Hon. J. T. TONKIN: Perhaps, and I am within the Standing Orders if I am doing so. We should not give any direction as to what we think the increase should be and then the landlord, if dissatisfied, would have to apply to the court for an increase. In many cases he would not do so. A 10 per cent. increase would be a hardship on many pensioners, for instance, because it would mean that they would be asked to pay a 32 per cent. increase on their rents compared with 12 months ago.

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

Ayes	22
Noes	24
Majority against	2

Noes.

Mr. Brady	Mr. Moir
Mr. Graham	Mr. Needham
Mr. Guthrie	Mr. Nulsen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Read
Mr. W. Hegney	Mr. Rodoreda
Mr. Hoar	Mr. Sewell
Mr. Lawrence	Mr. Sleeman
Mr. Marshall	Mr. Styants
Mr. May	Mr. Tonkin
Mr. McCulloch	Mr. Kelly

(Teller.)

Noes.

Mr. Abbott	Mr. Mann
Mr. Ackland	Mr. Manning
Mr. Brand	Mr. McLarty
Mr. Butcher	Mr. Nalder
Dame F. Cardell-Oliver	Mr. Nimmo
Mr. Cornell	Mr. Oldfield
Mr. Doney	Mr. Owen
Mr. Grayden	Mr. Thorn
Mr. Griffith	Mr. Watts
Mr. Hearman	Mr. Wild
Mr. Hill	Mr. Yates
Mr. Hutchinson	Mr. Bovell

(Teller.)

Pair.

Aye.	No.
Mr. Coverley	Mr. Totterdell

Amendment thus negatived.

Clause put and passed.

Clauses 12 to 17—agreed to.

Clause 18—Application:

Mr. GRAHAM: Members might recall that last year when the Increase of Rent (War Restrictions) Act Amendment and Continuance Bill was before us, I moved an amendment, the purpose of which was to exclude from the protection portion of the Act premises let after the 31st December, 1950. There has been quite a deal of discussion and difference of opinion, even in legal circles, as to the interpretation of the amendment agreed to by both Houses of Parliament. A decision has been made by Magistrate McMillan which gives a different interpretation from my intention and the explanation I gave to the Committee at the time, and which was accepted both by this Chamber and the Legislative Council. I desire, in paragraph (a), to delete the word "premises," and, if successful, subsequently the word "of" in line 1. That will make unmistakably clear to the courts the intention of Parliament.

When I submitted the amendment last year, it was framed to remove entirely from protection from eviction any tenants who took possession of premises after the 31st December last. The interpretation placed upon the paragraph is that that release from protection should apply only in respect of premises that were never let prior to the 31st December. I desired that anybody who had premises available today, whether such premises had been let previously or not, should be able to permit new tenants to occupy them certain in the knowledge that if those tenants proved to be unsatisfactory the owner could evict them by the ordinary process obtaining prior to the outbreak of war. Members might recall my remarks when submitting the amendment last year when I said—

> When discussing the Bill on the second reading I said that it would assist the housing problem if we provided for tenancies entered into as from the 1st January next to be exempted from the tenant protection that is given by the Act so far as evictions are concerned; but, of course, control of rents would still operate. No existing tenancy would be upset or otherwise interfered with. The amendment would mean, however, that anyone who in the future desired to let a house or portion of a house could do so without the fear that exists at the moment that he could not get rid of his tenant within a period of months or, perhaps, years.

Irrespective of whether premises have been let previously or not I consider the time has been reached, as I felt it had 12 months ago with any premises let as from now, when it should be possible for the landlord, by ordinary processes, to evict a tenant without his having protection; there would, of course, still be control over rents. If a person has had a tenant for the past three or four years and the tenant has proved unsatisfactory, the landlord would be most reluctant to let the premises again feeling that if he did so he might be burdened for a considerable period before he could get rid of that undesirable tenant. Accordingly, I wish to give effect to the spirit and intention of the provision I moved in 1950; therefore, if I make the words in the paragraph refer specifically to a lease entered into after the 31st December, 1950, instead of to the premises, there will be no doubt or ambiguity whatsoever. I move an amendment—

> That in line 1 of paragraph (a) the word "premises" be struck out.

If that amendment be successful I then propose to move to strike out the word "of" in the same line.

The MINISTER FOR EDUCATION: There does seem to be some ambiguity in the paragraph as at present worded. It might apply to premises where the lease is first entered into after the 31st December, 1950, or it might mean that if the premises have been leased before then, notwithstanding the fact that the tenant has changed, the provisions of the Act still apply. As I understand the hon. member, that is the feeling that he had. He wants to make the provision so that the Act shall not apply to a contract made

after the 31st December, 1950, irrespective of whether it is made in regard to premises that had a tenant before that date or not. He wants to insure that every contract, in respect of a tenancy which is made and dated after the 31st December, 1950, does not carry with it the protection afforded by Part IV of the measure.

It seems to me that members will have to make up their minds on this subject. The hon. member did indicate, approximately a year ago, that it was his desire that the protection afforded by the then legislation should not apply to contracts made after the 31st December, 1950, irrespective of whether they were made in respect of premises previously leased or premises not leased at that time, but subsequently. He indicated then his belief—as he indicated this evening—that a complete exemption from the provisions of Part IV of the legislation of all premises in respect of which a contract was entered into for the letting of the premises after the 31st December, 1950, should be clear of protection in order that landlords might be encouraged to let them. If I remember rightly, he instanced at that time, or at another time, the case of a single individual in a seven or eight-roomed house, who, in the circumstances, would not let any of those rooms for fear that he might have to pursue the law concerning the tenancy and that vacant possession might be warranted.

So the hon. member says, "Let us do away with the contracts entered into prior to the 31st December, 1950, in regard to premises to be let." I admit there is a point in that and yet it seems to me that it will afford an opportunity to other people to seek—not those in the position I have just been discussing—to determine the existing tenancy in order to make a new one. Admittedly, it may take them some time to do that, but I think it is just as likely, in the ultimate, to remove from the premises they occupy people who now have a roof over their heads, as it is, as the hon. member suggests, to provide accommodation for people who have not a cover over their heads. So the amendment is a bit of a mixed grill, I think. I appreciate the hon. member's point of view, but I feel disposed to stick to the Bill as drawn.

Mr. GRAHAM: I am going to persevere with this because the provision was inserted at my instigation, and there is no suggestion of any party political attitude in regard to it. It is merely to seek a clarification of the present provision which, as I said earlier, is contrary to the intention and explanation given of it at the time. I consider my amendment will have definite advantages. Why, for instance, because I have never let my house before should I have preference over some individual who has been letting his house over past years? That is an anomaly existing now which I want to overcome.

I do not want preferential treatment to be given to persons, who, since the 31st December, 1950, have been letting their premises. If members have been watching the advertisements in the Press closely they will have noticed that the result of the interpretation of the provision as it now stands is that certain houses are available for sale with vacant possession and then, perhaps after a period of, say, three or four months those premises are again being offered for sale with vacant possession which means that they have remained vacant for the whole of the intervening period. The reason is that the owner, because of the narrow interpretation placed on the clause, will not allow a tenant to occupy the premises for such a short period because he knows he would not be able to get him out of the house when he wished to make the sale. If he did, the new purchaser would have to wait for six months and then give six months' notice—in other words a waiting period of more than 12 months —before he could resume possession of the premises; in addition to which the owner would lose between £500 and £1,000, being the difference between the price for the occupied premises and that offered with vacant possession.

So there are houses remaining empty for periods of months at the present moment because of the narrow interpretation of this clause. I do not know that I can make the position any clearer. The present wording without any question is not clear. I have sought legal advice from not one but many highly qualified legal persons, and there has been a definite conflict of opinion on what is meant. Unfortunately Magistrate McMillan has placed this narrow interpretation upon it and I do not think it is fair. It certainly does not conform with what Parliament had in mind last year. So I appeal to members to give effect to what we had in mind twelve months ago.

Mr. GRAYDEN: I believe that the spirit of the amendment is very good and I quite agree with it. There is one problem, however, which I can foresee and which perhaps the member for East Perth has not taken into account. I refer to the case of a house that becomes vacant through a tenant building a home of his own and moving into it. The new tenant who would come in would be in the position of being able to receive two weeks' notice. The owner could say the rent is £6 or £8 a week as the case may be, and if the tenant went to the Fair Rents Court he could be given two weeks' notice. I feel it gives the landlord a big stick to wield and I would like the member for East Perth to explain that difficulty.

The Minister for Education: The member for Nedlands has put very nicely what I was trying to say.

Mr. GRAHAM: That proposition is in no way different from what obtains in respect of a house that has not been let previously. Without going into figures, let me give an illustration. The previous Leader of the Opposition vacated his house which had not been let before; he let it to a tenant for the rent he wanted but under the existing terms he could give a week or a fortnight's notice, if there is no lease stipulating a period, and that would be the end of that. For a variety of reasons, such as people being transferred to the country, we have people living in flats instead of in their homes. There have been many hundreds of cases of people whose homes have become available for letting for the first time; that is since 31st December, 1950. Personally I am not aware of there having been any abuses in respect of such premises, but I am not suggesting there are not any. I have had many people coming to me in regard to the housing problem and I feel sure that if there had been the scandal that has been suggested I would have heard about it.

Hon. J. T. TONKIN: The only justification for this exception would be that it might possibly make available for letting an additional number of houses which would not be available without this provision. It is conceivable there are some persons who have had houses occupied in various ways and would be reluctant to let tenants in if they felt that within a short time they would be requiring the house, and would be unable to get the tenants out. Such owners would prefer to keep the places empty for periods of up to twelve months rather than take the risk of letting a tenant in for a short time, and be unable to get that tenant out. I take it that it was to encourage such owners to make their houses available to tenants for a short time that this exception was first suggested. At the same time, there is just as much reason to encourage a person whose house has been let before the 31st December, 1950, to let the house again, as there is to encourage a person to let a house which has not been let previous to this date. It is a house just the same and the desire is to provide accommodation for a family for whatever time is possible.

It makes little difference whether it is a new house or an old house if it will provide shelter for a family. What virtue is there in making a house which has not been let before available to a tenant, as against making one available which has been let before but happens to be vacant now? To my mind it is impossible to make a distinction. We know there are people who might want their houses within a few months, and who would be reluctant to let tenants into them if they felt they could not get them out. I know the case of an owner of a house who came to me early this year and said he was taking his wife to England. He did not want to leave the place locked up when he knew so many people in Fremantle wanted houses. He asked me how he would stand if he let a tenant in until such time as he returned from England, when he would want the place for himself. I told him that as the Act stood he would be protected, as the new agreement would be all right because he had not let his house previously. He was perfectly covered.

Should not we encourage other people who might have had tenants in their houses previously and who in some way or other got possession of their houses, but do not require them straight away? As mentioned by the member for Nedlands, there are cases where an owner has had a tenant in for some years; the tenant has built a place of his own and gone out to live in it and the landlord then has an empty house on his hands. If he contemplates using it for himself or a relative in the reasonably near future, or selling it in six months, he will not risk letting a tenant in if he cannot get him out, and would prefer to keep the place closed up. That means that that accommodation is lost to a tenant to whom it would otherwise be available for a few months if the landlord could get his premises back. If this idea is to apply to new houses which have not been let before it should also apply to houses which have had tenants in them previously, but might be available for a few months.

I do not see why we should say to the man who has never let his house, "You are perfectly safe because you can get your tenants out with a fortnight's notice," and to say to another man who has let his house previously that he cannot do so. Obviously such a landlord would not let a tenant in, but would keep the house empty for several months. If there is to be any virtue in this exclusion, it should apply to all houses so that some additional accommodation would be offering that otherwise would not be available.

A most remarkable situation could arise as a result of what we did earlier. Provision was made that the Government might, by regulation, override the Act. Under this part, we could exclude from its operations premises in respect of which a lease was entered into after the 31st December, 1950, and then make a regulation providing that Section 18 should not apply to premises, the lease of which was entered into after that date, and this would mean that such premises would then come under the Act. This might be a very good idea, but it is not what the Chief Secretary means.

The Chief Secretary: You know that there is not the tiniest likelihood of anything of the sort being done.

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

Ayes	....	....	....	22
Noes	....	....	....	24
Majority against	....	....		2

Ayes.

Mr. Brady	Mr. Moir
Mr. Graham	Mr. Needham
Mr. Guthrie	Mr. Nulsen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Read
Mr. W. Hegney	Mr. Rodoreda
Mr. Hoar	Mr. Sewell
Mr. Lawrence	Mr. Sleeman
Mr. Marshall	Mr. Styants
Mr. May	Mr. Tonkin
Mr. McCulloch	Mr. Kelly

(Teller.)

Noes.

Mr. Abbott	Mr. Mann
Mr. Ackland	Mr. Manning
Mr. Brand	Mr. McLarty
Mr. Butcher	Mr. Naider
Dame F. Cardell-Oliver	Mr. Nimmo
Mr. Cornell	Mr. Oldfield
Mr. Doney	Mr. Owen
Mr. Grayden	Mr. Thorn
Mr. Griffith	Mr. Watts
Mr. Hearman	Mr. Wild
Mr. Hill	Mr. Yates
Mr. Hutchinson	Mr. Bovell

(Teller.)

Pair.

Aye.	No.
Mr. Coverley	Mr. Totterdell

Amendment thus negatived.

Mr. GRAHAM: I move an amendment—

That a new paragraph be inserted as follows:—

(f) a dwelling-house ordinarily used for the occupation of persons employed by the lessor while so used.

Previously we agreed that, while a worker could be evicted from a house owned by the employer when he ceased to be so employed, it was desirable that some form of rent control should be exercised in these cases.

The Chief Secretary: I accept the amendment.

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

Clause 19—agreed to.

Clause 20—Summary recovery of possession in certain circumstances where lessor is owner:

Hon. J. T. TONKIN: If certain conditions are complied with, the owner may issue a notice to quit and, upon the termination of the period, the notice will take effect. There is not much the tenant could do because, in due course, the court would issue a warrant for eviction. The Government has enlarged the provisions for eviction beyond what was intended two months ago. No explanation has been given to us why there should be these additional grounds for eviction. It certainly cannot be because there has been any substantial improvement in the housing position, because that was never worse than it is today. There are more people on the point of eviction than I can previously remember and the Housing Commission, much as it is striving to meet the situation, was never in a more desperate plight than it is today.

Only early this week I had the necessity to get into touch with the Commission about a case that had been before the court last Wednesday, in which the magistrate gave an order for eviction and a warrant was issued. The bailiff has intimated that he intends to execute that warrant by this week-end, so that family will be without a dwelling at the end of the week. I approached the Commission and said that, as the Minister had stated in the House that all evicted families would be provided for, I would like to know in good time where this family was to go so that reasonable arrangements could be made for transport.

All that the officer at the Commission could tell me was that he had nothing to offer, but that if I got in touch with him on Thursday he might then be in a position to advise me if he had a dwelling for this family. This is only the beginning of things. Evictions have been held up because bailiffs have not been in a hurry to execute warrants and have taken their time about it. But they will not be able to continue to do that; and if the Commission at this stage cannot indicate, when warrants have been issued, where this emergency housing will be provided, it does not take much imagination to conjure up what the situation will be in a few weeks if we provide these additional grounds for eviction.

I would not deny to any legitimate owner of property the right to get his property, if he genuinely wants to live in it himself, but I am very much opposed to providing grounds for landlords to evict their tenants in order that they may as soon as possible sell the places and realise handsome profits. I have had a number of instances where all sorts of subterfuges have been used by landlords for getting their tenants out and subsequently selling the properties. We should not do anything to make it easier for persons who desire to sell their properties, instead of living in them, to evict their tenants. If anything, we should make it harder.

This Bill will provide additional grounds for eviction. For example, if the lessor is a body, whether incorporated or not, and has owned the premises for at least six months and requires them for occupation for any purpose, that lessor can serve notice on the tenant. We could have a situation where a firm required premises to store surplus goods, and that would be a legitimate reason for putting flesh and blood into the street while inanimate objects were put inside under

cover. Is that reasonable in these times of shortage of accommodation when we have people who actually sleep on the beach because they cannot find houses?

The Chief Secretary: Have there been cases of recent date where families have had to live on the seashore after eviction?

Hon. J. T. TONKIN: Only this day I was consulted by a family who slept on the beach at North Cottesloe last night. I will say for the Housing Commission that when I contacted it I was asked to send the family down and told that provision would be made for them. I have heard nothing more about it so I presume something was done. That family consisted of a man and his wife and two children, and the woman was expecting another child. They spent last night on the North Cottesloe beach. They had previously been living in a place for three months, but had not paid any rent because the owner would not take any, being afraid that if he did that would establish them as tenants. As he required the premises about now he said they could use them for a few weeks while they were seeing whether they could secure something better. So they went in there—and these people have had their application with the Housing Commission for approximately three years. They have been living in rooms and have had a terrible time. I say it to the credit of the Commission that when I drew attention to the matter it acted immediately.

This is a shocking state of affairs, and indicates how difficult is the situation when it is necessary for people under such conditions to spend even one night in the open. There will be more of that sort of thing if we liberalise these provisions too much and allow a firm to obtain a house for any purpose whatever by putting tenants out. Surely, if we are to provide for tenants being put out so that the premises can be used as a store, those desiring the accommodation should be made to prove that they reasonably required them. That is not too much to ask. If we agree to a provision like this, we are not in our right senses.

Mr. Marshall: You speak for yourself.

Hon. J. T. TONKIN: No other State in the Commonwealth has contemplated such a move. Are we to take the lead in a direction such as this? If we had spare houses and the Commission was in a position to provide them, it would be a different matter. The Minister knows the Commission is already in difficulties in that regard. I have no doubt the Commission will do its best and will not sit down on the job. Will that best be good enough to provide houses and prevent people from sleeping in the open? If it is in difficulties now, and we continue making houses available to migrants and evicted tenants, shall we have sufficient homes available?

Persons have had their applications before the Housing Commission for years. They have a No. 1 priority and have been approved for rental homes. The necessity to provide for persons who have been evicted has meant, as a result of recent legislation, that houses that ordinarily would have been available to persons whose applications have been in the hands of the Commission for a long time have to be made use of, and the applicants in consequence have to wait still longer. I had a case recently where a father and mother have allowed their married son, his wife and children to live with them for some time. Unfortunately, the father contracted tuberculosis in a contagious form. We have a doctor's certificate setting out that, owing to the tuberculosis being of a highly contagious type, it is very dangerous for young children to live in the same house. The matter went to the Housing Commission and before the emergency committee, the latter having agreed that a house should be made available quickly to remove the children from the danger of infection. The people were informed nearly two months ago that a house would be made available within three weeks. They are not in a house yet! When, in view of the urgency of the matter, I inquired the reason for the delay, I was informed that a house could not be made available because of the necessity to provide for migrants and evicted persons.

If we are to continue along those lines, emergency cases and applicants of long standing will be pushed further and further back. If we make the situation worse by liberalising the provisions for eviction, some of those persons whose applications have been before the Commission for years will be in a hopeless position. I propose to read a fairly recent letter which indicates what the situation is. The letter reads—

> In reply to your letter of the 20th inst., regarding your application for rental home, I have to advise that these homes are allotted in turn in date order from a priority list (except emergency cases).
>
> Your date on this list is the 31st August, 1948, and the Commission is at present dealing with applications lodged many months (in some cases years) prior to your date, and though fully appreciating your desire to obtain a Commonwealth-State rental home, I regret to have to advise that it will be some considerable time before your turn is reached. It is therefore unwise to rely on early allotment.

I wish to assure you I am fully sensible to the difficulties of your position and regret that I am not able to reply in a more hopeful vein, but as all applicants admitted to the priority list are in more or less similar and equal need, it is deemed that the method outlined above, of allotting houses in turn, according to the length of time the applicant has been waiting, is the fairest and most impartial.

It is impossible to indicate even approximately how long it will be before your turn is reached for allotment of a rental home, as this depends on many unpredictable factors.

We are still and will be for some considerable time dealing with applications lodged in 1947 and earlier.

So we see that the Commission is still dealing with applications lodged in 1947 and earlier—and this is 1951! Immigration is still going on; more evictions are taking place; and the Government's avowed intention is to build fewer Commonwealth-State rental homes. The Minister has declared this session that in future the policy will be to build fewer rental homes and more homes under the workers' homes scheme, which will be out of the reach of most of these tenants, so we shall worsen the position in many directions. Is the fact that the Commission is still dealing with applications placed on the priority list before 1947 a circumstance under which we should contemplate allowing bodies to gain possession of premises if they want them for any purpose whatever? This is just too foolish. I move an amendment—

That in line 4 of Subclause (2) the word "requires" be struck out and the words "reasonably needs" inserted in lieu.

The CHIEF SECRETARY: I wish the hon. member had put this amendment on the notice paper.

Hon. J. T. Tonkin: It is simple enough.

The CHIEF SECRETARY: But were the hon. member in my place he would appreciate notice of such amendment. It is the custom to put amendments on the notice paper, and in my view it should be followed now.

Hon. A. R. G. Hawke: It is a clear-cut issue.

The CHIEF SECRETARY: I am well aware of that.

Hon. A. R. G. Hawke: Well, face up to it!

The CHIEF SECRETARY: The hon. member has put in a good deal of his time telling us about the housing position. I am not saying he has over-stated his case, because he has not. I believe he has been very fair.

Mr. W. Hegney: You believe it is worse now than it has been for many years.

The CHIEF SECRETARY: That is just repeating what everyone else has said, and we know it is so. There are more evictions than ever before. I cannot dispute that, but the State Housing Commission is anxious to do its level best, as it is doing, and as the hon. member was ready to admit. The Government is fully alive, because of anticipated evictions, to the need to supply cottages to meet the needs of evictees. We have already commenced to build more cottages. I do not know whether we can build sufficient, but I think we can. I cannot be certain because no-one knows how many evictions there will be. We might conceivably find means of slowing up evictions. We shall keep abreast of the housing requirements of evictees. The Government has made up its mind to do this, and I think the Government will succeed in its attempt.

Hon. A. R. G. Hawke: The Government has made up its mind to do what?

The CHIEF SECRETARY: To have sufficient cottages ready to house all evicted persons. What does the hon. member think is wrong with that?

Hon. A. R. G. Hawke: Only that the Government cannot possibly achieve that objective without severely punishing those who have been on the application list for four or five years.

The CHIEF SECRETARY: I am not saying anything about those people. They present an entirely separate problem. The question dealt with by the member for Melville was that of finding accommodation for evicted persons. The unfortunate thing is that members will insist on dealing with extreme cases, and repeating them over and over again so that those who are listening are inclined to regard the extreme cases as being the normal ones, when they are not. The Government has every reasonable expectation of providing these cottages. I admit that on occasions, and now for that matter, the Government has been and is sailing close to the wind.

The task is most difficult, but surely the Government must be given credit for doing its level best. I am pleased that the member for Melville recognised that. I do not know whether the Leader of the Opposition admits it, but though the housing position is serious the eviction position cannot be termed serious at the moment. No-one here can say that in recent months people have been thrust homeless upon the streets. There may have been the odd case that the hon. member referred to, but it does not happen very often. The amendment is merely moving backward. We left that position behind us a little while ago. If I agreed to what the hon. member asks, it would

never pass another place. What sense is there in deliberately asking for a rejection?

Hon. J. T. Tonkin: You should ask for what you want.

Mr. W. Hegney: Who is running the country, the Legislative Council or this Government?

The CHIEF SECRETARY: The hon. member's question is not very sensible. I am concerned about the passage of the Bill through both Houses.

Hon. A. R. G. Hawke: By selling out to another place.

The CHIEF SECRETARY: What is the use of spoiling the case? I am against the amendment.

Hon. A. R. G. HAWKE: As the result of a conference between both Houses of Parliament the word "requires" was contained in the legislation when the amended Act came into operation at the beginning of this year and as the result of experience of the amended Act the Government decided, before Parliament first met this year, to seek the approval of Parliament for the substitution of the words "reasonably needs" for the word "requires." The Government did that because the Court's interpretation of the word "requires" as contained in the Act was other than the Government had thought it would be, and out of line with what Parliament had intended.

The Chief Secretary: That is quite right.

Hon. A. R. G. HAWKE: The Government decided that the position that developed because of the Court's interpretation of the word "requires" was a serious one which would become worse as time went on, and therefore members of the Government hurried the preparation of an amending Bill which was brought before Parliament early in September last, about ten weeks ago. The main provision of that Bill was one to delete from the Act the word "requires" and substitute for it the words "reasonably needs." The Premier and his Ministers, through the Government spokesman, the Minister for Education, who was in charge of the Bill when it was introduced in September last, said—

> As everyone knows, the result of the application to the full Court was merely to confirm the judgment of the inferior Court, so there we have one difficulty with which Parliament must now be prepared to deal. Whether the interpretation of the Court of the word "requires" carries out what Parliament believed it was doing in 1950 or whether it goes further, Parliament believed that the word as used in the 1950 Act implied a considerable measure of need and the Bill now before us in my opinion takes action accordingly.

That was what the Chief Secretary, through the Minister for Education, said in this House 10 weeks ago. The Chief Secretary, the Premier and other Ministers, at that time, through the Minister for Education, said further—

> I have already referred to the interpretation of the word "requires." This Bill seeks to change that word to "reasonably needs." This will be qualified in one respect and that is in the case of an owner himself who at the time of giving notice did not occupy a house owned by him. Notice to give possession of an owner's dwelling to his married son or married daughter will, however, be subject to the inquiry by the magistrate as to reasonable need. A similar right is being inserted in the Bill in favour of the mother and father of the owner.

Further on the Minister for Education stated—

> I think all members will agree that it is unfortunate that the word "require" was interpreted as it was.

It is clear, beyond doubt, that only ten weeks ago the Premier and his Ministers were strongly endeavouring, with the Bill they then brought down, to eliminate the word "requires" from the Act and to substitute for it the words "reasonably needs." We all know that that Bill was killed by the Legislative Council and now the Government brings down another which proposes to establish a new Act, and in it there are not included, as we would have expected there would be, the words "reasonably needs." Instead, it contains the word "requires." Obviously the Government has turned a complete somersault by this Bill compared with that which it introduced in September last, and the only excuse the Chief Secretary has put forward is that he personally would not be associated with a Bill likely to be defeated in another place. He does not mind being associated with the measure now before us, no matter how weak or dangerous it might be, provided he is persuaded it will be approved by the Legislative Council.

Presumably that is also the attitude of every member and supporter of the Government in this Chamber. Apparently fair dealing and justice do not matter a damn. The only thing that does matter is the wish of the more reactionary members of another place. The ideas contained in this portion of the Bill are undoubtedly those of Mr. Watson, M.L.C. and his colleagues in the Legislative Council, even though the exact wording of the clauses in this part of the measure

may not be theirs. They may not have decided on the exact wording of this and succeeding provisions, but they certainly decided on the ideas contained in this part of the measure. I would not be surprised if to a large extent they had decided the wording also.

The Chief Secretary: If I denied that, would you accept my denial?

Hon. A. R. G. HAWKE: I would not accept any denial from the Chief Secretary that the ideas in this clause are those of Mr. Watson and his colleagues.

The Chief Secretary: That is not the point.

Hon. A. R. G. HAWKE: It is.

The Chief Secretary: No. You tried to give the impression that I had been advised by them to construct the Bill as it has been constructed, and there is not a ha'porth of truth in that.

Hon. A. R. G. HAWKE: What I am saying is that the Chief Secretary and the other Ministers in the Government have put the ideas and the principles in these clauses because they are the ideas of Mr. Watson, M.L.C., and his colleagues in another place. Let the Chief Secretary deny that if he can! He cannot possibly do so because he has already admitted it when he replied to the second reading debate upon the Bill.

The Chief Secretary: He did not.

Hon. A. R. G. HAWKE: He did indeed because he said that this Bill is one which has been framed, as it has been framed, for the purpose of ensuring that it will have a very good chance of passing, if not be certain of doing so, the Legislative Council as well as the Legislative Assembly.

The Chief Secretary: Would you see much sense in sending along a Bill that did not have a good chance of getting through?

Hon. J. T. Tonkin: How could you know that it would be accepted?

The Chief Secretary: You can only use your own judgment in that regard; you cannot be sure.

Hon. A. R. G. HAWKE: We stand by fixed principles in regard to a matter of this description and we are not prepared to sell out our principles to Mr. Watson, M.L.C., or anybody else.

The Chief Secretary: You are telling me something I did not know before.

Hon. A. R. G. HAWKE: I am telling the Chief Secretary something that I hope will have some beneficial effect upon his attitude.

The Chief Secretary: I think you are going to be disappointed there.

Hon. A. R. G. HAWKE: I would not be surprised, because it would appear to me that the Government has lined itself up completely with the more reactionary members of the Legislative Council with regard to the main provisions of this Bill, and especially in regard to the particular clause which is now under discussion. There has been a complete political sell-out by the Government—

The Chief Secretary: That is nonsense.

Hon. A. R. G. HAWKE: —to the reactionary members of another place; so much so that it somersaults completely on the principles by which it stood so strongly only ten weeks ago. Why does it now put into this Bill, which proposes to set up a completely new Act to deal with rents and evictions, the word "requires," when ten weeks ago it was anxious to wipe out of the existing Act that word and substitute for it the words "reasonably needs"?

The Chief Secretary: Have you ever changed your mind?

Hon. A. R. G. HAWKE: I change my mind when there is some justification for it, but I do not change it for the purpose of selling out to Mr. Watson, M.L.C.

The Chief Secretary: Neither does anybody else.

Hon. A. R. G. HAWKE: The Chief Secretary cannot put forward any reasonable excuse for the Government somersaulting completely.

Mr. W. Hegney: The Premier knows the Chief Secretary sold out.

Hon. A. R. G. HAWKE: Let the Minister for Education, who introduced the September Bill, and who made the second reading speech upon it, come into this Committee and justify the present action of the Government in leaving out of this new Bill the words "reasonably needs" and substituting the word "requires!" The Chief Secretary knows that the Government has not a leg to stand on.

The Chief Secretary: He does not.

Hon. A. R. G. HAWKE: He knows that he is overawed and overruled by the more reactionary elements in the Liberal Party in this State, particularly those in the Legislative Council. The Government might think it wise and desirable to sell-out completely to the Legislative Council, or the more reactionary elements in that Chamber, but I would be very disgusted to think that all the supporters of the Government in this Chamber would do the same thing. Ten weeks ago the Government was desperately anxious to amend the existing law and to tighten it up in respect to evictions, and yet today it is desperately anxious to ease the law, to tear it wider open than it is even at the moment in regard to evictions of tenants from dwelling-houses and lessees from business premises.

Mr. Hoar: Because it has been told to do so.

Hon. A. R. G. HAWKE: If this measure is placed upon the Statute Book the Government will find that evictions will become the order of the day. There will be no necessity upon a landlord to prove justification or reasonable or any other need; all he will have to do will be to sign a declaration that he requires a dwelling-house for any purpose for his own occupation, or for the occupation of other people associated with his family. All that a company or person owning business premises, which are leased, will be required to do will be to swear out a declaration that they require them for any purpose at all for their own occupation or the occupation of some member of the family. The courts will not have any discretion at all, and no judge or magistrate will be permitted to use a grain of judgment as to what should or should not be done; the whole thing will become automatic in those circumstances.

Under that set-up, the hopes, wishes and expectations, as well as the prophecies of the Chief Secretary in regard to the Government being able to have sufficient accommodation available for evicted persons and their families, will be swept away as if a whirlwind had caught them up. The only chance the Government would have of housing all the evicted families would be to put itself into a position where nobody else but evicted families could be provided for in regard to rental homes. So I tell the Chief Secretary bluntly and plainly, and the Premier and his Ministers, that they are sowing a whirlwind by the particular provision in the Bill. Let me make it clear, on behalf of members on this side of the Chamber, that we raise no objection to a landlord's obtaining his rented home when he requires it for his own occupation, or for occupation by himself and the members of his family, and we would be prepared to support the Bill to enable those persons to obtain rented houses for occupation under the condition I have described. I hope the majority of the members of the Committee will support the amendment.

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

Ayes	....	....	18
Noes	....	....	21
Majority against		....	3

Ayes.

Mr. Brady	Mr. May
Mr. Graham	Mr. McCulloch
Mr. Guthrie	Mr. Moir
Mr. Hawke	Mr. Rodoreda
Mr. J. Hegney	Mr. Sewell
Mr. W. Hegney	Mr. Sleeman
Mr. Hoar	Mr. Styants
Mr. Lawrence	Mr. Tonkin
Mr. Marshall	Mr. Kelly

(Teller.)

Noes.

Mr. Abbott	Mr. McLarty
Mr. Ackland	Mr. Nalder
Mr. Brand	Mr. Oldfield
Mr. Butcher	Mr. Owen
Dame F. Cardell-Oliver	Mr. Perkins
Mr. Cornell	Mr. Thorn
Mr. Doney	Mr. Watts
Mr. Griffith	Mr. Wild
Mr. Hearman	Mr. Yates
Mr. Hutchinson	Mr. Bovell
Mr. Manning	

(Teller.)

Pairs.

Ayes.	Noes
Mr. Coverley	Mr. Totterdell
Mr. Needham	Mr. Nimmo
Mr. Panton	Mr. Grayden
Mr. Nulsen	Mr. Mann

Amendment thus negatived.

Hon. J. T. TONKIN: I move an amendment—

> That in line 5 of Subclause (2) after the word "occupation" the words "for any purpose" be struck out.

As the subclause now stands, a lessor may serve notice to quit on the tenant if he requires the premises for occupation for any purpose. Those words are far too wide in their implication. It makes it possible for a lessor to obtain premises merely for the sake of asking, and the words "for any purpose" do not mean for the purpose of living in them. The lessor could do anything he liked with them. He could use them to store potatoes, or for a showroom for motorcars after reconstructing them, which would all meet the requirements of the Bill.

The Deputy Premier knows that recently a number of tenants were served with notices to quit a building because the owner wanted to turn it into office accommodation. Are we so well off for houses that we can turn tenants out into the street in order that the accommodation may be converted into offices? Would that be a legitimate reason? Such action would not have to be justified before a court. All the lessor need do would be to make a declaration that he required the premises for any purpose, and then before the court all he would have to do would be to prove that what he stated in the declaration was true. He would not be called upon to justify it but would only need to say that he owned the premises for six months, and that he required them for his own use. Is that reasonable?

I cannot conceive of this Committee agreeing to pushing the requirements of families completely into the background in order that business men, if they wished, may use the premises for any purpose whatsoever; as a storehouse, as a showroom, or as office accommodation. If the Committee agrees to that, it will agree to anything. In the circumstances, the amendment is reasonable because it will provide that the lessor must use the premises for occupation which I would in-

terpret to mean to occupy properly and not for the purpose of turning the premises into storerooms or showrooms.

The Chief Secretary: Might I interrupt the hon. member to say that he has put up a good case, and that I am prepared to accept the amendment?

Amendment put and passed.

Hon. J. T. TONKIN: I move an amendment—

> That in line 5 of Subclause (3) the word "requires" be struck out and the words "reasonably needs" inserted in lieu.

If a person wants premises, he should show that he reasonably needs them for his occupation; not just that he requires them. The word "requires" has been interpreted to mean "wishes to have," so if an owner wishes to have premises he gets them. That is not fair. It ought to be stronger than that. If an owner wants premises for himself or for his married son or married daughter to live in, he ought to be prepared to show that. If in truth he does intend to live in them, then he reasonably needs those premises. I hope the Committee will take a different view from what it did a few moments ago in regard to this. It is all very well for people, who are comfortably housed and own their homes and are in no danger of being put out into the street, to sit by and academically consider the provisions of a Bill, but it is a different matter entirely when one is a tenant and, despite what one might be able to do to the contrary, can be put into the street at very short notice.

It is a very serious matter for a family to be put out in that way. Some people may have lived in premises for 20 or 30 years; they may have paid their rent regularly and been on friendly terms with the landlord, but the original landlord dies and somebody else purchases the property and desires to get the tenant out. This Bill says that if he wishes to have the place for his own occupation he can get the tenant out, and he meets the requirements of the Bill if, after he has got the tenant out, he enters into an agreement with a new tenant to pay a higher rent on condition that that tenant allows him to have a room so that he can stop there periodically. Unfortunately, there are people who will adopt this subterfuge. One of the points which we continue to overlook is that we have prevented a number of tenants from providing accommodation for themselves by the laws of this country.

The Chief Secretary: How did we do that?

Hon. J. T. TONKIN: I am glad the Chief Secretary is interested, because I am anxious to tell him. The law of this country, up to a few months ago, provided that any tenant who was living in someone else's house and was properly housed could not get a permit to build. Does the Chief Secretary not know that? That man cannot get on the priority list for a Commonwealth rental home nor can he get a permit to build. I know of people who have been trying to get a house built for six years and have made repeated application to the Housing Commission for a permit to do so, but every time they were told, "You are comfortably housed" even though they were living in rented premises and might be evicted at any time. The Commission refused them a permit to build. A number of those people would have provided houses for themselves and would have vacated the rented homes. There is a case to which I wish to refer, and I know the Chief Secretary knows about it because it was told to him in my presence at a deputation which I introduced.

A returned soldier got in touch with the War Service Homes and was making arrangements to acquire a property by means of a loan which the department was going to make available. This returned Serviceman, who was single, intended to provide accommodation for himself and for his father and mother. He got in touch with the agent and everything was teed up to make the purchase, but the department would not agree to make the loan available because this man is already comfortably housed and is not married or contemplating marriage. So he had to stay with his parents in the rented home. The landlord then served a notice on this young fellow's father and mother, with the result they were put out on the street. We allow that sort of thing to go on when we can prevent it. As we have prevented many tenants from providing homes for themselves—I should say hundreds applied to the Commission and were refused permits—they should not be penalised now by being put into the street at short notice. They should be given reasonable time to provide for themselves, and there has not been reasonable time.

There is a lag of 18 months to two years in the supply of bricks and five months in the supply of tiles and so, even had those tenants arranged for material on the very first day when the regulations were relaxed, there would not have been time to get homes built. Is it fair that we should prevent such tenants from getting permits to build and then allow landlords to have them evicted? They are entitled to further protection and my amendment will afford protection to a large number.

The CHIEF SECRETARY: A good deal of extraneous matter has been introduced by the member for Melville, but the argument remains precisely the same

as when we debated the question an hour or more ago. Suppose we made the amendment, what result could be expected? On the previous occasion when a word was inserted in the Bill, all we got for our trouble was rejection by another place. It is of no use our complaining if another place makes decisions that we do not like. The Council, equally with this Chamber, is responsible for the final shape of our legislation, and so I do not feel like wasting time by sending to another place something which for a certainty will meet rejection as it did on a former occasion. A good deal more could be said, partly in agreement with and partly in rejection of what the hon. member has said, but I am opposed to the amendment for the reasons given.

Hon. J. T. TONKIN: Should we start to guess at what another place might agree to?

The Chief Secretary: The hon. member knows another place sufficiently well to be aware of the result.

Hon. J. T. TONKIN: It is not beyond the bounds of possibility that another place might see reason for a change. At least we should make a try. If we have to endeavour to determine beforehand what might be expected of another place, we might as well close up.

The Chief Secretary: It is not the practice.

Hon. J. T. TONKIN: It might well become the practice.

Why should we care what another place will accept? We should decide here what we consider to be fair and just and, if another place repeats its former action, the people should be asked by referendum to say whether they favour its abolition. Then, if the people approved we should ask the Imperial Government to give effect to their decision. Never mind trimming here and trying to decide what might be acceptable to another place! Why should we put that House on a pedestal and recognise it as omnipotent? I shall not do it. We should consider legislation, not in the shadow or in fear and trembling of another place, but regardless of its existence. We can deal with what is actually done when the time comes. It is impossible to forecast with any degree of accuracy what the attitude of another place might be to a certain Bill. Some remarkable somersaults have been turned up there.

The Chief Secretary: And down here, too.

Hon. J. T. TONKIN: Any somersaults turned down here have been by members on the Government side.

The Minister for Education: Yes, from time immemorial.

Hon. J. T. TONKIN: No, by members on that side of the Chamber at present. The most recent example is that of two months ago when the Minister deplored the fact that the court had interpreted the word "requires" to mean "wishes." Now we have a proposition to ensure that the interpretation which the court put upon the word and which the Deputy Premier thought was wrong is the correct one. The only argument the Chief Secretary advanced was that it is of no use approving of something that will be unacceptable to another place. Is that to be our attitude to all matters?

The Chief Secretary: Not to all matters.

Hon. J. T. TONKIN: Then why in this instance?

The Chief Secretary: The special circumstances of the case.

Hon. J. T. TONKIN: The only special circumstances I can see are that the Minister has agreed with another place as to what will be sent there.

The Chief Secretary: I told you before that I had made no arrangement with another place, and had not discussed the matter with members of another place prior to the introduction of the Bill.

Hon. J. T. TONKIN: It looks mighty like it.

The Chief Secretary: Are you not taking my word?

Hon. J. T. TONKIN: I am not bound to answer that question.

The Chief Secretary: I knew you were thinking up something rather clever in reply to that one.

Hon. J. T. TONKIN: If we are to trim because of what another place might do, we might as well give up the game as the type of legislation we shall get will be worth nothing. We should determine what we want and fight to the last ditch to get it, not capitulate beforehand as the Chief Secretary proposes to do.

Mr. McCULLOCH: I support the amendment. Not long ago the Government took action in the court to obtain an interpretation of the word "requires". On the last occasion the interpretation of the word was not that which this place meant it to have when the legislation was passed. The words "reasonably needs" require no interpretation at all. I am surprised at the Chief Secretary adopting the attitude he has, because I have here a cutting from the "Daily News" of the 27th November, 1950, which reads as follows:—

> Chief Secretary V. Doney told the W.A. branch of the National Council of Women that it was impossible, at present, to adopt a recommendation made by the council on behalf of homeless house owners.

> The recommendation was that house owners should have unrestricted right to evict their tenants without reference to court.
>
> In a letter to the Council, Mr. Doney said: "To give a landlord such a right, even if times were not as difficult as they are at present, would be unfair to the tenant.
>
> "In fact, it would be impossible to adopt your suggestion in the period in which we are passing, since it would certainly lead to a large increase of those who are now living on back verandahs, in garages, sheds and other unsatisfactory conditions."
>
> Acting secretary, Mrs. R. E. Pratt, said that she greatly appreciated Mr. Doney's reply, which differed from the usual official reply to such recommendations.

In spite of that, it is proposed to give landlords the unrestricted right to put people out of their houses. This is a Bill of appeasement. It is obvious that if the word "requires" is retained there will be more litigation, and in all probability the taxpayers' money will be spent to get another interpretation of what the word really means.

Mr. STYANTS: To hear the Minister, one would imagine that all the members in another place would not be favourable to any alteration to the Bill. I would remind the Minister that the previous measure which was thrown out in another place last session— a measure which in my opinion provided for a much fairer deal as between tenant and landlord—was defeated only by the casting vote of the President. So the whole of the members of another place are not opposed to the main principles contained in this measure. Members here were elected by some 300,000 electors, and I hope they will not be dictated to or allow themselves to be called upon to trim their sails or water down legislation because a very small majority in another place representing only a handful of the people might take some exception to the legislation as sent down to them.

The 13 members in another place who voted to defeat the previous measure represented some 28,423 electors and the 12 who voted for the measure, supporting the Government's proposals, represented 28,262 electors, the difference being 161. Some of the main features of the previous Bill have been omitted from this measure, evidently, as the Minister says, as an act of appeasement or something we have to do under duress to get this legislation passed. I deplore the very specious reasoning of the Minister, and he will have difficulty in convincing some of us that a large majority of members in another place are not in favour of legislation which will provide for a fair deal as between landlord and tenant.

Mr. MARSHALL: The Minister argues that there is no possibility of getting this legislation through another place unless this clause is sent down as worded. I want to know how the Minister reaches such a conclusion, when he has denied that he has had any conference with members of another place or that he has been influenced by them. The Minister denies that he has been in communication with another place or any members of it.

The Chief Secretary: Quite right.

Mr. MARSHALL: He says that he has had no negotiation with members there in the drafting of this legislation, and particularly this clause. In that case, how does he know that this clause will be accepted if left unaltered? I have come to the conclusion that there is a coterie of individuals in St. George's Terrace that drafts legislation for this Government.

The Chief Secretary: Is that so?

Mr. MARSHALL: I am pretty nearly sure of it.

The Chief Secretary: Pretty nearly sure?

Mr. MARSHALL: I am positive of it now, unless the Minister can answer the point I have raised. The Minister can deny it if he likes, but members on this side will take a lot of convincing that this Bill was drafted without negotiation or conference with members of another place. Members of the Legislative Council represent vested interests, and I have doubts as to whether some of them have any right to vote on legislation of this description because they are interested parties. They are paid agents of many concerned with this legislation and, properly speaking, they should not be entitled to vote. It is just the same as when directors of insurance companies vote in respect of insurance legislation. How can the Minister say he is sure that the wording of the clause will be favourably accepted by another place?

Mr. HUTCHINSON: I have been looking at the clause and have paid a deal of regard to the remarks of members of the Opposition respecting the amendment. Personally, I cannot agree that the introduction of the words "reasonably needs" appears to be justified by the circumstances. I pay little regard to the Minister's reasons for retaining the word "requires" in the clause because it may suit another place. Let members look sensibly at the clause and read it first with the word "requires" in and then read it with the words "reasonably needs," substituted for the word "requires."

I cannot imagine anything more clear than the clause with the word "requires" in it, particularly when one realises that the word has been defined as meaning "wants." To me the clause with the words "reasonably needs" embodied in it would not be at all clear. As an ex-schoolteacher, I could not agree to the amendment. I

can understand the reason behind it. It should be the undeniable right of a man's son or daughter to obtain possession of his house in the circumstances indicated in the clause. Overmuch discussion appears to me to have been somewhat irrelevant, and I shall oppose the amendment.

Hon. J. T. TONKIN: I am hopeful now of getting the vote of the member for Cottesloe in support of the amendment. I listened carefully to his remarks and am convinced he really does not understand the implication of the provision. To indicate to him how the clause would work I shall give him a supposititious case. The owner of premises may have a father living in another house where he has been for some years and is comfortably housed. Suddenly he gets the desire to have his father living in the premises that are tenanted and, under the clause, he can get rid of the tenants merely because he wishes his father to live in the house they are occupying. He requires it for that purpose. The word "requires" has been interpreted as meaning "wishes." Therefore, if he wishes his father to occupy the house I refer to, he will be able to have the tenants turned out. If he were required to show that he reasonably needed the premises for his father to live in, he could not satisfy any court that that was the position, in view of the fact that the father was already comfortably housed.

I shall give the member for Cottesloe a concrete case to show what has happened. There was a man living in premises at Fremantle. He had endeavoured to get a permit to build but could not obtain one because he was living in rented premises. While there, the owner, who was a married woman living in Nedlands, sent a number of prospective buyers to inspect the property. When the people found that the house was occupied by a tenant, they were no longer interested because they wanted vacant possession. The woman then issued notice for eviction against the tenant on the grounds that she wanted the place for her married daughter who was living in Nedlands and had been there for years. Her husband was working in Perth.

Is it likely that the married daughter would want to shift to Fremantle, which would necessitate her husband travelling to Perth to his work? Because the woman wished to have the house for her married daughter that enabled her to serve notice upon the tenant. If she were required to prove that she reasonably needed the house for her married daughter in those circumstances, no magistrate would agree that the married daughter reasonably needed the house to live in. That is the difference.

The member for Cottesloe suggested that the use of the word "requires" in the clause made it simplicity itself, but it is a matter of interpretation. Is it commonsense to suggest that, in the circumstances I have outlined, the daughter reasonably needed the house at Fremantle? No magistrate would agree to that. This opens the door as wide as possible. A landlord who owns a number of houses could sell them one by one. He could say he required house No. 1 for his father, and serve notice on the tenant. He could then put his father in the tenant's house, even though the father was comfortable before, and sell the house he was previously occupying. Then he could say he wanted a house for his married daughter, and so on.

Mr. Hutchinson: That would be using the members of the family as pawns the whole time.

Hon. J. T. TONKIN: This would permit of that being done.

Mr. Hutchinson: Yes, but it is highly improbable.

Hon. J. T. TONKIN: That is the difference between "requires" and "reasonably needs." One day in the Perth Police Court I heard a landlady say in evidence that she wanted a house so that she could store furniture in it. She was already occupying a house next door to the one in question, but she said she had acquired a lot of furniture and had no room for it, so she wanted the house where the tenant was for the purpose of storing the furniture. I heard her lawyer argue that the wording of the Act permitted the landlady to get possession of the property because, though she was only going to store some furniture in it, it meant that she was requiring it for her own occupation. That is not a legitimate ground for putting a tenant out.

If we call upon a landlord to show that he reasonably needs the place for himself or his married son or daughter, etc., it will prevent him from merely getting possession because he would like to have the place for his married son or daughter, etc. The matter is not so simple as the member for Cottesloe would have us believe. On the contrary, there is a big difference between the interpretation and what can be done under it. It is no good saying that landlords would not use the provision in this way, because they have done so in the past. To say that an owner shall be permitted to gain possession of a place irrespective of the needs of his father or mother or son or daughter, is not sufficient for me.

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

Ayes	18
Noes	21
Majority against	3

Ayes.

Mr. Brady	Mr. May
Mr. Graham	Mr. McCulloch
Mr. Guthrie	Mr. Moir
Mr. Hawke	Mr. Rodoreda
Mr. J. Hegney	Mr. Sewell
Mr. W. Hegney	Mr. Sleeman
Mr. Hoar	Mr. Styants
Mr. Lawrence	Mr. Tonkin
Mr. Marshall	Mr. Kelly
	(Teller.)

Noes.

Mr. Abbott	Mr. McLarty
Mr. Ackland	Mr. Nalder
Mr. Brand	Mr. Oldfield
Mr. Butcher	Mr. Owen
Dame F. Cardell-Oliver	Mr. Perkins
Mr. Cornell	Mr. Thorn
Mr. Doney	Mr. Watts
Mr. Griffith	Mr. Wild
Mr. Hearman	Mr. Yates
Mr. Hutchinson	Mr. Bovell
Mr. Manning	*(Teller.)*

Pairs.

Ayes.	Noes.
Mr. Coverley	Mr. Totterdell
Mr. Needham	Mr. Nimmo
Mr. Panton	Mr. Grayden
Mr. Nulsen	Mr. Mann

Amendment thus negatived.

Hon. J. T. TONKIN: I move an amendment—

> That in line 6 of Subclause (3) the words "for any purpose" be struck out.

I am not prepared to allow people to gain possession of premises "for any purpose." I draw attention again to the case I just quoted of the landlady who said she wanted to put her tenant out so that she could store some furniture in the house.

The Chief Secretary: I accept the amendment.

Hon. J. T. TONKIN: Sweet reason is prevailing at last.

Amendment put and passed.

Hon. J. T. TONKIN: I move an amendment—

> That in lines 6 to 8 of Subclause (3) the words "or for occupation by a person who, or a body which, is associated with the lessor in his trade, profession or calling" be struck out.

Whilst I agree it is reasonable to assume that a landlord might want premises for his father or his mother, or his married son or daughter, I think it is stretching things a little to allow him to put a tenant out for the purpose of putting in a business associate. We do not even insist that the business associate shall have been some time in the country. We say that a man's parents or his married children must have resided in the Commonwealth for two years, but we are asked to say that it does not matter whether a business associate has only just landed in the Commonwealth, the owner can still put the tenant out. Is the Government going to insist on this provision just to please another place?

The Chief Secretary: Do not ask for trouble.

Hon. J. T. TONKIN: Apparently sweet reasonableness is again prevailing.

The Chief Secretary: Having closely scanned the wording to which the hon. member objects, I am prepared to accept the amendment.

Amendment put and passed.

Hon. J. T. TONKIN: I move an amendment—

> That in lines 12 and 13 of Subclause (3) the words "or of whom, or of which, the lessor is an employee" be struck out.

The Chief Secretary: I will accept the amendment.

Amendment put and passed.

Hon. J. T. TONKIN: Subclause (4) would enable a trustee, anxious to wind up an estate, to put the tenant out in order to sell the premises at a high price, with vacant possession. I do not think there are legitimate grounds for allowing that, under present conditions, as I have known trustees take 20 years to wind up an estate.

Mr. Griffith: There might be special circumstances. If a man died leaving infant children, it might be proper for the trustee to endeavour to provide for them as well as he could, by selling on the best possible market.

Hon. J. T. TONKIN: If the market is not suitable, trustees will hang on for years. Where a business is part of an estate and is profitable, the trustees may run it for many years in order to realise on it at the most opportune time.

Mr. Manning: They often have to sell a house to pay probate.

Hon. J. T. TONKIN: Then they could sell the house with the tenant in it. We have to decide whether we are to disregard entirely the welfare of the tenant in order to enable the estate to realise more. We tell the landlord that he must not sell his house if he has for a tenant an ex-Serviceman, but now we are asked, when that landlord dies, to say to his trustee, "You can sell the premises with vacant possession so that the beneficiaries may get more money." For how long does the Government anticipate that this legislation will operate? Suppose it was to be another three years! Is that too long to expect trustees to wait when they sometimes wait 20 or 30 years to wind up estates?

The Premier: Very few!

Hon. J. T. TONKIN: Some of them do.

[*Mr. Hill took the Chair.*]

The Premier: How many years have they waited now without being able to do anything?

Hon. J. T. TONKIN: It all depends. Some of the trustees might not have waited any time because the testators might not yet be dead.

The Premier: What about the people of 1939 who wanted to wind up estates? What has been their position?

Hon. J. T. TONKIN: I suppose they have not been able to sell with vacant possession! A number have probably been sold to the tenants. Surely the Premier will not say that the houses have not been sold because they have tenants in them. Hundreds have been sold in that manner.

The Premier: Under your proposal I cannot see when these trustees will ever have a chance of realising on their assets and winding up the estates.

Hon. J. T. TONKIN: It all depends on how long the legislation will be in operation.

The Premier: It has been in operation since 1939 and we have not let them do anything yet.

Hon. J. T. TONKIN: This means that, if in three or four months' time a landlord dies, a trustee can straightaway get rid of the tenant even though the landlord has not been able to do so during his lifetime.

Mr. Bovell: Circumstances alter for the tenant.

Hon. J. T. TONKIN: They will certainly alter for the tenant. It is the question of money all the time. This will not be a case of providing a house for the landlord or for the trustee.

The Premier: Is it not a question of giving people their rights?

Hon. J. T. TONKIN: Do we always give people their rights?

The Premier: We endeavour to do so.

Hon. J. T. TONKIN: Yet we will not allow tenants in rental homes to erect houses for themselves. We have said to them, "You are comfortably housed. We will not admit you to the priority list for a Commonwealth rental home until you have hardship and you are not suffering hardship. Although you applied in 1947, we cannot accept your application until you are actually evicted, and your priority will date from the date of your eviction." We also say to the people who apply to the Housing Commision for a permit to build, "You cannot get a permit to build because you are comfortably housed even though you are in somebody else's house. You stay where you are." We ought to talk about giving people their rights! Those are the rights that the Government recognises—the rights of property.

If a trustee wants to take advantage of the present high market, the Government says that we should disregard the welfare of the tenants; it does not matter about them. Put them out so that the trustee can wind up the estate and give the beneficiaries some more money. The rights of property will thus prevail over the interests of flesh and blood. If the Housing Commission had plenty of accommodation available it would be all right, but it is already in difficulty and the position will get worse when the evictions under this legislation become possible. Although the courts and the bailiffs are now co-operating to slow up the tempo they will not be able to hold the position indefinitely, and the demands on the Commission will become greater than we will be able to meet. We will have the position of people being unable to obtain accommodation so that the rights of property may prevail. It does not make commonsense to me and so I move an amendment—

That Subclause (4) be struck out.

The CHIEF SECRETARY: I did not anticipate opposition to this proposal The hon. member has advanced all the arguments that do not favour the proposal and has ignored entirely those in favour of it. There would be many occasions when this provision would be valuable particularly in cases of relatively poor estates. Take the case of a company that has to be wound up and the only asset is the estate! It is frequently necessary to dispose of the estate in order to pay probate. There is probably more that could be said in favour of the provision and personally I am not prepared to forego the subclause.

Mr. J. HEGNEY: The amendment is fair and reasonable. If accepted it will not prevent the estates from being wound up. The member for Melville omitted to mention that a trustee may be dealing with an estate that covers half a dozen or even 10 houses. In that case there would be 10 evictions. The Chief Secretary suggests that there may be some poor estates but I venture to say there would be a large number of them that could be classified in the group I have instanced. Many people invest in real estate and own probably 10 or even 20 houses each.

The member for Canning said that dependent children might need assistance, but surely we could leave that to the determination of the trustee; he could make a decision as to whether the property should be sold. He could take into account the benefit that would result to the beneficiaries. A trustee, in disposing of an estate, may possibly have six, 10 or 15 houses to handle. I can remember a prominent member of this House, at one time a Chief Secretary, who had 150 houses. He had many in the electorate of the member for Guildford-Midland and derived considerable income from them. If the subclause remains in the Bill a trustee of an estate such as that could serve notices on 150 tenants, which would create a most serious position. The amendment is reasonable and the Chief Secretary should agree to it.

Mr. GRIFFITH: I think I should make a few things clear in the mind of the member for Middle Swan in regard to the statement that I made of the position that

would be created in regarding the conditions laid down in a will. I am sure the Attorney General would agree with me that a trustee is not in a condition to withhold the sale of property where the will expressly states it should be sold. He must carry out the directions of the will in their entirety.

Mr. W. Hegney: Cannot he realise, subject to existing tenancy?

Mr. GRIFFITH: Yes, he could. I am only making myself clear for the benefit of the member for Middle Swan. There is some argument in favour of the amendment, but I am thinking of, say, an infant beneficiary under a will. There are a number of instances where the trustee has no right to postpone the sale of property, because the directions in the will are express and he must realise on the house immediately following the testator's death. If he offers the house for sale with vacant possession the proceeds would be much greater, and in such circumstances I think it would be up to the trustee to do the best he could for the infant benefiting from the provisions of the will.

Mr. BRADY: In my electorate at the moment I can site a classic example as to how this provision will operate. An elector of mine died a few months ago, leaving a will under which the assets were worth approximately £900. Living in the house which he owned was his own daughter, with her two children. There are six beneficiaries under the will and if the house was sold with vacant possession it would realise an extra £200. However, to obtain vacant possession the daughter must shift out and find alternative accommodation, which she cannot do. As a result she will have to suffer the anxiety and distress of being without accommodation in order that her five brothers may obtain about £40 each from the sale of the house with vacant possession. I do not think it would be the desire of the testator to place his daughter in such circumstances and it would be better for the remainder of the beneficiaries each to receive £20 less from the proceeds of the sale of the house. However, in this case the Public Trustee wants the daughter out.

Mr. OLDFIELD: I think the member for Midland-Guildford is a little off the beaten track. He has indicated that if the clause remains in the Bill there is no option for the Public Trustee but to evict. In my opinion it is purely a question for the Public Trustee to decide whether he shall evict the tenant or otherwise.

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

Ayes	18
Noes	21
Majority against	3

Ayes.

Mr. Brady	Mr. May
Mr. Graham	Mr. McCulloch
Mr. Guthrie	Mr. Moir
Mr. Hawke	Mr. Rodoreda
Mr. J. Hegney	Mr. Sewell
Mr. W. Hegney	Mr. Sleeman
Mr. Hoar	Mr. Styants
Mr. Lawrence	Mr. Tonkin
Mr. Marshall	Mr. Kelly

(Teller.)

Noes.

Mr. Abbott	Mr. McLarty
Mr. Ackland	Mr. Nalder
Mr. Brand	Mr. Oldfield
Mr. Butcher	Mr. Owen
Mr. Cornell	Mr. Perkins
Mr. Doney	Mr. Thorn
Mr. Grayden	Mr. Watts
Mr. Griffith	Mr. Wild
Mr. Hearman	Mr. Yates
Mr. Hutchinson	Mr. Bovell
Mr. Manning	

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Coverley	Mr. Totterdell
Mr. Needham	Mr. Nimmo
Mr. Panton	Dame F. Cardell-Oliver
Mr. Nulsen	Mr. Mann

Amendment thus negatived.

Clause, as previously amended, put and passed.

Clause 21—Recovery of possession and ejectment generally.

Mr. PERKINS: The machinery provisions for the recovery of possession state that a special procedure is to be followed. Where a lessor serves on the lessee a written notice to quit, the presumption is, and I understand the practice has been, for the ground to be stated in the notice. Further on in this clause certain grounds are set out, and I understand the practice in the court has been that notice may be given on account of one or several of those grounds; but it may be possible that the particular ground for eviction is, in the opinion of the court, somewhat mitigated and I believe the practice is to refuse to grant eviction on any other ground not mentioned in the notice to quit.

Where no mention is made in the notice that a tenant has been knocking the premises about, and the original grounds in the notice have not been considered sufficient by the court, it has held that the fact that the tenant has been knocking the premises about has not been mentioned in the notice to quit and it can take no cognisance of anything that is not contained in the notice. I know the Attorney General thinks that my amendment will be redundant, but the fact remains that these difficulties have arisen. I should like to hear from the Attorney General why the procedure in this clause should not be tightened up to avoid loopholes, even though he interprets the clause differently from what the courts have done on a number of occasions. I move an amendment—

That in Subclause (6) a new paragraph be added as follows:—

(g) any other ground which may be deemed to be satisfactory to the Court, including any of the

grounds above mentioned which may have come into existence or to the notice of the lessor after the date of the service of the notice to quit: Provided that in any such event the lessor shall give notice to the lessee of his intention to add such further ground and shall file a copy of such notice in the Court.

The ATTORNEY GENERAL: Under the old regulation it was compulsory to state in the notice to quit the grounds which were relied on, but this Bill does not say that. Admittedly it would be possible by regulation to require grounds to be inserted in the notice. I have noted the hon. member's point and if any regulations are passed it will be taken care of. It is a pity to put into the Bill what I consider to be an administrative matter. All administrative matters have been left out of this measure, partly to shorten it and partly to clarify it, and it would not be of advantage to insert them. This particular clause deals with the grounds on which one gives notice to quit and what the court shall grant. It does not say these have to be in the notice.

Mr. Graham: Do you mean to say a tenant can be served with notice to quit and that he does not know the ground on which he is being tossed out?

The ATTORNEY GENERAL: That is so, but on the other hand machinery matters, like forms, are dealt with by regulation.

Mr. PERKINS: If the Attorney General intends to do this by regulation, and if he can cover these points by that method, that will satisfy me. Quite obviously something will have to be done by regulation if it is not done in the clause because, as the member for East Perth has said, it is necessary that the tenant should know on what grounds the landlord is going to apply for his eviction before he actually attends the court. That is an elementary principle of justice. If the Committee is satisfied, I am prepared to let it go.

Amendment put and negatived.

Clause put and passed.

Clause 22—Protected persons:

Mr. GRAHAM: I move an amendment—

That in line 4 of paragraph (a) of Subclause (1), after the figures '1920" the symbol "-" and figures "1951" be inserted.

Amendment put and passed.

Mr. MAY: I move an amendment—

That in paragraph (c) of Subclause (1) the words "a person engaged on war service within any prescribed area" be struck out with a view to inserting the words "a person enlisted in the Armed Forces for service."

The paragraph will then read—

(c) a person enlisted in the Armed Forces for service outside the Commonwealth whilst so serving and for such further or other period as may be prescribed.

There has been a fair amount of controversy as to the position that would prevail if the paragraph were amended as I suggest. Previously I have protested that the protection for men leaving Australia was insufficient inasmuch as they had to be within 100 miles of the prescribed area before becoming entitled to protection. My object is to protect them completely immediately they leave the Commonwealth.

Mr. YATES: I have legal advice to the effect that the amendment has a double meaning. It could be interpreted that, immediately a man enlisted for service outside Australia, he should receive complete protection. I believe that is not the intention of the member for Collie. A number of persons are engaged in the Air Force and Navy who, although they have signed a form consenting to serve oversea if required, would never be sent oversea. Some are over age and some have qualifications to do work only within the State. If the court held that persons who had signed the form came within the scope of the amendment, they would receive protection. I propose to move an amendment at a later stage that might overcome the difficulty.

Mr. W. HEGNEY: A young man might enlist for service in Korea and be training in the Commonwealth and, while so training, his wife and children might be evicted. Such a man would not have much peace of mind if he found that happening.

Mr. Yates: My proposal will cover that.

Mr. W. HEGNEY: I hope that protection will be extended to the wife and children of a young man who enlists for service oversea to cover the period while he is still training in Australia.

The CHIEF SECRETARY: I oppose the amendment. I understand what it is intended to mean, but I do not think it conveys that meaning.

Mr. May: It is in the draftsman's own words.

The CHIEF SECRETARY: The member for South Perth has supplied me with a copy of a proposed amendment which I believe will meet the position fully, and I feel disposed to accept his amendment. It covers the ground covered by that of the member for Collie and provides protection for those enlisting in the State in the circumstances mentioned by the member for Mt. Hawthorn.

Mr. Hearman: I would like to ask the member for Collie what would be the position of a man stationed in Rabaul or a mandated territory? Would he be a man serving outside the Commonwealth within the meaning of the hon. member's amendment?

Mr. MAY: Yes. I do not want to cloud the issue in any way, but we have no guarantee that the proposed amendment of the member for South Perth will be carried.

Mr. J. Hegney: What is it?

Mr. MAY: I cannot say. If I agree to withdraw my amendment in favour of his, we will not have a chance to go back to mine in the event of the Committee deciding against the supposition of the Minister. I am seeking to provide some extension of the protection afforded Servicemen under the previous Act, and I want to make sure that a person leaving Australia for service oversea is sufficiently protected.

Mr. GRIFFITH: I have conferred with the member for South Perth on this matter and feel that, in order that the fears of the member for Collie may be allayed, the member for South Perth should explain what he proposes to move.

Mr. YATES: It is my intention to move that a new paragraph be inserted as follows:—

> A person who has enlisted in the Armed Forces of the Commonwealth for war service outside the Commonwealth and, by direction of the particular service in which he is serving has left Western Australia to complete his training in another part of the Commonwealth prior to departure on war service outside the Commonwealth shall be deemed a protected person while so serving.

This will give protection to the soldier who has enlisted to serve outside Australia and will give that protection from the moment he leaves the boundaries of this State.

Mr. W. Hegney: Why should he have to wait until he gets over the border?

Mr. YATES: This provides for a training period of six months prior to a man's going away. While a man is in this State he is close to his family and can give them protection, but when he goes some 3,000 miles away he has not the same close contact.

Hon. A. R. G. HAWKE: I think the amendment of the member for Collie does not go far enough, and I feel the same about the suggested amendment of the member for South Perth. What is the objection to making a person a protected person from the moment he enlists, irrespective of where he is stationed?

The Attorney General: That would apply to men of 50 who might enlist in the Air Force as carpenters.

Hon. A. R. G. HAWKE: It would apply to any person who enlisted in the Armed Forces for service outside the Commonwealth.

The Attorney General: Every Air Force member does that.

Hon. A. R. G. HAWKE: If so, he is entitled to protection.

The Attorney General: Even if he is going to be 10 or 15 years in Australia?

Hon. A. R. G. HAWKE: This will not last that long.

Mr. Yates: A lot will not go away.

Hon. A. R. G. HAWKE: If it satisfies the Attorney General, he can delete his Air Force people.

The Attorney General: We must protect members of the Air Force who are going oversea.

Hon. A. R. G. HAWKE: If the Attorney General can find some remedy for the peculiar circumstances of men enlisting in the Air Force for service outside the Commonwealth, I think we would be happy about that. I suggest to the member for Collie that he continue to persevere with his amendments and, if he succeeds with both of them, he could move another amendment to delete the words "while so serving" for the purpose of substituting the words "during such period of enlistment." That would mean that a protected person would be a person enlisted for service in the Armed Services outside the Commonwealth during the period of enlistment, and for such further or other period as might be prescribed. If the paragraph were altered along those lines, a person who enlisted in the Armed Forces for service outside the Commonwealth would be protected from the date of enlistment, irrespective of whether he were in one of the Eastern States or somewhere in Western Australia, or even oversea.

The Attorney General: Even if he were never to go oversea?

Hon. A. R. G. HAWKE: Yes, as long as he was enlisted by the authorities for service outside the Commonwealth.

The Attorney General: Every man who joins the Air Force is enlisted for service oversea, and he may never go abroad.

Hon. A. R. G. HAWKE: That is quite so. If the Attorney General can advance a solution for that, well and good.

The Attorney General: The member for South Perth has the solution.

Hon. A. R. G. HAWKE: I do not think he has.

Mr. W. Hegney: There is a gap in his proposal.

Hon. A. R. G. HAWKE: Although a man may enlist in one or other of the services, he may be transferred to another part of Australia or may not even leave Western Australia.

Mr. Yates: That is the point.

Hon. A. R. G. HAWKE: If we are to protect men enlisted for service outside the Commonwealth and they may be sent to one of the other States, they should be equally protected just as they should be if they remain in Western Australia. The argument that if an enlisted man remains in Western Australia he can look after his family cuts no ice with me. If a person enlists for service outside the Commonwealth the Government should look after his family, and see that his wife and family are not thrown out of the house they occupy even though the man might, in fact, remain in Western Australia.

The Attorney General: Even for six or seven years.

Hon. A. R. G. HAWKE: The same point would arise if he were transferred to another State and remained there for the rest of his time of enlistment.

Mr. Hoar: The outlook of the member for South Perth is very narrow.

Hon. A. R. G. HAWKE: The family of a serviceman requires protection even though the husband is trained in Western Australia or in some other State.

The Attorney General: I take it your desire is to protect the man who is going to fight outside the Commonwealth, not the man who will serve in the Air Force as a carpenter within Western Australia.

Hon. A. R. G. HAWKE: My desire is to protect the man who enlists for service outside the Commonwealth, as proposed in the amendment moved by the member for Collie.

Mr. Hearman: The only person you would not protect is the man who enlisted for service beyond Australia.

Hon. A. R. G. HAWKE: I would protect him.

Mr. Hearman: But not under your suggestion.

Hon. A. R. G. HAWKE: I know that.

Mr. Griffith: Some of these men enlisted for service in Korea, but have not gone outside Western Australia.

Hon. A. R. G. HAWKE: If the Attorney General or the member for Canning can overcome that difficulty, it will be all right. The member for Collie wants to go further than the proposal of the member for South Perth and seeks to protect all persons who enlist in the Armed Forces for service outside the Commonwealth, irrespective of whether they happen to be in Western Australia, the Eastern States or outside the Commonwealth.

Mr. Griffith: I want the men to have protection immediately they leave Western Australia.

Hon. A. R. G. HAWKE: The only difference between the member for Canning and myself is that I want to protect them while they are in their own State, as well as while they are in some other State. However, as the Premier has indicated he is anxious to report progress, I will not discuss the matter further.

Progress reported.

House adjourned at 12.37 a.m. (Wednesday).

Legislative Council

Wednesday, 28th November, 1951.

CONTENTS.

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

ASSENT TO BILLS.

Message from the Governor received and read notifying assent to the following Bills:—

1, Rights in Water and Irrigation Act Amendment.

2, Fremantle Harbour Trust Act Amendment.

3, Gas Undertakings Act Amendment.