Legislative Council,

Tuesday, 22nd November, 1932.

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

ASSENT TO BILL.

Message from the Lieutenant-Governor received and read notifying assent to the Land Tax and Income Tax Bill.

BULK HANDLING BILL, SELECT COMMITTEE.

Report presented.

HON. V. HAMERSLEY (East) [4.34]: I submit the report of the Joint Select Committee on the Bulk Handling Bill. I move—

That the report of the select committee be received.

Question put and passed; report received.

BILLS (2)—THIRD READING.

1, Road Districts Act Amendment.

Returned to the Assembly with amendments.

2, Public Service Appeal Board Act Amendment.

Passed.

BILL—TRAFFIC ACT AMENDMENT.

Second Reading.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [4.37]: in moving the second reading said: The purpose of the Bill is to continue the operation of Section 10A of the Traffic Act until the 31st December, 1933. The Traffic Act was passed in 1930. It was recognised that motor vehicles, very often having trailers attached, and carrying heavy loads, were causing excessive wear and tear to the roads, and were not paying a relatively reasonable fee for the right to use such roads, and should be compelled to pay at least a proportionate cost of the upkeep. To meet the situation this legislation was adopted, and provided that any motor truck using the roads specified in Part II of the Traffic Act should pay an extra license fee. In accordance with the Act the whole of this money—less cost of collection and administration—must be made available for the maintenance, repair, and improvement of the roads. It was suggested that the imposition of the extra fees might inflict hardship in certain circumstances, so provision was made whereby exemptions could be granted. The Minister has wide discretionary powers, which he has used justly, yet sympathetically. Parliament, recognising that this legislation was more or less experimental, decided that the section referred to should have application only until the 31st December of this year. Therefore, unless it is re-enacted it becomes void on that date. The owners of vehicles subject to this extra license fee have the right to pay it half-yearly, or yearly.

For the first half-year of the operation of the Act for the period ended on the 30th June, 1931, 132 vehicles were registered and the fees collected amounted to £780 6s. 2d. For the financial year 1931-32, 345 vehicles were registered, 165 for the first six months, the fees paid being £3,019 16s. 2d.; and 180 for the second half of the year, on which fees totalling £2,681 8s. 5d. were paid. For the year commencing on the 1st of July last, 201 vehicles have been licensed and the fees received to 30th September totalled £3,197 13s. 8d. It will thus be seen that since the inception of the Act, and up to the 30th September, 1932, a total of £9,679 4s. 5d. has been received. In addition to the traffic inspector constantly patrolling the prescribed roads under Section 10A officers of the Main Roads Department and stationmasters of the Government Railways and the Midland Railway Company have been appointed honorary inspectors. Forty-six prosecutions for alleged breaches of Section 10A have been carried out and fines ranging from 10s. to £2, together with

orders to pay the prescribed license fee, ranging from £6 to £27, have been made and collected. Motor competition with the railways has assumed big proportions, and is seriously affecting the revenue-earning capacity of this State-owned utility. The trouble is that the carriers pick out the payable lines and leave the heavy and unpayable goods for the railways to carry.

South Africa was confronted with the same problem of motor competition, with the result that the Government met the position by introducing legislation to control motor passenger and motor goods transportation. Under the South African Act the Governor in Council can proclaim areas and routes to which the regulations will apply, and a Road Transportation Board and subsidiary local boards have been appointed and are responsible for the administration of the Act. Before issuing a certificate on a motor service, the board is required among other things, to take into consideration whether the transportation requirements of the public are, or can satisfactorily be met by other existing transport facilities. If the board consider that existing facilities are satisfactory and sufficient they will not grant a certificate. Even when certificates have been granted, if it is found that on any particular area or route, the transportation facilities are in excess of requirements, the board can, after giving six months' notice, cancel all such certificates and issue a reduced number, sufficient to meet the existing demand.

Motor competition is now becoming such a menace to State-owned utilities that it is apparent that some such legislation will have to be enacted to control the competition. Hon. members have drawn attention to the matter on numerous occasions. The Government recognise the fact that the Traffic Act requires amendment, but owing to the number of Bills which have still to be considered by Parliament during this session it has not been possible for the matter to be thoroughly investigated. It is therefore considered advisable that the operations of Section 10A should be continued for another year. I move—

That the Bill be now read a second time.

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—FINANCIAL EMERGENCY ACT AMENDMENT.

Second Reading.

Debate resumed from the 15th November.

HON. J. M. DREW (Central) [4.47] Under the Financial Emergency Act of 1931, the University is included amongst State instrumentalities, and enjoys immunity from the Act except in regard to Government grants, which have suffered a reduction of 22½ per cent. by reason of the operation of the measure. The Bill goes further and singles out the University from the other State instrumentalities for the purpose of forcing it to come under the mortgagors' interest provisions set forth in Part VI. of the Act. The Government exempt themselves from these provisions and exempt several other bodies as well. In the Act, the definition of "State instrumentalities" reads as follows—

"State instrumentalities," except as hereinafter mentioned, means and includes any department, public institution, trust, board, commission, association, body corporate or incorporate, or person created, established or appointed under the authority of any Act of Parliament, and any State trading concerns and any State hotel. The term does not include any governing body constituted under any law relating to local government, or any body or person aforesaid created, established, or appointed for its own or his own private benefit, and which is not subject to the control of a Minister of the Crown in the administration of its or his business.

When the original Bill was before the House, the definition of "State instrumentality" was carefully examined, and an amendment was moved by Mr. Nicholson. Mr. Holmes was present, and neither he nor any other member objected to that part of the Bill which included the University. Now, after a lapse of 15 months, Mr. Holmes comes forward with this Bill to undo what was then done; and not only that, but to make the Bill he introduces take effect from the date of the coming into operation of the original Act. It should need no argument to convince members that if there is any institution more than another which

merits the title of a State instrumentality it is the University of Western Australia. It has been maintained almost entirely out of Government funds; indeed, its establishment was accompanied by a statutory provision for an annual grant of at least £13,000. That grant was voluntarily increased by various Governments until it reached the sum of £31,000. Long before the University was founded, in 1904 to be precise, the University Endowment Act was passed, and from time to time liberal grants of land have been made to the University to assist it in its work, the results from which are small now, but must be great in the future. The Government have representatives on the senate, which is the governing authority of the University, and all statutes passed by the senate must be laid on the Tables of both Houses of Parliament, and are subject to disallowance.

Hon. J. J. Holmes: Who are the Government representatives?

Hon. J. M. DREW: The President of this Chamber is one, and I am another.

Hon. G. W. Miles: A nominee of the Government!

Hon. J. M. DREW: Yes, and of the present Government. I should like to emphasise that the University is depending on Government funds for its existence, and would have to close its doors if that support were withdrawn to any serious extent. To all intents and purposes, therefore, the University is a Government institution, and under the Financial Emergency Act it should enjoy all the privileges that are accorded to a State instrumentality. The Government took this view, and Parliament endorsed it without question a year ago. Naturally, the University availed itself of the immunity granted to it, and until recently made no reduction in the rates of interest which it charged to various bodies that had borrowed money from it. Let this be understood: Nearly all the advances made were from moneys received under the Hackett bequest. How is the income in the form of interest to be utilised by the University? No less than 72 per cent. of it is used for bursaries and scholarships, and for financing the students' loan fund to enable brilliant students where necessary to proceed to other universities outside the State in order to study for professions for which no training is afforded in Western Australia. All this is strictly in keeping with the terms of the bequest of the late Sir Winthrop Hackett, and any reduction of interest must therefore chiefly affect the Hackett bursars: that is to say, deserving students whose means and those of their parents make it difficult for them to take up University work without help of this kind. The Hackett bursaries have a term of from three to five years, according to the faculty in which the student has entered. The University is already committed to those terms, many of them with long periods to run, and a sudden reduction of income would undoubtedly create a crop of difficulties. The University has gone as far as possible in observing the terms of the Financial Emergency Act, although there was no obligation whatever on it to do so in this particular respect. A few months ago, members of the staff heard with surprise that some members of Parliament had stated that the University should come into line with private individuals, and reduce its interest rates by 22½ per cent.

Hon. J. J. Holmes: I think the Minister said it was doubtful whether it was ever intended that the University should not come into line.

Hon. J. M. DREW: It is clearly stated in the original Act, where provision is made for it. There is nothing in doubt at all. Then the senate met and gave consideration to the matter, and it was decided to reduce interest on all advances made by the University, and on unpaid purchase money on endowment land, the rates of reduction to be those set down by the financial emergency legislation for bodies other than State instrumentalities; but it is not to include newspaper debentures, which represent purchase money. In accordance with this legislation, letters were sent out last month to the various road boards and other bodies to which advances had been made and, speaking generally, the reduction was made as from last quarter day.

Hon. G. W. Miles: Why did the senate do that, since they claim that the University is a State instrumentality?

Hon. J. M. DREW: In my opinion, it was an indication of weakness and should not have been done.

Hon. E. H. Harris: Is there any instance of the Government having taken a similar action?

Hon. J. M. DREW: No, I cannot call to mind any Government that would give way to a similar extent. The debentures to which I have referred amount to a very large sum, and bear interest at 6½ per cent. They were part of the purchase price of an undertaking, and the University does not regard them as an advance in the ordinary sense, but considers itself as something in the nature of a first preference shareholder and sees no reason why the rates should be reduced. Rates of interest for preference shareholders have not been affected in any way by the financial emergency legislation. If the University were forced by the amending legislation to reduce its rate of interest in the case referred to, it would lose £2,194 per annum, and the Hackett bursaries and studentships would lose £1,500 per annum. The University is making provision for the expenditure next year of £2,300 on Hackett bursaries, but if the rate of interest were reduced merely from the passing of this Bill, and not retrospectively, the sum would be reduced by about £800. However Mr. Holmes is not satisfied with making his Bill operative from its passing, but would give it retrospective effect.

Hon. G. W. Miles: Would you be satisfied if he made it effective only from the date of passing?

Hon. J. M. DREW: No, I would not. At all events, he seeks to make it retrospective, and so would make the University pay back 22½ per cent. of the interest it has collected during the past 15 months. Parliament said last year that the University need not make any reduction in the rates of interest charged for money lent. That was said definitely.

Hon. J. J. Holmes: Did Parliament say that?

Hon. J. M. DREW: Yes, it is stated in this Act.

Hon. G. W. Miles: Are you speaking as a representative of the Government?

Hon. J. M. DREW: No, I am speaking as a representative of the Central Province. Now Mr. Holmes comes along and says that not only must it make a reduction from the present time onwards, but it must make a reduction over the period Parliament has already decided that it should be exempt from such an impost. The result of this would be that if the Bill were passed the University would have to refund about £4,000 of which about £3,000 has already been spent on bursaries. There is no surplus from which any refund could be made, and of course the obligation would finally rest on the Government of the day. This brings me back to my original contention that if there is one institution more than another that can rightly be said to be a State instrumentality, it is the University of Western Australia. A financial blow at the University is, as I have already indicated, a financial blow at the Government. The Government is the only body to which the University can look for relief. It has had to do so in the past and will have to do so in the future. Hence the revenue of the State and the intrest of the taxpayers may well be given serious consideration in the discussion on this measure. If I wished to indulge in what may be regarded as sentiment, I could bring into the discussion the great vision of the two men who are mainly responsible for the establishment of the University at so early a period in the history of the State. One of them, not blessed with this world's goods, was endowed with attributes that made him a power in the community; the other a journalist and a legislator who helped with voice and pen to attain the object to which he had set his heart. In life he endowed the University with a Chair of Agriculture at a cost of £18,000, and by his will his benefactions amounted to no less a sum than £425,000. I prefer that the case for the University should be decided on its merits, without the introduction of sentiment. All State instrumentalities have been exempted from the operations of the Act.

Hon. J. Cornell: Has any other State instrumentality lent money?

Hon. J. M. DREW: I am just stating the fact that all State instrumentalities have been exempted from Part 6 of the Act.

Hon. J. Cornell: But does any of them lend money?

Hon. J. M. DREW: I have not investigated that matter; it is not relevant to this question. I presume that Parliament knew what it was doing when it passed the Bill into law. All State instrumentalities have been exempted from Part 6 of the Act which Mr. Holmes now seeks to amend. The University has been declared by the

Parliament of Western Australia to be a State instrumentality and it has all the elements of a State instrumentality, and seeing that the funds proposed to be penalised are funds arising out of bequests and are to be expended in benevolent objects, I am sure the House will hesitate to pass the Bill. Moreover, I feel certain that if Mr. Holmes had known all the circumstances he would not have taken this action. As I have already said, not only the road boards, but all others except what are considered as special cases, have been granted relief by the voluntary action of the University Senate.

Hon. J. J. Holmes: Do you think it is fair they should be left in that position?

Hon. J. M. DREW: What has been done has been done with the authority of Parliament. I trust Mr. Holmes will withdraw the Bill.

HON. J. CORNELL (South) [5.7]: Mr. Drew has endeavoured to show that Parliament vested the University with the right of being a State instrumentality and that as such the University under the existing law should not be interfered with in respect to its lending power. Mr. Drew has refrained from telling the House where there is another State instrumentality that lends money. Personally, had I thought that it was the intention of the University to lend a considerable amount of money, and that it would have been considered a State instrumentality, the Act would not have passed with the assistance of my vote. We have got to this position that every corporation that lends money is subject to a certain amount of reduction in its interest rates. We have also gone to the extent that every bondholder in Australia has had to suffer a reduction of interest and this has been done by statute. As far as my recollection goes, the only institution that lends money and that has not suffered a statutory reduction is the University of this State. On that ground I intend to approach the subject. I agree with all that Mr. Drew said about the benevolence and munificence of the late Sir Winthrop Hackett, but that gentleman never foresaw the position as it presents itself in Australia to-day. That is no reason, however, why the large sum of money that he left to the University should not be subject to the same reductions as other moneys given by other people for somewhat similar purposes. Mr. Drew told us that the Hackett bursaries would suffer because of the reductions proposed in the Bill. Cannot some compensating balance be struck? Is there not enough vision in the University senate and in the Government and Parliament to recognise at this juncture that free education from the kindergarten to the University is more or less a myth. I am prepared to admit there was a time when I was a great supporter of free education from the kindergarten to the University; but I am not to-day. The object of the Hackett bursaries was to continue a very laudable object, namely to further the higher education of those children in our States who, by competitive examination, stood out above others. We are told that the University caters for all, but in reality it caters for a lot of people who ought to be at work. At the same time, there are a lot of boys at work who should be at the University. There is a great deal of latent talent wasted at the Perth Boys' School for the simple reason that to them our free University is a myth. We have arrived at a time when, if some interests must be sacrificed, it should be those privileges that are extended to students who live in the metropolitan area. The time has arrived when people should pay for the education of their children at the University. The Hackett bursaries will go by the board if we do not tackle the question of making people pay to send their children to the University. I know any number of B.A.'s who cannot get jobs at all. The fact remains that the greatest University of all is the University of the world. Let us start right now to look after the children of those people that are considered to be geniuses, while in respect of those who think otherwise, let them pay for the University education of their children. Probably those who borrowed money from the University senate, did so not by compulsion, but by choice. That is so say, they had good security to offer and wanting to raise a loan they decided that by borrowing from the University senate they would to some extent be helping that institution by paying it the same rate of interest that they would have to pay elsewhere. Now those people find that their patriotism was misplaced and that it has not reaped its reward, because had they raised the money

from some other institution, or probably a modern Shylock, they would have received the benefit of the statutory reduction in interest to the extent of 18 or 20 or 22½ per cent. on the amounts they were paying. The fact that the University senate has decided to come into line with the Financial Emergency Act is in itself condemnatory. If as Mr. Drew claims the University senate was on sound ground, why did it give way? In my opinion that was a sign of weakness although at the same time it was sound judgment. The idea of the University not being a State instrumentality, from the standpoint of the case quoted by Mr. Holmes, is somewhat discounted because Mr. Drew said the Government grant had mounted from £13,000 to £31,000.

Hon. J. M. Drew: It is £24,800 now.

Hon. J. CORNELL: Had the University been a State instrumentality, Parliament would have subjected it to the deductions that were foisted on to the civil servants, members of Parliament and other individuals, as was done under the provisions of the emergency legislation.

Hon. H. J. Yelland: And those other people passed the reductions on to their staffs.

Hon. J. CORNELL: And rightly so, too.

Hon. J. J. Holmes: They reduced all outgoings.

Hon. J. CORNELL: They had to cut down their outgoings as well. In that respect, the Government did not extend any preferential consideration to the University, but dealt with that institution as they did others receiving assistance from State funds. However, had the House appreciated the fact, when the original Financial Emergency Act was passed 15 months ago, that the University was a lending institution as well as a recipient of Government grants, members might have viewed the matter from another angle. It is from that angle that I understand Mr. Holmes is approaching the question. I am rather in accord with Mr. Drew from one standpoint. In view of the obscurity of the position arising from the fact that University has lent money to outsiders, quite apart from the question whether it is a State instrumentality or should not be subject to the 22½ per cent. reduction, I do not know that the Bill should be made retrospective. Mr. Drew pointed out that the money the University had received has already been spent. I do not know that two wrongs will make a right, and I think it will be wrong to pass the Bill to make it apply retrospectively. However, it is for Parliament to clear up the doubts that exist and the simple question we have to decide is whether the University, being a lending institution, should or should not be subject to the same law as that applying to individuals who also lend money. I submit it should be, and for that reason I support the Bill.

HON. SIR EDWARD WITTENOOM (North) [5.20]: I listened with interest to the admirable speech delivered by Mr. Drew. As an advocate for the University, he deserves great credit. The mistake he made was his reference to the University being a Government institution. It is not a Government institution in any shape or form. It is a Hackett institution. It was established as the result of the benefactions of the late Sir Winthrop Hackett. In those circumstances, how can it be regarded as a Government institution? What right have the Government to spend any money whatever on the University? This House has no right to say how the University shall be conducted. The University authorities conduct it along their own lines, and they are quite right in doing so. Why should the Government be introduced into their affairs at all? If the University authorities wish to conduct a free University, they have every right to do so, but I object to the Government contributing any funds towards the upkeep of the institution. It has nothing to do with the people, nor yet with the Government. It is a private University, not a public institution at all. It has been endowed under the will of the late Sir Winthrop Hackett, and I am certain that before he died he had no idea of the extent to which he had endowed it. I am certain that if he had had any idea that the money would have been spent in buildings alone, the University would not have received the bequest it did. Those in charge of the University received the bequest, constructed wonderful buildings and now come to the Government and ask for £20,000 to £30,000 a year. At the same time they are lending money at 7 per cent. and refusing

to grant any reduction in interest rates to those concerned.

Hon. J. M. Drew: The interest is 6½ per cent.

Hon. Sir EDWARD WITTENOOM: If the University authorities are able to lend money, why do the Government give them £20,000 or £30,000 a year? The fact is that the University has been mismanaged. The University authorities should have approached the court and sought an alteration in the terms of the will in the direction of permitting them to set aside £200,000 or £250,000 for maintenance purposes only.

Hon. H. J. Yelland: The authorities have set aside £50,000 for maintenance.

Hon. Sir EDWARD WITTENOOM: Then why do they go to the Government for funds? It is their own private institution and they have no right to go to the Government and beg for money. It is mismanagement that has caused the difficulty and explains why the University authorities have to get £30,000 a year from the Government to enable them to carry on.

Hon. H. J. Yelland: What about the Amalgamated Collieries?

Hon. Sir EDWARD WITTENOOM: I expect the hon. member would like some shares in that company.

Hon. C. B. Williams: There is a certain amount of envy attached to the consideration of those shares.

Hon. Sir EDWARD WITTENOOM: I do not take exception to the remarks of Mr. Drew regarding the good work carried out by the University, the money spent on bursaries, and so forth, but the point I make is that the University is not a Government institution, and the Government should not contribute a penny towards its upkeep. If the State finances were buoyant and the country generally were prosperous, we might be able to contribute something, but the Government, while spending £700,000 a year on education, should not be asked to spend another £30,000 on a private institution. I am glad Mr. Holmes has placed the Bill before the House. I happen to know some of the reasons that influenced him.

Hon H. J. Yelland: Can we have those reasons?

Hon. J. J. Holmes: Yes, from me.

The PRESIDENT: Order!

Hon. Sir EDWARD WITTENOOM: In the circumstances, the introduction of the Bill is justifiable. The Government have nothing to do with the bursaries or the management of the University, and they should not contribute anything towards the institution. When expenditure has to be reduced in all other directions, why should the Government contribute £30,000 towards the upkeep of the University, which can lend money to outsiders? I support the second reading of the Bill.

On motion by Hon. H. J. Yelland, debate adjourned.

BILL—TENANTS, PURCHASERS AND MORTGAGORS' RELIEF ACT AMENDMENT (No. 1.)

Second Reading.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [5.38] in moving the second reading said: The purpose of the Bill is to continue the operations of the Tenants, Purchasers, and Mortgagors' Relief Act for a further period. This is another of the financial emergency measures it is necessary to continue, and although it places a burden on a section of the community by retaining that burden on individual landlords for a longer period than would have been necessary had there been no such legislation, the continuance of the period of depression compels the Government to ask for the re-enactment of the measure for another year. I do not like this legislation, but, while recognising that it imposes hardship on landlords, I cannot forget that other sections of the community have also, through no fault of their own, been loaded with burdens peculiar to themselves. Unfortunately, unemployment is still a serious problem, and until the economic position improves, this class of legislation is necessary. Many landlords and mortgagors are sympathetic and are willing to make voluntary sacrifices in view of the abnormal conditions, but there is another class which would have its pound of flesh under any circumstances, and that type creates the necessity for emergency legislation. Magistrates have administered the Act thoughtfully and judiciously, with the sole object of inflicting the lease possible hardship on either party. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 29:

Hon. J. NICHOLSON: I have already questioned the desirability of renewing or continuing such emergency measures. I believe the magistrates have sought to administer the Act with even-handed justice, but despite that many people are suffering. There are numerous instances of hardship. I can only express the hope that it will not be necessary to renew this measure, so that we may encourage the thrift that is desirable to maintain in the community.

The Chief Secretary: I hope not.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—ELECTORAL ACT AMENDMENT (No. 2.)

Second Reading.

Debate resumed from the 15th November.

HON. E. H. HARRIS (North-East) [5.34]: I welcome this amendment to the Electoral Act. The object is to extend the time in which doubtful claims may be investigated and afford an opportunity to those interested to see that persons on the roll are qualified to be there. It frequently happens, particularly with Legislative Council enrolments, that some persons are misled into submitting applications by interested parties, some I think acting with malice aforethought, and others acting through ignorance. Furthermore, the Bill makes for uniformity in the method of objections, whether they be made by the registrar or by an elector. The Bill provides that if an objection is lodged to a claim and it cannot be heard, the registrar shall star a name. At present the registrar and individuals may object, and it leads to a good deal of confusion, particularly on polling day. If one person objects to the enrolment of others, it is apt to cause retaliation, and that is not conducive to the good feeling that should exist in the conduct of an election. When an objection to a claim is lodged, the objector has to state the grounds of his objection, and, at the hearing of the case, he is limited to those grounds. An objector has to lodge his objection in writing and pay a fee of half-a-crown. When the objection has been set down for hearing, notice must be given in writing to the person objected to setting forth the grounds of the objection. Subsequently, if time permits, the magistrate hears the case. As an objector is limited to the forms of objection stated, it is necessary that the individual should have ample opportunity to investigate an application before lodging an objection to it. The extension of time provided by this Bill will permit of that being done. Section 47, paragraph (g), provides that no objection shall be entertained by the magistrate unless notice thereof has been served upon the person objected to in sufficient time to admit the objection being determined before the issue of a writ for an election. "Sufficient" time would vary considerably in the different provinces. When an objection was lodged in the Metropolitan Province it could be put into the post and would be delivered the same day or the next day. In provinces where mails are infrequent, it would be necessary to allow a week or two in which to send out an objection and get a reply. That would apply to the provinces of larger area, but they constitute the major portion of the provinces in the State. Section 46 provides that it shall be the duty of the registrar to object to any claim if he has reason to believe that the claimant is not entitled to be enrolled. During some of the election campaigns with which I have been associated, I have found it necessary to lodge objections against the enrolment of persons who obviously were not qualified. In order that the registrar might have the matter placed before him, and in order that there might not be any doubt in his mind, on four occasions we have gone to him, raised the objection and submitted any proof. It has been the practice for a number of years for the registrar to take such notification from any party, advising the other party and asking whether the position could be clarified in order that the claimant might be enrolled. That procedure has proved satisfactory. If one were able to clarify several claims, one would naturally be helping not only the elector, but the registrar and frequently oneself also. Recently

we had to go to the registrar and, in proof that two persons were enrolled as freeholders for a block of land, we had to produce the title deeds. In the case of other objections we had searches made in the Titles Office and took the search warrant with the information to the registrar. The Electoral Act provides for compulsory enrolment for the Legislative Assembly. A person may claim to be enrolled as a householder in one province and be on the roll of another province as an elector for the Assembly, but not on the Assembly roll for the province for which he seeks to be enrolled as a householder. There is no provision in the Act that such a person shall not be put on the Legislative Council roll as a householder unless he is enrolled for that district on the Assembly roll. All that the department can do is to prosecute him if it is found that he is a resident of a district and is not on the Assembly roll. Prosecutions under the Electoral Act, however, have been a dead letter from the word "go." I do not know of any prosecution have been instituted. It seems as though the Government from time to time had refrained from prosecuting anyone who failed to comply with the Act. That is not the attitude adopted by the Commonwealth electoral authorities, and consequently they have a better opportunity to keep their rolls up to date. Instances have been brought under notice of persons who were squatting on Crown lands, and had been doing so for quite a number of years. It was doubtful whether they were entitled to be enrolled, and from the department we secured a certified plan showing that certain land had not been alienated from the Crown. Instances of that kind were brought under the notice of the registrar. Then there were instances of persons who were rated at the low rate of £7 per annum claiming enrolment. These were brought under the notice of the registrar, and he was asked to take the necessary action. He refused, and the person objecting seemed to have no redress whatever. That occurred during an election which I was contesting. I then inquired if certain sections of the regulations under the Act were in operation, and the electoral officer replied that they were and if the Act not been complied with, the necessary action would be taken by the department. To make the position perfectly clear to hon. members, and to prove that the Bill is justified, I will quote as an illustration the following instance. A roll closed for a Council election on Wednesday, the 23rd day of March, and a writ was issued returnable in 14 days, namely, the 7th April. A number of claims were lodged at the Electoral Office at 3 p.m. on the day before the roll closed. Subsection 2 of Section 43 of the Act provides that claims shall be open for public inspection, without fee, at the registrar's office on any week-day during the hours the office is open. The claims were lodged, as I pointed out, on the Wednesday at 3 o'clock. They were posted to head office at 4 o'clock the following day in order that the roll might be compiled. In that very limited time it was impossible to make a complete inspection in order to ascertain whether the persons claiming to be enrolled were qualified. The succeeding day was Good Friday. Then followed Saturday, Monday and Tuesday, when the office was closed, it being opened again on Wednesday, six days later, and 30 minutes after the mail had closed to the outlying districts. Therefore, the time at the disposal of an elector to lodge objections is in some instances limited to the day when the mail arrives, say, at 7 a.m., and when it leaves at 7 p.m. If a person happened not to be in town on that day, he could not do anything for fully a week. In those circumstances, hon. members will realise that a candidate is powerless successfully to lodge an objection to enrolments. The Act requires that a person shall be given 14 days' notice, but the objector has only eight or nine days in which to give the notice. That instance serves to show it is quite impossible to comply with the Act, and that alone is justification for its amendment. The only alternative is to obtain a declaration from the person who perhaps is illegally on the roll, stating that he has the necessary qualifications to vote. Whether he has those qualifications or not, a declaration is more or less valueless. The votes are recorded in a ballot box, and nothing further can be done. It is unfair to ask a candidate to nominate and then deprive him of the opportunity, when he has the proof in his hands, of objecting to a claim because the person seeking enrolment is not qualified. Such persons can record a vote which cannot be successfully objected to, not even in a court of disputed returns on a writ to have the election declared null

and void. I do not think the Bill, as introduced by Mr. Cornell, meets all the requirements of the State. I refer to the North Province, a place of long distances. Owing to the infrequent mail service, it is impossible for a person in that province to comply with the Act if a systematic method of roll-stuffing is indulged in. I can also quote a case in the metropolitan area. During a recent debate, Mr. Gray made some explanations, from which it would appear that thousands of claims were lodged in the electoral office on the last available day. I cannot see how all those claims could be successfully checked in the short time at the disposal of the existing staff, unless it were increased to an army of officers. The suggestion has been made that greater powers are conferred upon Federal electoral officers than upon State electoral officers. On investigation, I find that Western Australia stands alone in that respect. In the other States it is obligatory upon an applicant for enrolment to prove he is qualified. The same machinery there exists under the State Acts as under the Federal Act. In Western Australia, if a claim is lodged, the applicant's name must appear on the roll. I can quote instances where the registrar had proof put before him that a claimant was not qualified; yet it seems that the registrar is powerless to do anything unless the objector approaches a court and obtains an injunction restraining the registrar from doing something, or compelling him to do something. Whether it would be advisable to go so far as to amend the Act to bring it into conformity with the Federal Act I am not prepared to say, as I have not investigated the matter very fully. The introduction of this small Bill, however, incidentally leads me to say that I had hoped the amendment to the Electoral Act which has been introduced in another place would be before us, so that we would have an opportunity of learning its contents. I am not conversant with the contents of that measure, but I presume Mr. Cornell has assured himself that the amendments which he is submitting will not overlap or conflict with those embodied in the Bill introduced in another place. I still submit the Bill does not go far enough to enable one to take action when an attempt is deliberately made to stuff a roll. The period proposed will, however, give an opportunity to make investigations in order to ascertain whether a claimant has been resident in the district for the statutory period. I support the second reading of the Bill.

On motion by Hon. W. H. Kitson, debate adjourned.

BILL—LOCAL COURTS ACT AMENDMENT.

Recommittal.

On motion by the Chief Secretary, Bill recommitted for the purpose of reinstating Clause 3.

In Committee.

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

The CHIEF SECRETARY: I feel that hon. members have not a full grip of what Clause 3 meant. Apparently it is considered by several members that this Bill and the Debtors Act Amendment Bill make radical alterations in the present law, whereas in fact, as I have pointed out before, there is nothing which can be called radical in the proposed legislation. We are all agreed that the bad old days of Dickens' time, when a creditor could take it out of his debtor's hide by putting him in gaol, should be entirely things of the past; but to a slight extent the same state of affairs persists. Under Section 130 of the Local Courts Act is is only necessary to prove that a person has had the means since the date of the judgment order to pay the judgment or order, and then the magistrate may commit him to gaol. Strictly speaking this means that if a person against whom a judgment has been obtained, say for £15, has had since the judgment a sum of £20, then no matter what calls he may have had upon the money apart from the judgment in question, it is open to the magistrate to commit him to prison. Many magistrates wisely refrain from carrying out the law to the letter, and they require, before making an order, proof of all the man's obligations, both past and accruing and likely to accrue in the future. The present proposed legislation no more than sets out what the proof should be before the magistrate makes an order. It seeks to remedy a defect in the law as it at present stands, and if it goes through it will

mean that magistrates will be required to see that proper evidence is adduced before a person is sent to gaol for non-payment of a debt. In the hands of a certain class of person the judgment summons has come to be regarded as a type of extortion. A creditor who knows that a senstitive person does not desire to face the publicity of a judgment summons very often gets from him an undertaking, and a consent to an order on a judgment summons without proper proof of means, and orders are frequently made on these consents. If the present Bill is made law it will make it incumbent on the magistrate to see that proper evidence is forthcoming before he makes an order. This is no more than common justice so far as the debtor is concerned, and there is no idea at all behind the Bill of frustrating or delaying the rights of creditors. The object is simply to write out the law in a form in which at any rate it is for the most part being administered to-day by the magistrates. If the law is administered along these lines, we shall be going a step further towards seeing that only those persons who dishonestly refuse to meet their obligations when they are in a position to do so shall be imprisoned. The second item which calls for comment in the two Bills is the provision which states that before a commitment is made a second application has to be made by the creditor. Under the old practice the magistrate made an order and the debtor was left to carry it out. Very often the debtor finds that he is unable to carry out the terms of the order, and through no fault of his own he is unable to apply to the court to get the order varied. For the most part we are dealing with a particularly unfortunate and wretched type of individual. There are certainly some scoundrels, but very few compared with the great majority of people who have really fallen on unfortuitous circumstances. Some magistrates in the exercise of their discretion refuse to make an order for imprisonment in the first instance, and follow the practice which is laid down in this Bill. The amendment proposed by Mr. Nicholson regarding costs will meet the case where a debtor is brought up again and an order is made against him for imprisonment. There is nothing arduous in serving the debtor a second time. In a great many cases no second service will be necessary. There is a similarity to the position which pertains when a judgment summons is adjourned by the court. It is necessary, if the law is followed out under the present practice, to issue a subpoena to the debtor, and tender him the proper conduct money in order to bring him before the court again. It will not be easier under the Bill for the debtor to escape his obligations. Many magistrattss are following the practice that the Bill seeks to establish. The debtor does not derive any advantage. Those who are trying to evade their obligations will be in the position they are in under the Act. I move—

That Clause 3 as amended, and subsequently struck out, be re-inserted.

Hon. J. J. HOLMES: I hope the clause will not be re-inserted. The mere effect of the existing law enables the genuine creditor to obtain payment from the elusive debtor, who gets all the credit he can and avoids payment if he can. There is no necessity to amend the Act in that direction. Already magistrates are administering the law according to the evidence that is produced. If a debtor proves to the court that he cannot pay, I cannot imagine any magistrate making an order against him.

Hon. J. Nicholson: Proof of means is necessary now.

Hon. J. J. HOLMES: What more than that is wanted? If a man can pay after an order has been made against him, and he refuses to pay, he should be committed to prison.

Hon. J. NICHOLSON: The clause must be re-inserted if the Bill is to be efficacious.

Hon. G. W. Miles: We do not want it at all. It means putting further costs upon the creditor.

Hon. J. NICHOLSON: I do not think that. If the creditor proves that the debtor possesses means, an order is made against the latter.

Hon. J. J. Holmes: Is that the law now?

Hon. J. NICHOLSON: Yes.

Hon. J. J. Holmes: Is it a just law?

Hon. J. NICHOLSON: Yes.

Hon. J. J. Holmes: Then why amend it?

Hon. J. NICHOLSON: The Bill provides an opportunity for the amendment of an order on an examination as to the means of the debtor. Without the clause the Bill will be useless and for that reason I hope it will be re-inserted.

Sitting suspended from 6.15 to 7.30 p.m.

The CHIEF SECRETARY: As the position stands, if an order is made against a debtor and that debtor cannot meet the order he is liable under the Act to be imprisoned. The magistrates have been interpreting the Act exactly on the lines of the Bill before the Committee, but we may not always have the same class of magistrates, and some of their successors might determine to live right up to the letter of the Act, and consequently many debtors would be sent to gaol because they could not meet the orders against them.

Hon. J. M. Macfarlane: There are no hardships under the existing Act.

The CHIEF SECRETARY: Yes, there are many. The creditor has just as much protection under the Bill as he has under the Act.

Hon. G. W. MILES: I move—

That the Chairman do now leave the Chair.

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

Ayes	.. .. ..	4
Noes	.. .. ..	13
Majority against	..	9

AYES.

Hon. J. J. Holmes	Hon. G. W. Miles
Hon. J. M. Macfarlane	Hon. H. Seddon (*Teller.*)

NOES.

Hon. C. F. Baxter	Hon. R. G. Moore
Hon. L. B. Bolton	Hon. H. V. Piesse
Hon. J. M. Drew	Hon. E. Rose
Hon. G. Fraser	Hon. C. B. Williams
Hon. E. H. Gray	Hon. Sir E. Wittenoom
Hon. V. Hamersley	Hon. E. H. Harris
Hon. W. H. Kitson	(*Teller.*)

Motion thus negatived.

Progress reported.

MOTION—MINING ACT, TREATMENT OF SANDS.

Debate resumed from the 16th November on the following motion by Hon. E. H. Harris:—

That in the opinion of this House the Mining Act should be amended immediately so that the hundreds of thousands of tons of sand and tailings on Crown lands, abandoned and forfeited leases, tailings and machinery areas may be made available for re-treatment.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [7.37] Sections 111 and 112 of the Mining Act, 1904, provide that licenses can be issued to treat tailings lying on a mining lease forfeited since the Act came into operation in January, 1904. Provision was not made for the issue of any permit to treat tailings which may be lying on any other mining tenement, such as a tailings area, machinery area, or water right, or in the case of leases forfeited prior to 1904, as the Crown does not presume to have the right to issue such a license. There is no provision in the Act to make any charge or rental for Crown lands on which such tailings may be lying, and even if tailings have been lying on Crown land for many years it is not clear under the Act, that it is competent to issue a license to treat them. The question of making the sections of the Act previously quoted applicable to mining tenements other than leases will be carefully considered, and if thought advisable the Act will be amended in that direction. In the case of tailings that may be lying untreated on mining tenements such as tailing areas, machinery areas, etc., there is no power under the Act to enable the department to compel the owners to proceed with the treatment of such tailings, and it is not considered equitable to do so even if the power existed, unless it was certain that the cost involved in such treatment would not be greater than the value of the gold contents. To suggest forfeiting such tailings after a lapse of a certain number of years would be tantamount to confiscation.

Question put and passed.

BILL—SWAN LAND REVESTING.

In Committee.

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clause 1—agreed to.

Clause 2—Certain land revested in the Crown:

The CHIEF SECRETARY: The Bill has been on the Notice Paper for some time. It was held over because members were not sure that under it the position would be absolutely secure. However, Mr. Nicholson, Mr. Drew and Mr. Hamersley have gone right through the papers and satisfied themselves that the matter is in order and that there will be no danger in passing the Bill. So I can assure the Committee that everything is satisfactory.

Hon. J. NICHOLSON: On the second reading the question was raised as to whether or not it might create a precedent if the Bill were passed without some closer examination than members generally would have opportunity to make. I suggested it would be desirable if the file were made available so that some of us might inspect it. This was done, and Mr. Drew and Mr. Hamersley and I went through the file. Amongst the papers was a book which has been kept with considerable care in the Lands Department, a book dealing with all surrendered land. In that book there is unmistakable evidence of some surrenders having been made in connection with the location referred to in the Bill. The land in question was originally taken up by the late Lionel Sampson and a certain area was first surrendered from it—an area of 391 acres. This is the area referred to in the Bill. The original location was one of those ribbon blocks from the river to the ocean and a certain portion of that was transferred by the first owner and then later another block of 310 acres towards the western side was surrendered owing to some question being raised by the relative of the transferee, and Richard Edwards who had acquired the land in 1856. Owing to the loss of a file, it is impossible to ascertain the actual date of the surrender. The relatives had the advice of solicitors and in the steps they took they were guided by that advice. The Crown made no objection to the application by the relatives of Edwards to the land becoming vested in them.

The CHAIRMAN: This is all very interesting but it has no bearing on Clause 2.

Hon. J. NICHOLSON: I am mentioning these facts for the information of the Committee because the question was raised——

The CHAIRMAN: But no one is opposing the clause.

Hon. J. NICHOLSON: I am aware of that but it is my wish to put these facts on record for the satisfaction of the other hon. member and myself who carried out the investigations at the Lands Department. It is as well that this should be done in case a similar measure should come forward at a future time and to guard against the risk of descendants of original owners being deprived of land to which they might be legitimately entitled. Anyway, I will not prolong the discussion beyond simply saying that the files were lost, but we were satisfied from the care shown in the keeping of the records that there was sufficient evidence to justify our coming to the conclusion that we should agree to the Bill.

Hon. J. M. DREW: I endorse what Mr. Nicholson has said. I would have opposed the Bill unless it had been proved to my satisfaction that the Crown had a title to the land. I am satisfied that the land was surrendered to the Crown by Richard Edwards.

Clause put and passed.

Schedule, Title—agreed to.

Bill reported without amendment and the report adopted.

ADJOURNMENT—SPECIAL.

The CHIEF SECRETARY: I move—

That the House at its rising adjourn until Tuesday, the 29th November.

Question put and passed.

House adjourned at 7.53 p.m.

Legislative Assembly.

Tuesday, 22nd November, 1932.

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