

Legislative Council,

Tuesday, 12th November, 1940.

	PAGE
Questions: Railways, ballasting with broken metal	1842
Mining, cost of mine workers' relief	1842
Leave of absence	1842
Assent to Bills	1842
Motion: Economic Problems, Commonwealth Bank and national credit	1842
Bills: City of Perth (Rating Appeals), 3R.	1846
Inspection of Machinery Act Amendment, (No. 2), 3R.	1846
Civil Service (Emergency Powers), 2R.	1846
Lotteries (Control) Act Amendment, 2R., Com. report	1848
Dash Fires Act Amendment, Com.	1848
Sale of Land (Vendors' Obligations), 2R., Com.	1851

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

QUESTION—RAILWAYS.

Ballasting with Broken Metal.

Hon. C. F. BAXTER asked the Chief Secretary: 1, In what parts of the State has provision been made to ballast the railway lines with broken metal? 2 (a), What sections have been so completed; (b), what is the mileage so completed? 3, Were tenders called for in connection with the supply of such broken metal? If so (a) How many tenders were received; (b) What were the respective amounts, and by whom submitted; (c) What other sections of the railways have been contracted for? 4, If tenders were not called for, how was the cost of supplies of the metal decided? 5, Is payment made by weight or measurement? 6 (a), What is the method of checking deliveries; (b), Who is the officer responsible for the checking of such deliveries?

The CHIEF SECRETARY replied: 1, Fremantle-Mt. Helena, Spencer's Brook-Merredin, East Northam-Hulongine, East Perth-Pieton Junction, with the exception of short sections ballasted with gravel. 2 (a) All of the above except Fremantle-Midland Junction, which will be completed this month, and East Northam-Hulongine in progress; (b) Fremantle-Mt. Helena, 34m., double track; 1m. 33ch., single track. Spencer's Brook-Merredin, 7m. 30ch., double track; 101m. 7ch., single track. East Northam-Hulongine, 20m. 40ch., single track. East Perth-Pieton Junction, 15m. 70ch., double track; 70m. 16ch., single track. Total single track, 308m. 74 ch. 3, 4, 5, 6, See separate sheets attached for particulars of

each section. The information is for the last five years. Answers to questions 3, 4, 5, and 6 were laid on the Table.

QUESTION—MINING.

Cost of Mine Workers' Relief.

Hon. A. THOMSON asked the Chief Secretary: 1, What has been the total cost to the State of relieving men engaged in the gold mining industry and their dependants under (a) the Mine Workers' Relief Fund Act, and (b) the Miners' Phthisis Act? 2, As Western Australia produces 63 per cent. of Australia's gold output, thereby contributing 63 per cent. of the Federal tax on gold, has the cost to the State referred to in (1) been submitted to the Federal Grants Commission? If not, will the Government immediately draw attention to the total amounts, which are a direct burden upon the taxpayers of this State, and seek for greater consideration by the Grants Commission?

The CHIEF SECRETARY replied: 1, £145,504 to 30/6/40; (b) £745,195 to 30/6/40. 2, Yes, cost has been referred to the Federal Grants Commission.

LEAVE OF ABSENCE.

On motion by Hon. C. F. Baxter, leave of absence for six consecutive sittings granted to Hon. H. V. Piesse on the ground of ill-health.

ASSENT TO BILLS.

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

- 1, Land Tax.
- 2, Income Tax.
- 3, Supply (No. 2), £1,200,000.
- 4, Licensed Surveyors Act Amendment.
- 5, Fremantle Gas and Coke Company's Act Amendment.

MOTION—ECONOMIC PROBLEMS.

Commonwealth Bank and National Credit.

HON. SIR HAL COLEBATCH (Metropolitan) [4.33]: I move—

That in view of the resolution carried in the Legislative Assembly on Wednesday, 6th November, and ordered to be transmitted to

the Commonwealth Government, regarding the use of the national credit through the Commonwealth Bank, it is desirable that the Prime Minister be informed that such resolution has not the support of the Legislative Council, and that in the opinion of this branch of the Parliament of Western Australia, national credit in the form of bank issues should be used with caution and discrimination in order that public confidence and the economic stability of the country may be maintained.

Our Standing Orders very properly prohibit me from discussing a debate that took place in the Legislative Assembly, and I do not propose to refer to it even under the subterfuge of speaking of "another place." The position is that the Government has been given an instruction to convey to the Commonwealth Government a strong and, to some extent, an authoritative expression of opinion that there should be a far greater use, through Commonwealth Bank issues, of what is termed "national credit," than has been the case in the past, and that this extension should be not only for the purposes of war but also for many other purposes. This branch of the State Parliament has been given no opportunity to express approval or otherwise of that instruction. I consider that we have a right to say whether or not we approve of instructions given to the Premier to be communicated to the Commonwealth Government. In fact, I would go further and say that on the principle that silence gives consent, if we refrain from expressing disapproval—assuming that we do disapprove—we shall be regarded as having given a sort of tacit compliance. That is a position in which I, at all events, am not prepared to be placed. The purpose of the motion is, in the first place, to dissociate the Legislative Council from the instruction given to the Government and, in the second place, to convey to the Premier our conviction that the national credit, as expressed by the Commonwealth Bank issues, should be used only with caution and discrimination. We are all aware that in time of war every country is more or less compelled to resort to some extent to this method of finance, not because it is regarded as a satisfactory method of financing war, but for the simple reason that there is no satisfactory method of financing war. Because of that, all sorts of subterfuges are bound to be resorted to. That there can be no satisfactory method of financing war is obvious. War means destruction, and destruction is destruction no

matter what steps may be taken to cover it up. After the last great war the victorious powers indulged the happy delusion that the defeated enemy could be made to pay the whole cost of the war. There is a spice of Gilbertian humour in the fact that Germany received by way of loans to pay reparations far more money than she ever paid as reparations. No one imagines that the cost of the present war will be met by the defeated enemies. Since I submitted this notice of motion on Thursday last, the matter has been given added importance by the report that appeared in yesterday's paper to the effect that the war council had failed to reach agreement regarding the Budget because of fundamental differences concerning the degree to which the war should be financed by central bank action. It is not necessary for me more than passingly to allude to the recent experiments of different countries in the matter of using national credit by means of central bank issues. In Germany, during and after the great war, this method was employed to such an extent that the currency of the country entirely lost its value. I understand that in certain circles there is a belief that the man on the land can obtain some relief by the large issue of paper money and the consequent de-valuation of the currency. Germany's experience is illuminating and does not differ from the experience of every other country. It is a fact that the complete de-valuation of the mark did wipe out the farmers' debts, but it soon became apparent that the accompanying consequences more than counterbalanced the advantages. The rapid rise in the price of all his requirements, and the requirements of all those who served his needs, made the last stage worse than the first. When Hitler came into power the first thing he realised was that he must do something to stabilise the position of the man on the land, that the restoration of the man on the land was an urgent, an imperative task. Many of the expedients he adopted had spectacular results and brilliant consequences, but these were all lost by the results of the general policy and particularly as a result of the undue expansion of credit through bank issues. It is not too much to say that that process, which at the outset the man on the land thought had done him so much good, was eventually the cause of his destruction.

The result was that in 1938 there were 800,000 fewer men on the land than there

had been five years before. It is not too much to say that it was this excessive use of bank credit that finally reduced Hitler to the position in which he had to choose between bankruptcy and war. In France inflation was more controlled, but it went beyond the danger mark. In 1936 when the Blum Party achieved power, it did it largely by assuring the frugal peasantry of France that there would be no further de-valuation of the franc. It had not been in power long, however, before the advanced humanitarian policy of shorter hours, high wages, etc., resulted in a further devaluation of the franc, until at last it was worth only about one-twelfth of its original value. In England and the United States there has been a controlled use of national credit, but the control has not prevented the English pound from losing half its purchasing power, nor has it prevented a depreciation of the value of the dollar, notwithstanding America's enormous accumulation of gold.

Let us come nearer home. In Australia our currency has depreciated to the extent of more than 60 per cent. To that extent the farmer has attained a lightening of his debt burden. But what advantage has that been to him? All his costs have gone up, and the adoption by other countries of a policy of currency depreciation has been one of the main factors in the strangling of international trade, and the consequent impoverishment of the man on the land in every country. So-called managed currencies must necessarily be accompanied by all sorts of methods of trade control. In practice they have served greatly to decrease the consumption of agricultural products, to stimulate their production under uneconomic conditions, and so to depress the prices of those whose natural conditions favoured the growing for export. The farmer, the man on the land all the world over, but more particularly in the exporting countries, has been the heaviest sufferer as a result of currency manipulation. Nor is this surprising. Such currency manipulation is in its very essence an appropriation of wealth, a stealing of wealth, I would say. It is not surprising that the man on the land, as the creator of wealth, must be the greatest sufferer in any such scheme of exploitation. In many countries it has offered some temporary advantage, but always the last state of the man on the land has been worse than the first.

It is simply platitudinous to say that it destroys the value of bank deposits, whether in private banks or in the savings banks, that it encroaches upon the value of insurance policies, and that in fact it hits hardest all that section of the community that adhered to the great though now considerably discounted virtue of thrift. The worker, too, is always and inevitably a victim, since once the ball starts rolling it is impossible for his wage increases to keep pace with the increase in the price of the commodities he has to buy. An argument sometimes used in favour of the freer use of bank credit is that Australia is suffering from a shortage of money. That is not so. There is a grossly ill-balanced distribution of money amongst different sections of the community, an ill-balance respecting which, there can be no question, the man on the land has had a raw deal. At the same time there is abundant evidence of the sufficiency of money. I do not think there ever was a time in our history when more money was available for those pleasures and luxuries that are entirely proper and reasonable in time of peace but which might be curtailed considerably now that our country is engaged in a war in which threats and dangers, from our point of view, become more imminent every day.

Attention may well be directed to what has happened in New Zealand. There an economic conference, composed not of armchair economists but of 15 members, seven of whom belong to the Labour Party, unanimously advised the Government that any further issue of credit by the Reserve Bank would be a grave danger to the stability of the country. At the same time the conference was equally unanimous in urging upon the Government the necessity for economy in domestic expenditure. Surely we can take advantage of the experience of New Zealand and exercise caution and discrimination in the use of our national credit. Already we are faced with steadily increased prices—in spite of rigid price control—necessitating advances in wages. Increased prices obviously cannot be allowed to continue without some advance in wages, and such advances in wages necessarily impose increased burdens upon our war effort and upon industry generally. After all, there is in the long run, little difference between individual credit and national credit. It is well known that if the individual acts care-

lessly in matters affecting his credit, he very soon destroys it. The same applies to nations, as has been demonstrated over and over again throughout the centuries.

To my mind there is an element of dishonesty, as well as of confiscation, in the creation of money. What right has a Government to destroy the value of the people's savings? That in Australia these savings are large is shown by our Savings Bank and life assurance returns. That is as it should be. Australia stands sixth amongst all the nations of the world in the matter of income per head of population. Sixth highest! Further, although no one will pretend that the distribution of wealth in this country is entirely equitable, it is certainly on a more generous and more widely spread basis than in almost any other country of the world. The consequence is that the proportion of the population able to accumulate savings is probably greater in Australia than anywhere else. What right, therefore, has any Government to destroy the value of those savings, or even to depreciate it by printing large quantities of synthetic currency, the obvious effect of which is bound to decrease the value of the currency already in circulation?

The Commonwealth Government is following three methods of financing the war. The first is by means of taxation. That this will be severe no one can doubt. That it will press most heavily upon those with large incomes is entirely proper, and one might express the hope that it will include the taking of all profits that result as a consequence of the war. The second method is by the use of bank credit, and the third is by means of loans. This third method cannot be followed with either honesty or success unless the second—the issue of bank credit—is kept under strict control. I have recently spoken at many meetings in different parts of the State, urging people with small incomes to invest their savings in war savings certificates. I could not honestly do that and at the same time fail to raise my voice against a policy of excessive employment of bank credit—a policy that would, in the first place, render unnecessary the investment of savings and, in the second place, would surely depreciate their ultimate value.

Hon. G. B. Wood: Whoever suggested that?

Hon. Sir HAL COLEBATCH: At those meetings, particularly those held in the country districts, I have been accompanied by Hon. C. G. Latham, the Leader of the Country Party, and I am glad to know that he stands solidly against a policy that he knows would impair the value of those war savings certificates and, in the long run, be disastrous to the interests he represents. It is not for me to say to what extent the Commonwealth Government may find it necessary to use the credit of the nation for the prosecution of the war. The extent will be determined largely by the measure to which Governments and the people are prepared to give hearing to the advice of the New Zealand conference, to which I have already referred, in the matter of economising in domestic expenditure. I think most members who move about the country and know what is going on, will agree with me when I say that at present there is gross extravagance apparent in almost every direction. Such extravagance, if persisted in, must inevitably lead to the Government being forced to place more reliance upon bank issues with results that cannot be other than disastrous to Australia. To my mind, the second recommendation of the New Zealand conference is even more pertinent than the first, because the two phases hang so much together.

Given a proper measure of domestic economy, it then becomes possible to finance the war without any violent interference with honest and accepted methods. Without that measure of domestic economy practised by Governments as well as by the people, no country can expect to emerge from the war without very desperate consequences to its economic stability, because financial trouble and disorder are inseparable from the conduct of wars. It is imperative, therefore, that economy should be the watchword of every nation engaged in war. It is equally imperative that any departure from those methods of finance that bear the hallmark of honesty and straight dealing, should be attended by all that caution and discrimination to which this motion gives expression. I am happy to believe that members of this Chamber will be in accord with what is expressed in the motion, which I have pleasure in submitting.

On motion by the Chief Secretary, debate adjourned.

BILL—CITY OF PERTH (RATING APPEALS).

Read a third time and returned to the Assembly with amendments.

BILL—INSPECTION OF MACHINERY ACT AMENDMENT (No. 2).

Third Reading.

HON. C. F. BAXTER (East) [5.2]: I move—

That the Bill be now read a third time.

THE HONORARY MINISTER (Hon. E. H. Gray—West) [5.2]: I intend to support the third reading. The Government introduced a Bill to amend the principal Act, and one amendment contained in that Bill was exactly similar to that contained in the Bill now before us. The Government's other amendments were of equal importance to those contained in the hon. member's, and they were also of equal urgency; yet I cannot understand the action of some members in this House in voting against that measure.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

BILL—CIVIL DEFENCE (EMERGENCY POWERS).

Second Reading.

Debate resumed from the 7th November.

HON. H. L. ROCHE (South-East) [5.5]: The measure before us deals specifically with the war conditions in which we find ourselves. Naturally one would like to support it, but I regret that I shall not be able to do so; at any rate not while the Bill is in its present form. It seems to me that the Government, through the Governor-in-Council, is taking very wide authority but it is not accepting the responsibility that it should. Admittedly the Government must have authority, but at the same time too much responsibility is being passed on to local bodies and other interests by the proposed legislation. Paragraphs 14 and 20, dealing with the proposed regulations which the Government

may make, taken in conjunction with Clauses 9, 10 and 11, appear to me to be grossly unfair, or are designed so that they can in their incidence, be grossly unfair. It will be possible to impose on a section of the community charges that will be improper. Civil defence, as well as active military defence should, in my opinion, be the responsibility of the community as a whole. It would appear that districts such as Bunbury and Northam, which might be found to be of considerable strategic importance, might be called upon to incur expenditure out of all proportion to the expenditure required in other parts of the State. Although the proposed legislation does not say that that expenditure must be debited against those districts, the phraseology is so all-embracing that I think it will be improper on our part to accept it as it stands without a protest. Defence, in my opinion, is essentially the responsibility of the Commonwealth and the provisions necessary for the defence of our community insofar as they entail expenditure should be chargeable to the Commonwealth. If certain authority is delegated by the Commonwealth to the State it is neither fair nor proper that the State should seek to pass it on to any local authority or to private interests. To my mind it is carrying a step further in the form of legislation what appears to me to be the prevailing feeling that it can avoid sacrifice and pass on responsibility with a minimum of inconvenience to itself. Through the Government's instrumentality—and this is not confined to the State Government—as much responsibility as possible is being passed on. With what seems to me to be the foolish catchcry "Business as usual" we are trying to carry on with all our peace-time comforts, privileges and selfishness, individually and collectively. The crisis through which we are passing does not permit of that sort of thing and as our war effort is going at the moment, we are drifting on to Armageddon on a wave of wishful thinking. We must face our responsibilities, but it would appear that we are only too happy and ready to avoid them. Unfortunately, when tragedies arise, tragedies that will bring the position home to the people, it may then be too late for us to make those provisions which it is essential we should make in order to safeguard Australia and Australia's interests. I am

one of those who believe that we must organise entirely for this war, and that sectional and private interests will have to be laid aside. I do not consider that in this type of legislation Governments are giving a proper lead to the people, or an indication of the manner in which the people can render whole-hearted service. We require an almost entire regimentation of our efforts so that we may be able to make good those losses suffered by what I might term the key-point of the Empire. At the moment we are a long way distant from the scene of actual hostilities, but that does not absolve us from the necessity for organising, and if necessary, controlling all our instrumentalities for the purpose of furthering the Empire's effort, an effort which I think we in Australia will have to be prepared to magnify tremendously if we are to make a worth-while contribution to the struggle in which the Old Country is engaged. A few months ago we were lulled into the belief that this was a funny sort of war; it was just drifting along. Can we, however, continue to-day with our peace time economy, and carry on with business as usual, remembering that there are 45,000,000 people in the Old Country directing the whole of their efforts towards fighting between 70 million and 80 million others who are highly organised and controlled almost to the last boot lace for the purpose of the war. So we have to adopt the same methods with the same singleness of purpose if we are to come successfully out of the struggle. An attempt will probably be made to justify the Government's proposal to pass this responsibility on to other authorities on the ground that something similar has been done in the Old Country, and that the Government there delegated the responsibility to county councils. I suggest, however, that our State Governments occupy positions somewhat similar to those of county councils at Home, and as county councils are expected to shoulder some of this responsibility, the State Governments of Australia should do the same. This passing of the responsibility to local authorities and also to private interests is wrong. It could easily mean saddling one small area of the State with an indebtedness it could never hope to meet, while other areas which, all said and done, are part of Australia and would be protected by the same measures, indirectly if

not directly, would escape such charges. Local authorities are not permitted to operate outside their own districts and levy upon people who receive an indirect benefit, whereas the State Government can require the whole of the people in the State to make a contribution and the Commonwealth can levy upon the whole of the people of Australia. That is the form in which this legislation should have been put forward, not in the form in which it has been presented, which could easily develop into an onerous burden upon one section of the community while another section, perhaps better able to bear it, could avoid responsibility.

Hon. A. THOMSON: I move—

That the debate be adjourned.

The Chief Secretary: No, I want to get on with the Bill.

Hon. A. THOMSON: In deference to the Chief Secretary's wishes, I will withdraw my motion.

Motion, by leave, withdrawn.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West—in reply) [5.18]: As no other member appears to be desirous of contributing to the debate—

Hon. G. Fraser: We do not want to delay the passage of the measure.

The CHIEF SECRETARY: I wish to make it clear that this is the most urgent piece of legislation this House is likely to be called upon to consider between now and the end of the session. It is an important measure, and for that reason I suggested that the debate on the second reading should not be adjourned. The Bill speaks for itself; it is very clear. It certainly gives to the council proposed to be appointed very wide powers indeed, powers which will be exercised under regulation and which no one at this stage can definitely describe as to the extent to which they will affect the people generally or the people of any part of the State. That the authority desired under the Bill should be granted is essential. I realise that the measure will pass the second reading. In Committee members might desire more information about some of the powers proposed to be conferred. I do not intend to speak at length in replying to the debate, but after the second reading has been passed,

I should like the Committee stage to be made an order of the day for the next sitting of the House.

Question put and passed.

Bill read a second time.

BILL—LOTTERIES (CONTROL) ACT AMENDMENT.

Second Reading.

Order of the day read for the resumption from the 7th November of the debate on the second reading.

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 21, continuance of Act:

Hon. G. W. MILES: Will the questions I raised on the second reading, including the cost of running the lotteries, be taken into consideration?

The CHIEF SECRETARY: In the opinion of the hon. member, the work of controlling the lotteries could be done by one man, but the Act provides for three members of the commission.

Hon. G. W. Miles: I know it does; I made the suggestion that the Act be amended.

The CHIEF SECRETARY: This is a continuance Bill, and there is no intention of making any alteration in the constitution of the commission. The other point raised by the hon. member was that of the expenses by way of commission on tickets. That is a matter for the commission to consider. The hon. member's remarks will be brought under the notice of that body.

Clause put and passed.

Clause 3, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—BUSH FIRES ACT AMEND- MENT.

In Committee.

Resumed from the 6th November. Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

The CHAIRMAN: The question is that postponed Clause 11—amendment of Section 14—stand as consequentially amended.

Hon. H. S. W. PARKER: I move an amendment—

That paragraph (b) be struck out.

This paragraph relates to the lighting of a fire for disposing of garden or orchard refuse or other light litter, and requires the use of a brick or iron container. I contend that paragraphs (b) and (c) deal with something outside the scope of the Act, though we might be told that this is one way in which a bush fire might be caused.

The HONORARY MINISTER: I oppose the amendment; the paragraph is necessary. The Act applies to the whole of the State. Paragraph (b) providing for a brick or iron container applies only to those districts for which a prohibited time has been gazetted and for the period of such prohibited time. This varies with different areas. No prohibited period has been gazetted for any municipality other than the city of Perth. Within the metropolitan area prohibited times have been gazetted for Perth and the road boards within the area, but not for other municipalities. The prohibited period is from the 15th December to the 31st March. Therefore there would be nothing to prevent the lighting of fires within the metropolitan area for Guy Fawkes celebration provided an area with a radius of 10ft. was cleared around the fire. This seems to be a very desirable provision. If the local authorities within the metropolitan area consider that the prohibited period should not apply to the purely residential or business portion of their districts, they can apply for the prohibited time to be gazetted for only the portion of the district outside the residential area. The prohibited time would not be gazetted in a residential area if the local authority did not consider this necessary. In any district where there is no prohibited time, a person could burn his garden refuse or litter without a container, provided he cleared an area with a radius of 10ft. We shall be wise to leave the control with the local authorities.

Hon. H. S. W. PARKER: What is the meaning of these words in Sub-clause 1, "during the period commencing on the 1st October and ending on the 31st May of the next ensuing year"?

Hon. G. FRASER: I am not too pleased with the clause as it stands. Parts of it seem ridiculous. The usual means by which an orchardist disposes of rubbish and litter is to cross-plough the orchard, whilst the portions under the trees have to be done by hand. The usual course is to drag the stuff that is under the trees together and put a match to it. To require the orchardist to carry an iron container around to do that is ridiculous. In the case of prunings, the container would have to be of a very large size. I do not think the provision can be enforced.

The HONORARY MINISTER: The hon. member may be an orchardist, but the experts consider this provision necessary. Only an amateur orchardist would pull up grass around trees; an experienced orchardist would dig it in. Again, an experienced orchardist would plough in three-foot grass before it was dry. In regard to orchards, it is most desirable that the container provision should apply. In periods during which there is great danger of bush fires it is very necessary indeed that both the Bush Fire Control officers and the Forests officers should know exactly where a fire is lighted. If it is lighted anywhere on a property, investigations have to be made by such officers. The least objectionable amendment would be to reduce the radius required from 20 to 10ft. I hope the clause will pass as printed.

Hon. G. FRASER: I would like the Honorary Minister to demonstrate how one can plough under fruit trees. The practice is to cut off and burn tall grass, and to turn in the smaller grass.

Hon. J. Nicholson: One could not get a plough in under the trees without injuring them.

Hon. G. FRASER: Not many orchards would have the necessary space to burn over the distance required by the clause.

Hon. G. B. WOOD: I support the amendment. The Act contains many safeguards against a fire getting away from an orchard. A big orchardist whom I consulted expressed surprise at the proposal to include such a provision. The Fire Brigades Act covers suburban areas.

Hon. H. S. W. PARKER: How does the Honorary Minister interpret the words "during the period commencing on the 1st October and ending on the 31st May next ensu-

ing"? Has the Honorary Minister obtained a legal opinion or a departmental opinion with regard to this?

The HONORARY MINISTER: I have had the department's explanation. The clause provides for a large iron container only in the case of a district where prohibition of fires has been gazetted. I still maintain that this provision is necessary. We should not legislate to permit orchardists to put off their ploughing and digging in. In reply to Mr. Fraser I may say that no up-to-date orchardist waits to dig and plough his orchard until the grass is dry. The practice is to get the grass ploughed in while it is green, so as to obtain the best possible value from it as fertiliser. In reply to Mr. Parker I am advised the provision is necessary.

Hon. H. S. W. PARKER: It is difficult to read this drafting. First of all, Section 8 provides that a fire may not be lit at all during the prohibited period. During that period, whether it is gazetted or not, one can light a fire only under the conditions set forth. This is more serious than at first I thought. The clause appears to have been inserted rather thoughtlessly, without its full effect being recognised. I am worried about the effect on backyards in townships and so forth.

Hon. C. F. BAXTER: The Bush Fires Act protects gardens and orchards. Apparently there are two objections to the provision: firstly, its application to orchards; and secondly, its application to the metropolitan area. However, the danger I see, one from which there has been much trouble in the past, is that residents in small country towns and others set fire to garden rubbish and that the fires get away. The metropolitan area, it has been stated, comes under the Fire Brigades Act; then let orchards in the metropolitan area be excluded from this Bill. Undoubtedly the clause is badly drafted. Ninety-eight per cent. of orchardists are careful to reserve their rubbish until it will burn.

Hon. G. FRASER: We should not lay down conditions which are entirely unnecessary and cannot be carried out. Generally the Bill is a good one, but two or three small matters in it require amendment.

The HONORARY MINISTER: The Bush Fires Act deals with the burning of the bush by voluntary act, and in some cases imposes absolute prohibition, while in other cases requires the observance or perform-

ance of certain conditions. The Fire Brigades Act and the Forests Act will continue to operate as though the Bush Fires Act had not been passed at all.

Hon. J. J. Holmes: Cannot the difficulty be overcome by excluding municipalities and townships?

The HONORARY MINISTER: No. To do that would be very dangerous.

Hon. H. S. W. PARKER: I am afraid the Honorary Minister does not appreciate the effect of Section 3 of the parent Act. The Fire Brigades Act does not permit the lighting of a fire. The Bush Fires Act goes further. It does not provide that a person may light a fire; it prohibits fires except under certain conditions. The Bush Fires Act does not override the Fire Brigades Act. I am not anxious to interfere with what may perhaps be a vague provision designed to prevent the burning of rubbish in orchards; but at present we are in an awkward position, because one tree constitutes an orchard. The clause does prohibit the burning of rubbish in the backyard of any house in Western Australia. In my opinion, the clause is not inserted in its correct place in the Bill, because the commencing words are, "During the period commencing on the first day of October." Paragraph (b) relates to prohibited times only. There should be another paragraph. As the clause stands, I must oppose it.

Amendment put and passed.

Hon. A. THOMSON: With regard to paragraph (d), I have received a communication from a local authority which is rather worried about the position. The board in question considers that charcoal burning in summer months is highly dangerous and suggests that it be prohibited from December to the middle of February if the fire-breaks are insufficient. I would like to be quite sure, in the interests of the protesting board, that the bush fires control officer may insist upon further clearing, if it is deemed necessary.

Hon. L. B. Bolton: There is no danger in burning charcoal. It is burned in a pit.

Hon. A. THOMSON: No.

Hon. L. B. Bolton: Yes, if it is done properly.

Hon. A. THOMSON: The wood is placed in the form of a mushroom or an umbrella and then burned. If it were in a container,

such as Mr. Bolton suggested, that would be all right; but the point is that it is more economical to burn charcoal in such a place as will necessitate the least cartage.

The HONORARY MINISTER: I think the provision is clear. The bush fires control officer may give instructions for further precautions to be taken. I would, however appreciate the help of the legal members of the Chamber on this point.

Hon. H. S. W. PARKER: The provision states "at least 20 feet." I move an amendment—

That paragraph (c) be struck out.

Amendment put and passed.

Hon. G. B. WOOD: I move an amendment—

That in line 8 of paragraph (d) after the word "feet" the word "and" be struck out and the word "or" inserted in lieu.

The Minister will not, I think, raise any objection to the amendment.

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

Postponed Clause 13—Amendment of Section 17:

Hon. G. B. WOOD: I do not intend to move the amendment standing in my name on the notice paper. Having further examined the clause, I find that the Minister may take action only upon the default of a local authority.

Hon. A. THOMSON: There is another aspect of the matter. No appeal is provided from the Minister's decision. As the Honorary Minister has appealed to the legal members of the Chamber for their assistance, I would like their opinion upon this clause. The appeal is practically from Caesar unto Caesar.

Hon. J. Nicholson: It looks very like it.

Hon. A. THOMSON: It may be that if the board had carried out the work, it could have been done cheaper. The cost might be excessive if the Minister carried out the work.

Hon. G. B. Wood: That would be the fault of the local authority.

Hon. A. THOMSON: But the local authority might not consider it necessary to do the work.

The Chief Secretary: The local authority wants protection, but does not wish to pay for it.

Hon. A. THOMSON: Not necessarily.

Hon. H. S. W. PARKER: The hon. member would prefer the court to decide the matter?

Hon. A. THOMSON: Yes.

Hon. H. S. W. PARKER: Personally, I consider it would be well to remit the matter to the court; but, if I were Solicitor for a local governing body, I would strongly advise that body not to go to court, because the costs of the proceeding might be greater than the cost of the work concerned. In the long run, although an injustice might be done, it is better to accept the provision as it stands. The responsible Minister is not likely to act unreasonably. Had I drafted the provision, I would have drawn it in the way in which it appears.

Hon. G. B. WOOD: The provision will become effective only if a local authority fails to comply, after notice, with a demand made by the Minister. In such a case, the local authority would deserve to be mulet in the expense. I am fully in agreement with the Minister on this matter.

Clause put and passed.

New clause:

Hon. V. HAMERSLEY: I move—

That the following be inserted to stand as Clause 11:—“11. Section thirteen of the principal Act is amended by adding a paragraph as follows:—

- (e) Beyond a radius of thirty miles from the General Post Office in Perth no person shall drive a motor vehicle (as defined in the Traffic Act, 1919-1935) outside the boundary of a town unless there is securely affixed to such vehicle in a position readily accessible to any person being conveyed in the vehicle, a suitable covered receptacle for used matches and for cigarettes and cigar butts. Penalty: Ten pounds.”

Probably, despite the present drought, there will be an abundance of feed growing along our railways and roads. The Railway Department always burns the full length of the railway between the railway fences, but experience shows that fires often occur along our roads. Penalties are provided for people who throw cigarette butts or cigar butts out of cars travelling along the roads.

Hon. G. Fraser: What about pipe smokers?

Hon. V. HAMERSLEY: Penalties apply to them also, but I doubt whether the ashes from a pipe would remain alight as long as a cigarette butt or a cigar butt. The ash

from a pipe will usually go out the moment you stop smoking, but when a cigar or cigarette butt is thrown away, it will continue to smoulder even without a draught.

Hon. G. Fraser: Does the hon. member smoke a cigar or a pipe?

Hon. V. HAMERSLEY: I smoke a cigar when somebody is kind enough to give me one, but I am particularly careful not to throw half of it away. I smoke it down to the smallest butt. When I am travelling in somebody's car I always try to avoid setting alight to the vehicle. I look for a receptacle in which to deposit the butt. Many cars are fitted with good receptacles but some are not, and in spite of the care we have taken by means of this measure to prevent bush fires, they will occur through people throwing out lighted matches and cigarette butts from cars that do not contain such receptacles.

The HONORARY MINISTER: I oppose the amendment because it is impracticable. My experience is that people who own and drive motor cars are careful to see that their cigarettes and matches are extinguished and put them in any receptacles that might be provided. People who do not own motor cars but enjoy free rides usually throw matches and butts on the floor. To agree to the amendment would put many people to unnecessary expense and the provision could not be effectively policed.

Hon. H. S. W. PARKER: The amendment is outside the scope of the Bill and the provision should appear in the Traffic Act. There is nothing in the amendment making it compulsory for people to use the receptacles provided.

The CHAIRMAN: I am inclined to agree with the hon. member that the amendment is outside the scope of the Bill.

New clause put and negatived.

Title—agreed to.

Bill reported with amendments.

BILL—SALE OF LAND (VENDORS' OBLIGATIONS).

Second Reading.

Debate resumed from the 31st October.

HON. H. S. W. PARKER (Metropolitan-Suburban) [6.5]: I oppose the Bill on the ground that it is impracticable. However good the idea may be, to cover every careless or ignorant person desiring to deal in

land is impossible. The same applies in a lesser degree to any purchase made in any shop, though it is true that in a shop cash is paid. If the Bill were passed, a tremendous amount of extra work would be entailed in connection with every land transaction. The Bill provides that the vendor must notify every encumbrance on the land being sold. Those who make searches in the Titles Office are aware that a most diligent search can be made and yet the most up-to-date information may not be obtained. While a man is searching in one room, the documents relating to a deal may be lodged at the counter in another room. A perfectly honest person may make a search, find the land clear and sell it bona fide and then may find immediately afterwards that there is a caveat or a fi. fa. or an execution lodged against the land. In the ordinary course, the purchase money is not handed over until the title is available. That procedure is followed daily at the Titles Office. The trouble is that people endeavour to do business in a cheaper way, and every now and then mistakes are made.

To introduce a measure to protect people against rogues is impossible. The Bill will make an honest business transaction more difficult. The Land Agents Act provides that a person cannot practise as a land agent or have any dealings in land unless he is registered and has entered into a bond. Should he make default, the money under that bond is available to the defrauded person, though it is true that there is a limit. The instance quoted by Mr. Fraser was a case of gross negligence, inasmuch as the person concerned made a deal for £500 and did not protect her interest. Certainly she relied on someone whom she thought to be quite honest. Let us assume that the Bill became law, and that it was the duty of that dishonest agent to lodge a caveat. Being dishonest, he could quite easily tell his client that the caveat had been lodged even though it had not been.

Hon. L. B. Bolton: Would not the penalty be a deterrent?

Hon. H. S. W. PARKER: I do not know that it would. People are sentenced to death for murder, but murders are still committed.

Hon. L. B. Bolton: Not quite so many.

Hon. H. S. W. PARKER: No. People are sent to prison for theft, but thefts continue. You cannot prevent a dishonest person from finding victims.

The Chief Secretary: You can try.

Hon. H. S. W. PARKER: Quite true, but there is a limit. The question is, how will the measure affect genuine business? In many instances, people will not lodge a caveat because it involves payment of another 10s. as lodgment fee plus the cost of preparation. That is why most of the frauds are committed. Suppose a person sells a property for £1,000, with £500 deposit. He has a £500 equity and there is no reason why he should not raise a loan of £100 on that equity.

Hon. J. J. Holmes: After having sold it?

Hon. H. S. W. PARKER: Yes, it does not matter if he raises the loan after he has sold the land because it has to be delivered at the specified time. I venture to say that if any hon. member went to the Titles Office he would find that there is a mortgage on 50 per cent. of the land against which caveats have been lodged. It is a question of how the contract is drawn up.

Hon. G. Fraser: You would not find contracts of sale at the Titles Office.

Hon. H. S. W. PARKER: Before a person lodges a caveat claiming an interest as a purchaser he has to produce the contract, for the very good reason that the Titles Office wants to ensure that the stamp duty has been paid. In many instances there is an argument between the agent and the purchaser under which the contract is not stamped and no caveat is lodged. For the time being there is a saving of expense involved in the payment of stamp duty and 10s. for a caveat. If we make the lodging of a caveat compulsory—

Hon. G. Fraser: You have not read the Bill.

Hon. H. S. W. PARKER: According to the Bill, unless there is a caveat on the land—

Hon. G. Fraser: He cannot borrow on it.

Hon. H. S. W. PARKER: There is no protection for anyone. The Transfer of Land Act is designed for the honest purchaser. A prudent man desiring to buy a block of land makes a search at the Titles Office. If he finds that the land is clear, he makes his purchase. If the land is heavily mortgaged, he does not attempt to buy it. If there is a caveat against the land, he seeks to ascertain what it is protecting. In the event of the land being clear, I think it will be agreed that he would be justified in paying cash; and the

Government in those circumstances guarantees the correctness of the title. If the suggested restrictions are imposed, I do not know where we shall end.

Hon. G. Fraser: There are no restrictions in the Bill.

Hon. H. S. W. PARKER: The hon. member is endeavouring to protect the purchaser who will not protect himself.

Hon. G. Fraser: I am endeavouring to stop rogues from operating.

Hon. H. S. W. PARKER: I agree; but in doing so the hon. member will interfere with legitimate business and for that reason I must oppose the measure.

Sitting suspended from 6.15 to 7.30 p.m.

HON. G. B. WOOD (East) [7.30]: I regard this as a most desirable Bill, and have pleasure in supporting it. One of Mr. Parker's objections was that there was no need for legislation of this kind, with all the expense attaching to it, to deal with merely one glaring case. I remember that about 30 years ago a big estate was cut up near Perth. People bought blocks of land, and found afterwards that the land was under mortgage to one of the big banks.

Hon. H. S. W. Parker: That is all covered now.

Hon. G. B. WOOD: That is not as the position was put to me by another lawyer.

Hon. G. Fraser: Do not be intimidated.

Hon. G. B. WOOD: He said that a Bill of this kind was necessary to guard against such a thing. To register a caveat costs only 10s., and to withdraw it only another 3s. 6d. No lawyer is required to do that sort of thing, and even if one was engaged the utmost he could charge, I was told, would be a guinea. In the interests of those who do not understand the law, and of the numbers of people who do buy land on the time payment system. I regard this as a most desirable measure. I support the second reading.

HON. SIR HAL COLEBATCH (Metropolitan) [7.32]: I shall support the second reading, holding myself free to give consideration to any amendments that may be deemed necessary when the Bill is in Committee. I have the greatest respect for Mr. Parker's opinion, but I differ from him on one particular point. What I am about to

say is, of course, subject to legal interpretation. I am open to conviction on the subject, and am prepared to admit that I am wrong. It does not seem to me, however, that the Bill is, as Mr. Parker suggests, a Bill to protect people against rogues. That is not my view of the measure. To my mind it is a Bill to make illegal something that at present is legal, and is I think entirely wrong. That is how I regard the matter. The measure casts upon the vendor of land the obligation to notify the purchaser of any mortgage or of any encumbrance upon such land. That is an entirely proper thing for him to do. The vendor of land ought not to be allowed to sell it to some purchaser, and to withhold from that purchaser knowledge of the fact that there are certain encumbrances upon it. Again I am prepared to bow to legal opinion on the subject, but I would like to know whether it is a fact that at present a vendor selling land may, without committing any offence for which the law would punish him, withhold the fact that there are certain mortgages or encumbrances upon it. If at present he is compelled to do that it may be argued that this Bill is unnecessary. If, on the other hand, it is the case at present that a vendor may sell land to some person, and withhold from him the fact that that land is subject to certain mortgages or encumbrances, we should pass legislation to make that no longer possible, to make it an offence to sell any land and conceal the facts from the purchaser. I now come to the second portion of the Bill, where I think the case is even stronger, that is to say, having sold the land to a person the vendor shall not afterwards place any mortgage or any encumbrances upon it without the knowledge of the purchaser. I would like to know whether it is possible for a person who has sold land, after the sale has been completed, to raise money from some third party on mortgage on that land without advising the purchaser. If it is possible for the vendor to do such a thing at present without committing an offence, I say it is high time the law was amended to render it impossible for him to do it without committing an offence, without rendering himself liable to punishment. That is the whole matter behind the Bill. Ample provision is made by which, in the case of these time payment sales, the vendor may raise further money by mortgage, either with the consent of the purchaser, or if that is unreasonably refused, with the consent of

the court. I cannot see that any obstacle is placed in the way of a vendor that ought not to be there. If I have an assurance that at present it is illegal and punishable for any vendor of land to sell such land, and withhold from the purchaser the fact that it is subject to some mortgage or other encumbrance, and if in addition I have the assurance that it is an offence for any person having sold land to subject it to further encumbrances without the consent of the person who bought it, I would be prepared to say the Bill was unnecessary.

Hon. H. S. W. Parker: It is done daily in the ordinary course of business, but, as a rule, by selling the contract.

Hon. Sir HAL COLEBATCH: That may be so. If there is no legal obstacle or punishment provided for any person who sells land without disclosing to the purchaser the full extent of the mortgage or other obligations against it, and if it is possible, having sold the land, for him to incur further liabilities in connection with that land without the consent of the purchaser, it is time we amended the law.

Hon. H. S. W. Parker: If it is a fraud he can be dealt with under the Criminal Code.

Hon. A. Thomson: That does not help a man once he has lost his house.

Hon. Sir HAL COLEBATCH: I will support the second reading subject to my conviction that the present law is not sufficient to meet the case.

HON. J. NICHOLSON (Metropolitan) [7.40]: In principle this Bill has certain virtues. Mr. Fraser quoted a case which happily is not of frequent occurrence.

Hon. G. Fraser: Unfortunately such cases are only too frequent.

Hon. J. NICHOLSON: I have heard of a few cases. The idea contained in the Bill may have to many, as it has to Sir Hal Colebatch, to Mr. Wood and Mr. Fraser, some appealing force, but I feel that it requires very close examination.

Hon. C. B. Williams: Are you suggesting it should go before a select committee? That seems to be the pet topic to-day.

Hon. J. NICHOLSON: The hon. member suggests the appointment of a select committee.

Hon. C. B. Williams: Not I, but you say it wants closer consideration. It is the general idea that such matters should be dealt with by select committees.

Hon. J. NICHOLSON: It is desirable that the Bill should have closer consideration, in that it will override a maxim of law that has prevailed for hundreds of years, namely, the maxim of "caveat emptor." That maxim has stood for countless years.

Hon. J. Cornell: What does it mean?

Hon. J. NICHOLSON: It means "let the buyer beware." The obligation lies with the buyer to make inquiries when he purchases any property, real or personal, to ascertain whether it is free from encumbrances. If we depart from principles, as is suggested here, we should give the measure that seeks to effect that departure, close consideration. Sir Hal Colebatch stated that if a man could legally dispose of land, sell it under agreement, and then seek to deal with it, or his equity in it, he felt that the law, if that was still the law, should be remedied. I point out that in ordinary dealings of an everyday character goods or real property will be greatly affected by this Bill and if we pass it we shall be introducing something that would gravely hamper all those dealings.

Hon. Sir Hal Colebatch: What will hamper dealings? What is to prevent the vendor from doing what he is required to do by this Bill?

Hon. J. NICHOLSON: What applies in the view expressed by Sir Hal Colebatch applies with equal force regarding the buying and selling of goods.

Hon. J. Cornell: Not at all.

Hon. J. NICHOLSON: It applies with equal force to any personal property. Suppose I have taken on a hire-purchase.

Hon. G. B. Wood: That is automatically registered.

Hon. H. S. W. Parker: Not necessarily.

Hon. G. B. Wood: It is generally registered.

Hon. J. NICHOLSON: I would correct Mr. Wood. There are certain exceptions with hire purchase that render it unnecessary for agreements relating to particular classes of goods to be registered under the Bills of Sale Act. Those are specified in the Act, which contains a long list, one

that has been enlarged from time to time by amendments of the Act. Suppose I happened to own some goods such as furniture.

The Chief Secretary: Or a motor car.

Hon. J. NICHOLSON: Anything at all. I could sell the property to some person. If that person did not exercise the right that the law provides to enable him to make inquiries to ascertain whether or not any encumbrances attached to the property, or whether I held that property only under a hire purchase agreement, then the buyer would be the sufferer. I might be the greatest rogue on earth. Any man who would engage in dishonest practices of the type suggested would be a rogue and would deserve all the punishment that the law could possibly impose upon him.

The Chief Secretary: Then why not agree to the Bill?

Hon. J. NICHOLSON: I will deal with that point. What applies to land, applies to personal property. The Bill provides that—

It shall be the duty of every vendor of land, when such land is being or is about to be sold by means of a contract of sale, to notify the purchaser in writing before the purchaser executes the contract of sale, of any mortgage or encumbrance, lien or charge on the land . . .

Hon. A. Thomson: What is wrong with that?

Hon. J. NICHOLSON: By virtue of that provision we are asked to reverse what has been the law and practice—

Hon. H. S. W. Parker: Throughout the Empire.

Hon. J. NICHOLSON: Yes, it has been the law and practice throughout the Empire for hundreds of years. Such a provision calls for the closest consideration in order to ascertain what its possible effect may be upon transactions between man and man from time to time. With regard to an ordinary sale of land, the person who has sufficient intelligence will naturally make inquiries before doing anything regarding the property. He will make those inquiries either personally or through his agent or solicitor find out whether the land is affected by encumbrances.

Hon. A. Thomson: According to your colleague, the land might be encumbered within five minutes of the transaction.

Hon. J. NICHOLSON: I shall show the hon. member how that would be avoided. If the intending purchaser were to find that the land was free he would negotiate for the purchase of it. Before paying over any money, apart from a small deposit to bind the contract, he would arrange for the payment of the balance or a substantial deposit—in the event of the purchase being made on terms—at the Titles Office as and when a caveat was lodged. The discovery of whether the land was free or encumbered would be ascertained by due and proper investigation at the Titles Office at the time of settlement. That happens from day to day when the settlement of such purchases is effected and the transfer is handed over. If he is in a position to pay the full price straight away, the buyer will not be fool enough to make the payment without being assured that the title to be granted to him is free from encumbrances and acceptable at the Titles Office. What happens every week is that arrangements for settlements are made to take place at the Titles Office where the money is handed over after the due search has been made.

Hon. A. Thomson: But what about other cases?

Hon. G. W. Miles: Yes, when a man has five years in which to pay off the purchase price?

Hon. J. NICHOLSON: The person who buys on terms would say, "I will not pay you any money or only a small deposit to bind the contract, but I shall pay you the balance of the deposit when I go through the same process as would be followed by a person who would pay you cash." That man would say that he would pay the balance of the deposit at the Titles Office when he had completed a search of the title and ascertained that, at the moment he lodged his caveat, there was no encumbrance against the land.

Hon. A. Thomson: Is not that all the Bill seeks to make compulsory?

Hon. J. NICHOLSON: I am pointing out that there are disadvantages to that course. Many things require to be considered. I claim that the purchaser can be protected to the fullest extent and there is no occasion for making provision as suggested in the Bill. What Mr. Fraser desires to prevent is the rogue defrauding an innocent buyer. To a certain extent, provision is made in the

Criminal Code to deal with such rogues. If it is necessary to extend those provisions, by all means let us do so and accomplish the very laudable purpose Mr. Fraser has in mind. Let it be made a criminal matter.

Hon. G. B. Wood: But that would not return the purchaser's money to him.

Hon. J. NICHOLSON: Nothing in the wide world would do that.

Hon. L. B. Bolton: We want to prevent that sort of thing.

The Chief Secretary: The Bill will have the effect of preventing the loss of money in such circumstances.

Hon. J. NICHOLSON: The Bill will not have that effect. Once a rogue sets out on the path of deception the Bill will not prevent him from carrying out his objective. If I thought it would have that effect, I would agree with others who see virtue in it, but the Bill will not accomplish that end. That is where members are making a mistake.

The Chief Secretary: Can you suggest an alternative?

Hon. J. NICHOLSON: I would not like to suggest anything offhand. I assure the House that this matter requires closer investigation than we are giving it at present.

Hon. H. Tuckey: What is the greatest harm the Bill can do?

Hon. J. NICHOLSON: It could do the greatest possible harm. In Clause 4 the Bill provides that where land has been sold, the vendor must not mortgage or otherwise encumber the property unless certain conditions are fulfilled. First a caveat has to be lodged. That duty is imposed upon the buyer. Suppose the purchaser says to the vendor, "I do not want any caveat put on the land and I will not sign a caveat."

The Chief Secretary: Do you say that people of ordinary intelligence know about these things?

Hon. J. NICHOLSON: The ordinary business man would know. There are very few people who have had no interest in a land transaction. Nearly everyone has purchased a block of land at some time of his life. I made my first purchase in Queensland when I was a very young man.

The Chief Secretary: Did you lodge a caveat?

Hon. J. NICHOLSON: I had saved up enough money to purchase a block. I was able to take care of myself and had the good sense to see that everything was all right.

Hon. J. Cornell: That Gaelic caution!

Hon. J. NICHOLSON: Perhaps. I certainly took care to see that everything was all right before I paid my money. I was pointing out that the purchaser might possibly refuse to sign a caveat for one reason or another. The vendor has no right to sign a caveat on behalf of the purchaser and cannot possibly lodge a caveat. The Bill places an obligation on the vendor which he cannot fulfil in instances such as I have mentioned.

Hon. A. Thomson: He might do it in order to ensure a sale.

The Chief Secretary: No.

Hon. J. NICHOLSON: A person might refuse to lodge a caveat because of the expense.

Hon. A. Thomson: It would cost about half a guinea.

Hon. J. NICHOLSON: The expense might be one reason. We do not know, however, what the reasons may be. An obligation is put upon the vendor to do something he has no power to enforce.

Hon. G. Fraser: Where does it say in the Bill that a vendor has to lodge a caveat?

Hon. J. NICHOLSON: At the top of page 3. "The vendor of the land shall not, except pursuant to an order of the court, mortgage or otherwise encumber such land unless a caveat protecting the rights of a purchaser under the contract of sale has been duly lodged against the land by the purchaser and the transaction is subject to the caveat."

Hon. G. Fraser: That is different from what you are arguing.

Hon. J. NICHOLSON: He cannot do these things unless that is fulfilled. The purchaser might say for some reason known only to himself, "I will not lodge a caveat." Therefore this requirement cannot be fulfilled. He has no power to lodge a caveat for the purpose.

Hon. G. Fraser: No one said he could.

Hon. J. NICHOLSON: In effect an obligation is placed upon the vendor which cannot be enforced.

Hon. G. Fraser: Read it again.

Hon. J. NICHOLSON: There are certain provisions in Clause 5 with regard to the court and I should like to direct the hon. member's attention to the definition of "court." Of course that could be amended in Committee. I draw attention to these

matters so that further consideration may be given to them. The definition of "court" is—

Where the consideration expressed in the contract of sale in respect of the land in question does not exceed one thousand pounds the local court constituted pursuant to the Local Courts Act, 1904-1930, and held nearest to the residence of the purchaser. . . ."

I am drawing attention to these matters and am advancing reasons why the question should be further considered. Often we find purchasers moving about from one State to another, and the Bill provides that the court in which the proceedings shall be held must be the court nearest to the residence of the purchaser. Assuming a purchaser has gone to one of the other States, or even gone to Wyndham or Darwin and the land has been sold here, it would be necessary to follow the purchaser all over the place to locate him. Of course I admit that position is capable of being rectified in Committee. There is another reason I would advance. Assume a sale is made between two individuals who know one another. Say I am the vendor of land and another hon. member is the purchaser. We know each other very well. The position then is that all these obligations would be placed upon us. Take also the case of two decent simple-minded people, who probably have not that knowledge of business affairs that some of us here may have. Those two individuals would sign their agreement in their own simple way, a procedure that has been followed and I have no doubt will again be followed. The effect of passing this Bill will be that the vendor of land will be liable to all the penalties provided in the measure if it should become an Act.

Hon. G. Fraser: In what way?

Hon. J. NICHOLSON: Because it is provided that it shall be the duty of every vendor of land, when such land is about to be sold, by means of a contract of sale—

Hon. G. Fraser: He would be a great friend indeed if he sold land without telling the other party what debts were on it.

Hon. J. NICHOLSON: I have given instances of two people who may not have the knowledge the hon. member might have in regard to transactions such as these, and they would enter into their agreement between themselves perfectly bona fide. These two simple people notwithstanding that every person is supposed to know the law,

and notwithstanding that these two people would enter into their contract, would have no knowledge of this measure. They would have carried out their transaction in their own simple way, because they had known one another.

Hon. Sir Hal Colebatch: Would it not be an obligation on the part of one to tell the other the actual facts?

Hon. J. NICHOLSON: Not unless they complied entirely with the terms of the law.

Hon. Sir Hal Colebatch: What trouble would be involved in putting it into writing?

Hon. J. NICHOLSON: I would ask the hon. member to take the case of two people such as those to whom I have referred. What knowledge would they have of a law like this or indeed any other law?

Hon. J. Cornell: The transaction would then be invalid.

Hon. J. NICHOLSON: It would.

Hon. J. Cornell: And so it should.

Hon. G. Fraser: They would be simple-minded indeed if they did what you say.

Hon. J. NICHOLSON: The whole result would be that the transaction would be rendered void and the vendor would be liable to all the penalties laid down in the measure. I do not wish to debate the matter further. There are many other points to which one could refer but I am going to suggest to Mr. Fraser that although I have expressed my views, I fully realise the importance of the position he has in mind, and I also realise the importance of something being done. On looking into the matter, however, I saw that we would be violating that principle of law to which I have referred, and in the interests of everyone I am going to suggest to the hon. member that he should refer the measure to the Law Society or the Barristers' Board, or, better still, both those bodies, and let them jointly consider the matter and submit a report and recommendation. There would thus be the opportunity of the measure receiving the combined consideration of those who have devoted themselves to questions such as this and their opinion would be of value. As the measure stands, I regret I cannot support the second reading.

HON. J. CORNELL (South) [8.13]: Having listened very attentively to the dissertations of two learned members of this House, I have come to the conclusion that they have made very heavy weather of the position. To a simple-minded individual it does appear that the principle—not the phraseology—of the Bill commends itself to everyone. The principle is very simple. A block of land which may be the subject of a mortgage is disposed of. What is wrong with that? “A” tells “B” that he is purchasing a block of land which carries a mortgage, and “B” knows the position when he is entering into the agreement to purchase. To-day “A” need not tell “B” what the position is, and consequently only one person suffers, that person being “B.”

Hon. J. Nicholson: This Bill will not prevent that.

Hon. J. CORNELL: We know that the law cannot be so devised as to prevent everything; but surely it is not asking a person too much to disclose the truth regarding a property that he may be selling. Take the position of a vendor disposing of land and not being familiar with the law. The issue is, as Sir Hal Colebatch put it, that where “A” sells to “B,” on a conditional purchase or a contract of purchase, a block of land, surely he is under an obligation to tell the person to whom he is selling the land whether it is carrying any encumbrance. That is commonsense and justice. What hardship could be inflicted upon anybody? Any land should be sold under the condition that the purchaser knows that it is not encumbered or, if it is subject to encumbrance later on, is informed of it. If a man buys land that is unencumbered, the vendor should advise him if he proposes to encumber it before the full amount of the purchase money has been paid. Both legal members of the House have told us what happens when a purchaser goes to get his transfer. Some contracts of purchase extend over 15 or 20 years. In the case of the Workers’ Homes Board, the period is 30 years.

Hon. G. Fraser: In some cases it is 35 years.

Hon. J. CORNELL: The purchaser does not get the title to the land until he has paid the last penny of the purchase money, even if the Government is the vendor. I

do not see that any undue hardship can be imposed upon any honest agent. Any agent worth his salt would tell an intending purchaser of an encumbrance on the land he was buying. The purchaser should not be placed in the position of buying a pig in a bag. I cannot reason out the application of the maxim quoted by Mr. Nicholson “Caveat emptor,” or “Let the purchaser beware.” The hon. member said it applied elsewhere. If a grocer sold sugar to which sand had been added, there would be no question of letting the purchaser beware. It would be a matter of let the seller beware.

Hon. J. Nicholson: That is different.

Hon. J. CORNELL: Of course. If a man enters into a contract to purchase a block of land for £800 over a period of 20 years and the land is later mortgaged for £500, the purchaser is likely to lose what money he has paid, and we can say that in effect the vendor is selling sugar and sand. He is certainly selling something that has been adulterated, something to which an attachment has been made of which the purchaser was not aware when the transaction was entered upon. Therefore such a vendor should be held as culpable as a grocer who sells sand and sugar, or the baker who sells short-weight bread, or the milkman who sells watered milk.

Hon. J. J. Holmes: A baker is not now required to sell full-weight bread.

Hon. J. CORNELL: Many years ago I argued in this House that it was unfair to place the onus of proof upon a miner caught with gold-bearing ore in his crib-can, probably put there by somebody else, but the lawyers in this House said it was good law to put the onus of proof upon the accused. I commend Mr. Fraser on his effort to rectify something that has caused injury to many people in this community, and I commend Sir Hal Colebatch for the broad view he has taken on this issue. I hope the House will approve of the second reading, and if the phraseology is not all it should be, an alteration can be made in Committee. Let us agree upon the simple principle that it is not above-board to sell land subject to the disabilities mentioned without the knowledge of the purchaser.

HON. J. J. HOLMES (North) [8.20]: Seemingly a good deal of our time on other Bills of recent date, not on this Bill, has been devoted to protecting the odd indi-

vidual and putting the rest of the community to considerable expense. Very few people appreciate the magnitude of the land transactions carried on from day to day and, because some person cannot understand the law, the whole community is to be penalised in order to put the matter right. I congratulate Mr. Nicholson and Mr. Parker upon their attitude, because I can see any amount of additional work for them in their legal capacity. We cannot make people honest by Act of Parliament. If anyone in this community commits offences, no one is more anxious than I am and no one has rendered greater help than I have to permit of such a person being brought to justice. Throughout the British Empire we have a system of dealing with land, and because one or more individuals, through lack of knowledge, have been made to suffer, the whole of the community is to suffer. We have been told that the buyer of any article should have a guarantee that he is getting what the article purports to be. That is so in 99 cases out of a hundred, but the one exception applies in this State. This is the only part of the British Empire where the vendor of bread is not compelled to supply the weight he is supposed to deliver. This House passed a Bill with the knowledge of the fact that there is no responsibility on the vendor of bread to ensure that the purchaser receives a 2 lb. loaf.

Hon. Sir Hal Colebatch: It is an offence to sell under-weight bread.

Hon. J. J. HOLMES: Not in this State. Here the dough is weighed, or is supposed to be weighed.

Hon. J. Cornell: People get better bread.

Hon. J. J. HOLMES: If the loaf weighs only 1¾ lbs. instead of 2 lbs., there is no responsibility on the baker.

Hon. Sir Hal Colebatch: It is an offence if it is not of right weight in the mass.

Hon. J. J. HOLMES: The weighing is done at midnight or at 1 a.m., 2 a.m., or 3 a.m.

Hon. Sir Hal Colebatch: It is an offence to sell watered milk.

The PRESIDENT: Order!

Hon. J. J. HOLMES: I should like to support the Bill, but I know the complications that will arise. There is nothing to prevent a vendor mortgaging a property after sale and not advising the purchaser of his intention so to do. If a vendor owed me money and I knew that he owned certain land, there would be nothing to prevent my

lodging a caveat against the title, and I do not think it would be a criminal act to do so. We cannot protect people against themselves.

Hon. G. Fraser: But you can protect them against others.

Hon. J. J. HOLMES: I repeat that we cannot make people honest by Act of Parliament. Much as I should like to support the Bill, I cannot approve of penalising the whole of the community because one or more land agents have been frauds. If those people have acted fraudulently, there is legislation under the Land Agents Act and under the Criminal Code to deal with them, and they should be made an example to such an extent that nobody else would be inclined to repeat the offence.

HON. L. B. BOLTON (Metropolitan) [8.25]: Not having a legally-trained mind, I am unable to appreciate the many pitfalls pointed out by Mr. Nicholson and Mr. Parker. To me this measure seems to be something that has long been necessary to protect purchasers of land on time payment. Hardly a day passes without our hearing of some unfortunate individual who has been entirely misled when making a purchase. This measure will help in some way to protect such purchasers, and for that reason I welcome the Bill and propose to support the second reading.

HON. G. FRASER (West—in reply) [8.26]: I am very pleased at the reception extended to the Bill by most members. For the life of me I cannot understand the opposition offered by the two legal members of the House. I do not intend to occupy much time in replying to the case put up by Mr. Parker. To be quite charitable to him—

Hon. H. S. W. Parker: You cannot.

Hon. G. FRASER: I am satisfied that he has not read the Bill carefully, though I was going to say that he had not read it at all. The hon. member, in making out a case against the Bill, spoke of a land agent who had told a buyer that he had lodged a caveat, whereas he had not done so. This Bill has nothing whatever to do with land agents. It affects simply the transactions between vendors and purchasers, and the responsibility is placed on the vendor, not on the agent who was responsible for the sale of the property.

Hon. H. S. W. Parker: Then you mean to say that an agent cannot deal at all.

Hon. G. FRASER: Nothing of the kind. The hon. member is reading into the Bill something that is not there. The responsibility is on the vendor. If the hon. member reads the definition of "vendor" in the Bill, he will realise the significance. "Vendor" means an owner who, under a contract of sale, sells land. Thus the hon. member put up a case without having carefully read the Bill.

Hon. J. J. Holmes: If an agent sells the land, he is not responsible.

Hon. G. FRASER: The responsibility is on the owner to inform the purchaser of any encumbrance.

Hon. H. S. W. Parker: Suppose the owner was an absentee?

Hon. G. FRASER: I am pointing out that the hon. member, when discussing the measure, dealt with matters that are not included in the Bill at all. He said, "Let us assume that the Bill becomes law and that it is the duty of a dishonest agent to lodge a caveat." There is nothing requiring an agent to lodge a caveat; there is nothing requiring a vendor to lodge a caveat. Yet the hon. member criticised the Bill as if provisions to that effect were included. I tell the hon. member that he has not read the Bill; otherwise he would not put up that type of case. I am surprised at the opposition to the measure. Mr. Nicholson mentioned something that has been the law for hundreds of years. If that is so, the law is on the basis that the buyer must beware and the rogue is protected. We must alter that. The law allows rogues to do certain things.

Hon. J. Nicholson: No. The Criminal Code prevents that.

Hon. G. FRASER: Not so.

Hon. H. S. W. Parker: Yes. If your facts are correct, the law can get that man.

Hon. J. J. Holmes: If a limited liability company is selling, who is the vendor?

Hon. G. FRASER: To whom is the company selling? The company is the owner.

Hon. J. J. Holmes: But no individual can be prosecuted.

Hon. G. FRASER: Somebody must be responsible and liable to prosecution.

Hon. J. J. Holmes: A company has neither a soul to be damned nor a body to be kicked.

Hon. G. FRASER: Does the hon. member ask me to believe that a company can break the law of the land and yet nobody can be prosecuted?

Hon. J. J. Holmes: You know what happened in connection with land sales.

Hon. G. FRASER: The Bill is perfectly simple. It has been urged by members opposing the measure that it will interfere with transactions in land. It will do nothing of the kind. It contains nothing that will interfere with the ordinary traffic in land going on to-day. All that has to be done by the vendor is that he must state to the purchaser in writing that there is a mortgage on the land or that there are such and such encumbrances on the land. Will that interfere with the sale of property, merely to have to hand to the purchaser a note stating that there are no charges or that there are certain charges on the land? I fail to see it. A further obligation is that if land is free of debt when sold, the vendor cannot, after selling it by contract of sale, incur any debts against the property without the consent of the purchaser. Will that interfere with the flow of land transactions? I would need a highly vivid imagination to believe that those two simple items would interfere with the sale of land. And no amount of building up can make the measure do anything else. I followed as closely as I could both members who opposed the Bill, with a view to discovering how the measure could interfere with land transactions. For the life of me I cannot see it now.

Hon. H. S. W. Parker: You are talking the Bill out.

Hon. G. FRASER: No. I am merely replying to two points which have been raised. If there is a debt, it must be notified. If there is no debt, none can be placed on it without the consent of the purchaser. That is only fair and reasonable. In Committee I shall have a small amendment to move. Proceedings under the measure must be taken under the Justices Act. At present the Justices Act requires proceedings to be taken within six months. But a contract of sale may cover a period up to 25 or 30 years, and to allow a person only six months to discover that a mortgage has been placed on the property would be cutting things too fine. Therefore in Committee I shall move a proviso allowing twelve years for the prosecution of any offence that may be committed. Fifteen or 20 years might easily elapse be-

fore a purchaser knew that an offence had been committed. It has been said that the Bill will not stop rogues. Neither does the law stop a man from driving a motor car if he is drunk. But it subjects him to penalties if he does so. That is exactly how the Bill operates.

Hon. J. Nicholson: No. You are proposing to do something more.

Hon. G. FRASER: If a man does certain things he can be punished under the Bill. The law does not stop a man from assaulting another man, but if he commits an assault he incurs a penalty. Therefore I say that the passing of the Bill will in no way interfere with transactions in land. It will merely afford certain protection. From the tone of the debate I feel sure members are prepared to carry the second reading.

Question put and passed.

Bill read a second time.

In Committee.

Hon. J. Cornell in the Chair; Hon. G. Fraser in charge of the Bill.

Clause 1—agreed to.

Clause 2—Interpretation:

Hon. H. S. W. PARKER: I suggest to Mr. Fraser that consideration of this clause be postponed. I wish to suggest certain amendments which will place the Bill, from my point of view, on proper lines.

On motion by Hon. G. Fraser, further consideration of the clause postponed.

Clause 3—Notification of condition of title to be given:

Hon. H. S. W. PARKER: I would rather that the clause should open with the words "every vendor of land shall notify." I move an amendment—

That in line 1 of Subclause (1) the words "It shall be the duty of" be struck out.

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That in line 3 of Subclause (1) the word "to" be struck out, and the word "shall" be inserted in lieu.

Hon. H. S. W. PARKER: Clause 4 provides "penalty: One hundred pounds." I do not know why there should not be exactly the same provision at the end of Clause 3. I move an amendment—

That in lines 1 to 3 of Subclause (2) the words "Every person offending against the

provisions of this section shall be guilty of an offence and shall be liable to a" be struck out.

Hon. G. FRASER: I am not too favourable to that amendment.

Hon. H. S. W. PARKER: It is in conformity with the ordinary drafting.

Hon. G. FRASER: It may be; but there is a difference between the two clauses. Clause 3 merely stipulates what the vendor shall do. Clause 4 sets out that unless certain things are done the penalty will be such-and-such.

Hon. H. S. W. PARKER: I assure the hon. member that that is the usual drafting. Section 29 of the Interpretation Act provides that the word "penalty" at the end of a clause means what the penalty shall be.

Hon. J. J. Holmes: This is only strengthening the Bill.

The CHAIRMAN: If the amendment is passed, the two subclauses will become one clause.

Hon. G. FRASER: What concerns me is why the draftsmen should have inserted two subclauses when one would have been sufficient.

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

Clause 4—Except under certain conditions vendor not to encumber land after entering into contract of sale:

Hon. H. S. W. PARKER: I move an amendment—

That in lines 1 and 2 the words "After the purchaser has executed a contract of sale in respect of any land, and" be struck out.

I take it the hon. member desires to prevent the vendor from mortgaging or encumbering the land. There should be a further provision that he should not be allowed to sell it, although the Bill does not say so.

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That in line 3 the words "or an assignment thereof" be struck out.

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That in line 5 the word "sell" be inserted before the word "mortgage."

This amendment may not be agreed to so readily. The principle agreed to on the second reading, however, was that the vendor could not sell land under a contract of sale and then mortgage it. In my opinion, it should not be necessary for an application to be made to the court. If a vendor sells land, the purchaser lodges a caveat against it. The caveat cannot be removed except for good cause, which must be shown to the court. The vendor could, if he so desired, mortgage the land subject to the caveat, but then the foolish person would be the man who lent the money.

Hon. G. FRASER: My desire is to give the vendor, as well as the purchaser, a fair deal. A purchaser may have only £100 equity in a property worth £1,000 and the vendor may require capital. In such a case, he should be permitted to raise it upon the security of the property.

Amendment put and negatived.

Hon. H. S. W. PARKER: I move an amendment—

That in line 6 the word "or" be inserted before the word "unless."

Amendment put and passed.

Hon. S. H. W. PARKER: I move an amendment—

That paragraph (a) be struck out.

Hon. G. FRASER: I hope the Committee will not agree to the amendment. While we are protecting the purchaser, it must be borne in mind that the vendor has some rights and I desire that these should be protected.

Hon. H. S. W. PARKER: But paragraph (a) merely expresses what is already the law.

Hon. G. FRASER: The paragraph gives the vendor the right, whether or not the purchaser has agreed and as long as the purchaser has a caveat against the property, to raise money on the property.

Hon. H. S. W. PARKER: But that is the law at present; a caveat stops all transactions.

Hon. G. FRASER: This gives the vendor the right to raise a further mortgage on the property if the purchaser has lodged a caveat. I want to give the vendor some protection.

Hon. H. S. W. PARKER: He already has it under the present law.

Amendment put and negatived.

Hon. H. S. W. PARKER: I move an amendment—

That in paragraph (b) the words "prior to the registration of the transaction" and "signed before a resident or police magistrate or a justice of the peace" be struck out.

All kinds of difficulties would be created by the retention of these words. It is quite sufficient if the purchaser has consented by memorandum in writing.

Hon. G. FRASER: I oppose the amendment. These words are intended to be a protection to the parties concerned.

Hon. H. S. W. PARKER: Unless these words are struck out, Mr. Fraser's object will be defeated, because the transaction itself need not be registered.

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

Clause 5—agreed to.

Clause 6—Offences:

Hon. H. S. W. PARKER: I move an amendment—

That Subclause (1) be struck out.

I do not know why the officer specified in this clause should be authorised by the Minister. The police could take action in the ordinary way.

Hon. G. FRASER: I presume the police would be the officers authorised by the Minister.

Amendment put and passed.

Hon. G. FRASER: I move an amendment—

That the following proviso be added to Subclause (2):—"Provided that notwithstanding anything contained in such last-mentioned Act proceedings in respect of an offence against any provision of this Act may be brought at any time within 12 years next after the commission of the offence, or within six months next after the first discovery thereof by the person aggrieved, whichever period is the shorter."

This proviso means that action may be taken within 12 years, instead of within six months as provided under the Justices Act. A contract of sale may sometimes run for 25 years, and as the subclause stands action would have to be taken within six months. I, therefore, propose to extend the time to 12 years.

Hon. H. S. W. PARKER: This amendment means that any vendor who sells land under contract of sale will be liable at any time within 12 years to be charged with

having committed an offence under the Act, and the position will be that of "word against word." All the purchaser would have to do would be to tear up the notice just before the expiration of the 12 years, and swear that he had never received it. To that extent the vendor would be at the mercy of the purchaser.

Hon. G. FRASER: Some people can make a case out of nothing. The hon. member is evidently referring to the notice in writing that permits certain things to be done. The purchaser must give the vendor permission to raise the mortgage, and that permission must be in writing. The vendor would, therefore, be in possession of that notice. Apparently members are not concerned about the purchaser. The purchaser knows nothing about the transaction. It may be 25 years before he knows anything about it. Some of the contracts have lasted for 35 years. However, I ask the Committee to go half-way.

Hon. J. J. Holmes: Why make the limit 12 years when some of the contracts extend for 25 years?

Hon. G. FRASER: I want to be reasonable. There are many of varying periods. Unless the provision is made for 12 years, it will mean that the term will be six months, which means that at the end of 12 months an individual can not be prosecuted.

The CHAIRMAN: I am afraid the amendment is on the basis of the old law and not on that covered by the Bill.

Hon. G. FRASER: No; Subclause 2 sets out that the proceedings must be taken under the Justices Act.

Hon. A. Thomson: Why not strike out Subclause 2?

Hon. G. FRASER: That would not be of advantage.

Hon. H. S. W. PARKER: As I feared, the object of the Bill is not to benefit the purchaser in any shape or form but to bring a man to book for his crooked actions. Fraud can be dealt with under the Criminal Code. The Bill is supposed to provide an expeditious remedy. How easy it would be for any evilly-disposed person who has purchased land but subsequently finds that he has made a bad deal—we had a Royal Commission some time ago which showed that there were many such purchasers of land who had effected bad deals—to allege that no notice had been given him in the terms of the amending legislation, and it would depend upon the justice sitting on the bench

whether the vendor would go to gaol for six months. Mr. Fraser wants that possibility hanging over the head of the vendor for 12 years.

The Chief Secretary: Can you suggest how a remedy could be obtained?

Hon. H. S. W. PARKER: During the second reading debate I endeavoured to point out that the Bill would not affect the purchaser and that it was impossible to prevent crooked transactions. Under our laws to-day there are a number of offences for which prosecutions cannot be launched after a lapse of six months. If a purchaser goes blindly into a deal and does not worry about it for six months, is he worth worrying about?

The Chief Secretary: He does not know the intricacies of the law as the hon. member does.

Hon. H. S. W. PARKER: But the Bill will not assist the purchaser at all. Again, a perfectly honest mistake may have been made and no harm may have been done. Then, after 12 years, the unfortunate vendor may be prosecuted. Surely we cannot allow such a possibility to continue for 12 years.

Hon. G. FRASER: I am surprised at the contention raised by Mr. Parker. If we were to accept his contentions, how many laws would be passed for the prevention of crime? Have we passed laws to stop crime? We know very well we cannot prevent criminals, but we can provide penalties as punishment for certain acts contrary to the law.

Hon. J. J. Holmes: The Bill fixes penalties but does not assist the purchaser.

Hon. G. FRASER: By passing legislation embodying these penalties, we will provide a deterrent.

Hon. J. J. Holmes: What about the man who discovers the omission 12½ years subsequently?

Hon. G. FRASER: We must have some line of demarcation, but six months is too short.

Hon. A. THOMSON: I think six months is too brief a period. We have heard of a case in which a person went on paying for 12 years only to find that he had no interest in the property he was purchasing because it was mortgaged to somebody else. Would it not be possible to leave the period open for that covered by the contract?

Hon. H. S. W. Parker: Fraud could be dealt with under the Criminal Code.

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

Ayes	10
Noes	5
<hr/>	
Majority for	5
<hr/>	

AYES.

Hon. L. B. Bolton	Hon. W. H. Kitson
Hon. Sir Hal Colebatch	Hon. W. J. Mann
Hon. J. M. Drew	Hon. A. Thomson
Hon. G. Fraser	Hon. C. D. Williams
Hon. E. H. Gray	Hon. G. B. Wood

(Teller.)

NOES.

Hon. J. J. Holmes	Hon. H. Tuckey
Hon. J. Nicholson	Hon. V. Hamersley
Hon. H. S. W. Parker	

(Teller.)

Amendment thus passed; the clause, as amended, agreed to.

Clause 7—Saving of civil and criminal remedies:

Hon. H. S. W. PARKER: This clause is unnecessary. It is so much verbiage which means nothing.

Hon. G. FRASER: The clause was inserted to exempt the Registrar of Titles from any action regarding these transactions.

Hon. H. S. W. Parker: He does not come into this.

Hon. G. FRASER: The draftsman thought it was wise definitely to stipulate there was no action against him. Further, there are provisions in the Criminal Code dealing with land transactions and he considered it was not desirable that this measure should interfere with them.

Hon. H. S. W. Parker: It will not.

Hon. G. FRASER: The draftsman wanted to be on the safe side.

Hon. H. S. W. PARKER: Civil proceedings cannot be taken until criminal proceedings have been taken. This provision tries to reverse that procedure. It is absolutely unnecessary.

Clause put and passed.

Clause 8—Regulations:

Hon. H. S. W. PARKER: Here we have the old bugbear of the Governor making regulations. What regulations he could make under this measure, I do not know. The clause asks for a good deal.

Clause put and negatived.

Postponed Clause 2—Interpretation:

Hon. J. NICHOLSON: I previously drew attention to paragraph (a) of the definition of "court." I move an amendment—

That after the word "purchaser" in line 7 of paragraph (a) of the definition of "court," the words "or the court nearest the place where the land is situated" be inserted.

Hon. W. J. Mann: Who will decide in which court the case shall be heard?

Hon. J. NICHOLSON: The purchaser of the land may have gone away from the State or to some very remote place in the State and as the clause stands he would have to be followed and the case heard in the court nearest to his residence. That would not be fair.

Hon. G. FRASER: I do not think there is any need for the amendment. In ninety-nine cases out of a hundred the residence of the purchaser will be on the property being bought.

Hon. H. S. W. Parker: No, nothing like it.

Hon. J. J. Holmes: We are dealing with the one case in a hundred.

Hon. G. FRASER: No. We do not legislate for a particular case but for many cases. In the majority of cases the residence of the purchaser would be the home being purchased.

Amendment put and passed.

The CHAIRMAN: I am wondering whether the words "or as may be prescribed" in line 7 of paragraph (a) are necessary. According to the Interpretation Act "prescribed" means prescribed by Act wherein the term is used or by a regulation, rule or by-law made thereunder. Since Clause 8 has been struck out, the words appear to be unnecessary.

Hon. J. NICHOLSON: They are not necessary. I move an amendment—

That in paragraph (a) the words "or as may be prescribed" be struck out.

The CHAIRMAN: The amendment seems to be consequential on the striking out of Clause 8, but I shall make sure by accepting the amendment.

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

Title—agreed to.

Bill reported with amendments.

House adjourned at 9.47 p.m.