majority to bring about adult franchise for the Legislative Council. I therefore commend the measure to the House and move—

That the Bill be now read a second time.

On motion by Mr. McDonald, debate adjourned.

House adjourned at 6 p.m.

Legislative Assembly.

Tuesday, 5th September, 1944.

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

ADDRESS-IN-REPLY.

Presentation.

MR. SPEAKER: I desire to announce that, accompanied by the member for Nelson and the member for Perth, I waited upon His Excellency the Lieut.-Governor and presented the Address-in-reply to His Excellency's opening Speech. His Excellency replied in the following terms:—

I thank you for your expressions of loyalty to His Most Gracious Majesty the King, and for your Address-in-reply to the Speech with which I opened Parliament.—(Signed) James Mitchell, Lieut.-Governor.

QUESTION—MINING DEVELOPMENT ACT.

As to Sustenance to Prospectors.

Mr. SMITH asked the Minister for Mines:—

(1) What average number of prospectors received assistance for sustenance under the Mining Development Act, for the year ended the 31st December, 1939?

(2) What was the total cost of such assistance for the year mentioned above?

The PREMIER replied:

(1) 700.

(2) £38,191 3s. 9d.

BILL—CRIMINAL CODE AMENDMENT.

Introduced by Mr. McDonald and read a first time.

ASSENT TO BILL.

Message from the Lieut.-Governor received and read notifying assent to the Supply Bill (No. 1) £2,700,000.

BILL—CONSTITUTION ACTS AMENDMENT (No. 1).

Second Reading.

THE MINISTER FOR JUSTICE [4.38] in moving the second reading said: This is a very short Bill of only two clauses, one of which is the Short Title and the second of which repeals Sections 15, 16 and 17 of the Constitution Acts Amendment Act, 1899. Those sections deal with the qualifications of electors of the Legislative Council. Originally the Constitution Acts Amendment Act, 1899, dealt with four matters which are relevant to the present issue:—

1. Qualifications of members of the Legislative Council.
2. Qualifications of members of the Legislative Assembly.
3. Qualifications of electors of the Legislative Council.
4. Qualifications of electors of the Legislative Assembly.

By the Electoral Act of 1907, the matters affecting the qualifications of electors of the Legislative Assembly were taken out of the Constitution Act and inserted in the Electoral Act. It is now proposed to take out of the Constitution Act the provisions affecting qualifications of electors of the Legislative Council and put such provisions into the Electoral Act. Accordingly, for this reason alone the procedure is logical. The object of this Bill is to make the provisions relating to the electors for the Legislative Council and the Legislative Assembly uniform. In effect, it is taking the provision relating to the electors for the Legislative Council out of the Electoral Act, as was done in 1907 in respect of the electors for the Legislative Assembly. There is

nothing further I can add, the Bill really being consequential. I move—

That the Bill be now read a second time.

On motion by Mr. Seward, debate adjourned.

BILL—INDUSTRIES ASSISTANCE ACT CONTINUANCE.

Message.

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

Second Reading.

THE MINISTER FOR LANDS [4.42] in moving the second reading said: This is a continuance Bill which is re-enacted from year to year to enable advances to be made to farmers mainly for seasonal carry-on finance and for the credits necessary in their annual operations. The Bill, which perpetuates the parent Act of 1915, really had its foundation in the provision of finance that was found necessary following the 1914 drought. The Government of the day had to make arrangements for the financing of seed wheat and super, as well as of stock, following the 1914 drought, and it set up a board to arrange for those finances. The business of the board grew to such magnitude that it became necessary in 1915 to introduce a Bill for an Act not only to ratify the operations of the board up to that date but also to give it some degree of permanency in order to enable the outstanding accounts at that time to be collected, and also, perhaps, to make provision for further advances in times of stress. Since then this legislation has been amended on one or two occasions and it has been re-introduced annually. Under it the Crown has had the responsibility of financing very many farmers who could not otherwise have obtained seasonal advances and who could have been forced off their properties because of their inability to obtain financial assistance from the first mortgagee.

In 1934 it was found that the advances made under this Act had so diminished that its continuance was looked upon as hardly necessary. The business transacted under it had got to such a low level that it was thought the farmers' bad days were ended. Nevertheless, it was continued during that year, and fortunately too. It has remained on the statute-book since and very many farmers have been enabled to carry on because of its operation. It is necessary to provide not only for continuing advances to be made but to enable some belated collections to be repaid to the Crown in respect of money that has been advanced in recent years. I desire to give the House an idea of how the accounts on the books have fluctuated. Last year, when I introduced a similar Bill, the number of accounts operating under the Act was 672; during this year the number has been reduced to 412. Mainly through the better prices received for some commodities in certain sections of the rural industry to which this Act particularly applies farmers have found it unnecessary to apply for assistance under the Act. For the year ended the 30th June, 1943, the advances amounted to £56,430, while the amounts collected during the last financial year exceeded £150,000. For the current year the advances made were down to £24,000, while repayments exceeded £58,000.

The total advances made under the Act since it was passed amount to £1,332,622. The uncollectable sums that have been written off as bad debts amount to £300,862. To give members an idea of how the accounts have improved, the outstanding amounts, which ran into hundreds of thousands of pounds at one stage, are now down to £44,000. The funds made available under this Act are employed by farmers to finance superphosphate purchases and general seasonal carry-on. Although the prospects in some sections of the rural industry are to a degree better, it is very necessary to retain this Act on the statute-book, so that in times of need and stress farmers will be able to obtain assistance for their normal seasonal requirements. I think members are fully aware of the nature of the measure. I move—

That the Bill be now read a second time.

On motion by Mr. Thorn, debate adjourned.

BILL—SHEARERS' ACCOMMODATION ACT AMENDMENT.

Second Reading.

THE MINISTER FOR EDUCATION (for the Minister for Works) [4.48] in moving the second reading said: This Bill proposes, firstly, to extend the scope of the Shearers' Accommodation Act by provid-

ing that it shall apply to buildings for the accommodation of shearers where the number employed is not less than six—the parent Act provides for eight—and secondly, to effect certain improvements to the accommodation to be provided. The idea that anything, however crude and inconvenient, is good enough for shearers must go, and decent conditions must be provided. The Bill provides that senior members of the Police Force shall automatically become inspectors for the purposes of the Act and shall have power to delegate their authority to other police officers. The Bill also provides that any building already provided for sleeping accommodation, or any building in the course of erection at the present time, shall be divided into compartments to accommodate not more than three shearers in each compartment. Where the erection of a building for the accommodation of shearers is commenced after the passing of this amendment, then compartments shall be provided to accommodate not more than two shearers in each compartment. So a distinction is being made between buildings already erected and buildings which will be erected after the passing of this amendment, the difference being that in the first instance provision is to be made for compartments for the accommodation of three shearers, but in new buildings provision is to be made for the accommodation of two shearers only.

Mr. Doney: Of the same size as previously?

The MINISTER FOR EDUCATION: Yes. It is set out in the Bill that sleeping accommodation shall be provided for cooks and their assistants in a compartment or compartments separate from the sleeping compartment provided for shearers. Each shearer shall be provided with a bedstead or bunk with a suitable mattress in clean and proper condition. Each sleeping compartment shall be provided with a lamp capable of sufficiently illuminating that compartment. Tanks and vessels used for the storage of drinking water shall be so constructed and covered as to prevent water stored therein from becoming polluted or contaminated. Proper drinking and washing utensils shall be provided and shall include proper urns or pots, with tight-fitting lids, and spouts or taps for the distribution of tea and coffee, and such other utensils as, in the opinion of the inspector, are required.

No kerosene tin or benzine tin shall be supplied as a utensil for the preparation or cooking of food. Where there is a sufficient supply of water, a bathroom shall be provided for the use of the shearers. If there are not more than seven shearers, at least one shower or plunge-bath shall be provided in the bathroom. If there are more than seven, but not more than 15 shearers, at least two such baths shall be provided. If more than 15, but not more than 30 shearers are employed, at least three such baths shall be provided. If more than 30 shearers are employed, at least three baths shall be provided, together with one additional bath for every 15 shearers in excess of thirty. There shall be provided in each kitchen, at least one fly-proof safe or fly-proof meat house for the storage of fresh meat. Each kitchen shall be equipped with a brick oven, or a stove or range, and a sufficient number of tables or benches. Each dining-room shall be provided with a table or tables sufficient to accommodate the persons for whose use it is provided and so as to allow a space of two feet for every person seated at such table. Suitable eating utensils are to be provided.

Any employer who has been served with a notice under the Act and who fails to comply with the requirements of such notice shall, unless he satisfies the court that he has used all due diligence to comply with the requirements of such notice, be guilty of an offence and be liable to a penalty not exceeding £10, and for every day during his default to a further penalty of £2. I have enumerated the various provisions of the Bill, and members will see that the measure outlines improvements which are to be made in accommodation provided for shearers. The principles of the Bill have been agreed to by the Pastoralists' Association and the A.W.U. They are such as to merit general acceptance and, in view of the fact that the parties concerned are satisfied, there should be very little objection raised to the measure in this House. I move—

That the Bill be now read a second time.

On motion by Mr. Doney, debate adjourned.

BILL—FINANCIAL EMERGENCY ACT AMENDMENT.

Second Reading.

THE MINISTER FOR LANDS [4.55] in moving the second reading said: As mem-

bers are aware, the Financial Emergency Act was introduced in 1934-35. In the meantime, all the provisions have lapsed or been repealed except the sections proposed to be perpetuated by this Bill. They are the sections that affect the interest rate to be charged on mortgages entered into prior to the 31st December, 1931. The interest on those mortgages is reduced by 22½ per cent., or to a maximum of 5 per cent., whichever is the greater. In these days, rates of interest charged are much less than those that prevailed in the past. There is an opportunity of cheaper money being available and in view of that fact and because interest rates are controlled under wartime measures, it is unlikely that mortgagees will endeavour to obtain the original high rates which applied in depression years. Nevertheless, it is the duty of the State to give mortgagors some protection by statute. I hope that this and similar types of legislation will disappear when financial adjustments are made—which I trust they will be—as soon as war circumstances permit. Similar continuance Bills submitted in previous years have received the support of the House. The need for this measure is obvious, though I think that much of that need has disappeared because the number of cases affected by the measure has diminished during recent years. I move—

That the Bill be now read a second time.

On motion by Mr. North, debate adjourned.

BILL—LIFE ASSURANCE COMPANIES ACT AMENDMENT.

Second Reading.

THE PREMIER [4.58] in moving the second reading said: This is a Bill to deal with the times of emergency in which we live and is designed to save a lot of useless statistical work being done by life assurance companies. On account of the shortage of manpower, other arrangements have been made whereby all information necessary for shareholders and policy-holders in order that their interests might be safeguarded is provided. Under the statutory requirements of the Act, companies are required to submit copies of annual returns, in accordance with Schedules 1 to 5 of the Act, to the Registrar of Companies. The Life Offices' Association thinks that considerable modification of the statistical schedules could be made. There is very little use made of the returns. The Commonwealth has arranged for a return which covers pretty well all the information required, and it was thought that a regulation under the National Emergency Act could be passed which would enable the companies to carry on without having to prepare these returns. But when this was submitted to the Commonwealth Government it thought that this Parliament should pass legislation to deal with it. There is no great hurry in connection with the matter and, therefore, this Bill is now brought before the House.

In 1942 the life assurance companies held a conference with the statisticians of each State and, as a result, an agreement was made in regard to returns which would be lodged instead of Schedules Nos. 1 to 5 of the Life Assurance Companies Act. It has been arranged that, for the war period, the Commonwealth will collect the new returns from all offices, attend to the tabulation of details and supply the results and any individual particulars required to each State. The returns which are required at present under the Act contain information which is already substantially provided by the recently adopted statistical returns which were agreed to by the conference in 1942. The present proposal will relieve the life offices of a considerable amount of duplication of work. It is considered by the State Departments concerned that the abridged returns will meet their requirements and that the publication of the figures by the various statisticians will afford the necessary information to the public. The Government Actuary considers that the real protection of the public is afforded by Schedules 6, 7 and 8 which deal with the actuarial methods of valuing the liabilities, and which the companies are not asking to be amended. Therefore they will be continued. Of the other State Governments, four have signified their approval of the proposal. The remaining State, New South Wales, has no Act analogous to the Western Australian statute.

The Bill empowers the Governor to authorise and direct, by Order-in-Council, the use of the abridged forms whenever, in the opinion of the Governor, an emergency exists which the Governor considers justifies the substitution of abridged forms for the forms in the schedules to the Act. The Order-in-Council must specify a period during which the forms may be used, and also must prescribe the form of the abridged forms. No abridged form must be pre-

scribed in the Order-in-Council until it has first been approved by the Government Statistician and the Registrar of Companies as being sufficient for their requirements. Although abridged forms may be authorised by an Order-in-Council, nevertheless the State Government Statistician may require any company to furnish any statement or return which the Act requires, if he needs further particulars to those provided for in the abridged forms. Provision has been made for an additional copy of every statement furnished by a company to be deposited at the office of the Registrar of Companies for transmission to the Commonwealth Statistician. The Bill will also validate the use of abridged forms which have already been lodged at the office of the Registrar of Companies during the past year or so. That, briefly, is the whole purpose of the Bill. The life assurance companies, in common with the banks and other mercantile concerns, have suffered severely from lack of manpower.

While, when the previous Acts were passed it was thought necessary that a lot of information should be made available to shareholders and policy-holders in these companies, this Bill makes readily available any information which is really necessary to these people. The Registrar of Companies and the State Statistician agree that, while it is desirable, for statistical purposes, that these returns should be prepared, in these times of severely restricted manpower some relief should be given to the companies in making out the forms containing the information included in the schedules deposited with the Registrar. I do not think there is anything to object to in the Bill in any shape or form. The Registrar of Companies is a very responsible officer and would not agree to anything that would jeopardise the interests of the shareholders. The State Statistician's Department is anxious to get a complete report on which to base life assurance policy rates, and other factors dealing with the economic life of the State. It considers that in the abridged form all the necessary information will be available to the shareholders and to the public. No objection has been raised from any quarter. I think this is a Bill to which the House will readily agree. I move—

That the Bill be now read a second time.

On motion by Mr. Watts, debate adjourned.

BILL—PLANT DISEASES (REGISTRATION FEES) ACT AMENDMENT.

Second Reading.

THE MINISTER FOR AGRICULTURE [5.6] in moving the second reading said: This short amending Bill refers to the Act which permits of the collection of fees which constitute the funds used for the combating of fruit-fly. The original Bill introduced in 1941 contained a certain schedule and assessed in different ways the fees to be charged for varying types of orchards. The fees varied to this extent: Orchards of four years and over, 1s. 6d. per acre; orchards under four years, 1s. per registration; nurseries, 1s. per registration; orchards not in compact formation, 1s. 6d. per hundred trees, or 1s. 6d. per 400 vines, and vineyards growing grapes for wine purposes only, maximum registration fee of £2 10s., and, in the case of areas less than 33⅓ acres, 1s. 6d. per acre.

The Fruit-fly Advisory Board, which consists of ten growers with Mr. Barrett-Lennard as chairman, is very anxious that a larger fund shall be built up to enable the destruction of fruit-fly to be prosecuted with greater vigour. The board has recommended that the registration fees be increased to the following extent:—Orchards of four years and over, from 1s. 6d. to 2s. per acre, and vineyards grown for wine purposes, from a maximum of £2 10s. to a maximum of £3. The reasons put forward by the board are very obvious if one realises what amount of money is available in the fund. It has been necessary, during this year, to have an additional sum placed on the Estimates because the funds will be exhausted before the end of the financial year. Otherwise we will have to dispense with the services of one or two of the inspectors.

Mr. Thorn: I thought the Treasury was going to make good this lack of funds.

The MINISTER FOR AGRICULTURE: I have just explained that I have arranged with the Treasury for an amount to be placed on the Estimates to meet the anticipated deficiency this year. Rather than dispense with the services of officers now employed, the board has recommended that the fees be increased to build up the fund. Those fees cannot be collected until after the Bill is passed, so an amount has been placed on the Estimates to enable the good work done by the old Act to be continued. I think it

is a tribute to those who are operating under the moneys provided by this fund that the fruit-fly incidence has decreased to the extent noticeable today. The fees collected during 1942-43 amounted to £4,114, and for the year 1943-44 to approximately £4,147. The balance brought forward from year to year has been gradually diminishing and whereas the balance at the end of 1940-41 was £1,181, this year, as I have already mentioned, the operations promise to show a deficit in excess of £400. It would be detrimental to the industry to slacken off in any way the good work that is being accomplished, and it would certainly be improper to dispense with the services of inspectors rather than that the necessary amount should be made available from the Treasury. It was anticipated at the time of the appointment of an additional inspector that there would be a deficiency in the fund, and the Premier readily agreed to provide the requisite amount to meet this year's commitments.

One important feature in connection with the fruit-fly campaign apart from the lessening of the incidence of the pest in the fruit marketed in the metropolitan area, is, what is more significant, the cleaning up of districts that formerly were seriously affected so that they are becoming free from the presence of fruit-fly. This will be a most important phase when exports are resumed. It will be remembered that because of infested fruit being despatched from another State to a country to which Western Australian fruit was also exported, our products were shut out of that country for some time. Thus it is important that districts from which export supplies are drawn shall in future be guaranteed against infection by fruit-fly. From the time the presence of the pest was first discovered, it has spread through almost every fruit-growing district in the State. It has now been eradicated in many parts and the fruit-fly is certainly under control in every district. One point arises in connection with the Bill and that is the proposal for the payment of a registration fee by those conducting vineyards where wine grapes are grown.

Although fruit-fly has been found in some types of muscats, it is on rare occasions only that it is found in grapes used for wine making. Those in the industry are anxious that, in case there is an infestation, their contributions to the fund shall assist in the eradication of the pest. For the purposes of the Act, an orchard includes a vineyard and, because of the strong recommendations of the board in that respect I have no hesitation in agreeing to its recommendation. I am hopeful that the money collectable as the result of this slight increase will enable us not only to retain the present staff of inspectors but if necessary after a year or two to persist with our present activities and if possible completely to eradicate the pest from the fruit-growing districts.

Mr. Thorn: Would it not be advisable to impose a slightly increased charge on the backyard orchardists?

The MINISTER FOR AGRICULTURE: I am glad the hon. member raised that question. We should not raise our voices in criticism of what the backyard orchardist contributes. Because of the attitude of the backyard growers, there has been built up a recognition of the importance of the fruit-growing industry to Western Australia. Every person who has one or more fruit trees in his garden contributes annually 1s. as the fee for the registration of his orchard. It is to the credit of such people that not only are they making a contribution in money but they are also doing much in an attempt to eradicate the fruit-fly from the trees in their yards. The retention of the present goodwill that exists between the civilian urban residents, who are more consumers than growers, and the department is one that we should preserve. I do not agree with the member for Toodyay's suggestion that we should increase the fee payable by the individual who has one or two fruit trees. It is on the recommendation of those who represent the fruit-growing industry—I have already mentioned that the 10 members on the board are all growers—that the commercial growers are to be taxed to the extent indicated in the Bill.

Mr. Thorn: Some of the backyard growers have a dozen trees, not merely one or two.

The MINISTER FOR AGRICULTURE: Yes. I think the hon. member should be pleased to know that such goodwill has been built up and recognition obtained among urban growers of the importance of protecting the commercial interests. I move—

That the Bill be now read a second time.

On motion by Mr. Owen, debate adjourned.

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

Second Reading.

THE MINISTER FOR AGRICULTURE [5.18] in moving the second reading said: This Bill is introduced for the purpose of amending Section 3 of the Fruit Growing Industry (Trust Fund) Act of 1941, which was introduced to build up a fund to combat certain diseases such as "Black Spot" and also to enable wider use to be made of the funds collected from the industry itself in meeting not only the cost of combating those diseases but of defraying expenses incurred by representatives of the industry when in conference or when investigating matters dealing specifically with the industry. The original Act was assented to in January, 1942, and regulations were issued under it shortly afterwards. In the regulations, and in the Act itself, the only fruits included at that stage were apples and pears. It became necessary to include other types of fruits and the Act was amended last year to include citrus fruits. That request came from the citrus growers themselves who are anxious to participate in any benefits to be derived from the expenditure of money from the trust fund. The respective levies charged are ⅛d. per bushel on apples and pears and ½d. per bushel on citrus fruit.

It has been found that many sections of the industry that should contribute to the funds have been able to evade their responsibilities and escape the payment of levies thus imposed. The Bill includes an alteration to the definition of "dealer" so as to set out that those who sell in other ways, as distinct from actually marketing their supplies through the metropolitan market, up to 250 bushels of fruit should contribute to the fund. A dealer will then be a person being a grower who himself sells in any one year not less than 250 cases or bushels of fruit produced by him. It is also necessary to alter the word "cases" which appears in the parent Act to the word "bushels," so that no matter what the size of the case may be, the levy will be on the actual production.

There is a further provision to permit of charges being levied on fruits that are delivered to a processing factory as distinct from those marketed as whole fruit. Large quantities of fruits are being sold for the extraction of juices, for dehydration and for other purposes that the original Act does not cover, and provision is made to ensure that the levy will be collectable and paid into the trust fund in respect of fruits so used. No difficulty is anticipated in the collecting of the levies because arrangements will be made at the point of delivery for returns to show, not only the quantity that the grower is providing, but also the amount of the levy to be imposed. The suggestions have come from the industry itself. I agree with them and move—

That the Bill be now read a second time.

On motion by Mr. Thorn, debate adjourned.

BILL—NURSES REGISTRATION ACT AMENDMENT.

Message.

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

Second Reading.

Debate resumed from the 31st August.

MRS. CARDELL-OLIVER (Subiaco) [5.22]: I think we are all agreed that we have very little quarrel with the object of the Bill, but the means by which that object is to be attained are debatable. There is a risk that the course proposed to be adopted may lower the standard of nurses. The Minister could not say exactly which States have registered mental nurses. I have ascertained that mental nurses are registered in Queensland, South Australia, Tasmania and New South Wales, and I believe there is reciprocity between those States regarding these nurses because the education standard is the same. In those States the education standard is a pass in the eighth form or the Junior Certificate. We can hardly expect reciprocity with those States unless our entrance examination is the same. We all believe in registration and wish to see reciprocity brought about, but the conditions in this State must be similar to those in other States. Some of the nurses have sent me a letter in which they say—

All registered nurses agree that Claremont Hospital for the Insane should be registered as a mental training school. The A.T.N.A. tried to do this from 1927 to 1930, but failed

because of the unsatisfactory educational standard, thus ruining reciprocity with other States.

If the mental nurses are to be registered and if we are to expect reciprocity, I think the Government will have to think out some means other than those suggested in this Bill. We certainly want to see mental nurses registered, and to bring this about the Government might introduce some temporary arrangement by insisting upon an educational standard for trainees entering after a certain time. It has been suggested that trainees should take a six-months' course in a general hospital. I would like to read the opinion of nurses on this point—

Six months general nursing is unnecessary because forms of illness affecting the insane could be treated in their own hospital under the direction of the matron if she were a general trained nurse.

I believe that some time ago an inquiry was made and it was found that there were very few inmates in the asylum who really needed general nursing. Therefore, if the matron were a general trained nurse, I think complaints affecting the inmates could be treated in their own hospital.

In the East the matrons are only mental trained, but mental nurses do a further two years of general training and then can register after passing the N.R.B. examination as general nurses. It would be very hard to absorb these girls for six months in a general hospital as it would limit the number of incoming probationers. When the block system is introduced it will remedy this weakness in the present system.

The Minister mentioned the block system under which the nurses would go to various hospitals and deal with tuberculosis and other ailments. The nurses approve of the block system and I think it will meet a great many of our difficulties.

The Bill contains a provision suggesting the deletion of the words, "Principal Medical Officer" and inserting in lieu thereof the words "Commissioner of Public Health." I regret that the Minister is not present to tell us the reason for that proposed alteration. It might mean that by the insertion of "Commissioner of Public Health" we need not have a medical officer on the board. It might be the intention to appoint the Under Secretary for Health or somebody like that, and I do not think a majority of the nurses would approve of it. The Bill deals with the appointment of nurses to the board and it is felt by matrons and nurses that these should be elected by ballot of the nurses throughout the State. We have approximately 3,000 trained nurses and they consider there should be a ballot for these positions.

Although this Bill is a small one, the issues involved are very great. In the Minister's absence it is rather difficult to indicate just what the nurses desire, but no doubt he will read a report of my remarks and make the requisite provision in the Bill. I cannot conclude without saying a word of approbation of the girls who took up work at the asylum for a month, giving a month of service out of the term of their training to help the patients in the asylum. I think we all feel very grateful to them. That is all I have to say at this moment, but I hope when we reach the Committee stage the points I have raised will be discussed.

MR. SEWARD (Pingelly): I do not intend to say very much on this Bill, particularly in the absence of the Minister for Health. Only one matter struck me when that hon. gentleman was moving the second reading, and that was the somewhat radical provision to increase the number of members of the board. Concerning that point, I should like some explanation. The Act provides for five members to constitute the board, two to be doctors and three to be nurses. The Bill, however, proposes to increase that number from five to nine. The Minister referred to this as only a small increase, whereas it is one of approximately 100 per cent. Instead of there being two doctors the board is to have four, and instead of three nurses there are to be five. Seeing that this is merely a registration board, it seems an extraordinary number of members to have sitting on it. The Act provides that a board of five may register or deregister nurses, and there is no appeal against its decision.

The Bill proposes to create a board of nine, and in addition to give the right of appeal. I do not say there should not be a right of appeal when a name is taken off the register but, when that right of appeal is not given to a board of five, it seems extraordinary that it should be given in the case of a board of nine members. I am not aware that members of the board are

to be paid, but if that is so that will increase the cost. I cannot see why provision should be made for four doctors, one to be specially nominated by the B.M.A., for I take it that all members of the profession belong to that association. Another doctor must be an obstetrician, but surely he could be included in the association's nominees. Of the nurses, two are to be ex-matrons, one a general nurse, one a midwifery nurse and another a mental nurse. It seems to me to be a very cumbersome board. I should like some explanation as to the necessity for so great an increase in the membership of the board before I agree to that provision.

On motion by Mr. Thorn, debate adjourned

BILL—TESTATOR'S FAMILY MAINTENANCE ACT AMENDMENT.

Second Reading.

Debate resumed from the 31st August.

MR. McDONALD (West Perth) [5.35]: Members will recollect that the parent Act provides that the court is empowered to vary a will where the testator has failed to make adequate provision for the reasonable maintenance of his wife and children. In fact, the Act goes so far as to allow the court to vary a will where the testator is the wife, and fails to make reasonable provision for the maintenance of her surviving husband. This class of legislation has been in force in New Zealand and all Australian States for many years. It has been found to be useful, and the means of correcting what would otherwise be an injustice and bring hardship and suffering where testators have left wills who have failed to recognise the responsibilities that should have been present in their minds when they made their wills. It can be realised that when the court varies a will in order to make it more just in its operation towards those dependants for whom the testator should have provided, the executor may sometimes be affected.

The executor himself may have been a beneficiary, and variations of the will under the Act may have reduced the amount of benefit he otherwise would have derived under the will; or it may have been that the executor lent more towards the original legatees under the will and was not so friendly towards those people who were to benefit under the order made by the court. I agree with the Minister that in those circumstances it is possible after an order has been made under the parent Act for the executor to become non-co-operative. I see no reason to do otherwise than to agree to the objective the Minister has in mind in introducing the Bill. I have, however, some doubt as to the means by which this objective is to be attained. I think that objective will require an amendment of the Testator's Family Maintenance Act, as proposed by the Bill. I think it is also possible there should be an amendment of the Administration Act, which deals with the granting of probate of the will.

Under the Bill before the House, the court may appoint a substitute executor, or it may appoint an additional executor, leaving the original executor still in office; but there is no provision for an amendment of the document of probate which is issued by the Supreme Court under the Administration Act. It seems to me it may be necessary that this provision should include some machinery by which the probate document, the instrument which is the court's authority to the executor, should be amended by the substitution of the new executor where the old one is displaced, or by the provision of a further executor when the court adds an additional executor. There is also some question as to whether the Bill contains sufficient authority for the property to be transferred from the original executor to the new executor or executors. In other words, will the Registrar of Titles, who acts under the Transfer of Land Act, consider himself warranted in transferring the land from the name of the old executor into the name of a new executor appointed by the court under the proposed new legislation?

I raise these points because they are suggested by a perusal of the Bill, and also because they have been brought under my notice by one or two legal practitioners who read the Bill and are interested in seeing that any legislation that is passed will operate smoothly. While I am agreeable, therefore, to the second reading of the Bill, I suggest that the Minister may allow the Committee stage, if the second reading is passed, to remain over until next week so that there may be an opportunity to discuss these matters with the Crown Solicitor. I have already spoken to the Crown Solicitor today and mentioned some of these matters to him. I know, of course, that he will be very ready

to give consideration to any amendment which may make certain that there will be no difficulties in operation if the Bill becomes law.

HON. N. KEENAN (Nedlands): This is a Bill arising out of the Testator's Family Maintenance Act, which was passed recently by the late Parliament. I have never been personally in favour of this class of legislation. At its best it substitutes for a testator a court of law, which has no possible knowledge of the testator's intentions when it re-writes his will, as it can do, and make entirely new provisions. Undoubtedly there are cases that warrant that extreme step, but I think we have gone sufficiently far in our legislation if we recognise the fact that the testator does not want to tell the world what he knows when he writes his will, and may therefore put it in a form which seems to impose a penalty on some of his children. It may well be that there are grave reasons for it—reasons which under no circumstances should be exposed, and least of all exposed in his will, although I believe some testators have gone that far.

The Premier: But this Bill is for the protection of dependent people.

Hon. N. KEENAN: Suppose one of the testator's children had received considerable sums of money during the testator's lifetime and gone through them, as has happened many a time, and the testator therefore does not think it proper or necessary, or even just, to make provisions for him in the will! However, we have passed that stage. We have adopted this legislation for good or for evil. The present Bill wants even to take away the right of the testator to appoint his own executor and to direct that the executor should continue notwithstanding any view that might be taken of his being a man of peculiar habit of mind, and although he might be cross-grained in the mental sense. The testator is the man to settle that. Here and now we want to give power for application to be made to the court, at its discretion, on certain grounds——

The Premier: After evidence has been given to satisfy the court.

Hon. N. KEENAN: Let us see what that evidence is, what facts are called for. The Bill proposes to give an element of discretion to the court without that discretion being placed on the proof of any facts.

The Premier: Therefore the court exercises its discretion after hearing evidence.

Hon. N. KEENAN: If we say that on proof of certain facts, on proof, for instance, that the executor is unworthy of his office or may be from his prejudices, likely to go astray in the carrying-out of his duties, or for any reason one likes to allege, when that reason is proved the court, in its discretion, may appoint another executor, the position would be different. But that is not the case. The matter is simply left absolutely open to the court's discretion.

The Minister for Justice: This Bill is to apply where the testator has not made provision for those for whom he is responsible, and probably——

Hon. N. KEENAN: The testator may not have made provision for one or other of the dependants, his widow if she survives him, or for some of the children, or for some other person. Let us assume that the testator has done that, and that the court has re-written his will—to which I take strong exception, but it is the law. Then it is said, let us get rid of the executor. That is the man picked by the testator, but let the court select one at its discretion!

The Premier: The court would not give a decision of that kind.

Hon. N. KEENAN: I know nothing that can be wider than the discretion given in the Bill.

The Premier: When there is wide discretion, the courts act only upon satisfactory evidence.

Hon. N. KEENAN: But the court's discretion may be exercised not only at the request of a beneficiary, but at the request of any person who is interested in any part of the estate. That is shutting out the person selected with the greatest care, after a knowledge of a lifetime, as executor. I am pointing out what can happen under the measure. I am not a prophet, though I have many qualifications; but I can say what can happen, and we should see that something that can happen is within the laws of justice and reason. I have no hesitation in saying that a testator does not appoint lightly an executor. That is a matter to which he gives long consideration.

Anyone who has ever had anything to do with the preparation of wills will know that the testator always has his mind made up on whom he will have for his executor. Sometimes it is a public company; very often it is not a public company but a person with

whom the testator is thoroughly conversant and who, he knows, will give full effect to his wishes. Unless for grave reasons, I do not know why we should interfere with that. Suppose, as is alleged, the testator appoints a man as his executor and that executor does not give effect to some portion of the will which has been re-written by the court! The present law provides a remedy for that. If an executor is guilty of any misconduct in the performance of his duties he has to pay a penalty, if his default has led to any injury to any person.

The Premier: The executor may be guilty of unreasonable procrastination.

Hon. N. KEENAN: If an executor delays administering an estate beyond a certain period of time he can be removed, and some person appointed who will carry out the duties of executor. There are ample remedies existing today without this Bill at all. I can see no reason for it except the reason that the measure proposes to destroy entirely the position and the rights of an individual. No member of this Chamber, no matter how small the extent of his estate, has failed to consider at some time or another what he will do with it. He makes up his own mind as to what he will do and he has reason for making up his mind. This measure proposes to give the court power to revise that reason.

I see no ground whatever for giving any court authority to re-write a will and to say who is to be the executor, unless our desire is to wipe out entirely the rights of the individual and say, "Here you are! You can live all your life long and accumulate some portion of the world's goods; you can then make a will and appoint an executor, but the moment you are dead we can tear the will to pieces and appoint another executor. We can alter the disposition of your property; you count for nothing." I do not care for that. I am not enthusiastic about the Bill.

The Minister for Justice: That would be an unworthy thing for the Supreme Court to do.

Hon. N. KEENAN: Of course, if we start by assuming that every judge is a disguised angel and consequently is never going to give a wrong decision——

The Minister for Lands: The judges were all eminent King's Counsel in their day.

Mr. SPEAKER: Order!

Hon. N. KEENAN: They were not. If they were, even that might not excuse them. I am quite prepared to admit that the occupants of our Supreme Court bench are all very worthy men and worthy lawyers, but that has nothing to do with this matter. What I object to is taking away from a person a right which I conceive to be one of the first rights he is entitled to, and taking it away not simply because the executor appointed is guilty of some dereliction of duty, but because there may be some suggestion that he is a prejudiced man, or something of that kind, and so some other person should be appointed in his stead. As I said, I am not enthusiastic about this form of legislation but I do not intend to vote against the second reading. I suppose I should stand almost alone if I did so.

Mr. Marshall: No. I am with you.

Hon. N. KEENAN: Although I am not going to vote against the second reading, I certainly am not going to vote for these provisions.

MR. WATTS (Katanning): I must say in regard to this Bill that I am entirely in agreement with the member for Nedlands. The Minister, when introducing it, gave an example of difficulty that has arisen with regard to an executor who is in another State. An order substantially altering a will had been made under the Testator's Family Maintenance Act, and the executor, who was interested in it, became rather antagonistic and in consequence did not exercise himself in a co-operative manner. In such circumstances there might be some justification for a measure of this kind; but in the Bill before us there are no limits whatever. In any circumstances, at any time on application by anybody, provided an order has been made altering the original will, the court may appoint someone else to be executor. As far as I understand the Bill, there does not appear to be any necessity to prove that the executor is even antagonistic or non-co-operative; all that has to happen is that somebody thinks he should be removed, and because the terms of the will have been altered the judge may be approached and may make an order for the appointment of a new executor. The Bill, in my opinion, should indicate the terms or the occasion or the circumstances in which an application of this kind should be made. When there has been some difficulty occasioned

because an executor is for some reason or another out of the State—

The Minister for Justice: But difficulties have been occasioned by executors within the State.

Mr. WATTS: The ordinary processes of the court can reach an executor within the State who does not behave himself or does not administer the estate in a proper way. That, as the member for Nedlands has said, is the law. This measure is quite unnecessary in the general terms in which it is drawn. I am not saying that occassions do not arise such as those mentioned in the example given by the Minister, if I remember him aright, when a judge might do a very worthy work in making alterations of this character; but the Bill is as wide open as the gates of Heaven will be when the Minister approaches them hereafter. I consider that the measure, if it is to be passed, should be substantially qualified; it should not be accepted in its present form. It is a good principle, and one that should be adhered to, that a testator has the right to appoint whomever he will to administer his estate. The courts have always been reluctant to interfere in any way with the decision of a testator when he has appointed somebody as his executor.

If a person fails to make a will the court will appoint administrators, because there has been no other way to deal with the estate. But the executor is a man who is the elect of the testator and, as such, should be given precedence at all times unless by some gross derelection of duty he has shown that he is unworthy to continue to exercise the trust reposed in him by the testator. It seems to me, in the circumstances, that the Minister has not proved the necessity for the general terms of this measure. He may have proved the necessity for some slight alteration to deal with specific cases. If those specific cases were set out in the Bill I should be prepared to support it with a great deal more enthusiasm than I am prepared to support it with at present, because I think it comprises within its bounds an interference with testators in the appointment of their executors, when the law already provides a means of bringing an executor within the jurisdiction if he is not carrying out his duties properly.

MR. MARSHALL (Murchison): This measure is one to which the Minister might give further consideration. His contention is, of course, that an alteration in a testator's will may be such as to throw responsibility on to the executor and endanger his rights as a citizen. The Bill does not deal with that aspect at all. It provides that the court may at its discretion appoint other executors either to act jointly with the one originally appointed by the testator or to the exclusion of that appointee altogether. Provision is made in the parent Act for the correct determination by the court of what is a fair thing for the dependants of a deceased person, more particularly where the will denies them fair and reasonable treatment. If that provision in the parent Act were inadequate, then it would be well for us to deal with that aspect. We all will agree that if a testator has not made adequate provision for his widow and children it is right that the court should step in and make such provision.

The Minister for Justice: The same provision as the testator would have to make if he were still alive.

Mr. MARSHALL: No-one would quarrel with that aspect.

The Minister for Justice: That has already been done.

Mr. MARSHALL: What the Minister has done is this: When an application for a variation of a will comes before the court for its determination, the court will not determine what is a fair and reasonable thing for the dependants of the deceased party, but will interfere with the testator's right to choose his own executor. That is all this Bill provides for. In regard to certain estates, the only matter that might be of importance would be the proper maintenance of the dependants of the deceased, but there are many estates in connection with which there are other matters that are fully dealt with by the deceased party before his death, and prior to his demise he assumes the right to judge who is the correct person to administer the will.

The Minister for Justice: It is only when he has been deprived of all the benefits——

Mr. MARSHALL: If the Minister will let me finish he will see where this Bill is tending. Suppose the Minister is in possession of wealth which may still be a portion of his estate at the time of his demise. Having made a will, providing not only for fair

maintenance for his widow and dependants but for the disposal of his estate in a way he thinks fit and proper, he would not like to know that, in the event of an application being made for a variation of the will, those left in charge of its administration might be denied that right; and that all the other phases of the will that he proposed should be administered in a way set out in the will would go completely into the hands of somebody he never had in mind, and would have no intention of allowing to interfere with his will—nor, if he could be called back from the grave, would he give his consent to such a procedure.

The Premier: Whom do you think the court would appoint in lieu of the displaced executor?

Mr. MARSHALL: I do not doubt the judgment of the court. That is not what members doubt. The point is: Why should the Premier and I and an organisation such as this institution interfere with all the ramifications of a will by providing for executors to be appointed other than those specified in a will, simply because it is desired to do justice to the widow and dependants of a deceased person? Cannot we do that without interfering with the rights of an executor to give effect to the rest of the will after provision has been made by the court for the maintenance of the widow and children? Under the Bill, all the administration is taken out of the hands of the executor appointed by the testator. Because an application is made to vary the will, he goes out of the picture altogether.

The Premier: If the court thinks fit.

Mr. MARSHALL: That is a weak argument for the Premier to advance. The Premier is usually very logical. I venture to say that the Premier himself would not like to know that there was going to be any interference with what he decreed, before his demise, to be fit and proper.

The Premier: Do not contemplate that!

Mr. MARSHALL: I do not want to contemplate that. I hope to be a colleague of the Premier for many years to come. I wish him well, but he will surely admit that this Bill is not what is wanted. It is not framed in the proper way. I know what the Minister wants to get at and what the Government wants.

The Minister for Justice: I want to deal with extraordinary cases.

Mr. MARSHALL: Then deal with them in a specific way; deal with the extraordinary cases as such and do not generalise as is done in this measure! In that event the Minister will get no opposition. The trouble is that the Minister knows exactly what he wants, but has permitted to be drafted a measure which goes a lot further than he desires. To that extent, any member could raise very serious objections to it, though not to the principle the Minister has in mind. We all subscribe to that. I have no estate to quarrel over. Whether I have a widow or a family dependent on me at the time of my demise will matter very little, because there will be a great deal more liability than asset in connection with my estate when I am dead.

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

Ayes	25
Noes	10
Majority for	15

AYES.

Mr. Berry	Mr. Needham
Mr. Coverley	Mr. North
Mr. Cross	Mr. Nulsen
Mr. Fox	Mr. Rodoreda
Mr. Graham	Mr. Shearn
Mr. J. Hegney	Mr. Smith
Mr. W. Hegney	Mr. Tonkin
Mr. Hoar	Mr. Triat
Mr. Kelly	Mr. Willcock
Mr. Leahy	Mr. Wise
Mr. McDonald	Mr. Withers
Mr. McLarty	Mr. Wilson
Mr. Millington	(*Teller.*)

NOES.

Mrs. Cardell-Oliver	Mr. Seward
Mr. Hill	Mr. Thorn
Mr. Leslie	Mr. Watts
Mr. Marshall	Mr. Willmott
Mr. Owen	Mr. Doney
	(*Teller.*)

Question thus passed.

Bill read a second time.

House adjourned at 6.10 p.m.