is a disagreement between the Houses, a conference can be held with a view to finding a solution of the problem, or perhaps a compromise. Notwithstanding what our opinions might be, this is not a question of a difference of opinion between individuals, but a difference of opinion between two Houses of Parliament. In the interests of justice and the people whom we represent, it would be unwise, as the Constitution and the Standing Orders provide for a conference, for us to refuse one. If a conference is held, at least it can be said that some action was taken in that way to arrive at a solution. I hope the House will not refuse to meet the Legislative Assembly in conference.

The CHIEF SECRETARY (in reply): I regret that Mr. Griffith has cast reflections on the honesty of members of another place in regard to their voting.

Hon. A. F. Griffith: I did not do anything of the kind. How can you say that I reflected on them?

Hon. H. Hearn: He said it was a majority of one; that is all.

The CHIEF SECRETARY: If he had said that, it would have been all right.

Hon. A. F. Griffith: I said that in the main all the legislation that we get has been passed on party lines, with a majority of one vote.

The CHIEF SECRETARY: I do not take exception to that. I take exception to the hon. member saying that a lot of members of this party would like to see the Bill thrown out. That casts a doubt on their honesty in the way they have voted on this Bill.

Hon. A. F. Griffith: In that case, I beg your pardon.

The CHIEF SECRETARY: I regret that the hon. member said that.

Hon. A. F. Griffith: That is what I felt about it.

Hon. A. R. Jones: "If the cap fits . . . ."

The CHIEF SECRETARY: One must count half a dozen before one says anything here. Things are said by members in both Houses, and they do not help to improve the relationship between the two Chambers. I do not like to hear things said which will widen any breach there might be between us. While our Standing Orders provide for a conference, it is only common courtesy, when a request is made for a conference to take place, that we should accede to the request. The same applies in both Houses; and if we reach the stage where we refuse to agree to a request for a conference, we should ask our Standing Orders Committee to meet and alter the Standing Orders in that regard.

Hon. H. K. Watson: Would you discuss that proposition, along similar lines, with your colleagues in another place?

The CHIEF SECRETARY: I will let the hon. member into a secret. A number of members in my party want it wiped out.

Hon. H. K. Watson: That is what I am telling you. They have voted against the holding of conferences on occasions, too.

The CHIEF SECRETARY: I have not made up my mind in that regard, but that does not come into the present picture. If our Standing Orders provide for a conference, we should honour them.

Question put and passed.

The CHIEF SECRETARY: I move—

> That the managers for the Council be Hon. C. H. Simpson, Hon. N. E. Baxter and the mover, and that the conference be held in the President's room at 12 noon on Thursday, the 30th September.

Question put and passed, and a message accordingly returned to the Assembly.

Sitting suspended from 6.12 p.m. to 2.15 p.m (Thursday).

THURSDAY, 30th SEPTEMBER, 1954.

CONTENTS.

The PRESIDENT resumed the Chair at 2.15 p.m.

BILL—JURY ACT AMENDMENT.

Conference Managers' Report.

The CHIEF SECRETARY: I have to report that the managers appointed by the Council met the managers appointed by the Assembly and failed to arrive at an agreement. I move—

That the report be adopted.

Question put and passed.

Bill dropped.

BILL—WAR SERVICE LAND SETTLEMENT SCHEME.

Second Reading.

Debate resumed from the 16th September.

HON. J. McI. THOMSON (South) [2.17]: When the war service land settlement legislation was first introduced in 1945, it was hailed by everybody in Parliament and outside as an excellent measure. Profiting by the previous experience of soldier settlement after World War I, we felt sure that the scheme proposed to be adopted would afford ex-servicemen

sound rehabilitation, and an excellent opportunity of establishing themselves in a stable livelihood. But it seems regrettable that within the last two or three years, through the action of both the State and Federal Governments, by way of statements and legislation, there has crept into the minds of settlers under the scheme some suspicion and discontent. That is indeed regrettable because we are all agreed that the war service land settlement scheme as inaugurated was meant to be one devoid of such suspicion and discontent. That state of affairs is now quite obvious to those of us who move about Western Australia, and particularly in the constituencies within which these projects are in operation. This unhealthy attitude could have been avoided had the Government not given indications that it was desirous of repudiating agreements.

The Minister for the North-West: Which Government?

Hon. J. McI. THOMSON: I am referring to this Government, to the previous Government, and to all Governments concerned. There is a feeling that with the passage of the existing legislation, there is a desire to repudiate agreements which were entered into with soldier settlers. If the Minister can convince members and settlers otherwise, it would be a very satisfactory accomplishment. I am aware that the faith of settlers was re-established to a great extent when Parliament, in 1952, appointed a select committee to inquire into all aspects of war service land settlement, as authorised under the War Service Land Settlement Act of 1945, and subsequent Acts and regulations introduced in Parliament in 1952. But those hopes were shattered when further legislation was introduced in this House in succeeding sessions.

It is surprising that after the defeat of this measure in the last session of Parliament, a conference foreshadowed by the Federal Minister controlling war service land settlement did not take place. It is a pity it did not eventuate, especially after the Federal Minister had intimated in a broadcast on the 14th December, 1953, that he was coming to Western Australia to discuss with the Minister for Lands, Hon. E. K. Hoar, the problems confronting war service land settlement in this State.

A perusal of the file disclosed no communication from either Minister on the matter of a conference. It was the logical thing to have a conference when the legislation concerning war service land settlement had been turned down by this Parliament. It is quite evident that the Federal Minister, Mr. Kent Hughes, thought so at that time. Had such a conference been held between the two Ministers and representatives of the soldier settlers on the spot, and as a result of the deliberations, had both Governments by legislation clearly indicated a permanent decision to honour the previous obligations and agreement, the suspicion and discontent that I said at the beginning of my speech were apparent among the men concerned would have been wiped out.

I consider that such an agreement should be as binding on the authorities as is a contract between private individuals. When a contract is accepted, it is signed and sealed, and no deviation whatever is permitted from its terms and conditions. We would not countenance the introduction of legislation permitting private contracts to be broken or repudiated; and the same principle should and, in my opinion, must apply to Governments whose responsibility it is to enter into and accept such contracts on behalf of their people. If circumstances should arise necessitating a review of any contract or agreement, both parties should agree; but when the Government of the country breaches obligations into which it has entered, it is something that Parliament should not condone.

I have endeavoured to study the file, though to follow it is extremely difficult. In it appears the form of acceptance of allotment, wherein, according to a responsible officer, it was requested that the person concerned should—

> agree to complete the form of application for a perpetual lease and to sign any such other documents whatever as the board may require. . . . and any other documents prescribed by legislation to be enacted by the Parliament of Western Australia.

That was dated and witnessed on the 31st March, 1954. The acceptance of such a form would be the same as if one were about to purchase a property on condition by the seller that the purchaser should hand over a new cheque book with every cheque duly signed and give a definite undertaking to meet whatever cheques the seller wrote out whenever he felt inclined. Of course no purchaser would be so silly as to do that.

The Minister for the North-West: How would you allot them?

Hon. J. McI. THOMSON: I cannot see the logic of asking a person to sign a form subject to an alteration of the conditions at any time the Minister may desire. To do so would be nonsense.

The Minister for the North-West: Suggest an alternative.

Hon. J. McI. THOMSON: I am not the Minister in charge of the department, or of this legislation; but I consider there are ways and means by which a satisfactory arrangement could be concluded without asking a man to commit himself to doing

something that anyone in a private undertaking would refuse to do. It was suggested by the Parliamentary Draftsman to be included in the Act.

The Minister for the North-West: That is wrong.

Hon. J. McI. THOMSON: It is on the file.

The Minister for the North-West: Not to be included in the Act.

Hon. J. McI. THOMSON: Where would it go if it were not to be included in the Act or in the Bill?

The Minister for the North-West: I can explain it. The hon. member apparently did not read the file.

Hon. J. McI. THOMSON: The file is extremely difficult to follow. If the Minister can convince me and other members that this is sound in application, I will be pleased to hear him.

The averaging system is no doubt a reasonable method of valuation, although in many instances it has caused much discontent and comment owing to the delay in obtaining final valuations. I believe a man should receive his final valuation on the allotment of his property; and if that is impracticable, it should be possible to give it to him within a stated time after allotment. At present the matter can go on and on for months, or even a year or so, before final valuation is given. I believe that whoever is administering the scheme should have no difficulty in making the final valuations available within a reasonable time.

Of course, if a settler were given his final valuation upon allotment, or shortly afterwards, there would be many improvements remaining to be carried out on the property; but surely, with a proper accounting system such as is the crux of any successful business, the costs could be detailed and debited from time to time, and charged against the account of the man concerned! If that were done, and the settler were given an earlier final valuation, it would tend to encourage him.

It will be admitted that all such schemes as this have included many people who were thrifty and industrious, and imbued with the desire to improve their properties by their own personal application and effort; but, of course, there are always some who do not come into that category. What is the incentive for a settler, by his own efforts and with his own finance, to improve his property, when the man who is not inclined to do that, and leaves it to the scheme to do all the improvements on his holding, receives the same final valuation?

The Minister for the North-West: He is credited with what he has done for himself.

Hon. J. McI. THOMSON: To obtain the facts, the Minister need only discuss this aspect of the scheme with the men concerned. I am speaking with a knowledge of the settlers in the area in which I reside, and I know that the present method kills the incentive for a man to improve his own holding. For that reason I think we should study ways and means of encouraging these men, and the first step to be taken in that direction is to give the settlers their final valuations earlier than has been the practice up to the present time.

Retrospective legislation is something of which we have previously heard a good deal in this House, but it is the kind of legislation that we should not support. I have in mind the soldier settlers who were allocated their farms up to the end of 1952, and I consider it entirely wrong that we should now empower any Government to make a retrospective application of costs to those men. Under their provisional leases, they were given a definite figure of their total indebtedness to the scheme; but, as Mr. Roche stated the other evening, they are now receiving valuations which have increased by £3,000, or perhaps even £5,000, since they were given that definite figure of their total indebtedness.

Where individual settlers, by a close scrutiny of the work done on their properties, and the application of correct accountancy practice, have been able to dispute certain of the costs debited against them, and have remained adamant, being prepared to go to arbitration, on occasions the Government has accepted the figures they have submitted, and has finalised the matter on that basis.

That proves conclusively that there is something radically wrong with the existing state of affairs. Whatever the Minister may say in reply, surely there must be some evidence of wasteful administration, which has added to the costs and which should never have occurred. The state of affairs existing today calls for close investigation before these statements are issued to the settlers concerned. Any attempt at repudiating what was contained in the original agreements issued in 1945, when the scheme was launched, cannot be contemplated. We have no right to break faith with these people.

I would refer members to page 9 of the report of the select committee on war service land settlement, wherein it recommended that an appeal board should be set up without delay and that it should be open to allottee-designates without a lease. The Minister for Lands, who played an extremely important part on the select committee, was convinced of the necessity to constitute an appeal board. However, we find no evidence of it whatever in the legislation that was presented to us last year, and none in this Bill.

When I was approached about this matter by the people concerned—I cannot say whether there is a letter in existence—it was stated verbally that the Minister had told the settlers that, because of the attitude and the action taken by the Legislative Council in regard to the Bill previously before it, they were denied the right to an appeal board. I do not know what section of the Act the Minister intended to have this brought under.

The Minister for the North-West: Have you studied the conditions?

Hon. J. McI. THOMSON: I studied the Bill which the Minister said he was going to introduce to the House and which, according to him, contained a provision to set up an appeal board, but I could not find it. Whether he intended to have it effected by regulation or not I do not know. Of course, it is possible for him to do that. I do not think it was ever intended that this board should be constituted. The settlers are greatly concerned because they are subjected to adverse reports which are submitted to the Land Settlement Board by field officers, and regarding which they have no knowledge whatever. In these enlightened days, that is something which we do not expect, especially if we believe in British justice.

It has been found that, after inspecting the settlers' holdings, these men make adverse reports to the board without the settlers concerned knowing anything about them. When the time arrives for a settler to be called before the Land Board, as a result of this adverse report on alleged misdemeanours or actions that are contrary to his agreement, a considerable period could have elapsed. Therefore, what chance has that man—unless he has made a note of any incident himself—of trying to contradict a charge made against him by a field officer after such a long period of time, and when, in all probability, he has completely forgotten the incident? If the Bill had contained a provision enabling an appeal board to be constituted, settlers would have felt more secure in the knowledge that, following inspections made by field officers, and should there be an adverse report against them, they were getting some measure of justice to which they were entitled.

It is extremely necessary that we should ensure that this board of appeal is constituted to hear such cases and to deal with complaints on the same level as any other court of appeal. The man before whom the settler ought to appear should be one who is independent of the department; and he should, preferably, be a magistrate. Furthermore, those who are giving evidence against the settler should have a wide knowledge in the field and be well versed in administration and costs pertaining to the holdings. If those qualifications are not held by them, they should not be permitted to make any charges against a settler.

Hon. L. C. Diver: Either imaginary or real.

Hon. J. McI. THOMSON: Yes. Before we accept this legislation there should be embodied in it a provision by which we can assure the people concerned that they will not be subjected to anything but fair treatment, and will be afforded an opportunity to defend themselves should a charge be preferred against them. Also, there should be no repudiation of the original agreement, which is contrary to the existing state of affairs. I am forced to support the second reading; but I do so with a certain degree of reluctance and in the hope that the Bill can be improved in Committee.

THE MINISTER FOR THE NORTH-WEST (Hon. H. C. Strickland—North—in reply) [2.51]: After listening to the speeches of members, one would imagine that this Government was responsible for setting down the conditions under which war service land settlement is carried out. The Bill before this Chamber is to enable the Minister for Lands in this State to accept money from the Commonwealth and expend it on war service land settlement according to conditions laid down by the Commonwealth Government.

Hon. N. E. Baxter: Except in those instances where the Minister thinks fit.

The MINISTER FOR THE NORTH-WEST: I will come to that point; but, in fact, it is in those instances where the Governor thinks fit. This Chamber is not competent to tell the Commonwealth Government what the terms of these conditions shall be. That Government has laid them down, and they are final. In the latest information received from the Commonwealth Director of War Service Land Settlement, he advised that recently he discussed the conditions with his Minister, and said he could assure the Director of War Service Land Settlement in this State that the conditions for all agent States, which had been accepted, were final and would not be varied by the Commonwealth. That is clear enough; and members know that the conditions laid down are the actual terms and conditions of war service land settlement, and that any alteration to them that we attempt to make by our legislation —except with a view to bringing the matter before the notice of the Commonwealth Government—will be of no avail.

Hon. N. E. Baxter: We do not seek to alter them. All we want is that the Government should adhere to them.

The MINISTER FOR THE NORTH-WEST: The hon. member does wish to alter them. He wishes to cut right across them.

Hon. N. E. Baxter: No, I do not.

The MINISTER FOR THE NORTH-WEST: The hon. member does. Therefore, I hope the House will be tolerant and permit the Government to have this legislation passed, so that we can conform to the constitution laid down and thereby become eligible to accept the funds made available by the Commonwealth. There has been a great deal of comment and criticism of this Government and the previous Administration in regard to this matter. There has been some justifiable criticism of the departmental administration in regard to belated final valuations which have proved to be rather irksome to the settlers concerned. The reason for settling men on locations when they were only partly improved was that they were anxious to obtain them and preferred not to wait until they were fully developed and ready to be handed over to them.

During the debate, Mr. Henning referred to the "form of acceptance" under which applicants agreed to be allotted a property. He considers that the allottee is not aware of the conditions under which the property will be granted. As the position stands at present, there is no legal power to issue a lease to an applicant. That has been brought about because we have no legislation to validate it. The Commonwealth Government has notified the State of the conditions of settlement under which it is willing to provide finance. These conditions—except for the provision relating to the averaging of costs of similar improvements when determining final valuation—are practically identical with the conditions of the original 1945 agreement, with the addition of a provision for the granting of the freehold of the property. There were also other provisions which brought in ex-servicemen who had served in Korea and Malaya.

The department's legal advice is that an applicant accepting a farm should do so under these conditions, and that a lease will be issued in due course when authority has been granted by State legislation. The alternative to this procedure is to hold up all allotment of farms pending State legislation, which would seem to be unfair to applicants who are awaiting properties and who are prepared to accept such properties under the conditions, copies of which are before the House. Mr. Henning referred to the final valuation being amended by a later or "third" valuation.

I can assure the House that the final valuation—as far as both the Commonwealth and the State are concerned—is the final valuation of the property and cannot be amended after acceptance by the lessee. It must comply with the clause in the conditions that the proceeds of the property must be able to meet the commitments and enable the lessee to obtain a reasonable living. It is agreed that this clause sets out principles only and does not lay down a formula for the assessing of the final valuation, and finality has not yet been reached with the Commonwealth regarding the details of interpretation of this clause. But its inclusion is obviously a major protection against unduly high valuations of properties, and does give the lessee an opportunity of complaining about this final valuation.

The unfairness of altering the term of the lease after the applicant had received his notice of approval was referred to by Mr. Roche. As far as the State is concerned—and there is no reason to believe that the Commonwealth will desire otherwise—those ex-servicemen who were granted lease conditions under the 1947 regulations will have issued to them the lease in those regulations. These leases are being issued now as fast as the congestion and accumulation of leases to be issued to the public generally can be handled by the Titles Office of the Lands Department.

By Mr. Logan the point was raised that the Commonwealth Government could have provided finance under the Re-establishment Act, and would not cease to provide funds for war service land settlement if the conditions laid down by the Commonwealth were not being carried out.

This may or may not be the case; but the fact is that the Commonwealth Government—following its constitutional difficulties in making agreements with States, which involve the acquisition of land—decided to grant money under its constitutional powers and an Act was assented to on the 12th June, 1952, under which the Commonwealth was authorised to make payments to the States subject to such conditions as the Commonwealth Minister may determine. It would be unreal to include provisions in the State Act which would be contrary to conditions that have been drawn up by the Commonwealth and are applicable to all three agent States.

There is no intention on the part of the State to amend the conditions of the leases which were entered into under the 1947 regulations, and, as a matter of fact, final valuations are proceeding and being approved without the actual lease instrument having been signed, reliance being placed upon the formal notification of acceptance.

Reference has been made to the recent statement in the Press by Mr. Kent Hughes that leases or final valuations could not be issued to settlers on the Tootra Estate; but final valuations have been actually forwarded to all these settlers, and the formal lease document in the terms of the original agreement will follow in due course.

There is no justification for saying that the conditions set out by the Commonwealth were prepared in Western Australia. The conditions were submitted to this

State; and except for minor amendments in wording, the sense of the conditions was essentially drawn up by the Commonwealth. Mr. Logan does not see any reason why the final valuation cannot be made available at the time of allotment. Mr. Thomson also referred to that matter.

This is impossible without delaying allotment until all improvements to the land have been completed and productivity has reached a stage which will enable the farmer to meet his full commitments. That is laid down very clearly in the conditions. Special provision is made to protect the settler in the event of his carrying out planned works at his own expense. When final valuation is being made, lessees are invited to advise the valuer of any work carried out by them, which is noted upon the inspection form and signed by both the valuer and the settler. The arrangement encourages settlers who are able to carry out developmental work themselves, and many have done so without being penalised for their enterprise.

Reference was made by Mr. Baxter to the alteration in the authority for the granting of tenures by the Governor between the 1951 Act and the present Bill, and he suggested that the conditions for the granting of tenures should be in accordance with the agreement entered into between the Commonwealth and the State. One of the principal reasons why the 1951 Act could not be put into effect was the provision dealing with an agreement with the Commonwealth, which the Commonwealth had found difficult because of its inability to acquire land from States for the purpose of land settlement. I would not raise any serious objection to an amendment to this clause as is suggested by the hon. member, provided the "conditions" were required to be not inconsistent with those for the granting of money by the Commonwealth. That is to say, I would have no objection to an amendment in which the word "conditions" was used rather than "agreement."

The hon. member referred to the averaging system in the case of projects taking away the initiative of settlers in carrying out work themselves. In arriving at the final valuation of properties, provision is made that a settler should be given full credit for planned works which he has carried out at his own expense.

Reference was made by Mr. Baxter to the slow development in the production capacity where farms are developed from virgin blocks and he stated that the farmer could not be expected to meet his commitments for at least three years. Mr. Henning thought the period might be as long as five or six years. It is recognised that several years are necessary for the productive capacity of farms being developed from virgin land to meet the full commitments on any property, but this has been already recognised, and special provision is made for meeting these circumstances. The provision is in the conditions laid down by the Commonwealth.

The settlement authority is faced with two alternatives: The first is not to allot a property until full development has been reached, which would necessitate the State farming the land for several years. This policy has been vigorously opposed by settlers themselves and also by the R.S.L. who desire allotment as quickly as possible; and only a month ago the Minister for Lands, accompanied by the Deputy Leader of the Opposition, met settlers at South Stirling who were pressing for immediate allotment against the more conservative wishes of the Land Settlement Board.

The second alternative is to allot properties as soon as farming can be carried out and the revenue is sufficient to meet running expenses and a proportion of the commitments. This second policy is the one which has been adopted in the past, whereby a concessional commitment is approved consistent with the earning capacity of the property at that stage.

Further, the rent and other commitments which cannot be paid from the earnings of the property in the earlier stages are remitted in full and do not accumulate with accrued interest against the settler. I gather this is in accordance with the suggestions of Mr. Baxter.

Hon. N. E. Baxter: Their rent payments would accumulate.

The MINISTER FOR THE NORTH-WEST: No. Under the conditions, there is authority to waive all commitments; and it has been done. It has been suggested that the State is not anxious to accept its responsibilities for losses brought about as a result of the difference between the cost of improving properties and the price at which they are sold to the settlers. Many properties have incurred very large losses, which have been wiped off. The State accepts two-fifths and the Commonwealth three-fifths of the liability; and up till June, 1953, an amount of £244,596 had been written off for 69 dairy farmers. Of that amount, the State's contribution was £97,838. When we find that an excess cost of developing the properties of 69 dairy farmers, to the extent of approximately £250,000, has been disregarded by the Commonwealth and the State, it will be realised that both Governments have accepted full responsibility in that regard.

Much has been made of the form of acceptance. Mr. Henning read out the contents of that form; and when he was asked by interjection where it came from, and who was the author, he said he was not prepared to say. I do not know why. It is on the file from which he read.

Hon. C. H. Henning: Who signed it?

The MINISTER FOR THE NORTH-WEST: Kevin G. Walsh, Assistant Parliamentary Draftsman and Chief Conveyancer. The reason for this form of acceptance is that Parliament failed to pass legislation last year to enable any form of legal agreement at all to be issued under the war service land settlement scheme. No leases can be issued because nobody has authority to issue them. We must work under some form of agreement. Mr. Thomson disagreed with it; and Mr. Diver, in a one-word interjection, said it was "dynamite." But I would ask how else these men can be settled on their blocks except under some form of agreement; and has that agreement not to comply with the conditions laid down by the Commonwealth?

Hon. N. E. Baxter: We hope so.

The MINISTER FOR THE NORTH-WEST: That is what it says. If it is not signed, nobody can get on to a block. But no one has refused to sign. My information is that not one applicant has declined to do so.

Hon. C. H. Henning: What is his alternative?

The MINISTER FOR THE NORTH-WEST: The alternative is as has been stated—no allotment; the scheme stops. So it is all humbug to say that a form of acceptance such as has been designed by the Crown Law Department, as a result of the action of Parliament last year in failing to pass legislation which would conform with the conditions laid down by the Commonwealth, is unsatisfactory. The Crown Law Department was asked to ascertain the legal standing of the State with respect to the conditions of the scheme as a whole; and after a very lengthy investigation into files which are very hard to follow, the Assistant Parliamentary Draftsman, the Crown Solicitor, and another officer of the department unanimously agreed that this was the correct method for the department to adopt in order to place a settler on an allotted farm. That is what it amounts to.

For the life of me I cannot see how anything else could be done. We could not say to a settler, "That farm is yours; go ahead and develop it." There must be some sort of agreement, and the State must be protected from any liability. If one signs an insurance policy or books a passage on a steamer, there are conditions attached and one signs away one's birthright every time. But there is always common law to protect one.

Hon. N. E. Baxter: You do not sign your birthright away.

The MINISTER FOR THE NORTH-WEST: I did not catch that interjection. I want to make it quite clear that this form of acceptance is the result of an inquiry by the Crown Law Department into the position which existed, and under which the State had no legal authority to accept moneys and expend them under the scheme. It was designed to enable the scheme to proceed so as to allow the men to be put on to their farms and get into production. The only alternative is to cease allotting farms and say to the men, "Until such time as Parliament passes a measure which is acceptable to the Commonwealth, we cannot put you on your farms." The Government will not accept anything which cuts across the conditions. The Minister for the Interior in the Federal Government has intimated that he is now forced to consult his legal advisers concerning his ability to keep on financing the scheme.

Hon. C. H. Henning: Did he not say he was going to refer it to the Commonwealth's legal advisers?

The MINISTER FOR THE NORTH-WEST: That is right. He has to seek legal advice to know whether he can continue to provide us with the money to carry on the scheme.

Hon. L. A. Logan: How was it carried on during the past 12 months?

The MINISTER FOR THE NORTH-WEST: I think I explained that by interjection. The scheme has been in operation for 12 months without any legislation; but there might have been a different view last December on this matter from what there is now because Mr. Kent Hughes points out that he is worried about his position. He keeps forwarding the money; but he does not know whether he has the authority to do so unless we have legislation in this State which will conform to the Commonwealth conditions, and so enable us to accept the money.

Hon. C. H. Henning: We are not disputing the conditions as laid down by the Commonwealth.

The MINISTER FOR THE NORTH-WEST: I cannot see that. The hon. member said, "I presume that the conditions now are exactly the same as those given to us at that time. We object to them." He was referring to last year.

Hon. C. H. Henning: It is the way the State is trying to interpret them.

The MINISTER FOR THE NORTH-WEST: The State is merely accepting them by this legislation.

Hon. C. H. Henning: This is a State Bill, not a Commonwealth Bill.

The MINISTER FOR THE NORTH-WEST: That is so; but the Commonwealth lays down the conditions. There is nothing in the State Bill that affects those conditions.

Hon. C. H. Henning: You just told us that the lease was drawn up by our Crown Solicitor.

The MINISTER FOR THE NORTH-WEST: This form of acceptance is drawn up to provide for the settling of the applicants on their locations until such time as a legal agreement can be issued. That cannot be done until this legislation is passed; and the legislation must be acceptable to the Commonwealth, and must not cut across those conditions. As late as yesterday, by telephone, we had further information concerning that point. A copy of the Bill, together with a copy of our notice paper with the amendments on it, was forwarded to the Commonwealth authorities, and yesterday they informed the director of land settlement by telephone that they could not accept some of the amendments on the notice paper. However, when we come to that point, I shall explain it more clearly. We have no doubt in our minds that it will be dangerous, and possibly fatal, to war service land settlement for another 12 months, at least, unless we enact legislation which will validate the actions of the Minister and those of the Land Settlement Committee in this State, in expending the money which has been provided by the Commonwealth Government.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. R. Hall in the Chair; the Minister for the North-West in charge of the Bill.

Clauses 1 to 4—agreed to.

Clause 5—Financial provisions:

Hon. C. H. HENNING: I would like the Minister to amplify Subclause (1) (c). If the words "if any" were not there, I would assume this meant Commonwealth conditions, but we know that the Commonwealth has laid down conditions. In line 25, on page 3 of the Bill, we find the words "conditions determined under the Commonwealth Act." I would like the Minister to say whether paragraph (c) deals with any conditions that the State may at any time lay down, or only with those of the Commonwealth. If it is only the latter, then he should have no objection to the addition of a few words to that paragraph.

The MINISTER FOR THE NORTH-WEST: My understanding of the Bill is that it authorises the Minister, on behalf of the State, to comply with conditions so determined if any.

Hon. C. H. Henning: Determined by whom?

The MINISTER FOR THE NORTH-WEST: I would say, by the Commonwealth. There could be elastic conditions. There are bound to be some that are not provided for here, such as the form of acceptance that has been used in the interim. The Minister would be authorised to comply with something similar to that should it crop up. I cannot see that any amendment is necessary. The paragraph is clear enough. There is a reference later to conditions laid down by the Commonwealth, but that is dealing with money.

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

> That after the word "determined" in line 8, page 3, the words "by the Commonwealth Act" be added.

I move this amendment for the reasons I have already given; and in view of the Minister's remarks, I do not think any reasonable objection can be taken to it.

The MINISTER FOR THE NORTH-WEST: I am surprised at the hon. member. The Bill has been here for more than a week, and he has had plenty of opportunity to put his amendment on the notice paper. He knows I am not the Minister administering the Act. He could have given notice of his amendment and so allowed me an opportunity to investigate the position. I do not think the words are necessary. I oppose the amendment.

Hon. C. H. HENNING: The Minister said that the Director of Land Settlement had been in telephonic communication with the Commonwealth authorities, and that some amendments could not be accepted. One of the main reasons for the Bill not going through last year was Clause 6. I would have no objection to the clause this time provided these words were added.

The MINISTER FOR THE NORTH-WEST: I do not think the amendment is necessary. It would have the effect of restricting the Minister in this State if, in order to satisfy some soldier settler, he wished to vary slightly or depart temporarily from the conditions laid down. He would be authorised to comply only with conditions, if any, so determined and laid down by the Commonwealth. It means that the Minister or the department would have no elasticity. They would be restricted to the conditions laid down by the Commonwealth; and in my opinion that could and would seriously affect the soldier land settlement scheme in some respects because, as we know, it must be administered in an elastic fashion.

Hon. N. E. Baxter: Do you not agree to the conditions laid down by the Commonwealth.

The MINISTER FOR THE NORTH-WEST: I have no personal agreements or disagreements.

Hon. N. E. Baxter: Do you think the Minister in charge of the scheme agrees to the conditions?

The MINISTER FOR THE NORTH-WEST: He has no alternative but to agree to them.

Hon. N. E. Baxter: Therefore he would not want to do anything inconsistent with them.

The MINISTER FOR THE NORTH-WEST: He is bound by them; but he also requires some latitude. If this amendment is agreed to, the Minister will not be able to deviate from the conditions if, for some reason, he wants to settle a man on the land. He would have to ring Canberra every time he wanted to get some tiddly-winking thing done. I hope members will not accept the amendment.

Hon. C. H. HENNING: Could the Minister advise members whether, if this amendment is not proceeded with, he would be willing to strike out the words, "subject to Section 5" as they appear in Clause 6? Paragraph (c) appears to be the loophole. The Minister said that the department might wish to deviate from the conditions laid down by the Commonwealth.

The Minister for the North-West: In some small particulars.

Hon. C. H. HENNING: Not long ago we were told that the conditions were laid down by the Commonwealth and it would not budge an inch either way. If we are to accept that at its face value, let us have the conditions as laid down by the Commonwealth and not by the Minister. As it stands, the subclause could be the loophole; and a number of things could be—I do not say would be—done which were not in the interests of lessees or soldier settlers.

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

Ayes	14
Noes	10
Majority for	4

Ayes.

Hon. N. E. Baxter	Hon. Sir Chas. Latham
Hon. Sir Frank Gibson	Hon. L. A. Logan
Hon. A. F. Griffith	Hon. J. Murray
Hon. H. Hearn	Hon. H. L. Roche
Hon. C. H. Henning	Hon. J. McI. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. C. H. Simpson
	(Teller.)

Noes.

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

Pairs.

Ayes.	*Noes.*
Hon. L. Craig	Hon. W. F. Willesee
Hon. L. C. Diver	Hon. R. F. Hutchison

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

Clause 6—Granting of tenures:

The MINISTER FOR THE NORTH-WEST: Mr. Baxter has an amendment on the notice paper, and I have drafted one which I think will meet with his wishes. I have supplied him with a copy; and if he agrees with my amendment, he can allow me to move it instead of moving his own.

Hon. N. E. BAXTER: I am agreeable to the Minister's amendment. I made a mistake is using the word "agreement" instead of referring to "conditions."

The MINISTER FOR THE NORTH-WEST: I propose to move an amendment—

> That the words "as he thinks fit" in line 34, page 3, be struck out and the following words inserted in lieu:—"as are not inconsistent with the conditions as determined by the Minister under the Commonwealth Act, for the purpose of carrying out the scheme."

Hon. N. E. BAXTER: I am quite happy about the proposed amendment. Mine was designed to ensure that, in future, conditions laid down by the Commonwealth could not be departed from in the granting of tenures. We have had an example of where there has been shilly-shallying over conditions since 1945. If the amendment is agreed to, it will prevent that happening again.

Hon. C. H. SIMPSON: On a point of drafting, the proposed amendment shows that the word "as" will be struck out and reinserted. Also, the words "for the purpose of carrying out the scheme" will occur twice.

The CHAIRMAN: If the Minister moves to strike out the words, "he thinks fit" and insert in lieu the words, "are not inconsistent with the conditions as determined by the Minister under the Commonwealth Act" it will be correct.

The MINISTER FOR THE NORTH-WEST: Very well. I move an amendment—

> That the words "he thinks fit" in line 34, page 3, be struck out and the following words inserted in lieu:—"are not inconsistent with the conditions as determined by the Minister under the Commonwealth Act."

Amendment put and passed.

Hon. A. R. JONES: I would like the Minister to inform us more fully as to the actual meaning of Subclauses (2) and (3) of Clause 6. They just seem a jumble of words.

The MINISTER FOR THE NORTH-WEST: I understand that the Governor can make regulations notwithstanding any provisions of the Land Act. This Bill will empower the Governor to make provisions that would override the Land Act.

Hon. N. E. Baxter: Where they are inconsistent.

The MINISTER FOR THE NORTH-WEST: That is so. Where they are consistent, the Land Act is used; and where they are inconsistent, the War Service Land Settlement Scheme Act is used.

Hon. A. R. JONES: I feel there should be some further clarification. Subclause (3), in part, states—

> . . . . made under the Land Act the provisions of the former prevail.

I think we should provide that the provisions of this Act shall prevail.

The MINISTER FOR THE NORTH-WEST: I am not able to give a clearer explanation than I have done; and what I have said is the Crown Law Department's interpretation.

Hon. L. A. LOGAN: There seems a difference of opinion as to which will prevail. If regulations are made which are consistent with the Land Act, we will naturally go ahead. But if the Land Act prevails over regulations which are inconsistent, the Governor will not make them. Where the Governor makes regulations which are inconsistent, the regulations prevail over the Land Act. I think it is quite clear.

Hon. N. E. BAXTER: I disagree. The War Service Land Settlement Department may prefer the Land Act and make regulations which, when compared with the regulations of the Land Act, will be inconsistent. Therefore those regulations would override this Act.

Hon. H. K. Watson: No, the Land Act.

The MINISTER FOR THE NORTH-WEST: The Crown Law Department interpretation is as follows:—

> (2) where provisions of the Land Act do not conflict they will apply.
>
> (3) the Governor may make regulations under this legislation to give effect to the scheme and where they are inconsistent with the regulations under the Land Act, they will prevail.

Hon. N. E. BAXTER: I move an amendment—

> That the words "subject to Section five" in line 8, page 4, be struck out.

In 1945 an agreement was made between the State and the Commonwealth. A further set of conditions was framed in 1952, which are not consistent; they do not agree with one another. In the intervening period, certain settlers have been placed on blocks. They went on to those blocks on the understanding that certain conditions would prevail: the conditions laid down in the 1945 agreement. This Bill provides that where up-to-date leases and tenures have not been granted, they shall be granted under the 1952 conditions. The proviso which was moved here and disagreed with, and which was finally included in this Bill, covers those settlers who went on to the land in 1952. They are the people I wish to protect. Anything done after that by the War Service Land Settlement Department is subject to the 1952 conditions. Anything done prior to 1952 should be subject to the conditions of 1945.

The Minister for the North-West: They are.

Hon. N. E. BAXTER: According to this, they are not; they are subject to the 1952 conditions. Otherwise the Government would have no objection. The provision reads—

> Provided that subject to Section 5 nothing contained in this Act or in any regulations made pursuant to authority granted by this Act shall in any way alter, prejudice or affect or permit the alteration of the terms or conditions of any perpetual lease heretofore granted or the terms or conditions upon which the Minister has heretofore approved of the granting of any perpeutal lease or has otherwise agreed to grant leasehold rights.

The Minister for the North-West: You know who put that in?

Hon. N. E. BAXTER: It is all right. It was put in to protect those who went on in 1952 and were subject to the 1945 conditions. I trust members will agree to the amendment.

The MINISTER FOR THE NORTH-WEST: This is the consequential amendment about which I spoke during the second reading debate, and which members thought was not consequential.

Hon. N. E. Baxter: It is not.

The MINISTER FOR THE NORTH-WEST: It might not be consequential to the amendment moved by the hon. member, but it is to the continuance of the scheme. The Bill, together with the amendments on the notice paper, have been forwarded to the Commonwealth Government, which says it cannot accept this particular amendment because it cuts right across the Commonwealth's conditions.

Hon. H. K. Watson: Even though the conditions laid down abrogate the earlier conditions made with the settlers?

The MINISTER FOR THE NORTH-WEST: The conditions are similar to those in force. They have merely been liberalised—an averaging system has been introduced—and they include those who fought in Korea. Any settlers prior to 1952 will get their allocations under the 1947 conditions.

Hon. N. E. Baxter: That is all that this covers.

The MINISTER FOR THE NORTH-WEST: It covers more than that. Parliament failed to pass legislation, and there have been no conditions since 1952. When

the last amendment was moved and carried, I understood there would be no serious opposition to this provision.

Hon. N. E. Baxter: That was wishful thinking.

The MINISTER FOR THE NORTH-WEST: That is what I understood. I cannot say more. We have contacted the Federal Minister and his department on this particular amendment. The director here was informed yesterday, by telephone, that if those words were taken out, the legislation will be useless so far as the Commonwealth is concerned. Earlier in the morning, one of the Federal members also rang the director and told him the same thing. He is one of the members who is over here to look into the matter and to advise. He did so, and rang yesterday morning. He informed the director that the legislation would not be acceptable if the words were taken out. Therefore, I must oppose the amendment.

Sitting suspended from 4.1 to 4.20 p.m.

Hon. L. A. LOGAN: To include the words "subject to section five" would make the interpretation quite different. The intention was that nothing contained in the Act or in any regulations should in any way alter, prejudice or affect or permit the alteration of the terms and conditions of any perpetual lease heretofore granted. A settler who had gone on to a block and signed an agreement prior to 1952 would be subject to those conditions. Without the amendment, it could happen that the conditions would be repudiated. I do not say they would be, but it would be possible to repudiate them. If the Minister is satisfied that the conditions will not be altered, the words are unnecessary. I am afraid that the very fact of including those words indicates that the Government wishes to alter the terms and conditions.

The MINISTER FOR THE NORTH-WEST: I can only reiterate that, on Commonwealth advice, which I take it would be the advice of the law authorities, our legislation will not be acceptable if those words are deleted.

Hon. C. H. HENNING: The clause is a most important part of the Bill because it deals with the granting of the tenure. The State Minister for Agriculture, in a letter to "The West Australian" on the 18th September, stated—

> All those allottees who had been notified of the granting of leases under the 1947 regulations will receive the original form of lease. However, future leases will be completely influenced by a set of conditions which have been laid down by the Commonwealth and imposed on the State. These conditions are the only basis of making grants of money available to the State for war service land settlement.

Under the 1947 regulations, 687 leases have been approved, but only 243 have been actually issued, leaving 444 still to be issued. I should like the Minister to inform me under what conditions the 444 will be granted.

The MINISTER FOR THE NORTH-WEST: So far as I know, our advice is that leases prior to 1952 will be issued under the 1947 conditions.

Hon. L. A. Logan: Then why does the Commonwealth insist upon the inclusion of those words?

The MINISTER FOR THE NORTH-WEST: Because they would affect any future settlement. The Commonwealth lays down the conditions, and it claims that our legislation would be unacceptable if the words were deleted. That is the crux of the whole matter; I cannot enlarge upon it. We have to decide whether to accept the Bill or to delete the words, thus making the measure unacceptable to the Commonwealth. My instructions more or less are to proceed along those lines and I cannot deviate. The understanding of our Crown Law Department, as well as the advice of the Commonwealth authorities is that this legislation would not be acceptable if the words were deleted.

Hon. C. H. HENNING: The Minister prefaced his remarks by saying "So far as I know." As this is the vital clause of the Bill, will he make a definite statement as to the 444 leases to be issued? If he cannot make a definite statement now, I suggest that progress be reported until he can.

THE MINISTER FOR THE NORTH-WEST: If the Committee desires something more definite in black and white, I have no alternative to accepting the hon. member's suggestion.

Progress reported.

ADJOURNMENT—SPECIAL.

THE CHIEF SECRETARY (Hon. G. Fraser—West): I move—

> That the House at its rising adjourn till Tuesday, the 12th October, at 4.30 p.m.

Question put and passed.

House adjourned at 4.28 p.m.