Hon. P. Collier: All the odds are against the individual every time.

Mr. Kenneally: The individual should take action in reasonable time.

Mr. PARKER: It has been held, and it has been the law in other parts of the Empire for many years, that six years is a reasonable time. Six years is the time allowed a man to take an action for the recovery of an ordinary civil debt, say a loan of £5.

Mr. J. MacCallum Smith: But we in Western Australia have progressed.

Mr. PARKER: I am asking that we progress further. I do not want archaic laws, special privileges for a special class.

Mr. J. MacCallum Smith: You want us to go back a hundred years.

Mr. PARKER: If I did, I would remind the hon. member that to the 18th century, I believe, newspapers had to obtain special permission before they were allowed to be printed at all.

Mr. Panton: Stop them three months before the election.

Mr. Corboy: Anyhow, they are now printing, not newspapers, but coupons.

Mr. Panton: That is a libel, anyhow.

Mr. PARKER: It has been said concerning myself that I am having a shot at newspapers from behind a hedge.

Mr. J. MacCallum Smith: You are speaking in a privileged Chamber now.

Mr. PARKER: I am aware of that. But I am prepared for the hon. member to obtain a copy of the "Hansard" report of what I have said, and I will sign it and he can publish it in his newspaper. Then he can sue me for libel if anything I have said is libellous. I will find security for costs, too.

Mr. J. MacCallum Smith interjected.

Mr. SPEAKER: The member for North Perth will have an opportunity later to reply to the arguments of the member for North-East Fremantle.

Mr. PARKER: If he can find any reply to them. There is no occasion for members to become heated over this question. It is a plain and simple proposition intended to bring newspapers into line with private individuals and to bring our law into line with the law of England and, I believe, with that of every other portion of the British Empire. I move—

That the Bill be now read a second time.

On motion by Mr. J. MacCallum Smith, debate adjourned.

House adjourned at 10.50 p.m.

Legislative Council,

Thursday, 20th October, 1932.

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

QUESTION—STATE'S DISABILITIES, COMMITTEE'S REPORT.

Hon. H. SEDDON asked the Chief Secretary: Will he lay on the Table of the House the report of the Committee on the Disabilities of Western Australia under Federation, 1932?

The CHIEF SECRETARY replied: Yes. Copy herewith.

BILL—CATTLE TRESPASS, FENCING, AND IMPOUNDING ACT AMENDMENT.

Read a third time and transmitted to the Assembly.

BILL—HEALTH ACT AMENDMENT.

In Committee.

Resumed from the previous day. Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clause 39—Amendment of Section 283:

The CHAIRMAN: The question is that the clause be agreed to.

Clause put and passed.

Clauses 40 to 49—agreed to.

Postponed Clause 7—Amendment of Section 34:

The CHIEF SECRETARY: This clause is designed to facilitate the handling of the local authority which neglects its duty. The present procedure is very cumbersome and roundabout. There is a certain local authority which has withdrawn the sanitary service in a part of its district, where a number of poor people are occupying more or less permanent camps. Those individuals cannot pay for the service. Had it not been that an adjoining local authority, whose proximity to the locality made it more interested than the proper authority, stepped in and performed the service, a very bad sanitary condition would have arisen. Under Section 34 of the Act it is necessary for the Commissioner to serve an order on the neglectful local authority requiring it to carry out the sanitary service, and reasonable time would have to be given for the carrying out of that order. The local authority probably meets fortnightly, so that a reasonable time would be 21 days. If the local authority still neglects to perform the service, the next step following a further inspection would be for the Commissioner to apply to the Supreme Court for a writ of mandamus, or appoint an officer to carry out the work. After the 21 days the Commissioner would probably appoint an inspector of the central authority to carry out the service. In that way a liability would be incurred. The cash payment would have to be found by the central authority. The Commissioner would then apply to the Supreme Court for an order to recover the cost of the work. Again a lengthy procedure is involved. If the local authority still persists in neglecting its duties, a sequence of orders, appointments, and actions for the recovery of costs would be entailed. It would seem to be not unreasonable, where members of a local authority knowingly and wilfully neglect their duties, that they should be liable to a penalty. The proviso of the clause makes it clear that a member who has voted against the action which constitutes a breach of the Act is indemnified against any proceedings that may be taken. In a matter of this kind delays are dangerous. I trust that members will now see the necessity for this clause.

Hon. A. THOMSON: If it is absolutely essential for immediate action to be taken respecting a board, the members of which deliberately refuse to do their duty, I fail to see that the clause will help the department to overcome the difficulty, apart from the penalty that is provided. The Minister referred to one board that refused to carry out a sanitary service because rates could not be obtained from the people in the area. If we agree to the clause, it will not help the department to overcome that. The Act already contains provisions that will enable the Commissioner to do what he considers necessary. I would support the clause if I thought it would improve the Commissioner's position. In these days, a number of unemployed men may dump themselves in a district, and the local authority could not expect to secure rates from them. The local authority might regard it as the Government's duty to attend to the men's requirements.

The CHIEF SECRETARY: I have already pointed out that this involves a question of urgency. Action has to be taken so that work can be carried out at once. If we were to follow the course outlined in the Act, it would take too long, and the local authority might still persist in not undertaking the work. The method outlined in the Act is too cumbersome to meet the circumstances I have outlined, and the department find it impossible to control conditions that sometimes obtain.

Hon. J. J. HOLMES: Some one should have authority to force a board to act promptly, but why men who act in an honorary capacity should be penalised in the way suggested, I am at a loss to understand. The members of a health board are also members of a road board or municipal council, and already the Government have power, should the board or council fail in their duty, to step in, through the Commissioner for Local Government, supersede the local

authorities, and conduct the affairs of the district until others are elected who will carry out their duties. Could not that principle be applied to health boards as well? In the event of a board not possessing the funds necessary to carry out work that the Commissioner orders, they will be guilty of wilful neglect, and may have the penalty imposed upon them.

The Chief Secretary: That is not so. Look at the proviso.

Hon. J. J. HOLMES: The reference to wilful neglect would apply to such a board.

The Chief Secretary: No court of law would hold that a board without funds and unable to carry out any such work was guilty of wilful neglect.

Hon. J. J. HOLMES: I am at a loss to understand why we should be asked to go so far as to impose penalties on men who are carrying out public duties in an honorary capacity.

The CHIEF SECRETARY: If the board did not possess the funds necessary to carry out works desired by the Commissioner, the members would certainly not be guilty of wilful neglect. The instance I gave was not one where the members of the board had wilfully neglected to do certain things; it was a case of open defiance. There is no danger in the clause to the members of boards that carry out their duty.

Hon. J. NICHOLSON: The Minister suggests that the clause is necessary to meet emergency cases, but I claim the Act already contains provisions to enable the Government to meet all requirements.

Hon. E. H. Gray: But the methods outlined are too cumbersome.

Hon. J. NICHOLSON: The provisions in the section I have in mind are clear and simple.

The Chief Secretary: To which section do you refer?

Hon. J. NICHOLSON: Section 15.

The Chief Secretary: Section 34 overrides Section 15.

Hon. J. NICHOLSON: No.

The Chief Secretary: Certainly it does. The Commissioner is required to give notice, and so forth.

Hon. J. NICHOLSON: The powers outlined in Section 15 are wide and comprehensive, and should provide all that is necessary. Under Section 38 the Minister has power to override both the Commissioner and the local authority. If I thought that the power did not exist I would agree to the clause, though in a modified form. I am willing even to try to widen Section 34 of the Act if that be considered necessary.

Hon. J. J. Holmes: Why widen it; it is wide enough for anything.

Hon. J. NICHOLSON: Of course it is. There is no need to give this proposed very drastic power to penalise members of local authorities.

The CHIEF SECRETARY: Section 15 gives power to the Commissioner to act in an emergency, and Section 38 gives power to the Minister. Mr. Nicholson should know that the Commissioner when under direction would not take any notice of either of those two sections. Why bring in sections that are not likely to apply? There are some local bodies who defy the department, and under the Act they can keep up that attitude of defiance. There must be some provision to make those men responsible for their actions. They are being asked merely to carry out their duties, and if they wilfully neglect to do so, they will be liable to a fine. That is not too much to ask.

Hon. E. H. H. HALL: Where the Commissioner is satisfied that members of a local board have been guilty of wilful neglect, could we not give him power forthwith to disband that board?

The CHAIRMAN: Has the hon. member read the proviso?

Hon. J. J. HOLMES: It is going to be an unpleasant duty for someone. There is quite sufficient power to enforce all the conditions.

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

Ayes	11
Noes	10
Majority for ..	1

AYES.

Hon. C. F. Baxter	Hon. E. H. Harris
Hon. J. Ewing	Hon. J. M. Macfarlane
Hon. J. T. Franklin	Hon. W. J. Mann
Hon. G. Fraser	Hon. E. Rose
Hon. E. H. Gray	Hon. H. Seddon
Hon. E. H. H. Hall	(*Teller.*)

NOES.

Hon. L. B. Bolton	Hon. J. Nicholson
Hon. V. Hamersley	Hon. H. V. Piesse
Hon. J. J. Holmes	Hon. A. Thomson
Hon. G. W. Miles	Hon. C. H. Wittenoom
Hon. Sir C. Nathan	Hon. J. M. Drew
	(*Teller.*)

Clause thus passed.

New clause:

Hon. A. THOMSON: I move—

That the following be inserted, to stand as Clause 10:—

10. A section is hereby inserted in the principal Act, after Section 53A, as follows:—

53B. (1.) When it shall appear to any local authority that the use of any sewer constructed or to be constructed by the local authority is or will be confined to the owners or occupiers of a limited number of premises and will not be general, then the local authority may enter into agreements relating to the use of the sewer with the respective owners of such premises.

(2.) Any such agreement shall provide for the drainage into the sewer of sewage and liquid waste from the premises, and may provide for the local authority constructing and providing any drain to connect the premises with the sewer.

(3.) In every such agreement there shall be contained an undertaking on the part of the owner to pay to the local authority such annual sum as may, in accordance with the agreement of the parties, be necessary to cover—

(a) a reasonable instalment of a due proportion of the cost of making and providing the sewer and any incidental works;

(b) interest at such reasonable rate as may be stipulated on such proportion of the cost;

(c) the expenses of the local authority for the year in maintaining and operating such sewer and works:

Provided that, in so far as the local authority has expended loan moneys on the construction and provision of such sewer and works, the period over which such instalments shall be payable shall not extend beyond the period of the loan, and the rate of interest to be charged shall be that payable on the loan.

(4.) In the event of any person subsequently availing himself of the use of the sewer under agreement with the local authority, anyone who has entered into a prior agreement may apply to the local authority for a revision and adjustment of the amount to be paid by him thereunder, and in the event of no agreement thereon being arrived at within two months, then the application and all questions connected therewith shall be deemed to have been referred and submitted by the parties to arbitration under the Arbitration Act, 1895.

(5.) Any amount payable to the local authority under any such agreement shall be and remain, until paid, a charge upon the premises to which the agreement refers, and on all the owner's estate and interest therein, as if the agreement had contained an express charge to that effect, and the personal obligation to make the payments stipulated for in the agreement, and to perform and observe the terms thereof shall be binding not only on the original party but on every subsequent owner of the premises, but so that no person shall be liable personally for the making of any payment or the discharge of any obligation which shall accrue due or arise after he has ceased to be owner of the premises.

(6.) The obligations of the local authority under any such agreement shall be enforceable by the owner for the time being of the premises as if they had been entered into with him.

(7.) Nothing in this section shall deprive the local authority of any power of imposing any rate, except in so far as any such agreement as aforesaid may impose a restriction on such power for the benefit of any person liable under or entitled to the benefit of such agreement.

(8.) In the event of the ownership of any premises, to which an agreement refers becoming divided between two or more persons, then the benefit and burden of the agreement may be so apportioned and adjusted between the owners as the Minister may determine, and the Minister's determination shall have effect as if embodied in an agreement under this section.

The new clause will reveal to members the difficult position in which the draftsman found himself. In many country hotels and coffee palaces it is necessary to provide underground tanks as catchments for waste water, and that subsequently necessitates the removal of what becomes an objectionable liquid. The object of the clause is to meet a case which has arisen in Katanning and I am sure, from my knowledge of country towns, other premises have had to face a similar difficulty. I have here a plan showing the situation of the various properties affected, and would like hon. members to inspect it. It will be passed around for the purpose. Under the present Act all properties in a particular district must be rated. The carrying of the amendment will mean that only those persons to whom the service is rendered shall be liable for the amount to be ultimately paid. There are in Katanning 11 properties which for many years have been paying an annual charge totalling £230 to have their waste water carried away in a tank to some distance outside the town. Years ago the Katanning Road Board desired to instal a small sewerage system, but unfortunately such a system as was proposed was not permitted by the Health Act and the Road Districts Act. Now the health authorities have gone exhaustively into the question; and, plans and specifications having been prepared, it is estimated that the requisite system can be installed for £1,200. That cost, with interest and sinking fund at 10 per cent., would mean an annual charge of £125 as against the present charge of £230. Moreover the dreadful smell aris-

ing from the pumping of the waste water would be obviated.

The CHAIRMAN: The clause applies to the whole State, and not to Katanning only.

Hon. A. THOMSON: Yes, Sir; but the same position must exist in other country towns. The installation of this sewerage system would provide work for the unemployed as well as effect an annual saving of £105 to Katanning ratepayers.

The CHIEF SECRETARY: Clause 9 empowers local authorities to sewer portion of a district, subject to the property owners concerned agreeing to the proposal. The carrying of the amendment would create a difficult position. Isolated premises can be sewered under Clause 9. The danger of the amendment is that it may lead to endless complications and to ceaseless demands for readjustment when in course of time a sewer constructed under it comes to be used by a number of ratepayers. Let the present system try itself out before Parliament adopts the proposed system. The amendment should not be carried.

Hon. H. V. PIESSE: I thoroughly understand the position in respect to the Katanning drain and I have conferred with the local authority about it. The intention is to charge only those who are going to use the proposed new work. In Katanning people have to close their windows while a man goes along at 5 o'clock in the morning three times a week and pumps out the evil-smelling tanks. And it is a very costly business, one building being charged £50 per annum. There are also in that area two or three septic tanks, the effluent from which could run into the drain. The same position occurs at Wagin and Narrogin. I will support the amendment.

Hon. A. THOMSON: The Minister spoke of what might happen in 100 years. But we have to legislate for the present.

Hon. E. H. Gray: And the future also.

Hon. A. THOMSON: Subclause 4 of the proposed new clause is essentially reasonable. The 11 property owners concerned say the scheme will be of practical benefit to them. Moreover, the principle will apply to a large number of our country towns. To-day the people using the highly objectionable existing system have to pay £230 per annum, whereas under the proposed new and improved system the cost would be only £120 per annum. Surely it is reasonable to provide that if any new properties are subsequently brought within the scheme they will be required to pay their quota of the cost of construction and maintenance. The Minister, in Clause 11 of the Bill, proposes that where there is a sewerage scheme in existence an owner may be required to connect his premises with the system. My proposed new clause is in the interests of public health and has been well considered by the local authority. In 10 years the work would be paid for. The pipes have to extend out for about a mile. Under Clause 9 every property past which the pipe went would be required to contribute to the cost, whereas in the proposed new clause only those desiring to connect up will have to pay.

The CHIEF SECRETARY: Mr. Thomson is not correct when he says that under Clause 9 all the properties past which the sewerage pipes ran would be liable to rates, for actually the clause provides only for the sewering of a portion of a district.

Hon. J. J. HOLMES: I agree that special legislation is necessary to meet the difficulty pointed out by Mr. Thomson. Surely there can be no objection to those ratepayers directly interested putting in their own sewerage scheme and paying for it. But it is desired to go farther and bring in other properties at a later date. The complications that will certainly arise in the adjustment of payment are what I object to. Surely the hon. member could re-draft the proposed new clause to meet that position which must arise.

Hon. H. V. PIESSE: In the main street of Katanning are two buildings that will not be connected with the drain, one valued at £10,000 and the other at £8,000. The owners of those buildings will not be asked or expected to connect with the drain. Only owners of buildings like boarding houses that require to use the drain will become parties to the agreement with the road board.

Hon. J. J. Holmes: Why not the others?

Hon. H. V. PIESSE: They are let as shops. The drain is intended to deal with bath and kitchen water, as well as with the effluent from some of the septic tanks.

Hon. E. H. H. HALL: I sympathise with Mr. Thomson's idea, but could it not be achieved if Clause 9 were made to apply to

particular premises rather than to a particular portion of a district?

Hon. A. THOMSON: I discussed that matter with the Parliamentary draftsman, and he was of opinion that Mr. Hall's suggestion would not meet requirements.

Hon. J. J. Holmes: Cannot you limit the clause to deal with the people concerned?

Hon. A. THOMSON: The owners of 11 premises would become parties to the agreement, and amongst them would save £150 a year. If the owner of another building from which there was a considerable quantity of waste water desired to join in the scheme, it would be difficult to prevent his doing so. The following amounts were paid by users of the existing liquid waste system during the year ended the 30th June last:—Bank of New South Wales, £2 2s.; Union Bank, £3 18s.; Dalgety & Co., Ltd., 10s. 6d.; C. J. Gunter (butcher), £13 19s.

The CHAIRMAN: I remind the hon. member that the clause is general, but all the discussion has been particular. Why not limit the clause to Katanning?

Hon. A. THOMSON: I am merely citing Katanning as an illustration of the need for the provision. The list of amounts continues: Katanning Hotel, £79 4s.; Royal Exchange Hotel, £25 10s.; Federal Hotel, £25 16s.; King George Hostel, £54 6s.; Piesse Estate, £7 12s. 6d.; Rogers Ltd., £11 3s. 6d.; A. Somas, £6 7s.; total, £230 8s. 6d. Clause 9 would not meet requirements because greater service is rendered to some than to others. This subject has been discussed by the Roads Boards Association and has been before the authorities for years, but no solution has been reached. We believe that the clause prepared by the Parliamentary draftsman will meet the needs.

Hon. J. J. HOLMES: I take it that only in the event of a person availing himself of the use of the sewer would he be called upon to pay. If he availed himself of it, he ought to pay. If he did not avail himself of it, the sewer would remain the scheme of the people who originally undertook its construction. I think the new clause will overcome a difficulty that has existed for a long time, namely that those who desire a facility should pay for it.

Hon. J. M. DREW: The idea of the new clause seems good, but I should like further information. Is the proposal likely to interfere with any future scheme that the local authority may contemplate? Provision is made for others than the original parties to join the scheme. Suppose the owners of property in the main street of Katanning decided to start a scheme, would the pipes be of limited capacity, or would they be large enough to enable other owners to join the scheme? If large pipes were installed at the outset and not extensively used for ten years, that would involve expense.

Hon. H. V. PIESSE: A store in the main street is worth £10,000. If the owner wished to join the scheme, the cost to him would be probably only a few pounds. His premises being used as a store, would pay very little. The hospital pays £54. The four hotels and the hospital would pay the greater proportion of the outlay. The scheme would be paid for in ten years. The proposition is a reasonable one and should be adopted.

The CHAIRMAN: There is nothing in the clause to provide for payment in ten years.

Hon. A. THOMSON: It is proposed to instal 4in. pipes, but if the scheme were extended to other premises, only about half the pipe-line would have to be lifted in order to substitute 6in. pipes. The whole scheme has been well considered.

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

Ayes	16
Noes	5
Majority for	11

AYES.

Hon. L. B. Bolton	Hon. G. W. Miles
Hon. J. M. Drew	Hon. Sir C. Nathan
Hon. J. T. Franklin	Hon. J. Nicholson
Hon. G. Fraser	Hon. H. V. Piesse
Hon. V. Hamersley	Hon. H. Seddon
Hon. J. J. Holmes	Hon. A. Thomson
Hon. J. M. Macfarlane	Hon. C. H. Wittenoom
Hon. W. J. Mann	Hon. E. H. Gray (*Teller.*)

NOES.

Hon. C. F. Baxter	Hon. E. Rose
Hon. J. Ewing	Hon. E. H. H. Hall (*Teller.*)
Hon. E. H. Harris	

New clause thus passed.

New clause:

The CHIEF SECRETARY: I move—

That the following be inserted to stand as Clause 26:—

A section is inserted in the principal Act, after Section 158, as follows:—

158A. (1.) Where any trade process, whether an offensive trade or not, has been established in any district, and is of such a nature that the carrying on thereof will unavoidably result in fumes, dust, vapour, gas or other chemical elements which, in the opinion of the Commissioner, are likely to be injurious to health, escaping into the air, the Governor may, on the recommendation of the Commissioner, by proclamation—

(a) define any area surrounding the place where such trade process is carried on, within which, after the issue of the proclamation and whilst the same remains unrevoked, no dwelling-house shall be erected or used for habitation; and

(b) define any area surrounding the place where such trade process is carried on, within which, after the issue of the proclamation and whilst the same remains unrevoked, no rainwater tanks shall be erected or used, and no rainwater shall be collected or stored for human consumption:

Provided that, where any dwelling-house has, prior to the issue of a proclamation under this subsection, been erected within the area defined by such proclamation as an area within which dwelling-houses shall not be erected or used, the Commissioner may, notwithstanding the proclamation, grant a permit in writing signed by him to any person to use such dwelling-house for purposes of habitation, upon and subject to such conditions as the Commissioner may deem fit to impose and which are specified in the permit so granted.

The reason for this proposed new clause is that in connection with a particular industry, a serious position has arisen. Owing to the accumulation of arsenical dust and chemical fumes in the atmosphere and the consequent lodgment of poisonous particles on the roofs of houses adjoining the works, the water in the tanks attached to the houses has become affected and may prove injurious to people using it. The departmental officers have examined the materials which have gathered in the gutterings of neighbouring houses, and found that it contains appreciable quantities of poisonous substances. It is not intended to interfere with any houses that are already erected in the district, but it is desired to prevent the erection of any new ones.

Hon. J. M. DREW: This clause is not as simple as it looks. Not only may the erection of houses be prevented in any given district, but houses already established may be closed up. Perhaps considerable sums of money have been invested in such dwellings, but instead of the factory itself being dealt with, it is proposed to shut up houses. I should like to know the reason for the introduction of this new clause.

The CHIEF SECRETARY: I have already given reasons for this proposal. The danger is a very real one in connection with a particular industry. The water in the tanks attached to the houses has been tested, and found to contain considerable percentages of arsenic. If that sort of thing is allowed to go on the health of the community may be seriously affected.

Hon. E. H. HARRIS: I take it the Minister is referring to Wiluna. What are the people there going to drink if they are not allowed to use rain water?

The Chief Secretary: They should not drink poisoned water.

Hon. E. H. HARRIS: There is no water scheme there.

The Chief Secretary: I am informed there is a splendid water supply there.

Hon. E. H. HARRIS: On the goldfields, where the water is laid on, it is necessary to have a tank in which it may be allowed to settle. What will happen in a case of that sort?

The Chief Secretary: They will not be interfered with.

Hon. E. H. HARRIS: What does constitute a rain-water tank? Is it intended to prevent people from living in the vicinity of this particular industry, and how far out must people proceed in order to escape from the fumes? A new clause such as this should not be passed without most careful consideration.

Hon. H. SEDDON: These chemical troubles have occurred in other parts of the world. In such cases it is usual to make the companies control their own fumes. That is the line of action we should take here. The condition of affairs in Wiluna is disgraceful. The chemical fumes are allowed to interfere with life in the neighbourhood, because the plant is not properly controlled and is not thoroughly efficient. Because of that one difficulty, everyone in the State is to be brought under this provision. The Health Department should tackle the matter from a differ-

ent angle. They should deal with the source of the nuisance, and not inflict hardship upon other people.

The CHIEF SECRETARY: At the moment the plant in question is not able to collect more than 80 per cent. of the arsenic.

Hon. H. Seddon: It should collect the whole lot.

The CHIEF SECRETARY: The result is that 20 per cent. of the arsenic is going into the air every day, and falling upon the roofs of the houses. From the roofs the arsenic gets into the water. The danger has become so acute that if something is not done, people may be poisoned, or may become affected with several dangerous diseases. If proper control is exercised, however, the industry can continue without harm to the people.

Hon. J. M. DREW: This is a very drastic amendment to the Bill, involving perhaps the confiscation of the property of poor people. There has been no time in which to investigate the matter. I suggest, therefore, that this proposed new clause be brought up in another place so that investigation may be made into the circumstances in the meantime.

The CHIEF SECRETARY: I agree this is a vital and far-reaching amendment, and that it will apply to the whole State. In view of these circumstances I am prepared to withdraw the new clause.

New clause by leave withdrawn.

Title—agreed to.

Bill reported with amendments.

Sitting suspended from 6.15 to 7.30 p.m.

BILL—WESTERN AUSTRALIAN AGED SAILORS AND SOLDIERS' RELIEF FUND.

Received from the Assembly and read a first time.

BILL—DEBTORS ACT AMENDMENT.

Second Reading.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [7.3] in moving the second reading said: This Bill to amend Section 3 of the Debtors Act, 1871, proposes to alter the procedure whereby execution against a person may be had under the Debtors Act in the Supreme Court. The Debtors Act is the piece of legislation which does in the Supreme Court what is done in the Local Court by Section 130 of the Local Courts Act, and it is considered that, for the same reasons as stated in presenting the previous Bill to amend the Local Courts Act, this Act should be amended, in order to protect debtors who, through misfortune or other causes beyond their control, are unable to obey an order of the court. The words of the Bill are identical, except for the necessary consequential differences. I move—

That this Bill be now read a second time.

HON. J. NICHOLSON (Metropolitan) [7.32]: The Minister has correctly stated the purpose of the Bill, and it is necessary perhaps to remind members that in the parent Act of 1871 the procedure set out covers not only proceedings against a debtor in respect of a judgment in the Supreme Court, but also those connected with orders that might be obtained by a judgment creditor in the Local Court. By the Local Courts Act under, I think, Section 134, Section 3 of the Debtors Act was held no longer to apply to Local Court judgments. In consequence, the Debtors Act, although originally designed to cover proceedings following upon judgments obtained in both the Supreme and Local Courts, now applies only to proceedings taken in the Supreme Court. The methods provided in the Debtors Act are, generally speaking, somewhat similar to those in respect of a judgment summons issued in the Local Court, which will be amended by the Bill the Minister has now placed before the House. Having supported other Bills of a similar character that have been presented to members recently, particularly with reference to the amendment of the Local Courts Act, I see no reason for objecting to the measure now before us. The ordinary procedure in connection with small debts is to deal with them in the Local Court, and naturally it will only be debts that may be dealt with as a result of a Supreme Court judgment that the Bill will affect. Having regard to that, I propose to give my support to the second reading of the Bill, but I have noted certain objections that may be dealt with by way of amendment later on. I have already given some indication of what I have in mind in connection with the Local Court Amendment

Bill, and subject to that reservation, I support the Bill.

Question put and passed.

Bill read a second time.

BILL—MORTGAGEES' RIGHTS RESTRICTION ACT CONTINUANCE.

Second Reading.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [7.37] in moving the second reading said: In presenting this Bill for an Act to continue the operations of the Mortgagees' Right Restriction Act, 1931, for another year, very little comment is necessary. The parent Act is supplementary to the Financial Emergency Act. This Act has, without doubt, curbed the actions of importunate mortgagees, and has saved to many unfortunate people, property that they have been in the course of purchasing on terms, and which, but for the protection afforded by this Act, would have been lost to them. The applications received up to the 26th September, 1932, for relief under the provisions of this Act numbered 229, and were dealt with as follows:—

Applications granted	134
Applications refused	9
Temporary orders (i.e. permission to enter into possession and receive rents and profits)	16
Applications adjourned sine die ..	70

Unfortunately, the return to prosperity is long delayed and the necessity for this protective legislation still exists. It is, therefore, necessary that this Act shall be continued for at least another year. I move—

That this Bill be now read a second time.

HON. J. J. HOLMES (North) [7.40]: I regret the necessity for the introduction of the Bill, and even more so the presentation of it in the form in which we find it. The Minister told us of relief that has been granted under the provisions of the Act, but he said nothing about the penalties imposed by it on people who have suffered as a result. I am certain that a similar Bill will be presented to Parliament next year.

Hon. J. Nicholson: I hope not.

The Chief Secretary: I hope not, too.

Hon. J. J. HOLMES: We all hope that such a Bill will not be presented again, but the public should not be led away by any suggestion that we have turned the corner. I cannot get out of my mind the fact that six million people were, when I last looked up the figures, called upon to pay something like £1,000,000 a week in interest on Government expenditure. That is a heavy load for the people to carry. Much as I desire that this shall be the last time such legislation will be presented to Parliament, I am bound to say I do not think we have seen the last of it. A number of worthy people have been made to suffer as a result of this class of legislation, and when we are asked to deal with it again, I do not want the principles altered, but I want the measure to be before us in such a form that we shall be able to remedy minor defects from which many people have been suffering. Arising out of new legislation of this description, mistakes are bound to creep in, although not intended. We have no opportunity of amending the parent Act under the Bill before us, but on this occasion, I shall support the second reading of the Bill.

HON. E. H. HARRIS (North-East) [7.42]: I realise the necessity for passing the Bill, but I join with Mr. Holmes in a mild protest against the form in which it has been presented to us. The original Act was passed with the intention of providing protection for those who had been forced to take mortgages. Owing to adverse circumstances, some of those who had registered mortgages were forced by those who held them to take out new mortgages. The terms of the Act had no application to them, and therefore those people had no protection. I refer chiefly to the interest question. I can give instances to illustrate my meaning. We know that the interest charges were reduced under the legislation that we passed. A firm, dealing in a big way, was confronted with the necessity to carry out certain alteration and found that the requisite finance could be obtained only by means of new mortgage. Those interested in the matter conferred, and finally agreed to effect a new mortgage, only to discover that a higher rate of interest was payable. On the presentation of the Bill now before us, I thought we would have had an opportunity to remedy that phase, but unfortunately it cannot be done. However, that will not prevent my supporting the second reading of

the Bill, although I could wish that it had been presented to us in a form that would have enabled us to effect certain amendments.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East—in reply) [7.45]: In reply to the remarks of Mr. Holmes and Mr. Harris, anyone would think I derived some pleasure from having to introduce a Bill of this description. I assure those two hon. members that it is one of the most unpleasant tasks I have had to undertake and I trust it will be the last occasion on which I shall be asked to sponsor a Bill of this nature. I again express regret that it has been found necessary to put a measure of this description on the statute-book.

Question put and passed.

Bill read a second time.

BILL—LOCAL COURTS ACT AMENDMENT.

Second Reading.

Debate resumed from the 18th October.

HON. J. J. HOLMES (North) [7.47]: I have only a few remarks to offer on this Bill. I spoke on a Bill of a similar nature at an earlier stage and I wish now merely to correct what I think is a wrong impression created by Mr. Nicholson when he spoke a few evenings ago. On a previous occasion I said that we proposed to shift the responsibility to prove that he could not pay, from the debtor to the creditor. I think Mr. Nicholson disputed that. He said, "You cannot prove a negative; you have to prove a positive." I find that the Attorney General, who introduced the Bill in another place, used these words, "I propose that instead of the provision which exists at present, there shall be a provision by which the creditor may issue a summons and bring the debtor to court, when it will be for the creditor to show that the debtor will be able to pay." I do not think we should legislate on those lines. Why should a creditor be called upon to prove that the debtor can pay? It should be for the debtor to prove that he cannot pay. It is to clear up that issue that I rose to speak on the Bill.

Personal Explanation.

Hon. J. NICHOLSON: May I be permitted to make a personal explanation?

The PRESIDENT: Yes, provided it is very brief.

Hon. J. NICHOLSON: What I stated was quite correct, namely, that an affirmative has to be proved and that is shown by Section 130 of the Local Courts Act which says—

Hon. J. J. Holmes: On a point of order, and to simplify matters so that we may get along with the business of the House. May I ask whether quoting from an Act of Parliament is a personal explanation? The hon. member will have his opportunity when the Bill is in Committee.

The PRESIDENT: I think it is a personal explanation. Under two Standing Orders the hon. member may explain that what he said on a former occasion—and I take it that is what Mr. Nicholson is doing now—was based upon a particular section of the Local Courts Act. The hon. member may quote that section in proof of what he said.

Hon. J. NICHOLSON: I wished to quote the proviso to Section 130, which sets out that such jurisdiction shall only be exercised where it is proved to the satisfaction of the magistrate that the person making default either has or has had, since the date of the judgment or order, the means to pay the sum in respect of which he has made default and has refused or neglected to pay the same.

HON. G. W. MILES (North) [7.53]: If the Bill goes through, it may be a good thing, but it will kill all credit. Notwithstanding what Mr. Nicholson said the other night, I think it will increase the liability of creditors.

Hon. J. J. Holmes: If it will kill credit, it will do some good.

Hon. G. W. MILES: That may be so. I should like to refer members to an article that appeared in last night's "Daily News" on the subject and it will be worth while reading it to the House:—

PRISON FOR DEBT.

Opposition to New Legislation.

The Bill now before Parliament to amend the Local Courts Act is causing considerable concern among Perth's solicitors. They see

in it an unnecessary extension of the protection given to debtors and an increase in the difficulties now experienced by creditors in obtaining their money.

A city solicitor said to-day that statistics gathered by him in regard to the number of debtors who found their way to the Fremantle jail, hardly bore out the statement of the Attorney General, who sponsored the Bill, that its provisions were necessary to protect unfortunate debtors. The solicitor's reading of the Bill led him to believe that it served only to increase the cost of recovering outstanding debts.

"The bailiff has told me," he said, "that between February, 1930, and October, 1932, 841 commitments under judgment summonses were executed by him. Of these only 72 were conveyed to Fremantle jail. While he could not say how many of these were liberated at once, he knew that the majority were. When it is remembered that there are 10,000 summonses issued each year the small percentage imprisoned can be appreciated."

Explaining the working of the Act at present he said that the procedure was to have the debtor examined by a magistrate who may order his imprisonment for any period up to six weeks, the order to be suspended while the debtor made weekly payments, very often as small as 5s. a week. So long as the ordered amount was paid the debtor was free of further interference. His default might cause his imprisonment, but the Act provided that he could apply to a magistrate. If he could prove that he was not in a position to pay the amount the magistrate had power to rescind the order.

The alteration proposed by the amending Bill, which was of great importance to creditors, he continued, was that in the event of failure to pay in the terms of the order the creditor had to issue a further summons calling upon the debtor to show cause why he should not be committed to prison. Experience has proved that very few debtors appeared at the court unless brought there under warrant by the bailiff, who had to be paid, so that the amending legislation doubled the cost for creditors, who had little or no chance of recovery. All it did was to make the creditor call the debtor before the court to state his case, whereas under the present legislation the onus was on the debtor to make the application himself if his means prevented him making the payments.

"So far as I can see," he concluded, "the amending Bill will not give the debtor any more protection than he has now, but will saddle the creditor with extra expense, increase the work of the Local Court officials and generally make the recovery of debts a very cumbersome procedure."

The House should carefully consider the Bill, and unless more substantial arguments are offered in support of it, I hope it will be rejected. It is my intention to request my solicitor to go through it carefully to see whether he confirms the views expressed in the article in the "Daily News." I shall oppose the second reading.

HON. E. H. H. HALL (Central) [7.57]: One does not lightly disagree with the viewpoint taken by a legal practitioner on a Bill such as this, but when I read in the newspaper the Attorney General's introductory remarks when he submitted the Bill in another place, I was very much surprised. Anybody who has had the unfortunate experience that I have had in dealing with this kind of thing, endeavouring to recover debts contracted by people who, I say it advisedly, will not pay, will realise it is at present quite a difficult matter to get those people before the court to compel them to state their reasons for refusing to pay. I suppose it is generally known that before you can compel a man to appear in court, that if that many lives some distance away you must put up sufficient money to enable him to attend. It is reprehensible for a man, when he gets his wages, not to pay for the food that he obtains on credit, particularly when it is remembered that it was the food that enabled him to earn the wages. I shall be very pleased if the Bill is passed; it will certainly tend to limit credit. Then it will not be a very bad thing after all because a lot of our troubles have been caused by giving too much credit. But, like many other things, the Bill may prove a two-edged sword and may cause quite a number of decent people to suffer hardship. I will not oppose the second reading but I hope the Bill will be improved in Committee.

Question put and passed.

Bill read a second time.

BILL—ROAD DISTRICTS ACT AMENDMENT.

Second Reading.

Debate resumed from the 18th October.

HON. J. M. MACFARLANE (Metropolitan-Suburban) [8.1]: When one realises that no serious attempt has been made to amend the Road Districts Act since 1919——

The Chief Secretary: Yes.

Hon. J. Nicholson: An amending Bill passed in 1928.

Hon. J. M. MACFARLANE: I am taking my cue from the statement in the Bill. There have been other amendments, but not amendments in the nature of those now proposed. It is easily understood that road boards will regard this measure with favour. Since the Bill has been presented, I have gathered that representatives of road boards feel much concern at the numerous amendments appearing on our Notice Paper. I trust the measure will not be so rigorously amended here as to threaten its successful passage. To some of the amendments in the Bill exception may be taken. If they are not too severely handled, they will no doubt be improved. I hope they will be dealt with from that standpoint. By Clause 16, amending Section 128a, road boards are required to establish indemnity funds to meet cases of dishonesty among their employees. The proposal is good, provided that employees contribute towards the fund. Under the Bill, however, the boards are to be empowered to pay the necessary premiums out of ordinary revenue. That I regard as wrong, and I hope the provision in question will be so amended as to make employees realise that they have some responsibility for the maintenance of the fund. Road board secretaries are paid satisfactory salaries, and have legislation protecting them. If dishonesty is to be recognised as occurring among road board employees, it is only fair that they should contribute towards the indemnity fund. Clause 25, amending Section 154c, empowers road boards to lease land for 999 years. I have been wondering whether the provision applies to the leasing of Class A reserves held by road boards, and I shall be glad to hear from the Leader of the House on the subject. Certain Class A reserves road boards find difficulty in leasing for other than short terms. If the minimum period were three years, it would be advantageous. Clause 26 provides for subdivision of estates. I have received a letter suggesting that the clause should be deleted, since it would prevent development of areas, throw many people out of work, and otherwise create much difficulty. Having looked into the matter, and judging from my experience of municipal work, I can hardly concede the point. I realise that there is much vacant land surveyed ready for settlement, for which road boards and municipal bodies find it difficult to cater, people having settled away from ordinary traffic routes. No doubt such people have been induced to build in back areas, newly subdivided, by being told that before long they would be supplied with road communication. They live there for years without the comfort of roads and drainage, and are everlastingly at the municipal or road board office inquiring why they are called upon to pay rates without getting conveniences. In my estimation it will be many years before large estates need be subdivided. It has been asserted that the clause is long overdue for adoption, having operated in other countries for a long time already. Such a provision must be enacted some day, and perhaps there is no better time for enacting it than now, when the market is slow and things are—at least we hope so—at the lowest level they will reach. While I regret that any action of mine should cause some of our citizens to continue to be idle, I hold that the greatest good of the community must be served. The settlers I refer to are entitled to ribbon roads which will enable vehicles to reach their doors. In many portions of the metropolitan area the position is fairly acute in this respect. After consultation with the secretaries of various local governing bodies, I feel that this amendment should be made; for, on presentation of a plan, land can be cut up and sales made, whereupon the local governing bodies are required to find money for the building of streets. I shall try to help the road boards out of their difficulties in this respect. By Clause 28 road boards are empowered to create transport facilities such as ferries, and to build cooling chambers, and to make charges for the use of these conveniences. I hope the clause will be amended so as to empower the boards to subsidise the creation of such facilities, but not to run them. The function of the boards is to govern within their Act, and they should not be permitted to embark on business enterprises. Clause 29, amending Section 160, deals with the question of drainage, and its adoption will give great relief in cases where road boards find themselves compelled, for some reason or other, to cross the boundaries of another road district, or pass through some land the owner of which has strong objection to permitting drainage operations. In such circumstances the clause will give relief that is highly necessary. Clause 31 proposes a new section governing the allotment of the cost of drainage. If a man's land has been improved by the carrying-out of a drainage

scheme, he may fairly be called upon to recoup some of the expenses incurred by the road board. The same consideration applies where crossings are made over private property. The owner may be called upon to contribute half the cost. I have pleasure in commending that clause to the House. Proposed Section 46b deals with the building line. It is a question that closely concerns the city of Perth, though the proposed section has no application to the capital. Perth itself is badly in need of such legislation. Our capital city will be called upon to expend hundreds of thousands of pounds before the desire for ampler accommodation on the footpaths of Perth's narrow streets is met. The intention is to give compensation where the provision applies. The same thing obtains in connection with drainage. Where a man's land is enhanced rather than diminished in value by a drainage scheme, he should not receive compensation. Under the proposed section questions of this nature, including questions arising out of the building line, will go to arbitration. Clause 31 certainly will be much discussed, and probably may be deleted. It deals with the conversion of wood areas into brick areas. There is much to be said in support of the road boards' protest against this clause, because they make such declarations for a special purpose. People intending to build in brick look for a neighbourhood of a more permanent type that one consisting of wooden buildings. I acknowledge that I have seen many fine homes built of wood in Australia, and have no doubt whatever that such buildings can be erected here. However, when a local governing body declares an area to be a brick area, then only in extreme circumstances should anyone be permitted to step in and declare that he will have a wooden building in that area. Then there is the economic side to be considered, for it is well known that a brick house has an immense advantage over a wooden house in point of insurance. I think the clause ought to be deleted. Clause 46 provides for the striking of a rate and divides the area into rural lands and country lands. In my view the time is altogether inopportune for us to agree to a provision for higher rating. Some of the road boards must have relief of course, but I certainly would not support any increase of rating on rural lands. I think I have touched upon the principal points in the Bill, and I have no desire to delay the House any longer. The provisions of the measure are far-reaching and I hope the House when in Committee will so fashion the Bill that it will meet with general approval, and the road boards will be able to get some of the benefits intended to be granted to them.

On motion by the Chief Secretary, debate adjourned.

ADJOURNMENT—SPECIAL.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [8.19]: I move—

That the House at its rising adjourn until Tuesday the 1st November.

Question put and passed.

House adjourned at 8.20 p.m.

Legislative Assembly,

Thursday, 20th October, 1932.

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

QUESTION—ENTERTAINMENTS TAX.

Mr. SAMPSON asked the Minister for Railways: 1, In view of Section 9 of the Entertainments Tax Assessment Act, which provides that the entertainments tax shall be refunded where "the whole of the net proceeds of an entertainment are devoted to philanthropic, religious, or charitable purposes, and that the whole of the expenses of the entertainment do not exceed fifty per centum of the receipts," will he make it