

consider and report upon the expediency of duplicating the coaling plant at No. 1 Jetty, Port Kembla.

He said: For some time past it has been stated by local people interested, and the members for the district have drawn attention to it in this House, that it is necessary that the coal loading plant at No. 1 jetty, Port Kembla, should be duplicated. At the present time the facilities provided there are sufficient for only one boat to load at a time. It has been stated that on some occasions a number of boats have been waiting in the port to load coal. There has been a suggestion that on account of the lack of coal-loading facilities boats have gone to other ports, and great inconvenience has been caused. The question to be considered by the Public Works Committee is the matter of providing extra accommodation there. The estimated cost of the work, including £14,000 which will be required for additional railway facilities, is £51,000. I table the necessary plans in connection with the matter.

Question resolved in the affirmative.

Mr. J. C. L. FITZPATRICK (Bathurst) [5.29 p.m.]: I wish to protest against this motion being carried.

Mr. SPEAKER: Order! The motion has already been carried.

Mr. J. C. L. FITZPATRICK: The motion has not been carried, and I intend to speak to it. I had spoken to hon. members on this side of the House, intimating that I intended to say something on this proposal.

Mr. SPEAKER: Order! I am sorry, but the motion has been carried.

Mr. J. C. L. FITZPATRICK: I protest, Mr. Speaker, against the rapidity with which you very frequently put motions through, like greased lightning, when members do not realise that the question is being put. It is a rascally thing from beginning to end. There is no trouble about finding means for loading coal; the whole trouble is that they cannot get the men to shift the coal. It is a rascally thing that an hon. member should be debarred from speaking about it.

Mr. SPEAKER: Order! Will the hon. member resume his seat? I have declared the question to be carried in the affirmative.

ADJOURNMENT.

PORT KEMBLA LOADING FACILITIES.

Motion (by. Mr. Lang) proposed:

That this House do now adjourn.

Mr. J. C. L. FITZPATRICK (Bathurst) [5.30 p.m.]: I did not wish to be a trouble to the House when I spoke as I did a minute ago, but I have a strong objection to the proposal because, in the past, I realised what the real trouble was in connection with shipping coal on the South Coast. I intended to protest most strongly against any unnecessary expenditure, when no good result can be achieved. I do not wish to say any more now, except that I think that if this proposal is carried out it will be wilful and wasteful expenditure, not justified by existing conditions.

Question resolved in the affirmative.

House adjourned at 5.32 p.m. until Thursday, 27th January.

Legislative Council.

Thursday, 27 January, 1927.

Leave of Absence—Assent to Bills—The Trustees, Executors, and Agency Company, Limited, Bill—Bishop Tyrrell Trust Amendment Bill—Dentists Amendment Bill—Closer Settlement and Returned Soldiers Settlement Amendment Bill (Second Reading)—First Readings.

The PRESIDENT took the chair.

LEAVE OF ABSENCE.

The PRESIDENT announced the receipt of messages from his Excellency the Governor intimating that he had granted leave of absence for the remainder of the session to the Hon. R. G. D. FitzGerald and the Hon. J. Wetherspoon.

ASSENT TO BILLS.

Royal assent to the following bills reported:—

Wild Flowers and Native Plants Protection Bill.

Land Agents Bill.

THE TRUSTEES, EXECUTORS, AND AGENCY COMPANY, LIMITED, BILL.

The Hon. W. T. DICK presented a petition from the Trustees, Executors, and Agency Company, Limited, praying that this bill be proceeded with in accordance with the standing orders.

Petition received.

Bill presented, read a first time, and referred to select committee.

BISHOP TYRRELL TRUST AMENDMENT BILL.

Bill read a second and a third time.

DENTISTS AMENDMENT BILL.

Bill read a third time.

CLOSER SETTLEMENT AND RETURNED SOLDIERS SETTLEMENT AMENDMENT BILL.

SECOND READING.

The Hon. A. C. WILLIS moved:

That this bill be now read a second time.

He said: The bill provides: (a) For the determination of the price or value of settlement purchases and the revision of certain indebtedness to the Crown; (b) for an extension of the law regarding the subdivision of holdings under the Closer Settlement Acts; (c) for the acquisition of additional areas; (d) for the discontinuance of resumption of land under certain circumstances; (e) for an amendment of the Returned Soldiers Settlement Act, 1916, extending certain concessions given to soldier holders under the Returned Soldiers Settlement (Amendment) Act, 1925, to holders of settlement purchases; (f) for certain other amendments of an administrative or miscellaneous character. The main purpose of the bill is to extend to civilian holders the principle which is already embodied in the Returned Soldiers Settlement Act, dealt with last session by

this House. The bill is designed to make it easier for settlers on the land to remain and earn their living. The Returned Soldiers Settlement (Amendment) Act, 1925, sought to do that by providing for the revision of the settlers' indebtedness to the Crown, by extending the law relating to waiver, by the remission of rent and interest on soldiers' holdings, by granting the right to an appraisal of capital value, and by providing for a redetermination of the amount charged as purchase money—that is, the amount paid by the Crown to the vendor for land acquired under the Closer Settlement Amendment Act, 1919. This bill proposes to grant to civilian settlers the right to obtain an appraisal of the capital value of their settlement purchases, and also the right to apply for a revision of their indebtedness to the Crown, so far as the charge of purchase money is concerned. By the Closer Settlement Amendment Act, 1919, provision was made for the purchase by discharged soldiers of certain tenures under the Crown Lands Acts, or of private lands, by entering into agreements with the holders, and applying to the Minister to acquire the land for them. The amount paid by the Minister for the land is referred to in the Act as “the charge of purchase money.”

In some instances the purchasers paid to the vendors amounts over and above those agreed upon by the Minister. In such cases the amount agreed to by the Minister reached the statutory limit to which he was allowed to go, and in order to enable the intending settler to obtain land it was necessary that he himself should provide the additional capital required for the purchase. This, however, was always done, I understand, with the Minister's consent. In most cases he agreed to this being paid, and he himself being satisfied that the value was there, the amount so paid was taken into consideration in determining the charge of purchase money.

An example of how the charge would be determined is as follows:—Freehold value of settlement purchase determined at, say, £3,500. Deduct the amount owing to the Crown at the time

of the purchase, say, £1,000, making it £2,500. Deduct also the amount paid to the vendor by the settler with the consent of the Minister, say, £500. The charge upon the land to be paid by the settler would then be £2,000. The settler would thus be liable for the first £1,000, plus a further £2,000, making a total of £3,000. In other words it means that in fixing the new appraisement the maximum price to which the Government was able to assist the purchaser would be taken into consideration by the board appointed to deal with this matter, and, after having arrived at what was a fair valuation, the £500, as well, would be, in effect, written off.

The real reason behind the bill is that there are quite a number of civilian settlers on the land who at the present time, owing to the heavy capital charges, are unable to make a living, with the result that in some instances they are vacating or disposing of their settlements, in ways not always advantageous. The purpose of the bill is to so place a man on the land, subject to his being efficient and capable, as to make it possible for him to remain there and earn a decent living. It is because it is found in many instances that that is impossible, that this measure is brought forward, with a view to easing matters for those who are attempting to settle on the land. This is a similar provision to that already embodied in the law relative to soldier settlement. It is proposed to extend the concession only to holders who do not own substantially more than a home-maintenance area. That is practically the same provision as was in the Crown Lands Amendment Bill which was before this Chamber last week.

It is proposed also to remove certain restrictions on the transfer of settlement purchases. Owing to the increase of settlement in certain localities the demand for allotments or small blocks for home sites has increased. It has been found that it would be in the interest of town or village extensions if settlement purchases adjoining could be subdivided and sold with the minimum of inconvenience. An amend-

ment has been provided to meet this situation. If the owner of a settlement purchase so situated submits to the Minister a design of subdivision, the portions within such subdivision, if the amendment becomes law, will be capable of being transferred without the necessity of obtaining the Minister's consent. A similar provision exists already in the Crown Lands Consolidation Act, 1913, in regard to conditional purchases. A provision has been made for similar amendments with regard to conditional purchase leases and suburban holding purchases in the Crown Lands Amendment Bill still before this House.

Holders of settlement purchases are at the present time placed under a serious disability with regard to securing additional areas. For instance, if a person already holds one settlement purchase he may obtain another, but there is no provision which will allow a person who has disposed of his settlement purchase to obtain another. Provision has been made for this, if the applicant obtains the Minister's consent before applying. Hon. members will readily see that that is a necessary provision. If a settler has disposed of his settlement, and afterwards desires to obtain another settlement, we think that, subject to the Minister's permission, he should be allowed to obtain a further settlement. This bill corrects that anomaly.

An unnecessary restriction also exists under which a person cannot hold more than two settlement purchases, whether they aggregate a home-maintenance area or not, and an amendment has been provided which will permit a holder to acquire up to a home area. That, I believe, is a sensible proposal. It seems absurd that because a man has two settlement areas which together are less than a home-maintenance area, he should be unable to obtain sufficient to make up a home-maintenance area. This bill proposes to give him that right.

Another provision of the bill allows the Minister to elect whether or not he will proceed with a resumption, if on appeal, the value has been determined at a

figure which he considers too high. There are instances in which the court has fixed values upon land very much higher than the Crown has been able to pay. The loss under that heading has run into many thousands of pounds. This clause provides that although the court may fix the value, and although notice of resumption, subject to the provisions of the Act, may have been given, the Minister will not be compelled to take the land at the valuation fixed by the court.

The Hon. G. R. W. McDONALD: If an owner thinks the price fixed is too low has he any escape?

The Hon. A. C. WILLIS: We will see presently. I think hon. members will readily agree that it is not sound, from the State's point of view, for a Minister to be compelled to take land at a given price, even although the price may be fixed by the court, if it means that the State will have to pay many thousands of pounds in addition afterwards. That has happened in the past and it is desired to prevent it. If the Minister decides that he will not take the land, because the price is too high, the party concerned will be entitled to his costs and expenses.

The Hon. Sir JOSEPH CARRUTHERS: Do you give the owner a similar right? If the valuation is too low, do you give him the right to repudiate the transaction?

The Hon. A. C. WILLIS: No.

The Hon. Sir JOSEPH CARRUTHERS: It is one-sided!

The Hon. A. C. WILLIS: As the hon. member knows, the purpose of the bill is not to enable the owner to find an excuse for keeping the land; its purpose is to put the land into use. It is further provided that land may be purchased or leased after auction on the same terms as it was originally offered. At the present time, an after-auction application must be accompanied by a 25 per cent. deposit, notwithstanding the fact that a much lower deposit could have been lodged when the land was originally offered. This amendment provides

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that in such instances the land can be obtained after auction for a deposit similar to that which was provided before auction. This also will assist intending settlers. As hon. members know, there are cases where persons purchase land on a deposit of say, £5, the land to be paid for over a period of years. In the course of the next month the land is sold, or an arrangement is made for it to be transferred, with a condition that the deposit shall be £25. That is a very dangerous principle, and it might be disastrous if it were followed to any great extent. The main purpose of this provision is to make it as easy as possible for an intending settler to get on to the land.

It is proposed to amend the Returned Soldiers' Settlement Amendment Act of 1916 in order to give the Minister power to grant preferential certificates to persons who are not returned soldiers in order that a person who has been employed continuously for a period of not less than twelve months on any settlement for a group of discharged soldiers as inspector, manager, overseer, orchardist, or in any other similar capacity may take up land in the area. It is expected that this provision will be entirely in the interests of the soldier settlers, by keeping in their midst a person who will be able to give them advice. It appears that at the present time, after a manager, overseer, or orchardist has put in a period in a certain district, giving instructions and assisting settlers, he is not able to obtain a block for himself. This clause provides that in cases where there is an allotment or settlement vacant, or available, it can be given to an overseer, manager, or whoever may be there, so that he may continue to live there, otherwise at the expiration of his period of service he would have to go away and seek employment elsewhere.

It is also proposed to extend the provisions of the Returned Soldiers Settlement Amendment Act of 1925 by giving returned soldiers the right to a re-determination of the charge of purchase money, where the lands purchased were private lands and granted as settlement purchases. At the present time, if a soldier settler bought freehold land

through the Crown and paid to the vendor an amount over and above that agreed to by the Minister, he would not receive any allowance for the amount so paid when the charge came up to be re-determined, whereas if he purchased a Crown Lands Act tenure he would. That again is following the principle to which I previously referred. If it is found that through any circumstances, in order to get the land, he has to pay a price over and above the limit to which the Crown is prepared to assist him, that amount can also be taken into consideration. The Government believes that the principle is sound and that it is in the interests of those who are trying to maintain their existence on the land.

Other provisions in the bill are of an administrative and miscellaneous character and should be of considerable assistance in the administration of the Act. I understand that the notes of the proposed alterations in the law and the sections of the Act which it is proposed to alter have been circulated amongst hon. members. Only two or three principles are embodied in the bill and I ask hon. members to agree to the second reading so that the details of the measure may be considered in Committee. Whilst I should like to meet the wishes of hon. members, if there is no real reason why the Committee stage should stand over, I would ask hon. members to agree to the bill being passed through Committee during the present sitting of the House.

The Hon. Sir JOSEPH CARRUTHERS: I confess that I have not seriously studied this bill, but I have listened to the explanation of the measure given by the Vice-President of the Executive Council, and with a great deal of what he said I agree. My object in rising is to point out a great blot in the proposed legislation. Clause 4 provides that action may be taken under the Closer Settlement Act for the compulsory acquisition of land for closer settlement purposes. The procedure in the past has been that the value may be agreed upon between the Minister acting on behalf of the Crown and the owner; and if the value is not agreed upon there is a proper legal tribunal to fix the value. Evidence may be

submitted to the court and the opinion of experts and all the facts necessary put before it to enable the value to be ascertained. The decision of the court, the Land and Valuation Court, which is practically a court of appeal, has always been taken to be final and conclusive. Unless an agreement has been arrived at I do not know of any case where it may have been mutually agreed to allow the proceedings to lapse. But here we have deliberately put into a legislative proposal that the Government, with all its powers and authorities, may step in and compulsorily resume land upon which a man has his homestead. The land may have been used by himself, his parents and predecessors as their home for a century past, but under this proposal the Crown can step in and resume that land. We have always imagined that before any resumption is made the Crown investigates the proposal and ascertains, as far as it can be advised, the value of the land, the purposes to which it can be put, and possibly, the price at which it would have to be charged if it were cut up and used for closer settlement. There is nothing to compel the Crown to resume the land. In getting good advice and in knowing what is the best course to take the Government is in a different position from the owner. The owner has to bow to compulsion and the force of law, backed up by Government power and Government funds behind the law. In many cases resumption may be a ruthless procedure. A man has to submit because it is in the public interest. There have been cases in my lifetime of the resumption of land for closer settlement and other purposes. For example, there was the resumption of a large portion of the city of Sydney, when men were dispossessed of their homes and lost their valuable businesses. They were put out at a moment's notice, and when they fought the matter in the court it was held there was no Act of Parliament to protect them, and that they must give way to that law which is above everything else, in the interests of public safety and health. I refer to the resumption of the Rocks area. In all these cases the owner

has to submit; he has no option; he must give way. So it is with all resumptions, no matter what the purpose may be. These resumptions for closer settlement have the public sympathy behind them. The country desires to see large estates subdivided, and notwithstanding the ruthless action taken the public properly says, "The owner gets the value, and he gets the value based on the market valuation, as well as compensation for the disturbance of his business and loss of his home." As he is treated fairly, the public supports the proposal for compulsory resumption. I want to emphasise the fact that the Government exercises its discretion. The owner has no discretion; he has to submit to compulsion. But here comes this proposal that after the Government has made up its mind that land is required for closer settlement, has looked into the Treasury and found there is ample money to pay for the land which is being resumed, and forced the owner into the court for a determination as to the value of the land, then the Government may refuse to accept the valuation. The whole case comes before the tribunal, which is an independent tribunal appointed by the Government, in which the owner has no say as to its composition, and the owner has to submit his case and his evidence. He may consider his property is worth £5,000, and he may claim that. The Government may think that the property is worth only £2,000. If the court awards £2,000 and no more, two-fifths of what the owner considers the land to be worth, the owner has no option. He cannot hold his land, he has to accept the £2,000 awarded by the court, and he has to get out. In many cases serious hardship may be inflicted on the owner by that course, but it is the law, and he has to submit. There is no provision under which the owner, who is getting less than the value of his property according to his judgment, can back out. That is the law as it stands, and so far as the owner is concerned it is as unalterable as the law of the Medes and Persians. Here we have an example of the power of a Government, with all

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the force of the law, the public funds, and the public influence behind it, exercising its authority in this fashion ruthlessly, but according to law. It may be that a man says his property is worth £5,000, whereas the Government's valuation is only £2,000. The court adjudicates, and perhaps fixes a sum of £4,000, which is more than the Government's estimate of the value. It is proposed now that the Government shall have an option of saying, "We will not go on with this matter." What compensation does the Government offer? Simply the "proper costs and expenses." I know in my practice of the law that proper costs are those which will stand taxation. The taxing officer is a Government official who always taxes the costs in a transaction of this kind down to about half the total amount of the bill, omitting what they call costs between solicitor and client, which no court considers to be proper costs. They are proper costs for the unfortunate client to pay, but not proper costs for the other side to pay. So this provision has been narrowed down where there might be a little compensation to the owner by awarding him his full costs. That term could be used, but the bill says "proper costs and expenses." Everybody knows that "proper costs" does not mean full costs. "Expenses" include those moneys which you have actually paid, such as counsel's fees, fees for filing the case before the court, and witnesses' expenses where the witnesses have been actually called. Under this bill, the court would not assume that if the man had thirty witnesses in attendance ready to give evidence they were all necessary. The court might say, "We do not want to hear all these witnesses; we have heard twenty, and do not desire to hear any more." The expenses of those witnesses who were not called would not be considered proper expenses and proper costs. If you have more evidence than is required you cannot be compensated for those costs. Consequently it will be seen that the provisions of the bill in regard to compensation are just as mean as they can be made. A man may be

carrying on a sheep-farming or stud-farming business, and may have in connection with it a trading concern. Knowing that he has this notice of resumption and that the Crown is legally entitled to resume his property, he will not extend his business, the goodwill of which is practically lost to him. The Government may ultimately say, "We will not take the property or the business from you; we will simply let things remain in *statu quo* and will give you proper costs and expenses." I cannot conceive how any Government has ever been led into a proposal of this character, and I hope the good sense of the House will see that it is never passed. It is repudiation of the very worst form. It gives an opportunity for legal blackmailing, because what is to prevent a Minister who desires to placate his supporters on account of some political move taking the best-managed holding in any district? The Lord knows Naboth's vineyard must have been a good holding, and there were plenty of people wanting that. To harass a man who may be a political opponent and a popular man in the neighbourhood a Minister might go on with the proceedings of resumption. It is unfair to let these proceedings hang over the man's head while the Government from the very beginning does not intend that there should be any resumption. When the decision of the Court is given the Government says, "You have to treat the whole matter as null and void." It could do that over and over again, and men would have to purchase their freedom from political action of that kind by bribery and corruption. In other words, it would let the blackmailer loose all over this country. When the Government finds that once the machinery of the law is set in motion it has to toe the mark the same as the individual it will recognise it has to abide by the decision. That has been the position up to to-day, and the consequence is that we have never had associated with resumptions the tactics of a blackmailing and corrupt individual. If this bill becomes law it will be good-bye to anything like honesty, and there are large questions of honesty involved in dealing with

a matter of this kind. The Government should set an example. It does not like men who ask for arbitration in one breath and flout it in the next. The policy of every Government has been to tell the people that when arbitration laws are made they must be abided by. There are remedies. You cannot play fast and loose and blow hot and cold with regard to these matters. It is the same with regard to this law, which is an arbitration between the Government and another party for the determination of the real value. The Government cannot set an example of blowing hot and cold and playing fast and loose with these questions, and I hope that when the Committee stage is reached this obnoxious clause 4 will be eliminated.

The Hon. T. WADDELL: I should like to say at once that I am heartily in accord with the Government in its endeavour to find land for those requiring it. I quite agree that the Government should resume estates necessary for closer settlement, and that it should cut them up and sell them on long, easy terms. I might mention that when I was a colleague of the Hon. Sir Joseph Carruthers we resumed a number of estates and made them available for closer settlement. In the district in which I lived two or three large estates were resumed, and the tribunal gave what they considered at that time a fair price. The estates were subdivided and sold on long, easy terms, and most of the men to whom they were sold are on the land to-day. I know that our efforts in this respect were very successful in the districts I represented. I had an opportunity of knowing what was taking place. I believe the great majority, if not all of the men who took up portions of the estates resumed by us, have done well, and have become good citizens in every way. I should like to make it quite clear that I am strongly in accord with the Government in endeavouring to make land available for the people. I desire that to be quite clearly understood. All that I ask is that when estates are resumed they should be dealt with in a business-like way, and that

no injustice should be done to the present owner. One can quite understand that where a long time elapses before the Government decides whether or not it will take an estate, in regard to which there is a notification of resumption, the owner has to suffer a great deal. I should like to mention one case, and I blame the Government of which I was a member for that having occurred. I was speaking to a man to-day, in regard to whose estate there was a proclamation, and for ten years successive Governments would neither take it nor say that they did not require it. Before the proclamation was thrown over the estate the owner had decided to cut it up, and throw it open in twenty farms. Eight of those farms were taken up. That proclamation was not taken off for ten years. That man has done good work for he not only cut up his holding but sold it on easy terms. It seems to me a monstrous thing that for ten long years he was kept waiting. He could not make improvements for he did not know what would happen. He had the shadow of the resumption over him all the time. There should be a provision that unless the resumption is completed within a certain time the proclamation shall lapse. I can hardly believe that there could again occur such a case as I have mentioned where the period of the duration of the proclamation was left indefinite and then there was repudiation, but it is necessary to limit the time. I think six months would be a reasonable time to fix as the maximum duration of the proclamation. Owing to the rapidity with which bills are presented to us I have not had time to compare this with the parent Act and under the circumstances I hope the Minister will be content with taking the second reading to-day. I am warmly in accord with the bill; all I want to see is fair play all round and a business-like conduct of the negotiations.

The Hon. J. ASHTON: I should like to say a few words on clause 4. Whether it goes for righteousness or not, I was instrumental in putting the first *Closer*

Settlement Act on the statute-book in New South Wales. In operation we discovered during my time that the law relating to resumptions sometimes acted very unfairly to the Crown in the matter of costs. If an owner asked £4 per acre for his land, the Crown offered £3 per acre, and the Resumption Court awarded £3 2s. 6d. per acre, the Crown had to pay all the costs of the proceedings although its valuation had got within 2s. 6d. per acre of the court's valuation, and the owner's valuation was 17s. 6d. away from the court's valuation. The view taken by the Government of the day was that that operated unfairly to the Crown, and the law was amended. I think it still remains on the statute-book that the distribution of the costs in resumption cases shall depend upon the proximity that each party to the case got to the final award of the court. That is to say, if the owner asked £4, the Crown offered £3 and the court awarded £3 10s., each side had to pay half the cost of the proceedings. I remain of opinion that was a very fair arrangement. I think I can quite understand the views of the Government as regards this proposal. It is naturally averse to being landed with an estate at a value in excess of what it regards as fair, but I agree with the Hon. Sir Joseph Carruthers that the clause in its present state may operate very unjustly indeed to an owner. It is a rather peculiar circumstance that this proposal should come from a Labour Government. The Hon. Mr. Kavanagh secured the passage through this House of a bill which set up the present Land Valuation Court consisting of Mr. Justice Pike. One of the reasons for making Mr. Justice Pike the final arbiter in the matter of a certain class of land resumptions—that is, resumptions of town and city lands; all resumptions of land other than resumptions under the *Closer Settlement Acts*—was that it was thought juries were always disposed to take an unduly sympathetic view of the case against the Crown. It was decided to abolish the jury system in the determination of the value of land resumed for public purposes, other

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than closer settlement, and to allow the final arbitrament to remain in the hands of one judge. That Act, having been some years in operation, is to-day generally regarded as very good, and it is thought that the method of determining values is better than previously existed. At the same time it was decided to place in the hands of Mr. Justice Pike the right to determine the value of land resumed under the Closier Settlement Acts. Originally that value was determined by a somewhat cumbrous tribunal—the three members of the Land Appeal Court and the three members of the local Land Board of the district in which the resumed estate existed. Later, if I remember rightly, that was succeeded by another system under which a Supreme Court judge and assessors, one representing the Crown and another representing the owner of the land, was the tribunal which finally determined values. From what I can remember of resumptions, the decisions of the court were generally regarded as fair. Sometimes they presented enormous difficulties. I remember, for instance, the resumption of 100,000 acres of the well-known Peel River estate, when there was a perfect army of valuers employed by both sides—I suppose, from half a dozen to a dozen by the Crown, and as many by the owner of the land. I think the valuations of the owner's valuers varied by 40 per cent. or 50 per cent. between themselves, and the Crown valuers, I think, had a range from 40 per cent. to 60 per cent. difference between the valuations all on the one side. The court, as courts frequently do in these cases, more or less split the difference, and arrived at what was generally regarded as a fair award.

Now, this bill makes this extraordinary provision, bearing in mind the fact that a Labour Administration was the creator of this Land and Valuation Court. It says, in substance, that Mr. Justice Pike's decisions may be implicitly relied upon as being fair, if they relate to town and city lands acquired for public purposes, but if they relate

to country lands, on which, I think, Mr. Justice Pike knows more than he does of city lands, then they shall not be binding upon the Crown. That is a very absurd proposition, indeed. In operation, this clause may act very unfairly and very unjustly. I do not remember how long the proceedings in connection with the resumption of the Peel River estate lands extended, but they were very prolonged proceedings indeed. Dating from the commencement of the initial valuations by the Crown—the notice of resumption, which was followed by exhaustive valuation—the proceedings extended over a very long time after that. I would not be surprised if the total period was somewhere in the neighbourhood of twelve months. Under this law, after all that has been gone through, and the case has been before the court, the decision of the court is not to be binding upon the Government. The judge might take a different view from the Crown, or he might take the same view as the Crown. The Crown might have offered the owner £3 an acre, and the owner might have asked £4 an acre. The judge might award only £3, but the Crown, for some reason or other—it might not have sufficient money to go on with the resumption—might say that, although the court had awarded what it had originally offered the owner, it was now not going on with the matter, and twelve months' time might have been eaten up, during which there might, and possibly would have been, very serious interference with the current business of the owner of the land.

I say that that is not a fair thing. In a sort of a way it is introducing the two-headed shilling into land matters—heads the Crown wins, and tails the owner loses. And it seems to me as though the Government, for some reason or other, had been induced to follow too slavishly the custom of some of the trade-unions which support it. Those trade-unions agree to submit their case to arbitration, but if the award of the Arbitration Court does not suit them they say, "We will have nothing to do

with it." That is what the Government is saying, in this case. It is a very bad principle indeed to establish, and I make this suggestion, which I made in connection with another provision, when the last Land Bill was before the House, that the game is not worth the candle. In other words, it is not wise to violate an obvious principle of natural justice for the alleged advantages that are going to follow from this change of law. My reason for saying this is that of all the estates acquired under the Closer Settlement Acts since the Act of 1905, or 1906, the merest fraction of them have had their values determined by a tribunal. In the great majority of cases the values have been determined by bargaining between the owner of the land and the Minister, and they have never gone to a court at all. That is the method of the ordinary buyer and seller, and it is the method that is most likely to eventuate in a fair value being determined. But this bill, as it stands, loads the dice, in the preliminary negotiations, in favour of the Government, and against the owner.

Under the present system the Government is guided and influenced by considerations of fairness and equity, because it takes it for granted that if it goes before a court that tribunal will be influenced by considerations of fairness and equity. But with the law in the shape that it is proposed here to make it, that restraint is removed from the Crown altogether, and it can play fast and loose with the negotiations, knowing that if it does come to a decision, then there is a *locus penitentiae* for it later on, when, after the owner has been subjected to the most serious inconvenience and loss for possibly a year, it can say that it will have nothing more to do with the case.

That is not a fair thing. It is an unwise provision to put into our legislation, because it is so markedly unfair, and because the application of it, having regard to our past experiences, is going to be so very infrequent. As a taxpayer, I can quite sympathise with the desire of the Government not

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to be loaded with an estate above its market value. But that is a matter on which it has to depend upon the advice of its expert officers, and my experience of the expert officers of the Department of Lands, and of the tribunals which have made their awards on the basis of evidence put before them, is that, on the whole, the results have been eminently fair and just. I am not at all sure that, if some of the acquisitions of land that have been made by the Government had gone to the court, instead of being settled by the Minister, the amounts paid would not have been less than actually was the case.

I strongly urge the Minister to reconsider this question, if only from the point that, having regard to the infrequency with which the determination of values in the past has got as far as any tribunal, it is not worth while putting a blot of this character upon our land legislation.

The Hon. A. C. WILLIS, in reply: It appears that one particular point involved in this matter is the question of the right of the Government to decline to go on with the purchase of an estate, if the price is not considered suitable. I am sorry the Hon. Mr. Ashton used an illustration to support his argument which might create an impression that is not warranted. When he said that the Government had followed the idea of the trade-unionists in regard to accepting or refusing an award, I assume he can have only come to that conclusion after reading one side of the case, as reported in the press, but I assure him that if he takes the trouble to ascertain the real position he will find it is quite the exception in the trade-union movement for an award of the court to be turned down. In connection with what is supposed to be one of the most difficult organisations to deal with, the Coalminers' organisation, I heard Mr. Hibble say some time ago that since he had been in charge of the Coal Tribunal he could say that not one of his awards had ultimately been turned down. There had perhaps been friction over some, but they had all been accepted. I do not

think the Hon. Mr. Ashton knows that. He has heard about the friction, but he has not heard of the amicable results afterwards. On the face of it, the proposal does look to be one-sided to a certain extent, but one has to remember that, after all, the Government is only a public trustee, and it has to take every precaution possible, or should do so, to see that its business transactions do not operate against the best interests of the State. If a private individual said, "I will agree to go to arbitration upon this particular point and accept the result," I would expect him to stand by it. But if the Government, after being advised by its expert, selects a certain portion of land and says, "At a given price that land will be suitable for settlement; at the price which our advisers say is a fair price we could settle men on the land and enable them to earn a living," the Government in all good faith proceeds. The owner does not agree. As the Hon. Mr. Ashton says, there may be a difference between them of a couple of pounds per acre. The Government says £3, and the owner says £5. The Government proceeds, and the court determines the value at £4 10s. or £5. From the court's point of view, taking into consideration the evidence placed before it, it may be a perfectly just valuation. But the Government says, "We had a scheme in mind for assisting people to go on to the land. We believe we could have done so in this particular instance, if the land could have been obtained at something approximating the price our experts advised us was the value of the land. The price has been fixed at a couple of pounds an acre more, and the whole scheme becomes impossible." It is to protect the Government and the whole community from possible heavy loss that this amendment is sought. If the Government does not ultimately proceed with the purchase, the owner remains in possession, and if he does not want to be disturbed, he will usually be pleased to find that the Government is not going on. There is, however, this to be said, that during the time the matter has been under consideration the owner may, for various reasons, have

been financially affected. One might say he should work honestly and keep his property up to the standard it was in when the matter was under consideration, but one knows perfectly well that human nature is such that, there being the possibility of losing the land in a couple of years, there would not be the same incentive. There is no use disguising that fact. I am afraid I did not mention previously that there is a provision in the bill which allows the owner a maximum of twelve clear months from the time of the determination of the Minister before he has to vacate the property.

The Hon. J. ASHTON: Under conditions to be approved by the Minister for a period of not more than twelve months. It may be a week!

The Hon. A. C. WILLIS: The hon. member will agree that twelve months would be a reasonable period. If it was a week I would not agree to it. I do not think it would be right to dispossess an owner in such a short period.

The Hon. J. RYAN: The subclause is governed by the words "under conditions to be approved by the Minister"!

The Hon. A. C. WILLIS: Obviously that would be necessary, otherwise the owner might remain in possession of the property and if he wished to be vindictive he might depreciate it. I assume "conditions to be approved by the Minister" would refer to seeing that reasonable safeguards were provided. There does not appear to have been very much trouble in this matter in the past. I am advised that there have been five estates compulsorily resumed, aggregating a total cost of £822,000, and that the charge to settlers works out at £801,000, showing a loss of £21,000 on the transactions.

The Hon. J. ASHTON: Those were estates the value of which was determined by tribunals!

The Hon. A. C. WILLIS: Yes.

The Hon. J. ASHTON: What was the value of resumed estates the price of which was determined by bargaining?

The Hon. A. C. WILLIS: I have not got the figures.

The Hon. J. ASHTON: Of those the value of which was determined by tribunals, one estate alone represented half the amount you mentioned just now—the Peel River estate!

The Hon. A. C. WILLIS: It is just possible there may have been no loss in connection with the Peel River estate, and that the loss of £21,000 took place in connection with comparatively small estates. It is for the purpose of protecting the Government in such cases that the clause is inserted. The Government says, "We do not feel justified in going on with the purchase. We believe a loss will be incurred, and from the public's point of view we ought not to be forced to proceed." In such a case the owner will have the right if he desires to main in possession for twelve months.

In regard to the question of costs, the basis referred to by the Hon. Mr. Ashton is not disturbed by the bill. It still remains the same, but it is subject to the particular clause we are now debating. That deals with the right of the Government to refuse to proceed with the purchase, and in such a case the costs will be determined by the board that deals with the whole matter. One has to assume that the board will award fair costs and expenses. The Hon. Sir Joseph Carruthers suggested that the clause should provide for "full costs." That might mean anything. Hon. members are too well acquainted with what "full costs" mean to require any illustration from me. The hon. member said that frequently the costs were cut down by one-half. There is no doubt that in many instances the amount of costs asked is double what it should be. I do not say that under the bill such costs will be asked for. They will be fixed by a board which will be cognisant of the circumstances of the case, and they should be fair to all parties concerned. The costs allowed should not be the ordinary legal costs, nor do I think that the court will concern itself with whether all the witnesses whose expenses were charged had given evidence. The court no doubt will award fair costs and expenses. And whatever process has to be

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gone through, the owner will know beforehand that he will have twelve months clear after the decision of the Minister within which to settle his affairs. There will be no disturbance. He will have that period in which to go on as he did before. The State is entitled to have this protection. This Government—I suppose every Government—is anxious to settle as many people on the land as possible. But there is no use in the Government purchasing land for settlement at a price which it is known is too high to enable the settlers to make a living on it. That is bad from the State's point of view, because it discourages people from going on the land. I can point to many instances where failure has resulted through over-capitalisation and settlers have been unable to continue on the land. Undoubtedly that has prevented many men from succeeding. I am in thorough accord with the Hon. Mr. Waddell that however generous the Government may be in its endeavours to establish people on the land, even if it means a sacrifice, land settlement is sound policy from the standpoint of the future of the State. If we cannot keep our people on the land and keep our primary industries going, ultimately our industrial superstructure will come tumbling down. I ask hon. members to accept the measure in the spirit in which it is proposed by the Government and help to carry on this important work. I believe there is no likelihood of any injustice arising under clause 4 as some hon. members have suggested. The Hon. Mr. Waddell said he thought there should be some limit to the period when a matter has been determined during which the Government might say yea or nay. Without consideration and without consultation with those who know best what would be a reasonable period, I am not prepared to make a suggestion, but in principle I think it would be ridiculous to have the sword of Damocles hanging over your head for ten years. It certainly would not help a man to take an interest in his property, nor to get the

best results from it. However, that point may be considered when the bill is in Committee.

Question resolved in the affirmative.

Bill read a second time.

IN COMMITTEE.

[*The Chairman left the chair at 5.58 p.m.*
The Committee resumed at 7.20 p.m.]

Clause 4 (Amendment of Act No. 12, 1907) postponed.

The Hon. T. WADDELL: I desire to insert a new clause to follow clause 4. I move:

That the following new clause be inserted:—5. "Where a proclamation has been issued by the Minister and the owner of an estate informed that the Government intends resuming his estate such resumption shall be completed within twelve months from the date of the issue of such proclamation. Failing such completion the estate shall not be resumed for five years except the owner informs the Minister that he is willing that such resumption shall take place."

I think the Minister will see that twelve months will provide ample time. The seriousness of the matter is that the longer it is held up for resumption purposes the longer improvements are prevented from being carried out on the estate. We desire closer settlement, and it would be greatly advantageous to have the resumption completed in a business-like way as expeditiously as possible. It is the long delay which causes trouble to the owner of the land and wearies those waiting in the locality where an estate is to be resumed. The feeling in any district where estates are to be resumed for closer settlement is naturally that the resumption should be completed with the least possible delay. The unbusinesslike position of the Act in that respect has done no one any good, but on the other hand has occasioned a great deal of harm. I ask the Minister if he can see his way clear to agree to the clause. I am quite sure that it would be in the public interests, and would be the means of expediting resumptions and giving the people an opportunity of obtaining land instead of waiting, as has been the case on some previous occasions.

The Hon. A. C. WILLIS: I quite agree that every reasonable safeguard

should be afforded, but the amendment of the hon. member places us in an exceedingly difficult position. For instance, it may be determined that a railway shall be constructed. The Government immediately issues a proclamation that it intends to resume an area of, say, 15 miles on each side of the proposed railway. In the public interests the Government must do that, as otherwise immediately it is proposed to construct a railway the land values are enhanced.

If the work is not carried out in the expected time the Government would renew the proclamation from year to year. During the adjournment I made careful inquiries and I am assured that in certain cases, although proclamations have been continued, if an owner had shown that he had subdivided his land and was ready to sell it he had been encouraged to go on and the proclamation had been lifted. That is what is done now. Hon. members know that in certain cases it is necessary in the public interest that the Government should have the right to issue a proclamation. When a new work is actually going on there should be no delay on the part of the Minister. Clause 4 of the bill provides that once the valuation is settled the Minister must determine within one month whether he will resume the estate or not. With that safeguard and the assurance that I have given to hon. members the Committee ought to be satisfied. If the Hon. Mr. Waddell's proposal is adopted and a proclamation is issued over land near which it is proposed to construct a railway and the railway is not begun within twelve months the proclamation would lapse, and although the railway might be begun in the second or third year the Government would be prevented from issuing another proclamation over the land for five years. In the meantime the land would benefit by the increased value accruing as the result of the expenditure of public money on the railway. I do not think that would be fair.

The Hon. T. WADDELL: If the Minister feels that he cannot accept the new clause I shall not press it, but at the same time I would point out to him that twelve

months is a long time. If the Government decides upon the construction of the railway there comes the question of what land should be resumed for closer settlement. Promotion of closer settlement is the one strong argument for building railways. Under all the circumstances I fail to see the strength of the Minister's objection to my proposal. The opinion all over the State is that all steps taken to promote closer settlement should be taken with businesslike expedition. In the past there have been frightful delays, and I am afraid that the tendency of this bill will be to promote the drawing out of resumption proceedings to the inconvenience of owners and the disappointment of applicants for land. However, I do not intend to press the new clause if the Minister cannot see his way to accept it, but I would earnestly ask him to think over the matter.

The Hon. J. ASHTON: The Hon. Mr. Waddell and the Minister are discussing entirely different questions that have no relation to one another. The hon. member's proposal is that where the Government has given notice of resumption it shall complete within twelve months or forfeit its right, in which case nothing more can be done for five years. That has no bearing whatever on the type of case which the Minister wishes to meet. It is not a notice of resumption at all. The provision in regard to railway resumptions was introduced into the law while Mr. Moore was Minister for Lands. Sections 5 and 6 of the Closer Settlement (Amendment) Act, 1907, are as follows:—

5. (1) Where, after the sixth day of November, one thousand nine hundred and seven, an Act has been passed sanctioning the construction of a line of railway, the Governor may, within six months after the passing of such Act, notify in the Gazette a list of estates situated, wholly or partly, within fifteen miles on either side of the line of the proposed railway, or within a radius of fifteen miles from the terminus thereof, whereupon no disposition by the owner of any such estate shall operate to defeat the power of the Governor to resume

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such estate or any part thereof under this Act. Such proclamation shall cease to have effect after the expiration of six months from its date, except as to any land included in a proclamation made as hereinafter in this section mentioned:

Provided that a proclamation under this paragraph may at any time be rescinded or altered in whole or in part by the Minister by notice in the Gazette.

While such restriction is in force the Governor may, by proclamation in the Gazette, notify that he proposes to consider the advisableness of acquiring for the purposes of closer settlement the land therein specified, being land situate within fifteen miles on either side of the line of the proposed railway, or within a radius of fifteen miles from the terminus thereof, being the property of one owner, and exceeding ten thousand pounds in value, exclusive of the value of any improvements thereon.

(2) On such proclamation, the following provisions shall apply to any purchase or resumption of such land:—

- (a) The Governor may purchase or resume such land, and any land not exceeding ten thousand pounds in value, exclusive of the value of any improvements thereon, forming the residue of the same property and worked with it and situate outside the said distance from the line of railway.
- (b) The advisory board, or the court determining the value of any such land, shall, in estimating or determining such value, exclude any added value which would accrue to the land from the construction of the line of railway, or which has so accrued from the proposed construction of such line.
- (c) Where the land is resumed, the owner may require the Governor to include in the resumption any land not exceeding ten thousand pounds in value, exclusive of the value of any improvements thereon, forming the residue of same property and worked with it and situate inside or outside the said distance from the line of railway, or forming a part of such residue, which by the resumption may be so severed from the rest of the area not resumed as, in the opinion of the advisory board, to render it unworkable with such area.

6. Where the Governor, by proclamation under either of the two last preceding sections, notifies that he proposes to consider the advisableness of acquiring any land for the purposes of closer settlement, no disposition of such land shall operate to defeat the

power of the Governor to resume the same under this Act. Such restriction shall cease after the expiration of twelve months from the date of such proclamation.

The substance of those provisions is that in any resumption that takes place the added value due to the construction of the railway shall be eliminated from consideration. The owner shall not be entitled to that. When that provision was put into law it was thought it would apply, as on the face it appears to apply:

Such proclamation shall cease to have effect after the expiration of six months from its date.

That is to say that the Government might cover the land with a proclamation, but if it did not take action in the direction of resuming the land in six months then the owner would be free to proceed in his own way, but in the proviso power is given to alter the proclamation. It was discovered that it was legal to renew that proclamation every six months for an indefinite period of time, with the result that there are estates today covered with successive proclamations for a period of perhaps twelve or thirteen years. It has been a matter of very serious concern to the owners that they had a blot on their title. They could not sell to anyone without the purchaser taking the risk of having the place resumed without the railway value being taken into consideration. That, I think, has done a great deal towards arresting the progress of closer settlement. This "embargo," as it is colloquially known, is placed on land along the lines of authorised railways which have not been carried out. The Hon. Mr. Waddell's amendment proposes only to deal with lands which the Government has notified its intention to resume, but under the section I have just read there has been no notification of an intention to resume. It is simply an embargo placed upon the owner against dealing with the land in any way until such time as the Government makes up its mind as to what it is going to do. I do not think that in the amendment proposed by the Hon. Mr. Waddell there is the dan-

ger which the Minister sees, because it does not deal with the railway cases at all. All it says is that where the Government has definitely decided to resume an estate, and notifies the resumption, it shall finish up the proceedings within twelve months. That does not seem to me to be unreasonable from the standpoint of anybody, but it would be unreasonable to give a man notice that his estate was to be resumed, and then to dilly dally with the matter. I do not say it would be done; I see no earthly reason why it should be done.

The Hon. A. E. HUNT: It has been done!

The Hon. J. ASHTON: That is under this embargo provision, but the Hon. Mr. Waddell's proposal does not touch that question, because under the embargo proposal there has been no proclamation of resumption at all.

The Hon. T. WADDELL: The amendment would not be retrospective!

The Hon. J. ASHTON: No, but it would not touch the class of case under the section of the Closer Settlement Amendment Act, which is known as the "railway embargo section." I think the Minister can free his mind of the suspicion that it would touch those cases in any degree whatever. In my judgment it would not, because in those cases no notice of resumption has been made. There is just the proclamation, which says to the owner, "You cannot deal with this land so long as this proclamation endures. The Government may not make up its mind until next year, or even for ten years, but during the whole of that period you are not at liberty to deal with that land." As I say, the Hon. Mr. Waddell's proposal deals only with the case where the Government has definitely decided to resume the land. Where it has issued a proclamation that the land is resumed, and is now really the property of the Crown, all that remains to be done is to determine the amount of compensation to be paid for the resumption of the estate, and it seems to me to be quite a fair thing that an obligation should be laid upon the Government to

come to a conclusion in the matter within a certain period of time. Whether that period should be twelve months, eighteen months, or two years I do not know, but some time should be fixed. I would like the Minister, if he will be good enough, to consider the Hon. Mr. Waddell's proposal from that standpoint.

There is a drafting defect in the amendment, on which I would like to hear the Hon. Professor Peden's opinion. It says:

Where a proclamation has been issued by the Minister, and the owner of an estate informed

Now, if a proclamation of resumption were issued and the owner were not informed, then the law would remain as at present, and the Government could defeat the effect of the amendment by abstaining from directly informing the owner that it had issued the proclamation of resumption. I think that those words should be omitted. It is not necessary to provide that the owner be informed.

The Hon. A. C. WILLIS: I am pleased to learn that the proposed amendment does not go as far as I thought was intended. However, I ask the Hon. Mr. Waddell to withdraw it for the present, and I will go carefully into the matter. At the present time, from the date when the land becomes vested in the Crown until the owner is paid, he receives interest on whatever may be determined as the value. I am assured that every effort is made to expedite settlement, at any rate within the period of twelve months. However, I will go into the matter for the hon. member, and if I cannot find a reasonable explanation we may, at any rate, find a way out of it.

Amendment by leave withdrawn.

Progress reported.

FIRST READINGS.

The following bills were received from the Legislative Assembly and (on motion by the Hon. A. C. Willis) read a first time:—

Dried Fruits Bill.

Pistol License Bill.

House adjourned, at 7.51 p.m.,
until Tuesday next.

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Legislative Assembly.

Thursday, 27 January, 1927.

Printed Questions and Answers—Questions Without Notice—Public Works Committee—Supreme Court and Circuit Courts Amendment Bill—Grafton-Kyogle to South Brisbane Railway Agreement Ratification Amendment Bill—Newcastle (Dock Agreement Ratification) Bill—Western Lands Amendment Bill (Second Reading)—Bi-hop Tyrrell Trust Amendment Bill—Parliamentary Electorates and Elections Further Amendment Bill (Second Reading)—Adjournment.

Mr. SPEAKER took the chair.

PRINTED QUESTIONS AND ANSWERS.

MACINTOSHES FOR TRAMWAY EMPLOYEES.

Mr. ALLDIS asked the MINISTER FOR RAILWAYS,—Will he provide macintoshes for the use of tramway men employed on the running staff who are subjected to the extremes of weather conditions?

Answer,—The matter is one for the Railway Commissioners, to whom I shall submit the hon. member's question.

RAILWAY CONSTRUCTION WORKERS PAYMENT FOR BANK HOLIDAY.

Mr. SANDERS asked the MINISTER FOR RAILWAYS,—(1) Is it a fact that labourers on hourly pay and engaged on railway construction work in New South Wales were paid for and yet did not work on Bank Holiday, 2nd August, 1926? (2) If so, what was the total amount paid, and is such amount charged against ordinary revenue of Railway Department?

Answer,—I am informed:—

(1) Yes. (2) £5,373; charged to capital vote.

POLICE STATIONS TELEPHONE SERVICE.

Sir GEORGE FULLER asked the COLONIAL SECRETARY,—(1) Has the Commissioner for Police received and accepted offers from various municipal