Legislative Council,

Wednesday, 14th November, 1900.

Question: Menzies-Leonora Railway, Construction—Motion: Capital Offences, holding Trials—Motion: Agricultural Shows, Carriage of Exhibits—Customs Duties under Commonwealth Bill, first reading—Post and Telegraph Amendment Bill, first reading—Noxious Weeds Bill, third reading—Land Act Amendment Bill, in Committee, Clause 9 onward, reported—Industrial Conciliation and Arbitration Bill, in Committee, progress, Division—Payment of Members Bill, in Committee, Assembly's Message, reported, third reading—Despatches from Secretary of State—Patent Acts Amendment Bill, second reading (moved), adjourned—Adjournment.

THE PRESIDENT took the Chair at 4·30 o'clock, p.m.

PRAYERS.

[Interval of a few minutes ensued.]

QUESTION — MENZIES-LEONORA RAILWAY, CONSTRUCTION.

HON. J. T. GLOWREY asked the Colonial Secretary: 1, When the Government propose to commence the construction of the Menzies-Leonora railway? 2, Whether the Government intend to take into consideration the urgency of completing the first section of this line, as far as Niagara, with as little delay as possible? 3, Can the Government state when they expect to have the line open for traffic as far as Niagara, and when they anticipate that the whole work will be completed?

THE COLONIAL SECRETARY replied: 1, 23,000 sleepers already have been delivered at Menzies, and portion of the rails and fastenings are now being delivered at Fremantle; and the construction work, it is expected, will be commenced in a few weeks time. 2, Yes. 3, The first section to Niagara is expected to be finished about the middle of next year. The time of completion of the whole work depends upon the rate of delivery of rails and fastenings from England.

MOTION—CAPITAL OFFENCES, HOLDING TRIALS.

HON. F. M. STONE (North) moved:

That, in the opinion of this House, no person should be tried for a capital offence by any person not being a barrister of at least seven years' standing.

He said: In moving this motion I would mention that under the Supreme Court Act the Governor has the power to issue a commission to any person who is a barrister of seven years' standing or a magistrate of the local court, to try a civil action or a matter in the criminal court. My attention lately has been drawn to the fact that a commission has been issued to a magistrate of the local court at Roebourne, and that magistrate tried a native for murder. It appears to be really a disgraceful state of things that a magistrate of any local court should be appointed to try a person for his life, I do not care whether it is a black man or a white man. I shall show what kind of evidence was received on that trial, which to my mind was almost a mockery. Happily, the jury after a second trial found that native not guilty. On looking at the Supreme Court Act, it appears to my mind the Legislature only intended that a magistrate of a local court should be appointed a commissioner to try civil cases, because why should it have been provided that a barrister must be of seven years' standing? And yet a local court magistrate of not more than two years' experience, that experience being in a small country place like Newcastle, where I suppose he had one local court case a month (perhaps not 24 local court cases in the whole time he was there, and perhaps not one "drunk" a week), was appointed to try a person for his life. I say unhesitatingly that was a most disgraceful state of things. As I said before, I do not care whether the person charged was a white man or a black man. If it had been a white man, there would have been a perfect howl that any person who was not a barrister of seven years' standing should have been appointed to try him for his life. What knowledge could that gentleman have had of the law of evidence? To my mind, looking at the report of the proceedings, he had no knowledge at all, because the evidence that I have read in the newspaper was like this. They found a skeleton. The doctor in his evidence said he could not tell whether the remains were those of a man or a woman. A native was being tried for the murder of another native named "Tinkey." The skeleton was brought into court in a box. The witnesses were asked, "Whose bones are those?" The answer was, "Oh, they are Tinkey's." "Did you know Tinkey?"

"No; I have never seen Tinkey, but those are Tinkey's bones." "Do you know where they were found?" "A man named Sam told me where they were found." "How does Sam know?" "I do not know, but Sam told me they were Tinkey's bones, and I am certain they are Tinkey's bones." That was some of the evidence of identification of this skeleton. There was then evidence given by a policeman and evidence given by a native. There was recently a case in which a Judge—not in a capital case, but in a larceny case—almost refused to accept the evidence of a policeman because the policeman had not cautioned the accused that the statement he was about to give would be used against him. I say that in a capital case, and especially in the case of a native, evidence by a policeman who does not caution the accused ought not to be received. According to the report in the paper there was no question whatever put to the policeman in this case by the commissioner, that magistrate of the local court, as to whether he had cautioned the witness in any way regarding the statement the prisoner was about to make, but the evidence was allowed to go in, and on that evidence the jury might possibly have convicted the accused. I do not know whether this is the first case that has happened in Western Australia of a magistrate being appointed a commissioner to try a capital charge, but I hope it will be the last. We know what a fuss has often been made in England with reference to these natives, and this is the kind of thing I should have thought the Government would have been one of the last to do, so as to terminate this fuss which is now being made in England. I feel sure this motion will commend itself to the House. It is necessary under the Act in existence that a barrister appointed to try a civil action or a criminal case, whether a case of larceny or what not, must have seven years' standing at the bar. Under these circumstances why should the Government appoint a magistrate who the evidence shows had no knowledge of the ordinary rules of evidence. Why should the Government have gone out of their way to appoint a magistrate as a commissioner to try this important case? I need not say anything further, but in the future I hope the Government will not appoint a person to try a black fellow, or a white man, for a capital offence.

HON. M. L. MOSS (West): I have much pleasure in supporting this motion, and I go further than the mover and say that the whole system of trying persons charged with criminal offences at Quarter Sessions in the colony, outside the Perth district, is a sham and a mockery. I make that statement not without a considerable amount of experience. In conjunction with Dr. Jameson, I sat for many months on the Penal Commission in this colony, and I think Dr. Jameson will confirm the statement that I make, that there are men who have received terms of imprisonment and who are in the Fremantle prison who have been tried by Courts of Quarter Sessions and in many cases, I am not going to instance them, I believe the result was eminently unsatisfactory. In my opinion, wherever the railway system taps a place where Quarter Session Courts are held, undoubtedly until we have another Judge appointed, a barrister should be sent to try these cases. I am perfectly satisfied that in a large number of cases great injustice is done. As to the observance of the rules of evidence I think that is an unknown quantity. Speaking with some acquaintance of the magistracy, I do not want unduly to condemn the magistrates, but I do not think one is speaking severely when I say that in nearly every instance the gentlemen who comprise the magistracy know nothing of the rules of evidence. Looking over the criminal statistics of the colony, there are instances that could be pointed to of magistrates having given as much as twenty years' penal servitude to a prisoner. If a man is charged with a serious criminal offence——

HON. J. W. HACKETT: That was years ago.

HON. M. L. MOSS: Not so long ago. In Albany and Bunbury, and all places where Courts of Quarter Session are held, prisoners are tried for serious offences, manslaughter, burglary, and such like cases.

HON. R. S. HAYNES: Anything short of murder.

HON. M. L. MOSS: And are sentenced to terms of imprisonment, in some cases for life. There is one man in the Fre-

mantle gaol who was sentenced at Albany to twenty years' imprisonment.

HON. S. J. HAYNES: And he deserved it.

HON. M. L. MOSS: I am not referring to any particular case. I only instance that to show that these things are being done by inexperienced men who are not well versed and trained in the rules of evidence. The whole system is, to my mind, bad. A person is brought before a police court, he is committed for trial, the magistrate finds a bill against him, and acts in many instances as Crown Prosecutor, and then he acts as Judge. The whole thing is fallacious in the extreme. In Perth and Fremantle, experienced magistrates commit men for trial, the evidence goes before the Attorney General or the law officers of the Crown, and is or should be carefully scrutinised, and is in most instances. A bill is found and the prisoner is tried by a Judge, and the most eminent counsel that can be found in the colony defends the prisoner. There is little risk of facts and circumstances getting into evidence which should be excluded. I think it a matter of great regret and a scandal on the administration of the criminal justice of the colony that the Quarter Sessions Courts should continue to exist. Personally I see no reason on the score of expense; that is not worth considering, because there are numbers of men in the legal profession of the colony who are well versed in the rules of evidence, who would be very glad to accept commissions to go to places in the country tapped by the railway system to try these cases. I am sure members will agree with me that it is a matter to be greatly deplored that there should be even one instance in which a man has been wrongly convicted. These things are liable to occur, in the circumstances, if magistrates commit men for trial, find bills against them, prosecute them, and when the prosecution comes on the class of evidence referred to by Mr. Stone is admitted, and admitted in a case of gravity such as a charge of murder. When I understood that Mr. Madden, the magistrate at Roebourne, had been permitted to try a man for murder I was astonished, and I do not think any member of the community can agree to an action of that sort. I know to send members of the bar, of seven years' experience, to Roebourne would be a matter of considerable expense; but that ought not to be considered when a question of a man's life or death hangs in the scale. The motion has my hearty sympathy and support. Mr. Stone has referred to the howl of indignation which arises in the old country when it is known that natives are improperly treated. If an occurrence of this kind gets to the old country, it gives legitimate grounds for people to complain. I have no reason to stigmatise the conduct of Mr. Madden, the gentleman who is Resident Magistrate at Roebourne, but I am prepared to say that the appointment was the subject of adverse comment, especially when there are gentlemen of legal training who are prepared to accept positions of this kind. Therefore I say the Government should hesitate before gentlemen of this description are appointed. There should be some limit to the jurisdiction conferred on these persons: to confer the jurisdiction to try a man for his life on a layman, when a barrister must be of seven years' standing before he can be appointed as a commissioner, should be severely condemned. I do not know that I can usefully detain the House at any greater length on the matter. This is a subject I feel very strongly upon, and a matter that the public at large are prepared to enter an emphatic protest against. I hope the motion will have the effect of preventing the Government in the future, or those persons responsible for the nomination of Mr. Madden to try a case of this kind, from a recurrence of it.

HON. R. S. HAYNES (Central): I rise to support the motion of Mr. Stone and perhaps I may claim that I have had as much experience with the administration of the criminal law of the colony not only in Perth, but in most towns in this country, as any member of the legal profession, therefore I feel somewhat qualified to express an opinion on this matter. The law of murder and manslaughter, and excusable homicide or justifiable homicide, requires a great deal of study to understand. I do not suppose there are one or two lawyers out of twenty who will agree to what is the line of demarcation between manslaughter and murder: it is a branch of the law that is little understood. For myself

I have had occasion to read up the law on the question several times, and I never undertake or accept a brief to defend a man for his life without going through the law again. There is a great deal of difference of opinion as to what is manslaughter and what is murder. I say this after fifteen years' practice at the bar of this colony and five years elsewhere, there is danger of men, not versed in the law at all, or the rules of evidence, or the administration of the law, trying a man for his life. I do not think in any part of Her Majesty's dominions in the present century, prior to this case, has any person been tried for his life by a layman, always excepting military tribunals. I do not think in the wilds of South Africa would a man be tried for his life except before a legal man. I feel that a great injustice has been done: I do not care whether it is a black man or a white man, because if you can try a black man you can try a white man. It is unfair that a man should be sent to his doom on a verdict arrived at on insufficient evidence, or what is not evidence at all. We who practise in the law know the solemnity of the court on capital charges. We know how the Judge very carefully admits only what is evidence, and if there is any doubt, perhaps in a case of larceny the Judge may say "I admit the evidence, and you can appeal;" but when it comes to a question of life and death, the Judge always leans to the side of the prisoner, and is sure that the evidence is properly admissible. What chance is there, supposing a magistrate makes a mistake in the admission of evidence, for the unfortunate prisoner before the court, who may not know that he has the right to appeal to the Supreme Court for the revision of the sentence, or that he has an appeal against the trial altogether if evidence has been wrongly admitted? How can magistrates who have no legal training be able to thoroughly appreciate that evidence. I do not suppose they know that there is such a law that a prisoner can appeal against the evidence. It is shocking to think that any person except a lawyer of undoubted ability and experience is allowed to preside at the trial of a man for his life. I know the strain there is on me even in defending a prisoner, and I know that the Judge is always desirous of seeing that justice is done and is desirous of protecting the prisoner; and the great anxiety on me when I am defending a prisoner for his life is to feel that I have not overlooked anything, but that I have done my duty. The great point is, if we are going to allow persons without any legal training at all to preside at trials, it is a stigma on this colony. It makes anyone blush to think that we live in a colony where such a thing exists. Mr. Moss has referred to the way in which proceedings take place in magistrates' courts. I know some of the magistrates' courts in which the work is admirably done: some resident magistrates are men most capable on the bench. I know one magistrate in particular, notwithstanding that he has had ten or twelve years experience, who would absolutely refuse to try a man for his life. Mr. Moss has also referred to the way in which the evidence is given, and I venture to say that I could go through the gaol to-morrow and release half the prisoners under writs of *habeas corpus*. That is my opinion of the way in which the administration of justice is carried on in this colony.

HON. J. E. RICHARDSON: That is a serious statement to make.

HON. M. L. MOSS: They would all get back very soon if they were let out.

THE COLONIAL SECRETARY: It would be labour lost.

HON. R. S. HAYNES: That points to the loose and lax administration of justice in the colony. If an enterprising lawyer went to the Fremantle gaol, there is a heap of work for him and for the Judges, and perhaps for the police afterwards. I hope the House will rise to the occasion, and pass this motion, and I hope the Colonial Secretary will see that this motion is carried into effect when passed. I think it is a monstrous disgrace to the colony that the Resident Magistrate at Roebourne should try a man for his life. One Resident Magistrate I know, of long experience in his position—I refer to the gentleman at Bunbury—who is capable of trying a man for almost anything, but I am sure the magistrate would object to try a man for his life. We have excellent magistrates in the courts of the colony, but I think with both my hon. and learned friends that there are numbers of professional

men in the colony whose service at the bar entitles them to a position of trust, who would most willingly agree to visit outside places and try cases. If they go wrong, they will appreciate the point raised, and will be only too glad to refer it to the Supreme Court, that justice may be done.

HON. S. J. HAYNES (South-East): I have very much pleasure in supporting the motion, and I regret there should be a necessity for it. It is a scandal to this colony that persons who are charged with serious offences like that referred to should be dealt with in the manner described. I need not add to what has been said by the previous speakers, who have gone into it very fully and clearly, and I am sure every member of this House must, on the grounds of humanity, support the motion. I would like to point out to Mr. Moss, who referred to a case in which a sentence of 20 years was inflicted, that I am sure he was under a misapprehension. The case was tried by the resident magistrate, who was also a barrister of upwards of seven years' standing. It was not an examination like that referred to by Mr. Stone, and the offence for which the prisoner was convicted was one of the most abominable in the calendar. It was tried by Mr. Locke, and I believe he was a barrister.

HON. R. S. HAYNES: How many times has a Judge given a sentence of 20 years? Only once, as far as I remember.

HON. S. J. HAYNES: It was an abominable case.

HON. M. L. MOSS: I wish to make an explanation. The last thing I should like to say is that the man was convicted improperly. I think it was a proper conviction, and I make that statement after having read the depositions in my capacity as a member of the Penal Commission. I instanced it to show it was not right that a magistrate, not a barrister, should have the power to pass a sentence of 20 years' penal servitude.

THE COLONIAL SECRETARY (Hon. G. Randell): I agree with a great deal which has been said this afternoon with reference to this matter. At the same time I think hon. members of the legal profession in this House ought to have pointed out that there are certain safeguards following on the conviction of a prisoner. I believe that in all cases the depositions are forwarded to the Attorney General for consideration. In the case of capital crimes, I know they are in many instances.

HON. R. S. HAYNES: That is not a safeguard.

HON. M. L. MOSS: How about the two months while the Executive are considering?

THE COLONIAL SECRETARY: Any case of a capital offence for which a man has been convicted comes before the Cabinet for consideration. To my knowledge several instances have occurred. If the evidence has not supported the conviction, instructions have been given for the conviction to be quashed. I quite agree it is desirable we should have a barrister acquainted with the law of evidence. But at the same time I think we have many magistrates on the bench who have good common sense, and good common sense is as valuable on the bench as in many other places. A magistrate who has exercised his functions for some time becomes acquainted more or less with the proper procedure to be taken before him. In regard to the case mentioned by Mr. Stone, it is very unfortunate that there is no gentleman of the legal profession practising in that town. There is that disadvantage. A member of the legal profession would assist the magistrate, and would of course instruct him in the law of evidence and help him in the exercise of his judicial functions. In Roebourne there is no such assistance.

HON. R. S. HAYNES: There is a legal gentleman there.

THE COLONIAL SECRETARY: I thought there was not. In regard to capital offences, I agree with the dictum laid down by the hon. members who have spoken, that such a case should be dealt with by a gentleman who has been trained in the law, and who has a high character for justice and equity in the administration of his office. Whether the person charged be a native, a European, or a Malay, or any other, that person is entitled to the same consideration; and I feel sure the Government will see that this is desirable for the good name of the colony, as well as for the protection of the prisoner. That will commend itself to the judgment of all of us and to every right-minded man, as has already been stated.

HON. A. B. KIDSON: Why was it not done?

THE COLONIAL SECRETARY: I could not tell the hon. member. It is a matter with which I think I have had nothing to do. If I had anything to do with it, it has been in my collective capacity, and generally speaking I think the recommendation of the Attorney General in that respect would be accepted as being right under the circumstances. Of course there would be a considerable expense, but I quite agree with the opinion expressed that expense should not be considered in a case where a man has to be tried for his life: the expense should be incurred so that the man should have a proper trial. Of course it will be expensive to send to the far-distant northern parts of the colony a trained barrister of seven years' standing, and perhaps it may be difficult to secure one who would take that long journey for the purpose of trying a prisoner.

HON. J. M. SPEED: You may bring the prisoner down here.

THE COLONIAL SECRETARY: That is an alternative which occurred to me while the hon. member was speaking, but it would be objectionable.

HON. R. S. HAYNES: It would be too expensive.

THE COLONIAL SECRETARY: It would be too expensive. It would be better to send a barrister up to the scene of the case for the purpose of conducting the trial. It would be more satisfactory, because the evidence would be on the spot. With regard to what was stated as to the evidence admitted, it is deplorable that such evidence should have been admitted; and I cannot understand how any magistrate with a knowledge of the bench at all—I am assuming the hon. member is correct, and I have no doubt he would not make the assertions unless they were borne out by evidence——

A MEMBER: It was a newspaper report.

THE COLONIAL SECRETARY: We may assume the statement to be true, in the absence of anything to contradict it, though I am not one of those who think that newspapers always convey the truth about matters in general and matters in particular. I think we will all admit that statements not absolutely correct find their way at some time or other into the newspaper Press of this colony, or other parts of the world. Though I am departing a little from the matter before the House, I admit we owe a great deal to the Press for the way in which it caters to the public convenience in placing news before the country, and especially news on these important matters of trials. As far as my experience goes with regard to sentences passed, in almost every case where the attention of the proper authority has been called to anything wrong in the evidence by which a man has been convicted, immediate steps have been taken, and in some cases the prisoners have been released. In regard to recommendations by the Royal Commission as to the control of the prison, those recommendations were not, in my opinion, borne out satisfactorily by the evidence placed before me, as Minister; but in every case where an opinion was expressed, and it was found upon careful consideration by the Attorney General and by myself and by the Cabinet to be advisable, the wishes and desires of the Commission were carried out to the fullest extent. However, that is by the way. I need only say I shall take an opportunity of bringing this matter expressly before the notice of the Cabinet, if this motion be carried. It is self-evident that a man should not be placed upon his trial for such a gross offence as involves the loss of his life, without having every facility afforded him in the way of the trial being conducted in accordance with the rules and regulations which govern the Supreme Court, or I might say legal evidence. I am sorry the case has arisen, and I can only say I feel sure the Government will be quite willing to consider the motion of this House upon the matter, and to act upon it as quickly as possible.

HON. A. JAMESON (Metropolitan-Suburban): I shall say one or two words in support of this motion, although not a member of the legal profession. I rise principally because the Colonial Secretary has referred to the work of the Penal Commission. I can only say that if the recommendation of this Penal Commission had been carried out, this case could not have come before the House to-day. One of the recommendations of the Commission was that there should be a Commissioner appointed, a qualified man, to deal with such cases. Therefore it is

not quite correct to say that the wishes of the Commission have been carried out in all respects.

THE COLONIAL SECRETARY: I was only speaking with regard to the sentences passed upon prisoners in the Fremantle gaol.

HON. A. JAMESON: In regard to sentences which have been passed, I may say the information came as a great shock. We had certainly an able member of the legal profession upon the Commission, and it came as a great shock to the members of that Commission to learn the way in which many of these prisoners were committed. As a layman I can say but little about that, but I repeat we had the support of the legal profession in this matter, and assert that we were not at all satisfied as to the way in which these cases were dealt with by the Law Department of this colony when sent forward. I think there are many cases to-day that require thorough investigation, and I am sure that if my friend Mr. R. S. Haynes were to apply his great legal knowledge to these cases, many of the people would have to be taken out of that gaol to-day. It is fortunate that the members of the legal profession have brought this matter forward, because it is a scandal for anyone to be tried for his life by an unqualified person.

HON. E. McLARTY (South-West): I would like to say a word about the magistrates of the colony. While I entirely agree with the motion before the House, which must commend itself to every right-thinking man, the evidence referred to shows that no magistrate would place reliance upon it.

HON. F. M. STONE: What did the magistrate ask the questions for?

HON. E. McLARTY: I do not think a magistrate, sitting in that capacity, can help witnesses giving such evidence.

HON. M. L. MOSS: How about the jury?

HON. E. McLARTY: No man would think that class of evidence worth one straw, and I think all evidence is taken at its worth. I cannot believe magistrates (and I am a justice of the peace myself and do not claim any special knowledge of law) would admit such evidence as that referred to and place reliance on it.

HON. R. S. HAYNES: The jury are returning the verdict.

HON. E. McLARTY: I am in accord with the motion. I think the jury would take the same view as the magistrate.

Question put and passed.

MOTION—AGRICULTURAL SHOWS, CARRIAGE OF EXHIBITS.

Notice of motion read: Hon. E. McLarty to move, "That, in the opinion of this House, it is desirable, with a view to assisting Agricultural Societies, that all live stock, produce, machinery, and articles intended for exhibition at Agricultural Shows should be carried on the railways of the colony at not more than one-fourth the usual freight rates":

HON. E. McLARTY: The motion he understood, was out of order, and he asked leave to amend it.

THE PRESIDENT: Who had raised the point of order?

HON. E. McLARTY: The Colonial Secretary had informed him the motion was out of order.

THE PRESIDENT: It was only an abstract motion, not asking for any grant of money.

THE COLONIAL SECRETARY: The Notice of Motion distinctly stated that the carriage of machinery, produce, stock, and so forth was to be reduced and carried for one-fourth the usual rate. That seemed to bring the motion under the category of a money grant, because if the motion were carried, the Government would have to provide a sum of money to reimburse the railways for the loss sustained. He had suggested that the hon. member should word his motion in a general way.

THE PRESIDENT: After all, it was only an abstract motion, not binding the Government. However, the hon. member could amend the motion.

HON. E. McLARTY (South-West) moved (in amended form):

That, in the opinion of this House, it is desirable that the Government should take into its consideration at an early date the advisability of adopting reduced rates for the carriage of live stock, produce, and machinery intended for exhibition at agricultural shows.

No doubt members who had attended agricultural shows in various districts had noticed with regret that these shows were not what might be expected.

HON. R. G. BURGES: Not keeping pace with the country.

HON. E. McLARTY: Certainly not keeping pace with the progress of the

country. It seemed difficult now to get up a decent show in any district: shows held 10 or 12 years ago were better than those of to-day. One looked round for a reason why this should be, as considerable advancement had been made in stock-breeding in the colony. From knowledge gained by travelling about the country he had come to the conclusion that one of the reasons which militated against shows being successful was that the railway rates charged for stock, produce, implements, and other things intended for exhibition were far too high. He was aware the Railway Department had made a concession already in this matter, but even that would not meet the case, because it was generally admitted the carriage of live stock in the country was excessively high. A gentleman exhibited a few sheep at the Guildford show the other day, and he had to pay £14 for the carriage of the sheep to the show.

HON. R. G. BURGES: Had the stock to be brought on the Midland Railway?

HON. E. McLARTY: No. When one considered that an exhibitor had to pay £14, might not take a prize, and in addition there was considerable expense in having a man in charge of the stock, it was not likely that settlers would go to the expense of exhibiting at shows. Speaking for himself, he had been a breeder of stock for years, and had taken a great deal of interest in the subject. He had kept fairly good stock at his place, the best he could get, and he had been sorely tempted to send the stock to the shows, but when one considered the difficulty of getting trucks and the cost, he had come to the conclusion that the game was not worth the candle, and he had never been an exhibitor, partly for that reason. He had also been informed that an exhibitor at one of the shows this season paid as much as £30 for the carriage of stock; that was an exorbitant amount. The Government had always shown their willingness to help the agricultural industry and it would be a very graceful act on the part of the Government to assist the Agricultural shows of the colony by reducing the rates on the railway for the carriage of exhibits. He could not understand how it was that the shows were not very much better than they were at the present time. A number of high-class stock had been imported into the colony, and there were a number of breeders here, but there was little competition at the Royal Agricultural Show. There was some stock there which would be a credit to any show, but there were so few stock that there was no competition in many cases. The honour or satisfaction to a breeder sending stock to a show to get a prize was depreciated when so little stock were exhibited. It would not be all loss to the Railway Department if the rates were reduced, because more people would visit the shows and more exhibits would be sent, therefore the Government would have more to carry on the railways.

HON. R. G. BURGES: At the Royal Agricultural Show the president stated that the Government had paid £500 to keep the show going, and the Government had given £200 to the society last year, still the show was not keeping pace with the country at all, and, as had been said, there was no competition. A person went there and saw one imported thoroughbred and one colonial thoroughbred. There was something wrong. This show did not keep pace with the times, although the Government were assisting it, and it was the duty of the Government to make the undertaking more successful. He was once an exhibitor at these shows, but he found it was not much good, and he believed there were many others of the same opinion. It was no credit to win £5 at the show, or to have anything to do with it. Some of the settlers in the eastern districts had very nearly as good a show as this. He thought there was a great deal of trouble and loss to sheep owners who had to get their sheep to the show, particularly to those sheep owners in the northern parts of the colony. It was very little use to exhibit where there was no competition. The Minister of Lands wanted stirring up with some barbed wire, in order to give a little more life to this show. There was a larger attendance this year than ever, but people who attended must have very little opinion of the stock raised in this colony. One was prepared to spend time and money in the interests of the country. He had put his ability into the country, and would live in the country and try to do the best he could in every way. The

Minister had a lot of hobbies of his own to bother his head about, but he would have to carry out what the people wished. These paltry hobbies were of no good to us, but what we wanted was something permanent, so that the large number of people who went to this show would see what the country was doing. Under the present circumstances, people who went to the show must feel dissatisfied. He himself felt dissatisfied. The show was not keeping pace with the times, and the stock exhibited was not the best in the country.

THE COLONIAL SECRETARY: The Government were willing to accept the motion.

Question put and passed.

CUSTOMS DUTIES UNDER COMMONWEALTH BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

POST AND TELEGRAPH AMENDMENT BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

NOXIOUS WEEDS BILL.

THIRD READING.

THE COLONIAL SECRETARY moved that the Bill be read a third time.

HON. C. A. PIESSE moved, as an amendment, that the Bill be recommitted for the purpose of drawing attention to Clause 7. He thought there must be some mistake, as that clause did not fall in with Clause 4.

THE COLONIAL SECRETARY: The hon. member was not present when the Bill was passing through committee, and he (the Colonial Secretary) thought the explanation given would be satisfactory.

HON. R. G. BURGES: No.

THE COLONIAL SECRETARY: Clause 4 was struck out, and a new clause inserted to meet the wishes of hon. members; at any rate of those who took an interest in the Bill. It had been admitted already that an inspector was a necessary adjunct to this Bill. An inspector could not, however, until the Governor had proclaimed noxious weeds, enter upon a person's premises, and the Governor could only proclaim noxious weeds upon the advice of the municipal council, the local roads board, or the Advisory Board of the Agricultural Department. It was also provided that a copy of the notice sent to the person who had been reported as having noxious weeds growing upon his land should be sent to the local board, the object being that the local board might intervene at once. The attention of the board would be drawn to the fact that the Minister was about to declare weeds in a certain place to be noxious weeds, and to compel their eradication, and the local board would then immediately take action.

HON. C. A. PIESSE: Was the Minister sure that this did not override Clause 4?

THE COLONIAL SECRETARY: Certainly it did not.

HON. C. A. PIESSE: And that the inspector would not have the same power as the roads board or municipal board?

THE COLONIAL SECRETARY: No.

HON. R. G. BURGES: What necessity was there to send a copy to the local authority? It could not be necessary, if the intention of Clause 4 were carried out.

A MEMBER: It was a safeguard.

Amendment withdrawn.

Question put and passed.

Bill read a third time, and *passed*.

LAND ACT AMENDMENT BILL.

IN COMMITTEE.

Consideration resumed from 8th November, at Clause 9, on amendment by Hon. R. G. Burges, to strike out the clause.

HON. R. G. BURGES said he was not going to follow up this. He had drawn the attention of the House to the matter.

Amendment by leave withdrawn.

Clause 9 put and passed.

New Clause:

HON. R. G. BURGES moved that the following be added as a new clause:—

> The following words in Section 66 of the principal Act are hereby repealed:—"The Minister may estimate the value or the improvements remaining to be made, and upon the licensee or conditional purchaser entering into a covenant to continue to pay rent under the terms of his lease or license until the rent so covenanted to be paid amounts to the half of such estimated value."

The clause was really Mr. Piesse's, so he would move it formally, and let that hon. member speak to it. In accordance with the sections of the Act, where a man had taken up land and afterwards it was found to be not as good as represented by the department, an inspector was sent and the land re-valued. The land was not worth much; but so long as the man carried out certain improvements, that should be sufficient.

HON. C. A. PIESSE: The new clause had been approved by the Colonial Secretary.

Clause put and passed.

Bill reported with further amendments, and the report adopted.

INDUSTRIAL CONCILIATION AND ARBITRATION BILL.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Interpretation:

HON. R. S. HAYNES moved that the following definition be added:

"Worker" means and includes any adult engaged in any employment other than clerical in the service of an employer and paid wages by the week, day, or hour, or by the piece, and dischargeable by notice of one week or any lesser time, but shall not include (*a.*) persons engaged under a contract of service for a period of one month or over. (*b.*) Persons under the age of twenty-one years, or, being over that age, if and whilst acting in the capacity of apprentices.

The report of the Select Committee stated:

The Committee, after carefully considering the evidence, have found that, owing to the attitude taken up by the witnesses called on behalf of the working men, it was impossible to bring about any compromise upon the points in the Bill at issue between the employer and the employed, which would be acceptable to both parties. They have therefore recommended the amendments set forth hereunder for the reasons appended to them.

The absence of any definition of a worker is calculated to lead to confusion and controversy. The Committee think that the definition set forth in the Schedule should be inserted, which includes all adults working for wages and whose services can be dispensed with by notice of one week or less. Persons working under a contract of service for a period of one month or over should not be included, because the object of the Bill is to avoid strikes which occur where the workmen are in a position to terminate their employment at any time or within a week. It would also practically nullify the law of contracts of service, and deprive employers and employed of a very necessary privilege.

Apprentices and youths under 21 are excluded, for the reason that in nearly all the labour associations youths up to 20 years are not entitled to the same right of voting as persons of full age, and it would not be possible to give them a limited right under the Bill. The questions to be decided by unions may injuriously affect the interests of men who may have family ties, and the better opinion seems to be that it would be unsafe to entrust to youths, whose judgment is recognised to be immature, equal rights of such importance as to men of full age. It will be observed that there is no sex qualification

Speaking generally, this Bill was novel character, for we had practically no pre cedent for it except that of New Zealan and as the select committee reporte they were unable to arrive at any definite conclusion as to how the Act had worked in that colony. The select committee had some evidence brought before them on behalf of some of the workers that the Act had caused considerable improvement in the status of the working man in New Zealand, and that it had proved of general prosperity to the country. That was a mere opinion expressed by some of the witnesses; but the select committee could not accept that as being a true statement of what really occurred. On the other hand, the employers of labour considered the Act in New Zealand was a failure, and although the select committee had amended the Bill so as to do justice to both parties, one feared it would prove a failure here.

HON. J. M. SPEED: It would if the amendments were passed.

HON. R. S. HAYNES: Before dealing with the report of the select committee, he would like to point out that those persons called on behalf of the workers' associations seemed to take up a hostile attitude; they would listen to no compromise or reason, although he, as chairman, pointed out that if they were not reasonable they might lose by it; still he regretted to say they showed a solid front, and he could not acquit one member of the select committee of no complicity in the attitude of the men.

HON. J. M. SPEED: That hon. member did not want to be threatened.

HON. R. S. HAYNES: One member sitting on the select committee was alone responsible for the position taken up by the men and was alone responsible for

the committee being unable to bring about a compromise between the two factions. He (Mr. R. S. Haynes) was sure what he had stated would be borne out by other members sitting on the committee, and it was painful for him (Mr. R. S. Haynes) to sit with that member—so painful that he would refuse to sit with him on a select committee again. He hoped the hon. member would have an opportunity of justifying himself. An inspired article had appeared in one of the newspapers, and that article could not have been written by anyone except the hon. member or someone to whom the hon. member gave the information. It was a direct breach of privilege.

HON. J. M. SPEED said he denied any such statement. He asked that the hon. member should withdraw the remark.

HON. R. S. HAYNES: If the cap fitted let the hon. member wear it.

HON. J. M. SPEED: The remark could only refer to him (Mr. Speed).

THE CHAIRMAN: It would be better to go on with the discussion, and leave personalities and recriminations alone.

HON. R. S. HAYNES: The hon. member, Mr. Speed, could justify the attitude he had taken up on the select committee. He (Mr. Haynes) desired to point out how the Bill as first presented to the Chamber had operated in New Zealand. This was an opinion expressed by persons who had had an opportunity of judging of the operation of the Act in New Zealand. The president of the Wellington Provincial Industrial Association said of this Act:

It was stated on oath before the Wellington Conciliation Board by the Engineer to the Harbour Board that when the men got an increase in wage they did less work than before. The Arbitration Act has been much belauded mostly by workmen. The main reason so far as this colony is concerned is not far to seek. Ever since the Act has been in force, the colony has been prosperous, hence in all cases the workers have got increased pay and shorter hours, but how when the pendulum swings the other way, and employers demand reductions and workers will not be able to withdraw from any award that goes against them? The new Act is far reaching in its clauses. . . . It does not seem that Conciliation has been as successful as was probably anticipated, for a return placed before the Legislative Council shows the four boards of the colony were unable after sittings occupying 440 days to settle more than 29 out of 80 cases, the rest having been settled by the Arbitration Court. The provision for special boards in the new Act is one which I think will give great satisfaction to employers and workmen alike, and will affect a great saving of time for both parties, and probably a large percentage of cases will be so settled. As regards preference of employment; this is a general source of annoyance and irritation to employers. From my own observation, I very seriously doubt if it is of any material advantage to the workmen. I am of the opinion that unions would carry weight and get better recognition from employers if they abandoned their claim for preference, relying on their merits. A union doing that, would, I think, get on very much better in the long run.

Another reference was this, by the president of one of the industrial boards:

As you are no doubt aware, the Grocers, Livery Stables, Carriers, and Tramway Unions were decided not to be industrial unions in the terms of the Act. Judge Edwards, in giving the decision, remarked that whatever sympathy the Court might have, they could only administer the Act according to law as they found it. I understand there is to be an amendment in the Act. Its order will be a large one, for on broad grounds if the Act is good for one section of the community, it ought to be made good for all. If such amending Act is to be made, it is to be hoped that the Government will take the advice of those who have had experience in the working of the Act, and so avoid anything that might restrict or harass manufacturers or industries. Any restriction is equally if not more detrimental to workmen than to employers. If the Act is to be amended, an important point for reconsideration is the number of men that should form a union, which at present need not exceed seven. It is said that there is a tendency to form bogus unions; at any rate small unions are not likely to have such a sense of their responsibilities, nor are they likely to have funds to pay any award against them, so that any awards made against them would have to fall on the individual workmen. In my experience, the greatest responsibility rests on the secretaries and presidents of unions, some of which seemed to consider it their mission to make mischief.

The President of the Wellington Provincial Industrial Association also said—and one specially entreated the attention of hon. members to this, because it was a review of the Act after the Act had been in operation five years:

The Arbitration Act has now been some five years in operation, and since its commencement the workers have almost always got some advantage. There must come a time of high-water mark, beyond which the court will be unable to make concessions, and that in the interest of the workers themselves, because it cannot compel a manufacturer to continue when it is not profitable to do so. Nor is it

able to prevent the importation of goods, which the giving of higher wages to the workers would allow the importers to put in the market at a lower price than the home-made articles. So far, employers have had to accept the awards: the question is will the workers do the same, or are they disposed to kick over the traces when it does not please them, as was shown in a recent award? If the latter is to be the case, then the Act must be a failure. Probably the most serious and difficult question the court has had to deal with is the apprentice question. Throughout the land both employers and workmen complain of the ill-taught worker. The court has to deal with them, and has found no better means than the obsolete legal apprenticeship. I fear from what I know, and have been told, that in a few years this legal indenture will have done more harm than good. The modern conditions of manufactures are entirely altered, so that the old mode of teaching trades is not applicable, a fact now well recognised on the Continent and in America. I feel sure that under present methods employers will not take the bother of boys legally indentured. The only possible chance under the changed conditions to make good tradesmen, is that boys before going to learn a trade should be compelled to go to a trade school, where they would learn not only to handle their tools but also the theoretical part of their trade.

That was signed by Mr. S. Brown, president of the Wellington Provincial Industrial Association. The same board gave the following reason for an amendment of the present Act:—

Every trade that has come before the boards has much that is technical; some are fairly bristling with technicalities. A good deal of time is taken up in explanation by witnesses; even then it is not easy for members of the board who are not experts to thoroughly understand. This would not take place if the assessors sitting with the chairman were experts, and the necessity for calling in experts would be done away with, and the matter would probably be put in a much more concise form for the Arbitration Court, and time saved. It might be said that a board so constituted would be partial and would wrangle: the present arrangement here does that. The unions bring their case mostly to the Trade and Labour Council first (some have it in their rules that they must not take any action without consent of the Trades Council). The dispute is discussed and approved by the Council. The two members of the Conciliation Board are members of the Trades Council. They are, therefore, not in a position to be impartial, even if they desire. I have myself seen the leader of a dispute sitting beside the members representing his side, and the one prompting the other, and have also seen them pass notes across the table. When experts are called in, they are from each side and are partisans. The mode I suggest is similar in operation to a Judge of the Supreme Court sitting on a land case, where each side sends an assessor. I think it would be advisable that the chairman should be a lawyer.

Mr. Justice Denniston gave a decision with reference to the working of the Act, and there was some suggestion that the decision should be appealed against. This was a review upon Mr. Justice Denniston's decision:

Mr. Justice Denniston has just decided that the present Arbitration and Conciliation Act gives the Arbitration Court power, if it thinks proper, to award unionists preference of employment. This decision leaves the matter as it was before. To finally test the question it would have to go through the Court of Appeal to the Privy Council. As to whether the employers are going to carry it on, I have no knowledge. Personally, I do not think it worth while, for the reasons that the Act is very differently administered, especially in giving preference, from what it was when it first came into force, and decisions have no doubt been given which were not what they should have been.

He (Mr. Haynes) thought that this was exactly what would happen here.

This arose mainly from two causes:—(*a.*) Want of experience as to the effect that the working of the Act and decisions given under it would have. (*b.*) From employers failing or neglecting to put their cases properly before the Court. Employers as a whole, through their jealousy of each other, will not combine; hence each one paddles his own canoe and one is often found contradicting the other. The unionists, unlike the employers, have no jealousy one man of another; they put their cases fairly well and produce evidence in support, without contradicting one another, as I have known employers to do. Even where there are employers' associations, it is mostly left to a few persons to find the money and stand the brunt; other employers are quite willing to take all the advantage of what is effected, but are too mean to bear their share of expense. It is this want of combination which has placed the employers of New Zealand at a disadvantage ever since the Act has been in force, and will continue to do so as long as they are merely loose units, without any cohesion or organisation.

That was a report on the working of the Act in New Zealand. On the one hand the employers did not unite. The employers were unable to present their case fairly to the Court because they were only individuals, whereas the workers were, as appeared here, able to present a better case; they were able to collect their witnesses, and to argue their cases better; the consequence being that in nearly every case in New Zealand the employers

had been unsuccessful and the employed successful.

HON. M. L. MOSS: That was not much of an argument.

HON. R. S. HAYNES: It was not an argument at all. It was a fact. A conference of representatives from the Victorian Employers' Union, Chamber of Manufacturers, Steamship Owners' Federation, Builders and Contractors' Association, Boot Manufacturers' Association, Hardware Association, and others was held in Melbourne. They formulated their objections to the Arbitration and Conciliation Bill in Victoria, and the case made there told against the Bill here, unless means were taken to prevent the measure from being an act of oppression in the hands of the working classes against the employers. Mr. Trenwith, who moved the adoption of the Conciliation and Arbitration Bill in Victoria, said:

I feel that it is almost impossible to over estimate the importance of the issue involved. There must be a good deal of uncertainty and a good deal of difference of opinion, as to the wisdom of introducing such a measure. Within the last ten years almost the whole mercantile marine of Australasia was, if not brought to a standstill, very seriously crippled by a difference of opinion as to what hours of employment and what remuneration should be given to marine officers. The dispute was trifling in its inception—of such a character that a little reasoning on both sides might easily have stayed it, and yet at a low estimate it cost the colonies £500,000. Mr. Trenwith then referred to the various attempts made to settle industrial disputes by means of voluntary conciliation and arbitration, which, although successful for a time, finally broke down because there was no authority to enforce them. In New Zealand it has been found that the Board of Conciliation, although it has arrived at admirable decisions, has never been able to get both sides to agree to adopt this system, and invariably gone to the Court of Arbitration. He had therefore left out of this Bill the conciliation provisions and embodied them in clauses 11, 12, 13, 14, which provided for industrial agreements being made between employers and employees, which would when registered have the force of law,

Mr. Trenwith was a leading light; he was the president of the Trades Hall in Melbourne.

HON. J. M. SPEED: Not now.

HON. R. S. HAYNES: At any rate he was looked upon as being one of the leading lights of the labour party, and he (Mr. Haynes) thought one of the most reasonable. In the opinion of that convention, the result of the passing of the Act would be to leave the profits and the capital of employers at the mercy of the Court, and, through the Court, to a section of the employees, to encourage rather than prevent trade disputes:—

Great stress has been laid upon the apparent success of the arbitration law in New Zealand, and that it is a factor in the general prosperity of that country. The attention of employers is earnestly invited to the consideration of the opinions expressed by earnest thinking men who have closely studied its working, and are in a position to give authoritative and dispassionate judgment as to its results. In regard to the actual working of the New Zealand law, the employers earnestly invite the serious consideration of the Government and of Parliament to the following extracts:—

1. From the pamphlet of the late Mr. Wm. Mainer, of Ashfield, N.S.W., entitled "Labour Legislation in New Zealand," published in 1899:—

> "The conciliation and arbitration machinery of New Zealand soon proved that it wanted nothing so much as work to do, and this the trades councils soon found for it; if trouble between employers and employed did not occur in the ordinary way, the agitators created it, for these gentlemen very soon discovered what enormous power they possessed by means of this labour machinery. (Page 5.) There is not on record one single case in which employers have gone to the courts for relief. The trades unionists alone seek the aid of its machinery. (Page 6.) Mr. Reeves' claim that the Act so far has been a success is based upon the work in arranging some 40 disputes, preventing industrial war, and peacefully settling the conditions of male and female labour, etc. In saying that industrial war has been prevented, he should be in a position to show that these 40 disputes would have resulted in strikes but for the Arbitration Court. I assert that not in the whole 40 cases do the elements of a strike exist. Let Mr. Reeves come down to the level of facts . . . . . then he will see that compulsory courts of conciliation and arbitration are an ever-present temptation to harass employers with (trivial) complaints rather than an institution seeking to remove them."

Mr. J. MacGregor, M.L.C., in a letter dated Dunedin, and published on the 13th of August this year, says:

The real author of our Act was Mr. Reeves, and anyone who reads his speeches in Parliament can see that he looked upon his legislative *chef d'œuvre* as providing the means of settling industrial disputes by promoting conciliation between employers and workers. Now, if there is one point as to which there exists complete unanimity in this community, it is that as a measure for promoting conciliation

the Act has utterly failed. Here then is one lesson which you may learn from our experience. Do not delude yourselves, as we did, with the idea that the possibility of coercion in the background tends to promote settlement of disputes by conciliation.

One thing, however, the Act and its administration has done—it has increased enormously the number of disputes between employers and workers, and it has failed to foster the spirit of conciliation and goodwill. If it has abolished battles (viz., strikes) it has given us, not peace, but latent warfare, or a constant state of armed peace, which is worse than an occasional battle.

We thought we had succeeded in devising a method of settling disputes which would have otherwise led to strikes: what we have got is a system for getting up "disputes" for the purpose of bringing employers periodically before the Arbitration Court. An Act which purports merely "to facilitate the settlement of industrial disputes by conciliation and arbitration" has been perverted by the trade unions into an Act to facilitate the getting up of industrial disputes in order to enable them to secure the control of the industries of the country.

At 6·30, the CHAIRMAN left the Chair.

At 7·45, Chair resumed.

HON. R. S. HAYNES (continuing): When the adjournment took place he was reading a letter from Mr. J. McGregor, a member of the Upper House of New Zealand. That letter said:

As a means of encouraging and facilitating the settlement of disputes by conciliation (which it was intended to be) our Act has absolutely failed, for it makes conciliation almost impossible.

Whether or not the system is to be a success as providing a means of settling industrial questions as if they were matters of legal right to be decided by judicial fiat is obviously a problem that will require some considerable time and some real trial for its solution. As yet the Act has never been put to any real test, as times are good, work is abundant, and wages high.

In short, our experience, instead of justifying any other community in following our example, merely affords one more proof of the rule that the results of such legislation are never thoroughly expected by its authors; and it affords an apt illustration of the wisdom of that reflection of Machiavelli, "Let not those who begin innovations in a state expect that they can stop them at their pleasure nor regulate them according to their intention."

A gentleman connected with a leading and highly-respected firm in New Zealand wrote:

The Conciliation Boards are giving the trades unions general satisfaction, as in each case they always get some advantage, so as opportunity offers they keep on asking for more. You will quite understand that every trade has its union.

So-called disputes are settled that would never have been heard of had it not been for the easy way cases can be brought forward by men who make a living at the game.

Labour is very scarce in New Zealand, as no supply of boys is coming forward. Our arbitration court is putting so many restrictions on the employment of boys that they are no longer of any value to us.

The *Otago Daily Times* of the 1st August of this year, a leading newspaper in New Zealand——

HON. M. L. MOSS: The leading newspaper in Dunedin.

HON. R. S. HAYNES: The *Otago Daily Times* said:

The Arbitration Court has been almost continuously sitting at Christchurch and Wellington during the past month.

The *Argus* of the 6th August contained a telegram from Wellington as follows:

Between May 25th and August 3rd the Arbitration Court had before it no fewer than 59 trade disputes and breaches of award.

Mr. Trenwith inclined to the belief that the New Zealand arbitration law was a factor in the general prosperity of that country. The *Contemporary Review* of October, 1899, contained an article to which the employers invited attention; it was by Sir Robert Stout, ex-Premier and present Chief Justice of the colony. The article stated:

He frankly states his doubts as to the success of the labour legislation now under consideration. He shows that factory development has not kept pace with the general prosperity, and that imports of manufactured goods have grown steadily since 1896. Also that the expansion of the export trade, which is the basis of the colony's prosperity, has come from pastoral and agricultural operations, and he adds "these are little affected by the labour laws."

Sir Robert Stout was one of the ornaments of New Zealand and of Australia.

HON. M. L. MOSS: As a Judge.

HON. R. S. HAYNES: The extract continued:

The prosperity of New Zealand is in spite, and not the result, of its labour legislation. It really rests on the solid foundation of the splendid agricultural lands, the magnificent pastures, the abundant rainfall, the genial sunshine and abounding harvests of that favoured colony. If these unequalled advantages enables its producers to carry the burdens imposed on them by its heavy taxation, can Victorian cultivators and producers

be expected to carry a heavier burden if with their less fortunate surroundings they are saddled with the severe labour laws, from which even New Zealand rural industries have been free up to the present?

He specially pointed that out. Victorians cried out that New Zealand, with a splendid rainfall and pastures, could prosper despite the labour legislation; but with how much greater force could that argument be used when we applied it to Western Australia?

HON. J. M. SPEED: If we were going to jump over Victoria and get to the level of New Zealand, we would be doing very well.

HON. R. S. HAYNES: The President of the Wellington Provincial Industrial Association said this, as being the effect of the Arbitration Act:

> The end of the fifth year as shown by this report finds the Industrial Association in a good sound position, and apparently so far as individual members are concerned the last year may be considered satisfactory. Trade all round has been good. That no doubt is due largely to a large combination of circumstances which will not happen every year, such as a bountiful harvest and good market caused by the South African War. Then New Zealand sent away about 2,500 of young men, all workers, which would leave gaps to be filled by others out of employment; this has done away, for the time being, with the unemployed difficulty. The engineering trade has been more than fully employed principally on dredges; that of course will last only a limited time, if the industry is not already overdone. The question of the future seems to be not so bright as far as workers are concerned, either for employment or wages, and nothing the Arbitration Court can do will alter this. It is known that in several trades where increases in wages have been given by the Arbitration Court men have been discharged and the article imported; it is known, for instance, that certain classes of boots are imported at a cost of 25 per cent. less after paying 25 per cent. duty, than the workman will make them for, hence year after year the imports increase in a manner that is very undesirable. Employers generally allege that the workmen will not do the amount of work they might easily do, and that they will not work the machines to their fullest capacity. This remark applies to other trades as well; employers state that when workmen get an increase in piece work rates no more is earned by the worker than before.

HON. A. B. KIDSON: Would the hon. member state whether that was an association of employers?

HON. R. S. HAYNES: An association of employers. He had said that it was impossible to get any information whatever from the labour organisations, and these extracts were received from the employers associations. Some witnesses were examined before the Select Committee from the labour unions, and these witnesses stated that the Act worked beneficially in New Zealand; but here were a number of opinions from the other side. The arguments that were contained in the speech he had read were arguments that would present themselves to anyone who took the trouble to read this Bill and reflect what the result would be. The arguments would be sufficient to his (Mr. Haynes's) mind to reject the Bill, but the Council had approved of the principle of the Bill, and it only rested with him (Mr. Haynes) to point out how dangerous it would be to pass the Bill in its present form. He did not ask the Committee to reject the Bill, but certain amendments had been brought forward by the Select Committee, and he asked the Committee to adopt them. The Select Committee had given way in many instances and had decided, on the evidence before them, to recommend that the Bill should not be passed in its present state. The employers were willing to make a compromise, but on the other hand the representatives of the labour unions remained obdurate, and it struck him (Mr. Haynes) that conciliation was out of the question. If no more conciliation was shown than that exhibited before the Select Committee, then the Bill would be of very little avail. The whole of the amendments suggested were recommended by the Select Committee with but one exception, although that did not appear on the face of the report, because it was not asked to be so stated. The Select Committee recommended that the union of workers should consist of not less than fifty members. The labour unions wanted 100 to be the number, but 50 was the compromise, as the employers thought that 25 should be the number. With reference to the first amendment as to the definition of "worker," no end of trouble was experienced in New Zealand in regard to the Act there because there was no definition, and it was held that grocers' assistants were not entitled to be classed under the Bill, and that shopkeepers of any kind were not entitled to be classed. The same with regard to lumpers or carriers; therefore

the Select Committee thought it well that all workers, or all persons working for wages, other than clerks, should be included under the Bill. It excluded persons under contract of service for a period of one month or over. That was quite right, or otherwise we should put an end to the law of contract. A person might enter into a contract to be paid at the rate of £200 a year, and he might join a union and then want £400.

HON. A. P. MATHESON: It could not upset the ordinary law.

HON. R. S. HAYNES: The hon. member seemed to misunderstand the Bill. If 25 men were engaged for two years at £2 or £3 a week, they might go before the Arbitration Court and the Arbitration Court could say "Pay them £4."

HON. J. M. SPEED: If they deserved it.

HON. R. S. HAYNES: If they were all like the interjector, they would all deserve it. There would be neither rhyme nor reason in the principles of the labour party. The object of the Bill was to prevent strikes. If hon. members would reflect for a moment, they would see that strikes could not occur where the contract was for a term. Strikes occurred with carpenters, builders, and so on, who had a perfect right to leave at a moment's notice, and who could themselves be dismissed at any hour. If 20, 30, or 40 men terminated their employment at a moment's notice, a strike occurred. Under this Bill, as it at present stood, the Arbitration Court would have power to hear any disputes between employer and employed, whether the employment was for a year or ten years.

HON. A. P. MATHESON: Not without a contract.

HON. R. S. HAYNES: There must be a contract of service in all cases. The hon. member meant a written contract; but he (Mr. Haynes) was speaking of a contract.

HON. A. P. MATHESON said he meant a written contract, good in civil law.

HON. R. S. HAYNES: A verbal contract was good in civil law.

HON. A. P. MATHESON said he did not know that.

HON. R. S. HAYNES: Ninety contracts out of a hundred were verbal.

HON. A. P. MATHESON: They did not hold good.

HON. R. S. HAYNES said he was afraid they did not.

THE CHAIRMAN: It would be far better not to carry on a conversational argument.

HON. R. S. HAYNES: Under the Bill the Court had power to decide all questions between employers and employed, whether the contract of service was for a day or for ten years. The Court had power to say what the terms of the service were, including the hours that one should work. And if the salary a workman received was not sufficient, one would be bound to break the contract entered into, and to enter into new terms. It would be improper to extend this Bill to contracts of service of over one month.

HON. A. P. MATHESON: If contracts were all equally binding, why draw a distinction?

HON. R. S. HAYNES: Because the Bill was brought in to prevent strikes, and strikes could not occur where contracts were not terminable within, say, a day, a week, or an hour. He challenged contradiction from any lawyer in this House that the Bill would absolutely nullify a contract of service. A mine owner or company might import 200 men from England under a contract for two years. Those men might be receiving, say, 8s. a day. On finding that the ruling rate of wages in Kalgoorlie was 12s. a day, they would form themselves into a union, and bring the company before the Board of Arbitration, and the Board of Arbitration would have to give them the ruling or standard rate of wages in the district; so that the company, instead of paying them 8s. a day, would have to pay them 12s. a day. Persons of that class, and also persons under the age of 21, should be excluded from the operation of the Act. In reference to Sub-clause A, there did not seem to be any objections by the labour organisations, but with regard to Sub-clause B, which had a reference to persons under the age of 21 years, he thought some of the witnesses said the age ought to be reduced to 10 years; that boys 10 or 12 years of age ought to be allowed to form a union, and have an equal vote with a man perhaps 30 or 40.

THE COLONIAL SECRETARY: Up to 14 boys must be sent to school.

HON. R. S. HAYNES: There was no reason why boys should not attend school, and also do light manual labour. The committee endeavoured to arrive at a figure acceptable to both parties. He was quite sure employers would be willing to fix the age, but the workers were obdurate, and the Committee were of opinion that they ought to agree to the age of 21. Personally he did not very much object to that age, because he thought that up to that time a person's judgment was immature. Burke, he believed, said that life was made up of compromises. The Committee were quite willing to compromise, and he (Mr. Haynes) thought this House would be willing to compromise. He was of opinion the Committee would have been able to say a compromise had been arrived at, but for the action of one person. One person still stood out, and caused the trouble. Yesterday he (Mr. Haynes) met the representatives of three of the labour unions in the colony, and he took the trouble to discuss this question with them. It was asked by them that the age be reduced to 18; they would give no reason why, except saying that many persons 18 years of age were out of their time, and were likely to join a union. He asked if they were agreeable to a compromise, and they said "Yes." They were more reasonable than other persons he could mention. He suggested the age of 19, and they absolutely agreed to it, and assured him that it was a fair compromise. Although the Committee recommended the age of 21, most of them (there was one exception) would be willing to fix the age at 19, and he thought the House would also be agreeable to have the age fixed at 19; but it must be a compromise, otherwise the age of 21 should remain. The apprentices could not be included, nor was it expected that they should be. The number of members of a union was fixed in the amendment at 25. It was then suggested that some security should be given on behalf of a union before registration, whether that union consisted of employers or employees, and the matter was debated at considerable length. Some unions did not see any objection to it, whilst others had an objection, and said: "Why should we be asked to put up money until a dispute arises?" They were quite agreeable to register without paying any money, and then to put up the money when a dispute arose. That seemed to be a splitting of straws. Inasmuch as it might be difficult to put up £50 at the commencement of a union, the Select Committee agreed that instead of doing so, the union might give security to the extent of that amount; that was the amount specified in relation to a union whose members did not exceed fifty in number. The witnesses called before the Committee were obdurate. The inclusion of a money deposit, or of some security that the award of the Court should be carried out, was absolutely necessary. Indeed, he might give up all other objections to the Bill provided that one clause were inserted, because it seemed to him to be the crux of the Bill. Apparently, the objection to it was raised only by a few cranks. The societies raised no objection to it, and saw no harm in it, although they did not like it. They said "If you put that in, you will have no labour unions." If there were no labour unions there would be no disputes. There were 89 disputes in three months, that was the effect of the law in New Zealand. Hon. members could call them disputes, but he called them strikes.

HON. J. M. SPEED: The hon. member was not displaying any bias in his speech.

THE CHAIRMAN: The hon. member should not impute motives.

HON. J. M. SPEED: No motives were imputed: he simply said that the hon. member did not display any bias.

HON. J. W. HACKETT: Meaning that he did.

HON. R. S. HAYNES: The only other clause that required amendment was that in reference to the employment of solicitors before the Conciliation Board. That was a point which met with a considerable amount of opposition by the labour unions, and he (Mr. R. S. Haynes) had been accused in the Press, in an inspired article, with having suggested that counsel should be employed from personal motives. The noble, generous, and self-sacrificing action of one of the members of the Select Committee who also happened to be a solicitor——

HON. A. B. KIDSON: That member was an expert.

HON. J. M. SPEED: That member did not pretend to be.

HON. R. S. HAYNES: That member pointed out that solicitors ought not to be allowed to appear. How the newspaper got hold of the information he (Mr. R. S. Haynes) did not know; the newspaper did not get it from any other member of the Select Committee except Mr. Speed, and the evidence had not been published or laid before the Council.

HON. J. M. SPEED asked that the imputation which had been cast upon him should be withdrawn.

HON. R. S. HAYNES said he certainly would not withdraw it.

HON. J. M. SPEED: There was no necessity for him to contradict the statement, for in the short time he had been in the House hon. members knew well enough that he (Mr. Speed) would not take exception to a matter of that sort unless he had good reason for doing so.

THE CHAIRMAN: No doubt the hon. member on receiving that assurance would withdraw the remark.

HON. R. S. HAYNES said he could not withdraw it, and he refused to do so. Here was a document which was not known to anybody, it was not placed on the table of the House.

HON. J. M. SPEED said he must ask for the Chairman's ruling on the point.

HON. R. S. HAYNES: Had the hon. member a right to interrupt?

THE CHAIRMAN: On a point of order.

HON. R. S. HAYNES: Not when giving an explanation.

THE CHAIRMAN: If the hon. member was explaining, all right.

HON. R. S. HAYNES: There was evidence that the report had not been laid on the table of the House until a few days ago, and until the report was laid on the table the evidence taken before the Select Committee was private. He (Mr. R. S. Haynes) did not give information to the newspaper. Mr. Glowrey, Mr. Brimage, Mr. Sommers, and Mr. Richardson did not give the information to the newspaper.

HON. T. F. O. BRIMAGE: How did the hon. member know that?

HON. R. S. HAYNES: Because he had made inquiries. How was it possible for the information to get to the newspapers? There was an irresistible conclusion in his mind that it came from the hon. member.

HON. J. M. SPEED again rose to a point of order. Standing Order 131, stated:

> No member shall use offensive or unbecoming words in reference to any member of the Council; and all imputations of improper motives, and all personal reflections on members, shall be considered highly disorderly.

If the Chairman could not rule in his favour, he would have the matter referred to the President.

THE CHAIRMAN: The hon. member (Mr. R. S. Haynes) did not make any direct imputation.

HON. J. M. SPEED: Mr. Haynes had used his (Mr. Speed's) name and directly accused him of a certain thing.

THE CHAIRMAN: Mr. Haynes did not use the hon. member's name within his hearing.

HON. J. M. SPEED: Mr. Haynes did use his name.

THE CHAIRMAN said he did not hear it. Hon. members must confine their remarks to the first amendment.

HON. R. S. HAYNES said he was dealing now with the whole report of the Select Committee, so that it would not be necessary to deal with the different amendments again: if he dealt with the amendments in a disjointed manner, he would have to make some remarks on each amendment as it came forward. As to the employment of a legal man he (Mr. Haynes) had been accused of using his position on the Select Committee to further his own ends and the ends of his profession. He repudiated such an accusation. In the Select Committee he was placed in a very delicate position by the accusation, and he felt it keenly when it was asserted that he tried to use his position for the benefit of the profession. The ground he took was that the labour organisations had secretaries, mostly skilled orators who could declaim on any given subject for any given time, and who desired to pose hereafter as skilled advocates in labour disputes: these persons desired that they should have the whole of the arena to the disputes themselves. These men were skilled in the collection of evidence, and they had the whole of the organisations to call upon and get such evidence as they desired. But what would these organisations be opposed to? Not against a union of employers, but one employer; and a man might be an

excellent employer, but in court when placed against a long-winded advocate he would be nowhere. That was the reason why the employers had got the worst of the battles in New Zealand. Mr. Hamilton, the manager of one of the largest gold mines in this country, pointed out that if a dispute arose between his company and a trucker, or any gang of working men in the mine, he might have to attend day after day at the court to defend his action. It would be inconvenient for him to personally attend, therefore he should be able to employ someone, and why not a solicitor?

HON. A. P. MATHESON: Why should not a solicitor be an agent?

HON. R. S. HAYNES: That showed the absolute nonsense of the clause. He thought the Committee was with him in conserving the interests of the learned profession. Here were the unions making an attempt to encroach on the rights of others, although they objected to their rights being interfered with.

HON. A. P. MATHESON: Why could not a solicitor appear as an agent?

HON. R. S. HAYNES: If he (Mr. Haynes) happened to be a barrister, why should he deny his profession?

HON. A. P. MATHESON: That was merely a matter of self-pride.

HON. R. S. HAYNES: It was more than that. A solicitor might be engaged by the consent of both parties. He did not want to labour the point: Mr. Speed or Mr. Matheson might do so if they liked. Mr. Cartwright and the secretary of another labour organisation agreed to lawyers appearing, but they wanted the clause as to the admission of evidence struck out, that was the clause referring to only legal evidence being admitted. One had to give way to gain a point, and a compromise was agreed upon. These were the only clauses in the Bill on which there had been any dispute, and he left the amendments to the House. He was authorised by the select committee to state that with reference to the age mentioned in the definition of "worker" they did not mind if that was reduced to nineteen, and the words in reference to the legal evidence they recommended should stand. With those two exceptions the amendments could be agreed to. He (Mr. R. S. Haynes) had devoted a considerable amount of time to the framing of these clauses, and if they were wrong he regretted it; he had given them his best study and time, and he had been ably assisted by his fellow members on the Select Committee, with one solitary exception which he need not mention.

HON. J. M. SPEED said he wanted the decision of the Chairman in respect to the statement made by Mr. R. S. Haynes to the effect that he (Mr. Speed) was the only member of the Select Committee who could have given the information whereby it was stated in an article that Mr. Haynes, in objecting to solicitors appearing, was trying to obtain selfish ends. He (Mr. Speed) did not know whether the statement was true, but that was the statement alleged to have been made by himself. He asked that the words complained of might be withdrawn.

HON. J. W. HACKETT: What was the imputation?

HON. J. M. SPEED: That he was the one who divulged the fact that the hon. member was in favour of solicitors being allowed to appear in Court under this Bill. The hon. member imputed to him, or caused it to be stated, that he (Mr. Speed) was doing this for his own selfish or personal ends.

THE CHAIRMAN said he had not heard the hon. member's name mentioned, and he did not think the hon. member should assume that it applied to himself. The hon. member (Mr. Haynes) never mentioned any name, and it would be unwise to take mere matters of opinion as a direct charge, because Mr. Haynes carefully avoided making any direct charge; and as he made no direct charge, he refused to withdraw anything. There was nothing to withdraw. Members of the Committee might rely on their own personal character.

HON. M. L. MOSS: Did one understand, from what the Chairman stated, that we must strictly observe the rules of debate, and that no opportunity was to be afforded to reply to the speech delivered by Mr. Haynes? With all due respect to the ruling of the Chairman, if it were intended to be a ruling, he thought that would be very unfair to the Committee; for personally he would like to have the opportunity of making some observations in reply to the remarks of the hon. member.

HON. A. B. KIDSON: Before the Chairman replied, he (Mr. Kidson) would like to say the President informed him that Mr. Haynes had obtained his ruling on the point; and his ruling was that the whole of the report should be discussed on the first amendment. That should be done, otherwise we should get no opportunity of discussing the report at all.

THE CHAIRMAN said he had no knowledge of any understanding about this. He conceded a great deal to Mr. Haynes, as that member was chairman of the Select Committee, and it would be far better for the hon. member to deal with the whole report than to be jumping up occasionally at each amendment. He (the Chairman) would be most willing to allow any hon. member latitude, but he thought it would tend to quicken the despatch of business if we kept as much as possible to each amendment as it came up.

HON. R. S. HAYNES: The President had been spoken to by him with reference to this matter, and he (Mr. Haynes) suggested that the report of the Select Committee should be placed before this Committee, prior to the Bill being gone into, so that we might discuss the report of the committee as a whole, and then proceed with the Bill; but the President said that the better course would be to discuss the whole report when the Bill was in Committee. He (Mr. Haynes) quite agreed with Mr. Moss and Mr. Kidson, that it would tend to shorten the debate if they were allowed to discharge all their artillery at once. That would subsequently leave them nothing to talk about when we came to the amendments.

THE CHAIRMAN said he should be pleased to let all hon. members talk in that general way over the first amendment, and after the first amendment we would confine ourselves to the special point before the committee.

HON. M. L. MOSS: One was about to suggest that for the purpose of being in perfect order, progress should be reported and leave asked to sit again. Then we could go on with the Orders of the Day and deal with the committee's report.

HON. R. S. HAYNES: There was no necessity for that.

HON. F. WHITCOMBE moved that progress be reported, and leave asked to sit again.

HON. J. W. HACKETT: It was to be hoped there would be an understanding that, if we reported progress, we should deal with this question at the next sitting.

Motion (progress) put, and a division taken with the following result:—

Ayes	...	...	12
Noes	...	...	11
Majority for		...	1

AYES.	NOES.
Hon. G. Bellingham	Hon. J. W. Hackett
Hon. R. G. Burges	Hon. S. J. Haynes
Hon. C. E. Dempster	Hon. A. G. Jenkins
Hon. J. M. Drew	Hon. A. B. Kidson
Hon. J. T. Glowrey	Hon. E. McLarty
Hon. R. S. Haynes	Hon. M. L. Moss
Hon. A. P. Matheson	Hon. G. Randell
Hon. C. A. Piesse	Hon. J. E. Richardson
Hon. C. Sommers	Hon. W. Spencer
Hon. J. M. Speed	Hon. F. M. Stone
Hon. F. Whitcombe	Hon. A. Jameson
Hon. T. F. O. Brimage (*Teller*).	(*Teller*).

Motion thus passed.

Progress reported, and leave given to sit again.

After the tellers had been appointed, the Hon. R. G. Burges and the Hon. C. E. Dempster crossed from the right side of the House to the left, whereupon the Hon. A. P. MATHESON rose to a point of order.

THE CHAIRMAN said members could not cross after tellers had been appointed.

Mr. Burges and Mr. Dempster returned to their seats, and were counted with the Ayes.

PAYMENT OF MEMBERS BILL.

ASSEMBLY'S MESSAGE.

A Message from the Legislative Assembly, stating that the Assembly had disagreed to No. 1 of the amendments requested by the Council and agreed to No. 2, was received and read, and taken into consideration.

IN COMMITTEE.

THE COLONIAL SECRETARY moved that the Committee do not insist upon the suggested amendment to Clause 2. He did not think he need say very much on the matter, for it was discussed fully the other night. He would draw attention to the fact that this House had been met very readily, thoroughly, and handsomely by another place, upon what was usually termed the levelling-up pro-

cess, the honorarium being made the same for members of both houses. He had been listening to hon. members, but he thought the arguments used with reference to the retrospective character of the clause were overstrained. The same state of circumstances would arise on the meeting of the new Parliament to a very large extent, if not entirely, so far as this Council was concerned, as existed at the present moment. The Council would consist of the same members as at present, and if the question had then to be dealt with, the members would still be voting in just the same way, for the legislation would be retrospective. Supposing the Bill were now thrown out, it would not be reintroduced in the first week Parliament met next session, and though the length of time would not be so great, the principle would be just the same. The legislation would, as he had said, be retrospective, because most likely it would be arranged that the honorarium should take effect from the 1st of July, and Parliament might not meet before that date, or, perhaps, till August, as was the case this year, but he did not think that was likely. The argument had been overstrained. He believed one member said it was false modesty, and he (the Colonial Secretary) was inclined to the opinion that it was so to a large extent. It was true there would be a general election for the Lower House, but members would have to come back and vote to themselves, as it was very baldly stated, an honorarium. He did not want to labour this question. He was not very much in sympathy with the arguments used the other night, and he really thought that nothing could be laid to the charge of this House. Certainly nothing could be laid to his (the Colonial Secretary's) charge, because he would not participate in the honorarium that would be given, and therefore he was a little more free perhaps to argue the question than other members, or, at least, to speak on it, for he did not want to argue it, and he thought there was a feeling on the part of members that they did not desire to argue it. He believed members appreciated the action of another place in agreeing to one suggestion this House had made, and felt that members of another place were willing, taking all the circumstances into consideration, to meet this House. There seemed to be very good reasons given why members who had been serving the country for years—for the last four years many of them—should have some reward for their labour. From one cause and another circumstances had led up to the introduction of this Bill, and we did not know what would happen in the future. It was admitted by all that the amount of the honorarium did not represent the labour which members of either House of the Legislature were giving to the business of the country. He did not think he need say more about it. He moved that the Council do not insist on the amendment.

HON. S. J. HAYNES: We had no right to pass a Bill for payment of past services; payment should be from the passing of the Bill or the commencement of the first session of the next Parliament, but there was no reason or justice in payment for past services. Judging from the feeling of the Committee when the suggestion was sent forward, he had good reason to believe that the Committee would insist on the suggestions as a whole.

HON. J. W. HACKETT: Taking into consideration that after all this matter concerned another place more than us, that the Assembly were the custodians and the guardians of the public purse, and that grants of money came in the first instance from the Assembly, since the Council had given the other House an opportunity of reconsidering this matter and retracing their steps in regard to the retrospective payments, he (Mr. Hackett) would not press his opinion; he would vote for the motion.

HON. A. P. MATHESON said he was extremely disappointed at the action of another place, which lent very great point to the suggestion made by Mr. Drew that if the retrospective payment was not permitted the Assembly would wreck the Bill. Members in another place having had the views of the Council put before them and still insisting on the retrospective clause, it was not for the Council to stand in the way, because the Bill affected members of the Council very little. All members now in the House would be in the Council next session and would all participate in the benefits, but

there was one point for the Council to remember, that outside it would be said that the fact of the Assembly having agreed to increasing the remuneration for members of the Council had largely influenced us in regard to not insisting on the retrospective provision. He (Mr. Matheson) did not intend to have that said about him.

HON. F. WHITCOMBE: We agreed on compulsion.

HON. A. P. MATHESON: We agreed because it was desired that the measure should pass and there was no other means apparently of getting the Bill passed. To preserve the position he had taken up he would receive the money and give it away in charity; he did not intend to keep it.

HON. R. S. HAYNES: The hon. member could give it to him.

HON. A. P. MATHESON: The hon. member was not a deserving object of charity.

HON. J. W. HACKETT: Give it to the Zoo.

HON. A. P. MATHESON: This was not a matter for levity: it was such remarks which made the Legislature of Western Australia ridiculed and a laughing-stock to the rest of Australia. It was extremely deplorable that this matter should be received in this way. Seventeen or eighteen members of the Council had settled that payment was not desirable for past services, but since we had to accept the retrospective clause under compulsion we ought to deal with the matter decorously.

HON. A. JAMESON: This really seemed to affect the dignity of the Council seriously. We should recollect that the policy of the Government was to refer the question of payment of members to a referendum, and this Council was responsible for that course not having been adopted. A motion was passed early in the session that this Council was in favour of the principle of payment, but it was not anticipated for a moment by those who moved and supported that motion that there was to be a retrospective payment. The responsibility lay with us, because this Bill would probably never have been brought forward had it not been for the action of this House. He could not think that the amount of money to anyone here would be of any consequence: it was the principle, that we were actually going to pay money to ourselves and making the Bill retrospective, that was objectionable. We did not want to see the Bill rejected; at the same time it seemed we should have some further expression of opinion on the matter and then let the Bill go under protest.

HON. M. L. MOSS: With other hon. members, he was strongly of opinion that it was improper to have a retrospective clause in the Bill. As to the suggestion thrown out by Dr. Jameson that we should propose that the Bill should operate from the passing of the measure, it only meant a matter of £30 or £40. In insisting on these suggestions we might be wrecking the Bill, and the country had been crying out for this measure. This Chamber had done its duty; we had protested emphatically and vigorously against the retrospective action of the measure; but, as had been rightly pointed out by Mr. Hackett, it was the duty of the other Chamber to grant money, and that Chamber had thought differently from us. He (Mr. Moss) would be afraid to face his constituents, and many others would be in a similar position, if we were responsible for the wrecking of the Bill. Under these circumstances he had no hesitation, after we had done all we could to make the payment date from the first session in the next Parliament, in agreeing to the position which the Assembly had taken up.

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

Ayes	...	...	17
Noes	...	...	4
Majority for	...	...	13

AYES.	NOES.
Hon. G. Bellingham	Hon. S. J. Haynes
Hon. T. F. Brimage	Hon. A. Jameson
Hon. J. M. Drew	Hon. F. M. Stone
Hon. J. T. Glowrey	Hon. R. G. Burges
Hon. J. W. Hackett	(*Teller*).
Hon. R. S. Haynes	
Hon. A. G. Jenkins	
Hon. A. B. Kidson	
Hon. A. P. Matheson	
Hon. E. McLarty	
Hon. M. L. Moss	
Hon. C. A. Piesse	
Hon. G. Randell	
Hon. C. Sommers	
Hon. J. M. Speed	
Hon. F. Whitcombe	
Hon. C. E. Dempster	
(*Teller*).	

Question thus passed.

Clauses 2 to 4, inclusive—agreed to.
Preamble and title—agreed to.
Bill reported as amended on suggestion, and the report adopted.

THIRD READING.

Bill read a third time, and *passed*.

DESPATCHES FROM SECRETARY OF STATE.

Despatches (2) from the Secretary of State for the Colonies to the Administrator were received and read as follow:—

(1.) In acknowledgment of Address of Sympathy passed by the Legislative Council to the Queen, on the death of H.R.H. the Duke of Saxe-Coburg Gotha.

(2.) In acknowledgment of Addresses passed by the two Houses of Legislature to the Queen, praying for the inclusion of Western Australia in the Commonwealth of Australia.

PATENT ACTS AMENDMENT BILL.

SECOND READING (MOVED).

THE COLONIAL SECRETARY (Hon. G. Randell), in moving the second reading, said: I have no desire to press this Bill forward against the wishes of hon. members, but I am desirous of forwarding it this evening, and of saying the few words I have to say on the Bill. I do not profess to be very well acquainted with the patent law of the country, but it appears there are certain things existing which were granted under Acts that have been repealed. An Act of the 36th of Her present Majesty, No. 1, the Patent Act of 1888, and the Patent Act of 1892, have all, I believe, been repealed by the Act of, I think, 1894; and it has been thought desirable, in the interests of the goldfields and those who are pursuing that important occupation, that steps should be taken so as to prevent what is termed here inuring of the patent beyond the term for which it was originally granted. I understand that a certain patent expires very shortly, and it is considered the best policy in the interests of the country at large that steps should be taken to remove any ambiguity or any feeling of uncertainty which may exist in the minds of some persons in regard to the renewal of that patent. Hon. members know the course pursued, and I believe it is pursued to a great extent in Great Britain. That is, application is made to the Governor in the first instance, who refers the matter to the Supreme Court—I think it is to the Supreme Court—and the Supreme Court pronounces an opinion on the application, and then the Governor-in-Council decides. I understand that under the present Bill the Government will not be compelled to forward the application for renewal. An opinion was very strongly expressed in another place by some members of the legal profession, more especially by one member, and so far as I could gather there was no particular contradiction; still, there was an uncertainty as to what was really the law on the question. At any rate, it would be open to the Governor to remit the application to the Supreme Court, and ask their opinion and recommendation on the matter; but I understand that even when that has taken place, the Governor-in-Council would have power, if the arguments or reasons to be forwarded for the renewal of the patent were not sufficiently good, or if the granting of the application would be opposed to the interests of the country, to reject that application. I believe that is about the law of the land. Circumstances have arisen, and some members are, I know, prepared to speak more fully, and perhaps with better information than I can do as to the operation of the patent or patents now existing in this colony. I do not propose to go into that part of the question at all, because, as I have already said, I think some members in this House who are interested and engaged in one manner or another with the gold-mining industry, will be able to speak upon the policy of the question much more effectually perhaps than I can do. I know that arguments will be used, and have already been used, and no doubt Mr. R. S. Haynes will use those arguments again, and perhaps other members will do the same, that we are taking away the rights of individuals; but I believe it is an admitted axiom in the politics of a country that the individual must often suffer for the benefit of the community at large. By that statement I am not admitting that there will be any hardship or suffering inflicted upon any corporation or syndicate. It has been argued, I believe, that they have enjoyed for a considerable number of years,

though not in this colony, the benefit of this patent, and that they have reaped a very large reward. I think it has been stated in this House very recently that if they recover what they are attempting to recover, it will affect not only the larger mines which are in operation in Kalgoorlie and other centres, but also the prospector himself, the smaller man, if I may use the word in reference to this industry, just as much as the other. I am not attempting to state at the present moment that there are any hardships or that there are not, but this Bill is desired by a great industry in operation in this colony, which I am sure hon. members desire to do their best to protect and advance, because in doing so they are advancing the interests of the colony at large. It is also an admitted fact, I believe, that the present proprietors are not the originators of the patent.

HON. R. S. HAYNES: That is not so.

THE COLONIAL SECRETARY: That, of course, has been stated. I have read that the patent is not in the hands of the inventor, but that it has been sold to a company, and he has received his reward as far as that is concerned.

HON. R. S. HAYNES: The director of the company.

THE COLONIAL SECRETARY: I understand that the rights and privileges which would otherwise have accrued to the inventor have been disposed of to a company. That is the usual thing.

HON. R. S. HAYNES: This person is the director of the company.

THE COLONIAL SECRETARY: This Bill provides that no letters of registration granted under the Acts to which I have referred shall inure or be valid and effective beyond the term mentioned in the original letters in respect of which such letters of registration were granted, and an extension of the term of the original letters patent in the country or colony where the same were granted shall not be deemed a continuance of the original letters patent. I believe no letters patent have been granted in this colony to the syndicate which has been named in another place, but that the patent is simply registered here. However, I think it has the same effect as if they had taken out the letters patent here. There is no obligation on the Legislature to extend the term beyond the usual grant, and probably it was never intended that the term should be so extended. In many cases it has been proved to be disastrous to the interests of a community to grant these long periods for the enjoyment of patent rights. One is free to admit that if a person has experimented, studied, and worked, in some cases for years, before perfecting the thing patented, that man ought to receive the due reward of his enterprise, intelligence, and application. It will be fairly admitted at the same time that when large interests are involved, and the effects of a certain thing might prove disastrous to the country, local matters should be considered. I think I have said all I need on this Bill. The third clause of the measure is a very important one, and I think no misunderstanding can arise as to that clause. It reads:

> It shall not be incumbent on the Governor to refer any petition for the extension of the term of a patent to the Supreme Court, and the Governor may, in his absolute discretion, and without assigning any reason, refuse the prayer of the petition.

That is a very important clause and carries out the object intended to be served by the Bill. I do not know that I need refer to a petition that has been presented in reference to the effect on the great industry on the Eastern goldfields, as members have a copy of the petition before them. I think I have discharged my duty when I have placed the House in possession of the Bill in as few remarks as I can address to it. I have indicated the broad lines on which members can deal with the Bill in the interests of the community, but consideration should be given to individual rights and privileges. There is no obligation on the Government to refer the matter to the Supreme Court, as far as I can ascertain, but probably the usual course will be pursued if a petition is presented from persons interested in patent rights.

HON. R. S. HAYNES: I beg to move the adjournment of the debate until the next Tuesday.

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

Ayes	...	...	...	17
Noes	...	...	...	4
Majority for ...			...	13

Ayes.	Noes.
Hon. G. Bellingham	Hon. A. P. Matheson
Hon. H. Briggs	Hon. G. Randell
Hon. T. F. Brimage	Hon. J. M. Speed
Hon. C. E. Dempster	Hon. J. M. Drew (*Teller*).
Hon. J. T. Glowrey	
Hon. E. S. Haynes	
Hon. S. J. Haynes	
Hon. H. Jameson	
Hon. A. B. Kidson	
Hon. M. L. Moss	
Hon. C. A. Piesse	
Hon. J. E. Richardson	
Hon. H. J. Saunders	
Hon. C. Sommers	
Hon. F. M. Stone	
Hon. F. Whitcombe	
Hon. J. W. Hackett (*Teller*).	

Motion thus passed, and the debate adjourned.

ADJOURNMENT

The House adjourned at 9·24 o'clock until the next day.

Legislative Assembly,

Wednesday, 14th November, 1900.

Fire Brigades Board Debenture Bill, first reading—Question: Eight-hours System on Railways—Kalgoorlie Roads Board Tramways Bill (private): Select Committee's Report—Legislative Assembly Buildings, Additions: Select Committee's Report—Customs Duties under Commonwealth Bill, all stages—Post and Telegraph Act Amendment Bill, all stages—Discharge of Orders (2)—Payment of Members Bill, Legislative Council's Suggestions; Appropriation Message (increase)—Annual Estimates, Committee of Supply, Lands and Surveys votes passed; progress—Despatches from Secretary of State (2)—Adjournment.

The SPEAKER took the Chair at 4·30 o'clock, p.m.

FIRE BRIGADES BOARD DEBENTURE BILL.

Introduced by the Attorney General, and read a first time.

QUESTION—EIGHT-HOURS SYSTEM ON RAILWAYS.

Mr. GREGORY asked the Commissioner of Railways: 1, Whether it was the intention of the Commissioner of Railways to give effect to the resolution recently passed in this House that the eight-hours system should be adopted upon the Railways. 2, If so, when.

The COMMISSIONER OF RAILWAYS replied: The whole question had been referred to the General Manager of Railways for report, and as soon as the report was received, it would be placed on the table of the House.

KALGOORLIE ROADS BOARD TRAMWAYS BILL.

SELECT COMMITTEE'S REPORT.

Mr. Piesse brought up the report of the select committee which had inquired into this private Bill.

Report received, read, and ordered to be printed.

LEGISLATIVE ASSEMBLY BUILDINGS, ADDITIONS.

SELECT COMMITTEE'S REPORT.

Mr. Illingworth brought up the report of the select committee which had inquired into the question of providing additional accommodation in connection with the Assembly buildings.

Report received, read, and ordered to be printed.

CUSTOMS DUTIES UNDER COMMONWEALTH BILL.

Introduced by the Premier, and read a first time.

SECOND READING.

The PREMIER (Right Hon. Sir J. Forrest), in moving the second reading, said: I would like to explain to the House the object the Government have in view in asking hon. members to assent to this Bill. We have agreed to enter the Commonwealth of Australia, and the Constitution of the Commonwealth will be established on the 1st of January next. It is possible, but not at all probable, that uniform duties will be established some time next year; and it is just possible, though I do not think it is probable, uniform duties might be established before legislation of this sort could be accomplished by the next Western Australian Parliament. However that may be, it seems to me that we are not doing anything to which anyone can take exception in providing that whenever uniform duties are established, the laws in force in this colony at that time in regard to customs shall be continued. Hon. members