

Legislative Assembly,

Wednesday, 3rd June 1931.

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

QUESTION—PRIVATE MEMBERS' BUSINESS.

Mr. SLEEMAN (without notice) asked the Minister for Lands: Is it his intention to give private members a chance to deal with their business appearing on the Notice Paper.

The MINISTER FOR LANDS replied: Yes, as soon as we can push far enough ahead with the Workers' Compensation Bill.

QUESTION—LAND AND HOMES, LIMITED.

Mr. PANTON (for Mr. Corboy) asked the Chief Secretary: On what grounds did the police object to the granting of a license to Land and Homes, Limited, under the Land Agents Act?

The MINISTER FOR LANDS (for the Chief Secretary) replied: The police did not formulate any grounds, and inasmuch as the application was withdrawn it was unnecessary to do so.

QUESTIONS (2)—ART UNION COMMITTEE.

Administrative Costs.

Mr. WELLS asked the Minister for Lands: Have the Government given permission to a committee or board actually to engage in the conduct of sweeps and art unions in Western Australia? 2, Did not Cabinet previously refuse such authority to a committee or board nominated by the Minister for Police, consisting of the same personnel?

3, What caused Cabinet to reverse their previous decision against this committee actually conducting sweeps and art unions? 4, Which charitable organisations do the members of the art union control board represent? 5, Has the secretary of the Ugly Men's Association been appointed secretary of the art union committee or board? 6, If so, have the Government confirmed the appointment, and what remuneration is to be paid? 7, Were applications called for this position? 8, Will the chairman or members of the art union board receive fees or any payment for their services? 9, As the object of the art unions and sweeps is stated to be for a charitable purpose, will the charitable societies be called upon to pay the administrative costs of the art union board? 10, Have the Government considered the appointment of an auditor to superintend the conduct of sweeps and art unions by the board advertised as having behind them the authority of the Minister for Police?

The MINISTER FOR LANDS replied: 1, The Government have granted permission to the Institute for the Blind to raise funds by means of a sweep, such permission being contingent on control by a committee with a representative of the institution thereon. 2, No. 3, Answered by No. 2. 4, None as such, although each member has given years of service to charitable work. As comparisons are odious, this should suffice for the time being. 5, Subject to compliance with defined conditions, including the limitation of expenditure in the conduct of any sweep by this committee on behalf of any charitable organisation, the appointment of its officers and all other matters are within sole control of the committee. 6 and 7, Answered by No. 5. 8, In view of past clamour for remunerative positions in connection with the conduct of sweeps it will come as a surprise to the hon. member and other critics to learn that the members of the committee offered their services in an honorary capacity. The total deductions allowed under the conditions imposed on this committee must not exceed 25 per cent. of the gross proceeds, and as the percentage of prize money is likewise fixed, charitable societies on whose behalf art unions or sweeps are conducted must obtain in the aggregate a higher net result than under old methods. 9, Yes. It is included in the maximum amount to be deducted of 25 per cent., and

this is far below the average charge in the past and includes commissions on sales. 10, The Government should have confidence in its own appointee, but notwithstanding this, due to past experience, it was considered desirable in the interests of charitable institutions in particular and the public in general to provide a recognised method of auditing all financial operations of even charitable organisations.

Authorisation and Duties.

Mr. J. MacCallum SMITH asked the Minister for Lands: 1, By whom was the art union committee appointed; if by Cabinet, on what date? 2, In view of the provisions of the Criminal Code in relation to gambling, by what particular authority and by what provision is it lawful for such appointments to be made? 3, What are the particular duties of this committee? 4, Is it the intention of the responsible Minister to lay on the Table of the House the terms of the appointment and the conditions connected therewith? 5, Is it proposed to publish in the Press the income and expenditure of every sweep run under this committee, and will every such statement be audited by a Government auditor? 6, In view of the proposals to conduct sweeps without legislative sanction, is it proposed to cease to prosecute those who violate the law set out in the Criminal Code?

The MINISTER FOR LANDS replied: 1, By the Minister for Police. 2, By the same particular authority and provisions which have permitted the conduct of sweeps and art unions for at least the last quarter of a century and which have not prevented the operation of foreign sweeps and art unions, draining the State to the extent of approximately £100,000 per annum, whilst our own deserving charitable institutions are almost compelled to close their doors, notwithstanding the many efforts to obtain funds by means of direct giving and other means. 3, The duties are to conduct State-wide sweeps on behalf of charitable institutions which may apply for and obtain permission to raise funds by this means. 4, The procedure necessary to have papers laid on the Table of the House is well known to the hon. member. 5, Part of the

conditions imposed on the committee is to publish results of all sweeps controlled by them, and to publish audited statements of receipts and expenditure, such expenditure being limited to a maximum of 25 per cent. of the gross receipts inclusive of all commission paid to agents on sales of tickets, and to be subject to a Government audit if necessary. 6, No.

LEAVE OF ABSENCE.

On motion by Mr. North, leave of absence for two weeks granted to the member for Northam (Sir James Mitchell) and the member for West Perth (Mr. Davy) on the ground of urgent public business.

BILL—HIRE-PURCHASE AGREEMENTS.

Read a third time and transmitted to the Council.

BILL—WORKERS' COMPENSATION.

In Committee.

Resumed from the previous day. Mr. Richardson in the Chair; the Minister for Works in charge of the Bill.

Clause 4—Interpretation (partly considered):

The CHAIRMAN: When we adjourned last night the Committee were discussing an amendment moved by Hon. M. F. Troy, that after "house" in line 7 of the definition of "Worker" there be inserted the words 'who is under the age of 18 years.'

Hon. A. McCALLUM: The amendment meets the objection raised by members opposite against the previous amendment, which they said would embrace a member of an employer's family, who would be an infant and might be doing work of a domestic nature around the house, which could scarcely be classed as work in connection with the employer's business. I held that that could not be so, that the employee had to be engaged in the employer's business before he could come under the Act. The amendment goes a step towards meeting that objection. It is a compromise in respect of the stand which was taken up previously. When a lad on a farm reaches the age of 18, he is

doing the work of a man. He is running all the risks which a man runs in the course of his daily work, and should therefore be compensated if he sustains an accident.

The MINISTER FOR WORKS: I propose to vote against the amendment. The principle is the same as that which we have already discussed, and I think it has been sufficiently debated.

Hon. M. F. TROY: Many farmers wish they had the opportunity to insure their sons under the Workers' Compensation Act, and should be given the opportunity to do so. The Minister for Lands implied last night that if this clause were amended in the way proposed some unscrupulous persons might take advantage of it. I do not think that is likely to happen. If a farmer is in straitened circumstances and his son, who may not be insured, meets with an accident, the young man immediately becomes a burden upon the family. If the amendment is carried, compensation can be provided as well as medical expenses and this will be a relief, not only to the individual, but to his parents. I am not moving this amendment to embarrass the Minister nor am I doing so in a party spirit. If I had a son of my own of this age, I would like to insure him under the Workers' Compensation Act.

Hon. J. C. WILLCOCK: I hope the Minister will accept the amendment. It is almost impossible just now for any farmer to employ outside labour, and he must make the fullest possible use of the members of his family. The sons who are doing the work on a farm should be brought within the scope of the Act. Anyone who is able to work on a farm should do so in the interests of the State, and should be covered by insurance against accident. The amendment is a perfectly reasonable one.

Mr. MARSHALL: Members opposite seem to think of this Bill only as it may affect the farming community.

The Minister for Works: That is due to the remarks of members on your side.

Mr. MARSHALL: The Bill will, however, have a State-wide effect. We must legislate for every industry. This measure will affect almost all relationships between employer and employee. I cannot see why the Minister should refuse to accept the amendment. In the aggregate, farmers do not employ a great deal of labour compared

with that which is employed in other industries.

Mr. Raphael: And those people the farmers do employ are now paid by the Government.

Mr. MARSHALL: That is debatable. If this Bill becomes law, all industries must suffer, and the farming industry will not suffer more than another. All that the amendment asks for is that there be this age limit of 18 years. The Minister can accept the amendment without any fear of injuring farmers.

Mr. RAPHAEL: The Minister's attitude causes one to reflect whether there is something behind the small amount of opposition he has offered to the amendment. In England, through the centuries, crafts have been handed down from father to son. Australia lacks such craftsmen; yet the Minister seems to desire the abolition of craftsmansip. On the one hand the Government are trying to abolish insurance companies, and on the other they are asking that accident policies be taken out. Is this Bill a blind for the abolition of workers' compensation?

Mr. KENNEALLY: The Minister for Lands yesterday suggested that if a son employed by his father could obtain compensation, the father would have a leaning towards enabling the son to secure it. But others besides the father would have to be dishonest. Is it suggested that if the son were not residing in the house with the father, all those associated with the administration of the measure would suddenly become honest again? The amendment excludes all children under the age of 18 years, but even that restriction does not satisfy the Minister. His attitude tends to penalise the farmer. If the owner of a factory employed his grandson, that grandson, though a grown man with a family, would by virtue of this provision be excluded from workers' compensation if he lived under the same roof with his employer-grandfather. He might be the main support of his father and mother. If he lived in the house next door, he would be entitled to compensation. Our aim should be to make workers' compensation available to as many members of the community as possible. The more this provision is analysed, the more ridiculous does it appear.

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

| | | | | | |
|------------------|----|----|----|----|----|
| Ayes | .. | .. | .. | .. | 18 |
| Noes | .. | .. | .. | .. | 20 |
| | | | | | — |
| Majority against | .. | | | | 2 |
| | | | | | — |

AYES.

| | |
|----------------|----------------|
| Mr. Corboy | Mr. Pantou |
| Mr. Cunningham | Mr. Raphael |
| Mr. Hegarty | Mr. Sleeman |
| Mr. Johnson | Mr. Troy |
| Mr. Kennelly | Mr. Wansbrough |
| Mr. Lamond | Mr. Willcock |
| Mr. Marshall | Mr. Withers |
| Mr. McCallum | Mr. Wilson |
| Mr. Millington | |
| Mr. Munroe | |

(Teller.)

NOES.

| | |
|----------------|-----------------|
| Mr. Barnard | Mr. Patrick |
| Mr. Brown | Mr. Piesse |
| Mr. Doney | Mr. Sampson |
| Mr. Griffiths | Mr. Scadden |
| Mr. Keenan | Mr. J. H. Smith |
| Mr. Latham | Mr. Teesdale |
| Mr. Lindsay | Mr. Thorn |
| Mr. H. W. Mann | Mr. Wells |
| Mr. J. I. Mann | Mr. North |
| Mr. McLarty | |
| Mr. Parker | |

(Teller.)

PAIRS.

| | |
|--------------|--------------------|
| AYES. | NOES. |
| Mr. Collier | Sir James Mitchell |
| Mr. Coverley | Mr. Davy |
| Mr. Walker | Mr. Ferguson |
| Miss Holman | Mr. J. M. Smith |

Amendment thus negatived.

The MINISTER FOR WORKS: I move an amendment—

That paragraph (c) be struck out.

The Leader of the Opposition and the member for Mt. Magnet drew attention to the fact that the paragraph should not be included in the Bill, and I agree with them. It refers to group settlers, who are not employees.

Mr. MARSHALL: We should have a further explanation from the Minister. What does the paragraph mean and why was it included in the first place?

The MINISTER FOR WORKS: The paragraph was included in the parent Act at a time when the group settlement scheme was in operation. I do not think I need elaborate the points that were made clear by the member for Mt. Magnet.

Mr. Marshall: The trouble is we cannot hear the member for Mt. Magnet.

The MINISTER FOR WORKS: There is no reason at present why the paragraph should appear in the Bill.

Hon. A. McCallum: The explanation being that the group settlers have largely been taken over by the Agricultural Bank.

The MINISTER FOR WORKS: That is so.

Mr. MARSHALL: What would be the position if the Premier could secure the necessary funds to embark upon a further group settlement scheme? What protection would the workers engaged in those operations have under the Bill?

The Minister for Works: Group settlers under the Agricultural Bank will have to provide for themselves, just as other clients of the bank are required to do.

Mr. MARSHALL: Then, if we strike out the paragraph, and group settlement operations recommence in two or three years' time, the men concerned will not be covered.

Mr. RAPHAEL: I oppose the amendment. Is this an admission that the group settlement scheme, in the opinion of the Government, has been a failure?

The CHAIRMAN: Order! We are not discussing the question of group settlement.

Mr. RAPHAEL: I want to ascertain what the position will be. Are the Government satisfied that the group settlement scheme is a dead loss and that no further work is to be done in connection with the holdings?

Mr. BARNARD: I understand there are still some settlers under the control of the Group Settlement Board, as they have not yet been taken over by the Agricultural Bank. Will the deletion of the paragraph mean that those settlers will have no protection?

Mr. J. H. SMITH: If the Minister does not reply to the member for Sussex, I shall have to vote against the amendment. I know of group settlers who have not been taken over by the Agricultural Bank.

The MINISTER FOR LANDS: After the speech by the member for Mount Magnet, I thought it would be unnecessary for me to deal with the position further. A group settler will be in the same position as any other man who takes up land. The latter will not be provided for in the Bill, nor should the group settlers. Immediately a group settler is taken over by the Agricultural Bank, he will have to protect himself. Why should a group settler be

placed in a position different from that of others?

Mr. WITHERS: A group settler receives certain payments from the Government for work done. I do not see why the paragraph should be struck out while there are still some settlers who have not been taken over by the Agricultural Bank.

Mr. KENNEALLY: To ensure that as many people as possible shall be brought under the scope of the legislation, I shall oppose the amendment. If there are still some group settlers not taken over by the Agricultural Bank, the retention of the paragraph will afford them protection. When they are taken over by the bank, the paragraph will not apply to them, and it will cease to have any significance.

Hon. M. F. TROY: I suggested to the Minister that he should delete the paragraph for good reasons. The Workers' Compensation Act deals with the insurance of employees by employers. A group settler is not an employee; he is a man who works on his own property, in which he has various rights. He took up land under an agreement that the Government should make certain advances to him that had to be repaid. That applies to insurance as well. If the group settler should be insured by the Government, why should not others be dealt with similarly? Why should not the man who borrows money from the Agricultural Bank be insured by the Government? The generosity of the Government has been the curse of the whole system, and many of the settlers have no intention of paying back what they owe to the Government. The scheme has involved the State in huge expenditure and we have written off £3,000,000 from the capitalisation. Still there are some members who want the Government to continue granting concessions to the settlers! After eight or nine years of lavish expenditure and provision, many of the men have not the slightest appreciation for what the Government have done for them.

Mr. SLEEMAN: I hope the paragraph will be retained. Some time ago several group settlers were injured, one of them having been disabled for life. There was no workers' compensation insurance for them at the time, and the Government had to grant a compassionate allowance. A little

later group settlers were brought under the Act.

Hon. P. Collier: At that stage they were virtually wage-earners.

Mr. SLEEMAN: Yes. So long as we have group settlers, they should come under the Act. I do not agree with the statement of the member for Mount Magnet regarding concessions.

The Minister for Works: Why not extend workers' compensation to other settlers?

Mr. SLEEMAN: It might not be amiss to do so and have compulsory insurance all round.

Mr. Kenneally: The group settler is protected under the present Act, and it is proposed to take away that protection.

Mr. SLEEMAN: Yes, because some of the group settlers have been taken over by the Agricultural Bank. Why should it not apply to those who are not clients of the bank?

The MINISTER FOR WORKS: The position of the group settler has changed. Since the inquiry by Royal Commission they have been put on piecework, they own their homes and farms, and the Government advance the money with which to improve their farms. They are no longer employees; many of them employ labour. The principle of the Bill is that an employer shall insure his employee against accident in the course of his occupation. If we include group settlers who eventually will come under the Agricultural Bank, we should include all settlers who are under the bank.

Hon. M. F. Troy: And all the other settlers in the State.

The MINISTER FOR WORKS: Yes. In the past the inclusion of group settlers was justified when they were getting 10s. per day.

Mr. Sleeman: Many are not getting that much now.

The MINISTER FOR WORKS: No, they are working out their own salvation. They are receiving advances from the Government which they are expected to repay. The amendment is no attack upon the group settlers; there is a principle at stake. We must treat group settlers as we treat other men who are not employees.

Mr. J. H. SMITH: The Minister is inconsistent. I cannot understand his attitude.

Just as the Act applied to group settlers in the past, it should apply to-day. Why this belated objection? The group settlers must be protected. Their earnings have dropped from £20 to about £7 a month. Agricultural Bank clients are in a different position. When the group settlers are taken over by the bank, their status will be altered. Some group settlers have been removed from their original holdings and put on to new blocks, and their development is not sufficiently advanced to permit of their coming under the bank.

Hon. M. F. TROY: There are hundreds of settlers in the wheatbelt too.

Mr. J. H. SMITH: The conditions are entirely different. The Government must continue to give the group settlers the benefit of the Act until they come under the bank. What would happen if a group settler were killed to-morrow?

Mr. SLEEMAN: His dependants would be a charge on the State.

Mr. J. H. SMITH: I cannot understand the objection of the member for Mt. Magnet.

The Minister for Works: What about the Agricultural Bank settler?

Mr. J. H. SMITH: He is under different conditions.

Hon. P. Collier: Much worse conditions.

Mr. J. H. SMITH: This State contracted with the Imperial and Federal Governments to do certain things, and now the Minister for Works is trying to evade his responsibility. Until all the group settlers become clients of the Agricultural Bank, they should not be excluded from the Act. Though group settlement has not turned out as we desired, we cannot saddle the settlers with the blame. I could quote many instances of hardship suffered by group settlers.

The CHAIRMAN: I hope the hon. member will not enter into a discussion of group settlement generally.

Mr. J. H. SMITH: I have no intention of doing so. Several years ago when the group settlers were receiving sustenance of £3 a week they revolted against contract work.

Hon. P. Collier: If you continue much longer, the election pamphlet will be too long.

Mr. J. H. SMITH: I recall an election pamphlet issued 15 months ago.

Hon. P. Collier: Work and prosperity for all?

The CHAIRMAN: Order! We are not discussing election pamphlets.

Mr. J. H. SMITH: I do not suggest that we are discussing election pamphlets. If anything happened to a breadwinner amongst the group settlers, what would be the position?

Hon. P. Collier: You would have to find work for all.

Mr. J. H. SMITH: Members with any heart at all cannot refrain from opposing the amendment.

Mr. MARSHALL: I understood that a number of group settlers were being paid as under the original scheme, namely for clearing land, a portion of which might eventually be theirs. The discussion has shown that group settlers are now working as are settlers in the wheatbelt, who, if they meet with an accident, are not covered by the Act. Pastoralists obtain loans from the Agricultural Bank, but they are not covered by the Act. Group settlers now are working for themselves.

Mr. J. H. SMITH: All of them have not been taken over by the bank.

Mr. MARSHALL: But they are working on their own land and receiving loan money from the Government, just as are wheat-growers and pastoralists. While working under the sustenance scheme there was some uncertainty whether a group settler would ever get a block. There was a risk of his being incapacitated before the blocks were allotted. It was then they were working for the Government. Having secured their blocks, they should not now be in any better position than the ordinary primary producer. In the circumstances, group settlers are not entitled to more consideration than are other settlers.

Mr. SLEEMAN: There is a reversal of form evident on the part of the member for Murchison. He is also treading on dangerous ground. His remarks would apply with equal force to the pieceworker at Wiluna. He should certainly vote for the retention of the clause.

Hon. M. F. TROY: I am not concerned about the member for Nelson dragging me into the matter, and making use of my name at the next general elections. He has already done that sort of thing. If provision is made to insure the group settlers, we must apply the same principle to all other citizens who

have borrowed money from the Government. The group settlers have had a wonderful deal from this country, and it is time we stopped extending privileges to them.

Amendment put and passed.

Hon. A. McCALLUM: I move an amendment—

That after paragraph (c) a paragraph be inserted, as follows:—

(d) Any person who has entered into any contract with another person for the performance for such other person of any work of a manual kind for a consideration exceeding five pounds, and who neither sublets the contract, nor employs any worker in connection therewith or, though engaging workers, actually performs any part of the work himself.

There has always been an argument as to the difference between a pieceworker and a contractor. The line of demarcation is almost an imaginary one. It is usually accepted that the man who performs work not under the control or supervision of the employer is a contractor. If there is any control or guidance on the part of the employer then the man is a pieceworker. My object is to embrace that section of workers which takes on a task for some payment and does the work itself. The Public Works Department have extended this principle into all their recent activities. In railway construction practically all the work is done under a system of petty contract or piecework. Road construction, drainage construction, and the clearing of roads are done in much the same way, for instance, at so much per chain. Such men are entitled to be covered by the Act. They have taken the place of those who were previously working on wages. The system allows any rate of wages to be paid, and any industrial conditions to be applied. It is a means of getting around the Industrial Arbitration Act and the Workers' Compensation Act. My amendment is very similar to a provision that was inserted in the New South Wales Act to meet this very situation. The principle, however, does not stop at the workers engaged in the activities I have referred to, but is finding its way into the city and undermining these two Acts. It is establishing a class of worker who is not regarded as coming within the definition of a worker as set out in these Acts. I have here a circular which affects a particular industry in this

city and which has been sent to various people. It reads—

So as to confirm the arrangements that have been verbally agreed to by you we feel it is desirable to set out by way of record the conditions under which you will be able to contract for work from us.

Up to now these men have been working under Arbitration awards.

For the use of the company's workshop and plant, it will be necessary to pay a rental of 5s. a week.

These men work on the premises of the employer, have the use of the plant and machinery, and for this pay a rental of 5s. a week.

When the company has a repair job, it will seek quotes, and the most suitable estimate will be accepted. A date for completion will be fixed by the service manager who will inspect and pass the work in the capacity of an inspector. The service manager will not be expected to supervise or assist during the progress of repairs, and no interference or control will be used as to the method or order of performing the work.

This is to cut out the idea of piecework.

The service manager will more or less act in the capacity of interviewing customers, arranging for work to be done, and giving delivery after completion. That is in relation to the contractor. When a job is completed, you will be expected to furnish the company with an invoice in accordance with the accepted estimate, and as a matter of convenience will be paid on Friday afternoon in each week that the work is done, or, if payment is required otherwise, it can be according to arrangement. You are free to operate during your own time, of course working in with the company as to the hours the company necessarily must trade.

This firm is not going to keep the factory open at all hours, and the men must work within the time that suits it.

You may employ others, and have the right to do any outside work on the premises, or enter into any arrangements with others than the company, providing of course that you do not pirate any work that would ordinarily come the company's way. It will not be the company's responsibility to have you covered by insurance, and the Workers' Compensation Act, of course, does not apply as between the company and yourself. It is our opinion that in continuing the amicable arrangements that have been in existence for some short time past, every contractor should be able to earn a fair remuneration, and thereby all contractors should benefit accordingly. We trust that there will be a continu-

ance of the satisfactory arrangements for the future that have been our experience recently.

That establishes a new class of employee. No doubt legal opinion has been obtained by the company, who desire to run no risk of having their men regarded as pieceworkers, so that they may be outside the scope either of the Industrial Arbitration Act or the Workers' Compensation Act. If the men were contractors they could hang out their shingles and invite trade. The circular, however, indicates that they must not take any work that would clash with the firm's business and will not be allowed to pirate trade the company have been doing. That is an entirely new phase in industry here, if not in other parts of the world. As the Bill stands, the contractor in question would not be covered.

The Minister for Works: Piece workers under the Government are covered.

Hon. A. McCALLUM: Yes, and my objective is to get these men covered as piece workers. I tried, as Minister, to overcome the difficulty by getting an industrial agreement with them. However, the work varies so much and the number of items is so large, that a schedule of prices becomes unmanageable. Consequently the scheme had to be abandoned. One or two test cases were taken, but in nearly every instance the men were classed as contractors and not as piece workers. The line of demarcation drawn by the courts between contractors and piece workers is indeed a fine one. The principle embodied in the circular which I have read has been pushed into quite a number of industries in the city, with the result of nullifying legislation as to hours and conditions. We should amend the law so as to bring these men within the purview of workers' compensation, as they were previously. For clearing and draining of roads, prices are fixed by the engineer, and a worker says, "I will take the job." Then he and a couple of his pals carry out the work. The Government, however, look to the one man. All those engaged on the job draw the same money; they work together and share the proceeds. The Government have largely extended this class of contract in public works, where such workers were formerly covered by the Workers' Compensation Act, as Parliament intended they should be. The only circumstances that have altered are those of the employment of these men,

which circumstances put them outside workers' compensation legislation. The men are directly under the eye of the engineer and the ganger all the while, just as when they were working on wages. If it was right and fair that they should be covered formerly, it is right and fair that they should be covered now. With contract work developing as it seems likely to do, a huge percentage of the workers will be deprived of the advantages of legislation relating to workers' compensation and industrial arbitration unless this amendment is carried.

Sitting suspended from 6.15 to 7.30 p.m.

The MINISTER FOR WORKS: I oppose the amendment for more reasons than one. The member for South Fremantle stated that there was a similar provision in the New South Wales Act. I have the Act before me and there is no such provision. In the definition clause of the New South Wales Act there is the following:—

Where any person (in this subsection referred to as the principal) in the course of or for the purposes of his trade or business enters into a contract with any other person (in this subsection referred to as the contractor) under which the contractor agrees (a) to supply sleepers and such sleepers are obtained or to be obtained from trees felled or to be felled wholly or partly by the contractor; or (b) to cut sugar cane, and the contractor either does not sublet the contract or though employing workers actually performs part of the work himself, the contractor shall, for the purposes of this Act, be deemed to be a worker employed by the principal.

That deals with sugar cane cutters and sleeper getters; it does not deal with the position generally. If the amendment be agreed to, it will be in opposition to the principle underlying the Bill, which is that employers in industry shall pay contributions to a fund from which injured employees shall be compensated. The amendment will cover every contractor in Australia. No such provision exists in any Workers' Compensation Act in the world, so far as I am aware. Paragraph (b), to which we have already agreed, covers the ground with regard to timber workers, so that we have already dealt with that phase. If the Public Works Department lets a contract, the department has nothing whatever to do with workers' compensation premiums; that is for the contractor. If the department car-

ries out work by day labour or lets out work under piece work conditions, the department pays the workers' compensation premiums.

Hon. A. McCALLUM: The Minister has not touched on the issue at all. He has not named the class of work that the amendment seeks to deal with. I went to some pains in placing the amendment before the Committee, to point out the fine distinction drawn between piece work and contract. In many instances the court has held that what was called piece work was really contract, and that is the class of work the amendment is designed to cover. If the Minister has a job done on the digging of drains or the clearing of a few chains of road, is that piece work or contract?

The Minister for Works: I said it was piece work.

Hon. A. McCALLUM: It does not matter what the Minister says; the fact is that the court has ruled in many instances that that work was done by contractors.

The Minister for Works: Give us some instances so that we can look into them.

Hon. A. McCALLUM: If the Minister will postpone consideration of the amendment, I will cite cases for him. The amendment was drafted by a lawyer who has appeared in court to fight cases on behalf of unions, and I have a letter from him in which he informed me that he had drafted the amendment I have moved on the basis of the New South Wales Act, from which he had taken it.

The Minister for Works: I have read that portion of the section to the Committee.

Hon. A. McCALLUM: And the Minister placed his own construction on it. The Minister must know by now that there have been many disputes as to whether work was carried out by contract or under piece work conditions.

The Minister for Works: I have not had such information before me.

Hon. A. McCALLUM: The men are not being paid the rates to-day.

The Minister for Works: They are.

Hon. A. McCALLUM: They are not. There may be some instances in which it is clearly piece work, and the men are paid accordingly, but I know from the complaints that have been lodged by the A.W.U. within the last few weeks, that there are many disputes as to whether piece work or contract conditions should apply. The

solicitor for the A.W.U., in his letter to me, said it was most important to have this point cleared up. He sent me the draft amendment with that object in view. Huge sums have been spent in litigation on this one point. As for the Minister's suggestion that the amendment will cover all contractors, if there was any fear of that, I can assure him that we do not desire any such thing. It is aimed at covering the man on the job who shares equally in the result of the work that is being carried out. The man who has his tender accepted and secures the contract, is not affected. The class of men we want to cover comprises those who work at a fixed price determined by the departmental officers, who give out the work.

The Minister for Works: They are covered.

Hon. A. McCALLUM: It is useless for the Minister to tell us that they are covered. Had I thought he would dispute the point, I would have been prepared to quote a number of cases to him. Where there is no limitation upon the hours or conditions of work, there is always an argument as to whether the men are on contract or piece work.

Mr. Kenneally: And everyone knows that except the Minister.

The Minister for Works: You are all wrong.

Hon. A. McCALLUM: The Minister is the only one who is right. What has the Minister to say about the particular case I cited?

The Minister for Works: I have nothing to say about that.

Hon. A. McCALLUM: No, of course not. The Minister for Works walks out of the House when his Bill is being discussed. He is the most discourteous Minister we have had in this Parliament. Fancy in such circumstances a Minister leaving his seat and walking out of the Chamber! That has never occurred before in this Chamber. It is a most discourteous action, yet he is doing it repeatedly; refusing to listen to arguments. He walks out of the Chamber and proceeds to enjoy himself in the corridor. In the history of this Parliament no other Minister has ever done that. Night after night has the Minister been outside in the corridor while his Bill was being discussed. He has treated the House with the utmost disrespect, relying

on his blind following for support. His troubles about what men outside may suffer, or as to how many men are to be denied the benefit of the legislation. His manners impel him to walk out of the Chamber. That is the way he behaves himself. It is shocking, and would not be tolerated in any other Parliament. I am surprised that the Acting Premier should put up with it.

The Minister for Lands: You are biting wrongly. He did not leave the Chamber at all.

Hon. A. McCALLUM: Not in the last instance, because I pulled him up before he got to the door.

The Minister for Lands: That is not fair.

Hon. A. McCALLUM: His actions in leaving the Chamber have been the talk of all members, and you know it.

The Minister for Lands: It is not fair to make that statement.

Hon. A. McCALLUM: But I do make it, and with emphasis, and you know it is right. His behaviour has been the talk all along the corridor. I know what would have happened had we done it when we were on the Treasury benches.

The Minister for Works: What about getting on with the Bill now?

Hon. A. McCALLUM: He has not referred in any way to these men engaged in the industry to which this circular applies. Practically every man in that calling has been placed outside the realm of the wage-earner, and the Bill, if it becomes law, will be inoperative in that industry. Every man in the industry will be denied workers' compensation, but the Minister makes no effort to meet that situation.

The Minister for Works: Did you make an effort in your Bill?

Hon. A. McCALLUM: The situation did not exist then. This is a new system, this payment by results, which the Minister advocates. The circular says, "Of course, the Workers' Compensation Act does not apply." One would have thought that, the system having been put into force, there would have been some effort on the part of those who advocated it to secure the goodwill of the workers for it. Instead of that, it has been made so hard that even workers' compensation is to be denied those men. I hope the Committee will accept the statement I have made, for with my years of

experience I should be in a position to know. I produce the circular signed by a firm.

The Minister for Lands: Are you going to lay it on the Table?

Hon. A. McCALLUM: I have read out its contents and I do not mind the hon. member seeing it, although I do not wish to publish the name of the firm, for that would be unfair. It is beyond question that those men are not covered. I contend that when the House passed the existing Workers' Compensation Act every one of us believed the law covered the men to whom the circular refers. But since the new system has come in they are positively denied the benefits of the Act. I only ask that the Bill be altered to meet the changed circumstances.

Mr. SAMPSON: If the amendment were agreed to it would introduce a new order of things. There have been many builders and contractors who have entered into contracts to do labour only, and I am sure that in the majority of cases the payments to those small builders and contractors would not exceed £500 per annum. Yet if the amendment were agreed to it would impose on the person letting to, say, a carpenter and a bricklayer a tender for the erection of a cottage, the responsibility of workers' compensation. So a new order of things would be introduced. It would not be limited to the work concerning which the hon. member read that circular letter. That opens up a new phase, the use of plant in a business where certain work is carried on. That is entirely different, and while the proposed paragraph would apply to such instances, it would apply also to contracts for labour only, which have been let for many years past and to which there has been no great objection. Yet the member for South Fremantle would say the responsibility should be on the person letting the contract. I know no reason why the bricklayer and the carpenter working together should not have sufficient self-reliance to attend to their own insurance, take out a policy for any persons working for them, and include the cost in their tender. I hope the amendment will not be agreed to, for it would prejudice those engaged in industry.

Mr. MARSHALL: I will support the amendment. I am not altogether hostile to the argument advanced by the member for Swan, but I am concerned about the great-

est good to the greatest number. I do not suppose any piece of legislation exists which on application has been found to be perfect. The presence of the Bill in this Chamber is due to the discovery of anomalies in the Act. There have been a few men engaged in contracting for small jobs, but not thousands of them, as has been suggested. The Committee, I hope, will agree that those men ought to be protected. The member for Swan, on the other hand, would have us persecute thousands of workers.

Mr. Sampson: I ask the hon. member to withdraw that statement. I certainly am not seeking to persecute anybody.

The CHAIRMAN: The hon. member will withdraw.

Mr. MARSHALL: I withdraw. The existing Act does not cover piece work in every industry. Invariably in every case taken to the court we have to consider the temperament of the judge or magistrate trying the case, for each interprets the law for himself. The line of demarcation between the contractor and the piece worker is so thin that, as a Cornishman would say, "If there is any difference, there is none at all." A well-sinker took a contract. All that the boss does in such cases is to indicate the spot, and the well-sinker undertakes to do the job at so much a foot until a certain water supply is obtained. A detonator exploded and a worker had three fingers blown off. Although the employer had paid the premium, the magistrate held that the worker was engaged on contract and that compensation was not payable. One man clears a chain of road at the rate of £1 a chain; another clears 100 miles at £1 a chain. The actual work is the same. Simply because one tenders and lodges a deposit for the work it is called a contract, while the other is called piece-work. Ever since we have had workers' compensation legislation there has been trouble over the definition of piece-worker and contractor, and many workers have suffered. A special amendment had to be passed to bring the timber workers under the Act. Hundreds of workers in other industries employed on a similar basis, however, have been declared to be contractors and denied benefits under the Act. The position is becoming aggravated because of the system of employment now being introduced. For years there has been a desire to Ameri-

canise industry and to mimic Americans, even to their twang.

The CHAIRMAN: We are not discussing America.

Mr. MARSHALL: I agree that the least said about it, the better. The case quoted by the member for South Fremantle clearly indicates the American system, and I doubt not that its introduction is due to the influence of members on the Government side, who have long advocated payment by results. If some members were paid by results, they would starve. The Minister said he did not desire to debar any worker from compensation for accident. Yet, by his attitude, he would deprive thousands of workers of the benefits of this legislation. If contractors do evade their responsibilities, we can amend the measure, but we should not vote out the amendment and deny relief to thousands of workers. The Premier has indicated that factories are to be started in this State. They will adopt the new system of employment, and their employees will be placed outside the scope of the measure. I do not think the Minister desires that.

Mr. Raphael: Yes, he does.

Mr. MARSHALL: I do not think so.

Mr. Raphael: He has been told to do it, and he must do it.

Mr. MARSHALL: I do not agree. I appeal to the Minister to consider the thousands of men who will be excluded if the amendment is not adopted.

Hon. A. McCALLUM: Careful reading of the amendment clearly shows that the Minister's interpretation is entirely wrong. It applies only to a man performing manual work for a consideration exceeding £5, a man who does the work or part of it himself. How can that be twisted to mean that it will include big contractors? If the only objection to the amendment is that the drafting is not clear, the Minister should suggest an improvement. A letter from the solicitor, who has acted for the men for years and has tested scores of cases in the court, reads—

The first amendment, which would specially apply to the transport workers, is in force in England as part of the Workers' Compensation Act, and also forms part of the New South Wales Act. The second amendment is taken from the New South Wales Act. The dividing line between an independent contractor and a worker is almost invisible and has been the cause of many failures on the part of genuine workers to establish their

claims in court, and many have gone to the Full Court. So these amendments should result in the reduction of litigation, and are undoubtedly a protection for the worker.

I understood that the department were sympathetic to this class of worker being covered, but that the interpretation of the law prevented their benefiting. A fine distinction was drawn between contract and piece-work, and this denied protection to many workers. Therefore I cannot understand why it is now argued that they should not be covered, but should be linked with a contractor who we do not desire should be covered.

Mr. H. W. Mann: Were you aware of this weakness in the Act when you brought down your Bill?

Hon. A. McCALLUM: No. This has grown up since these petty contracts were entered into, and since the contract system in connection with main road construction came into force. As I have already indicated, the principle is extending into the industrial life of the city. The circular I quoted earlier is dated the 5th March, 1931.

Mr. Kenneally: That is a deliberate attempt to get outside the Workers' Compensation Act.

Hon. A. McCALLUM: That is admitted in the document. The principle is extending from industry to industry. Something will have to be done to our arbitration laws to cope with the situation. When our Bill went through we thought every possible type of worker was being covered. The court has now held that these particular workers are outside the scope of the Act.

The Minister for Works: There was no argument about it on that occasion.

Hon. A. McCALLUM: We now want the mistake rectified. If it is desired that these men should take work on this finely divided system of piece-work, and that more men should be employed by this means, it is equally desirable that they should be covered for workmen's compensation. Why should not the quarryman be covered, even if he is a piece worker? If this clause is not amended in the direction we desire, a large proportion of the Government employees engaged on railway, road and drainage work will be outside the scope of the Act. Do the Government desire this? If my amendment covers too wide a scope, surely we can do something to amend it so that the big contractors are excluded,

and the men we want to protect are brought in. These piece workers work long hours and work very hard. They are more liable to meet with accidents than those who work shorter hours and at a steadier pace. If this principle is allowed to extend, Parliament will be wasting its time by passing workers' compensation legislation, on account of the few people who will be left to come under it.

The CHIEF SECRETARY: The hon. member has given a correct legal definition of the difference between a piece worker and a contractor. He says that the contractor differs from the piece worker by virtue of the control that is exercised over the latter. There is no control over the party who has entered into an agreement to do certain work, for that is the distinguishing feature of a contract as against piece work. There are also cases on the dividing line. Contract is immediately next door to piece work, and it may be that some injustice is created by that fact. The amendment would, however, go too far. It would be extraordinary that the man who is an employer himself should also be a worker and that in both capacities he should be covered for compensation. No one could support such a proposal.

Mr. Panton: That often happens in this country.

The CHIEF SECRETARY: It would be impossible to frame legislation to cover such people. We have only to cite the case of the householder who wants some small job done to his property. He sends for a tradesman to do the work, but according to this amendment he would have to ascertain from this man whether he had earned more than £500 in the year preceding.

Hon. A. McCallum: There is another clause governing that.

The CHIEF SECRETARY: Because, if the amendment were passed, such a tradesman would come under the Act. He would be a man who would enter into a contract to do work of a manual nature.

Hon. A. McCallum: But the householder would not be engaged in his business.

The CHIEF SECRETARY: The hon. member cannot frame an Act one part of which will bring a man in and another part of which would put him out again. If the tradesman is earning more than £500 a year he would have to be insured against accident. The work in question might only occupy him for three or four days; how

would it be possible to insure him? In the matter of the border-line cases that have been cited, I sympathise with the hon. member, but I do not think the amendment will cover them. It goes a great deal too far and would travel into realms into which it would be dangerous to enter. The hon. member himself suggests that although the amendment will confer certain rights which he recognises as dangerous, these rights will be taken away by some other portion of the Act. It would be unwise to pass the amendment.

Mr. KENNEALLY : The member for South Fremantle is anxious that people such as those mentioned in the circular letter which he has read to the House should be embraced within this measure. The Chief Secretary has not touched on the question of the people who will be excluded from the scope of the Bill if something in the nature of the amendment is not adopted. With all the exclusions made and proposed, workers' compensation is likely to apply to comparatively few people. The circular read by the member for South Fremantle represents evasion of the law. The Chief Secretary's sympathy for border-line cases will not give them any compensation. That sympathy should find expression in a practical form. People engaged in ordinary employment ought to be granted the right to compensation. If the amendment goes too far, let the Government indicate how far they consider it should go for the protection of border line cases. The scope of the Bill is already limited too narrowly.

Hon. S. W. MUNSIE : I regret that workers' compensation legislation, like other enactments, was initially framed by lawyers, as that means that the legislation is not intelligible to laymen. Actual workers, fully entitled to compensation, have repeatedly been defeated in the courts. A legal gentleman with experience of these cases has drafted the amendment, which I frankly admit I am unable to understand. It speaks of a contractor who neither sublets his contract nor employs any worker in connection with it, and that portion I fully comprehend. Then the amendment goes on to speak of the contractor engaging workers and actually performing part of the work himself. This latter portion I fail to grasp. Suppose a man takes a contract and gets three of his pals to help him do the work, and they all share alike. There is no paying of wages

about it. Whatever the man who took the contract receives, his mates get also. He is not employing them as wages men at all. They are as much contractors as he is, though they have had nothing to do with the making of the contract. Yet such men have in nearly every instance been ruled out by the courts when applying for compensation. The legal gentleman who drafted the amendment says the second portion of it is essential. Without it, he states, there would be no protection for numerous workers who ought to be protected. Let me give an instance. Till quite recently the men working in the Boya quarry were being paid under certain conditions as piece workers. To-day they are doing exactly the same work, and probably doing it for the same price; but they are now doing it on behalf of the Main Roads Board, and therefore are contractors and not liable to compensation. It cannot be maintained that the Workers' Compensation Act contemplates that. The men are now excluded from the benefits of the Act because they are breaking the stone for the Main Roads Board, and not for the Public Works Department, who control the quarry. If the drafting of the amendment is not right, let the Parliamentary Draftsman or the Crown Law Department be consulted with a view to having a suitable amendment drawn. The system of working on contract is rapidly spreading, with the result that more and more workers find themselves outside the pale of the Workers' Compensation Act; and that is not a position desired by any member of this Chamber.

Mr. PANTON : It is interesting to note that members on the Government side of the House, after fighting for years to establish the principle of payment by results, are now endeavouring to get away from it.

The Minister for Works : That is not so.

Hon. P. Collier : You stand for a form of employment that we did not stand for.

The Minister for Works : This system has been in operation in connection with the railways for a long time.

Mr. PANTON : The Minister knows that methods of employment to-day are different from what they were in 1924 when the measure was first introduced by the Labour Government. Moreover, there is a different policy in operation now. Never before was there so much piecework done as there is to-day. The Chief Secretary has pointed out that there is a narrow margin between

piecework and contract, but, unfortunately, in most instances the worker is on the wrong side of the margin. The members of the A.W.U. do the bulk of the unskilled work of the State. At one time the railways were constructed by day labour, but to-day it is mostly by piecework. The Chief Secretary and the Minister for Works do not appear to undersand how it is that a man can engage labour and yet be a worker himself. On public works, for instance, a certain job may be given to one man at a fixed price. That man, having a number of associates with whom he works, tells them of the job, and they carry it out as a team. The engineer in charge of the work does not know the other men; he deals with the man to whom he gave the job originally. That man does not pay the other workers; he simply distributes to each man his share of the payment for the work. The same thing applies in mining and in bricklaying, as well as in other occupations. Surely the man who is given the job and who is, in a sense, in charge, cannot by any stretch of imagination be regarded as a contractor. As a matter of fact, companies have not regarded such men as contractors, for they have insured all the men working under those conditions. If the Full Court, and probably the High Court, rule that an Act means what Parliament did not intend it to mean, the court's dictum becomes the law. If the Government desire piecework conditions to continue, they must protect the men so employed. Men engaged on a departmental job, such as I have indicated, will not be in a better position to undertake their own insurance than if they were employed directly on wages, because the departmental engineer will see to it that the rate fixed will not provide much more than bare wages. On the other hand, we know that men are prepared to take risks in order to earn additional money, and that is one reason why Labour has always insisted on such men being insured. The amendment by the member for South Fremantle will merely deal with a system of working that has arisen since the Act was first passed.

THE CHIEF SECRETARY: I am interposing for a specific purpose. I desire to explain that the amendment cannot possibly bear the interpretation placed upon it by the member for Hannans. If it were designed to bear that interpretation, it is ob-

vious that the wording would have to be somewhat to the following effect: "Any person who either for himself or with others has entered into any contract" and so on. With the inclusion of the words "though engaging workers" it will be seen that the amendment does not suggest one individual getting others to join with him in carrying out certain work. A worker is a man who does certain manual labour for wages. The term "worker" is defined in the Bill, and obviously a worker must be regarded as an individual who, although he may actually perform part of the work himself, engages others to work with him. That is mere ordinary contracting. The amendment will cover ordinary contracting; of that there is no question of doubt whatever. I understand the Minister for Works will make a statement in a moment, and I will not anticipate what he will say. I want to frankly admit that there must be border-line cases, and there must be considerable hardships. If it were possible to frame an amendment that would cover border-line cases only and not go further, it might be different. It would be difficult to frame such an amendment because whatever was done there would still be a border-line. As the member for South Fremantle quite properly indicated, there are various aspects that help to determine whether work is done by contract or piecework. There is the question of control, which may take different forms. It may relate to the time in which the work must be carried out. If it is set out that the work must be done in a certain time at a certain rate, that is piecework. In fact, the moment control is established, it immediately becomes piecework and not contract. A contractor must be independent. I am afraid it will be a difficult matter to provide for the cases cited, which do exist, without creating a further border-line. Nevertheless if a solution can be found it is well worth finding. But I should like to make it clear that the amendment goes very much further than some members seem to think it goes.

Hon. P. COLLIER: It is true there will always be border-line cases. But without some such amendment a very large number of men will be outside the border-line of compensation who hitherto have been inside it. That, I am sure, the Committee do not wish.

The Chief Secretary: They have always been outside it.

Hon. P. COLLIER: No, because, as already mentioned, this form of working has developed in recent years. A larger number of men relatively speaking are employed on payment by results to-day than ever before; for the policy of day work which has obtained in the past has been to a large extent superseded by piecework or payment by result. So large numbers of men formerly on day work will now find themselves outside workers' compensation. The circular read by the member for South Fremantle shows that in future all the men employed in a certain occupation who in the past have been employed on day wages, will in future be piece-workers and so will not be entitled to compensation. If we are to alter our method of carrying on industry, surely we must in justice provide compensation for the men affected by the alteration. The member for South Fremantle, I think, is not wedded to the wording of the clause, but the discussion indicates what is in the minds of members as to the class or section of men it is desired to protect. Having regard to the importance of the Bill the Committee, I am sure, will have to return to the consideration of at least some of the clauses before we finally dispose of them. It would be quite unusual if we were to get through a Bill of this importance without having either to postpone or recommit any of its clauses. So I suggest to the Minister that he might well postpone this clause, or allow it to pass on an undertaking to recommit. We should then be able to consult our respective legal advisers again, and perhaps have an amendment drafted that will meet the desires of members on this side without including those contractors whom the Minister, and perhaps the whole of the Committee, would exclude from the operations of the Bill.

The MINISTER FOR WORKS: I do not want to see this amendment carried, but I am prepared to give an assurance that the clause will be recommitted, in order that further attention may be given to this question. In the meantime I will try to get something suitable drafted. If members will let the clause go, I will recommit it.

Hon. A. McCALLUM: That assurance, I take it, carries with it the idea that in

the meantime we may consult with our legal adviser, and shall have an opportunity to submit another amendment; I mean that on recommitment our discussion will not be confined to any amendment submitted by the Minister.

The Minister for Works: Oh no.

The CHAIRMAN: Does the hon. member, on the Minister's undertaking, desire to withdraw his amendment?

Hon. A. McCALLUM: Yes, on the understanding that we shall have opportunity to submit our amendment.

The Minister for Works: Yes, that is right.

Hon. A. McCALLUM: Very well; I will withdraw my amendment.

Amendment. by leave, withdrawn.

The MINISTER FOR WORKS: I move an amendment—

That in line 3 of the paragraph dealing with tributers "four" be struck out, and "five" inserted in lieu.

Amendment put and passed.

Hon. A. McCALLUM: I move an amendment—

That after "situated" in line 17 of the paragraph dealing with tributers the following be inserted:—"A person plying for hire with a vehicle or vessel which does not belong to him, but is let to him by another person under an agreement of hire or hire-purchase in consideration of periodical payments to be made (whether out of the moneys earned by means of such vehicle or vessel or otherwise) shall, if his earnings do not exceed five hundred pounds a year, be deemed to be a worker, and such other person shall be deemed to be his employer, and the profits gained by such first-mentioned person by means of such vehicle or vessel shall be deemed to be remuneration paid to him as a worker."

This is contained in both the English and the New South Wales laws, and covers the worker who is buying on time payment a vehicle or vessel which he is operating. I suppose the largest number of workers in Western Australia to whom the amendment would apply are the taxi drivers. They have their cars under hire or under the hire-purchase system, and are paying so much off the cost or so much in hire. The amendment will bring them within the purview of the measure. I have inserted "vessel" because it is in the Act from which this was taken, but I do not know whether

we have in this State anybody using a vessel in such circumstances. Other classes of workers hire horses and drays, and seek to make a livelihood out of them. Others again carry on in the same way with motor trucks, particularly in country districts, carting wheat. We should make provision for all those.

THE MINISTER FOR WORKS: The hon. member is going rather far in this amendment. Under our existing Act all owners of motor vehicles using them for carrying passengers must insure. But this deals with a man who is buying a motor vehicle on the hire-purchase system. Is it intended that the man selling him the vehicle shall pay workers' compensation insurance?

Hon. A. McCallum: Yes, the man from whom the vehicle is hired.

THE MINISTER FOR WORKS: The English law definitely exempts that man from insurance.

Hon. A. McCallum: That Act merely exempts a man buying a vehicle under a hire-purchase agreement.

THE MINISTER FOR WORKS: The hon. member said that his amendment was similar to the provision in the English Act, whereas I find such men are excluded from the English Act.

Hon. A. McCallum: Only a man with a vehicle under a hire-purchase agreement.

THE MINISTER FOR WORKS: That is the principal point of the amendment. We have decided to cut out group settlers because they are working on borrowed money, and the men mentioned in the amendment are similarly placed because they are hiring a vehicle or buying under a hire-purchase agreement. To include them would extend the measure too far. In any event, the company selling or hiring out the vehicle would add the insurance premium to the price. The company would not pay it.

Hon. A. McCallum: The only point of difference between the provision in the English Act and the amendment is that the amendment includes hire-purchase. The solicitor I have already quoted stated—

The first amendment, which would apply to the transport workers, is in force in England as part of the Workers' Compensation Act and also forms part of the New South Wales Act.

Evidently the only part not in force in England is that relating to men with vehicles under a hire-purchase agreement. The rest

applies in England. That is not a very big difference.

The Minister for Works: It is.

Hon. A. McCallum: The amendment stipulates "hire or hire-purchase." If we struck out "hire-purchase" the amendment would be the same as the provision in the English Act.

The Minister for Works: No.

Hon. A. McCallum: The point is that men are earning a living by using hired vehicles. Whether they are under hire, hire-purchase or time-payment does not matter. There is little doubt that the premium cost would be passed on to the men doing the work but the question is whether such workers should not be covered by the Act. We believe the measure should be all-embracing. The Minister's argument against including group settlers was that they would be employers.

The Minister for Works: No.

Hon. A. McCallum: The Minister said that some of them were employing labour now. That argument does not apply to the amendment. A worker is using a hired vehicle to earn a living and is running all the risks of the occupation, and should have an opportunity to come under the Act. If he carries passengers, he has to take out a third-party risk, but that is for the benefit of the passengers.

The Minister for Works: Who would pay the third-party risk?

Hon. A. McCallum: The man.

The Minister for Works: If he has the means to pay that, surely he would be able to pay for accident insurance.

Hon. A. McCallum: A serious accident might involve injury to several persons. I would not object to excluding men obtaining vehicles under hire-purchase agreements. When I was Minister the police advised me that the 100 odd taxi men on the Fremantle run were hardly making a living, but though they had to pay insurance on their vehicles and the passengers they carried, no provision was made for the men themselves. I cannot understand why they should be shut out from workers' compensation. Here is a system providing for all classes of workers who may be injured in their employment. It would be better to get the whole community of wage earners into that channel.

The Minister for Works: The wage earners are already in it.

Hon. A. McCALLUM: My desire is to class these people as wage earners until they have actually paid for their vehicles. They have no means of their own and no resources, and in order that their passengers might be protected we insisted on the third-party risk being taken out. The same protection should be extended to the driver himself. Otherwise, in the event of an accident, his dependants must become a charge upon the State. The cost of workers' compensation will merely be added to the price of the car the man is buying.

The Minister for Works: You would not say that the motor distributor was engaged in the industry of driving cars for hire.

Hon. A. McCALLUM: The man who will pay will be the man who plies his car for hire. Someone, however, must be the employer.

The Minister for Works: The man who sells the motor car is not the employer.

Hon. A. McCALLUM: He would be the employer for the purposes of the Act. He would be the channel through which the insurance money was collected. The cost would be added to the price of the car, so that the employer would not incur any extra risk.

The Minister for Works: How would the vendor be liable if the purchaser of a car acquired it firstly for private use and later on used it for hiring purposes?

Hon. A. McCALLUM: Before a man can ply for hire with his motor car he must take out a license as well as be covered for the third-party risk. Cover could be taken out for workers' compensation at the same time. Every car must go before the licensing authority to be licensed.

The Minister for Works: Does the Act say that the police cannot issue a license unless the owner has taken out a policy for workers' compensation?

Hon. A. McCALLUM: If the law makes provision for this, the police will see that it is done.

Mr. SAMPSON: The member for South Fremantle says that until a vehicle is owned outright, the responsibility for workers' compensation insurance should rest with the person who supplies the vehicle. Apparently we are to be beguiled into acknowledging a principle which will lead us into a veritable labyrinth of confusion. An engineer, for instance, might purchase a lathe on time payment. Under the principle enunciated by the hon. member the firm selling the machine

would have to keep tab upon the purchaser to make sure that the premiums for workers' compensation were paid. The principle is impracticable and entirely wrong. The responsibility must rest upon the person operating the plant. Again, how many mining companies own their plants? Are not nearly all the mining companies either financed by banks or guaranteed by Governments? The charabanc driver who is running on a share basis hands the proprietor a proportion of the earnings. That is an entirely different basis from the one here in view. The driver and the proprietor are on somewhat the same footing as the parties to a share-farming agreement. That has no relation to the clause before the Committee. The member for South Fremantle is not serious in this matter.

Amendment put and negatived.

Clause, as previously amended, put and passed.

Clause 5—agreed to.

[Mr. Panton took the Chair.]

Clause 6—Workers' Compensation Commission:

The MINISTER FOR WORKS: I move an amendment—

That in line 9 the words "on the nomination of" be struck out, with a view to inserting "to be chosen from three persons nominated by."

The Government consider they should have the choice from among three names submitted by the Employers' Federation and the A.L.P. Neither the Employers' Federation nor the A.L.P. should have the right to say to the Government, "Nominate this particular man."

Mr. KENNEALLY: The Minister has fallen from grace. He is introducing a new principle, one originated by Mr. Bruce in the Federal Parliament with respect to nominations for Geneva. Why should not the Minister trust the nominating bodies entirely? Who has asked him to move this amendment? Does the request come from a party objecting to a nomination being made by the A.L.P.? What has happened?

The Minister for Works: Nothing has happened.

Mr. KENNEALLY: Why does the Minister now refuse to trust the nominating bodies?

The Minister for Works: I do trust them. Surely the A.L.P. have three men they can trust!

Mr. KENNEALLY: The A.L.P. will send along the name of a man whom they can trust and who will do the job. I am still inquisitive as to what has caused the Minister's change of mind. The proposal now is that the Government who represent the wiseacres of the country, are to make the final nomination.

The Minister for Works: Both sides are being treated alike.

Mr. KENNEALLY: Yes; and possibly at the suggestion of one side, and that side not the A.L.P. If the Government insist upon having the final decision, it is questionable whether three nominations will be submitted by the A.L.P. We can say to the Government, "We will have nothing to do with you." No doubt the Government will be able to find someone to do the dirty work. There was scab representation of Labour at Geneva owing to the system introduced by Mr. Bruce. The Minister has given no reason for the proposed alteration. If the commission are to start off with the goodwill of the employers and the workers, they must be trusted fully. The Minister failed to give the Committee any reasons for the departure he proposes from his own Bill. As a matter of fact, someone has apparently put him wise to what Bruce did in his particular sphere.

The Minister for Works: Tell us what he did: I do not know.

Mr. KENNEALLY: He introduced a system by which scabs—

The Minister for Works: On a point of order! What has this to do with the amendment?

The CHAIRMAN: The Minister asked a question, and I presume he is being answered.

Mr. KENNEALLY: I am prepared to listen to any reasons the Minister may advance, but until he does furnish us with those reasons I shall continue to regard his amendment as dangerous and aimed to secure disruption rather than to assist.

Mr. MARSHALL: I do not know what fever the Minister is suffering from! When dealing with every amendment that has been suggested, the Minister merely gets up and says he cannot agree.

The Minister for Works: I have agreed to two out of three!

Mr. MARSHALL: The Minister always says he cannot agree.

The CHAIRMAN: Order! I presume the hon. member intends to deal with the amendment.

Mr. MARSHALL: Yes, Mr. Chairman—in my own good time.

The CHAIRMAN: Order! The hon. member will resume his seat. The hon. member will speak to the amendment when he rises to his feet, and not in his own good time.

Mr. MARSHALL: The Minister has said so often that he cannot agree, that now we find he cannot agree with his own Bill. He has moved an amendment without giving us any reasons at all. The amendment implies a lack of confidence in the State Executive of the A.L.P.

The Minister for Works: What about the Employers' Federation?

Mr. MARSHALL: I am not troubling about them. I appreciate the fact that they are full of incompetence. They buy their intelligence and instructions every morning at breakfast time from the "West Australian." It would be reasonable to allow the Labour movement to select Labour's representative on the commission. That was what the Minister proposed, but the inference to be drawn from his own amendment to his Bill is that he has no confidence in the competency of the executive of the A.L.P. to make a suitable appointment, and therefore he requires three nominations in order that he may select Labour's representative himself. If that is not an insult, I am at a loss to understand to what extent the Minister will go before he will suggest he has been offensive. Surely the State Executive of the A.L.P. is the proper body to select the Labour representative on the commission. Can the Minister contend that he or any other member of the Cabinet would be a better judge of a Labour representative on this board than would the State executive of the A.L.P.? Yet that is what the Minister's amendment implies. We want the best man we can get on that board, and the State executive of the A.L.P. is the body best fitted to select that man. The Minister merely moved his amendment and resumed his seat, without offering any reasons for that amendment. It is unthinkable that a Minister should seek to amend his own Bill without attempting to justify the amendment, espe-

ially when that amendment constitutes an implied insult to the A.L.P.

The MINISTER FOR WORKS: I am surprised at the hon. member's outburst. A number of my amendments have arisen out of the discussion of members opposite. On a previous occasion they talked about panels, so I did not think I should be doing anything wrong in inviting the A.L.P. and the Employers' Federation each to submit a panel of three men for a final selection by Cabinet. There is nothing unusual in this, and certainly there cannot be thought to be anything behind it. If members do not like this amendment, I will move to delete all words after "Governor." The amendment is essentially a reasonable one, for there can be nothing wrong in asking the A.L.P. to submit three names for a final selection by Cabinet. Because the Government say to the A.L.P., "We want you to send in three names from which we will select one," members opposite refuse to help. It is a ridiculous attitude to take up. There is nothing wrong with the amendment.

Mr. Kenneally: Is there anything wrong in the Bill?

The MINISTER FOR WORKS: The Government have already agreed to the amendment. It is only right that some choice should be left with the Government, who have to administer the Act.

Hon. A. McCALLUM: The first question that occurs is why the Minister should seek to amend his Bill, which has been under consideration for many months. We were told the measure was to be introduced last year. In November the Premier advised us that it was being drafted. During all the intervening months the Bill has been under consideration, and something must have happened for such a vital alteration to be made at this stage. The Government appear to have an idea that someone is likely to be nominated of whom they would not approve.

Mr. Marshall: If not, why the amendment?

Hon. A. McCALLUM: There is no parallel between these appointments and the appointment of a medical board.

Hon. W. D. Johnson: You did not have to submit three names for an arbitration court representative.

Hon. A. McCALLUM: No; that course was attempted at one time, but neither side would stand it.

Hon. P. Collier: I think the Government do not care much about the president of the Employers' Federation.

The Minister for Works: To tell the truth, that is probably what I had in mind.

Hon. A. McCALLUM: But it might apply to our side.

The Minister for Lands: It would be difficult to make a choice from your side because your men are all so good.

Hon. A. McCALLUM: Then narrow it down to one, and the responsibility will rest with somebody else. The members of the commission should not be the choice of the Government.

The Minister for Works: They will not be. Each body is to send three names and the Government will choose one of them.

Hon. A. McCALLUM: That indicates that the Government are not prepared to allow those bodies a free choice.

The Minister for Works: We are. You send three names.

Hon. S. W. Munsie: Give us three on the commission and we will send three names.

Hon. A. McCALLUM: We want to have the final say as to who our representative shall be, and the other body should have the final say regarding their representative. Two such important organisations can be trusted to exercise sound judgment. No one more than they would realise the importance of the appointments to their own membership. Members of the Cabinet are not likely to be in a better position to make the choice. Such an important alteration, coming at this stage, is suspicious.

The Minister for Works: The Employers' Federation are opposed to the Bill.

Hon. A. McCALLUM: So are we, lock, stock, and barrel. If the Minister takes notice of us, he will put it in the waste paper basket immediately.

The Minister for Lands: They do not agree with you on the points on which you are opposing it.

The CHAIRMAN: Order! The hon. member must adhere to the amendment before the Chair.

Hon. A. McCALLUM: I should like to know why the Minister will not trust the two organisations. The Bill as drafted acknowledges the two interests concerned, and each should be permitted to nominate a representative. I hope the amendment will be defeated. It materially alters the construction of the Bill, shows lack of confidence

in these particular bodies, and causes suspicion because it is sought to make the alteration at this stage in the proceedings.

[*Mr. Angelo took the Chair.*]

Mr. KENNEALLY: The commission will be a very important body. If the amendment is carried three nominees will be sent in by the Employers' Federation and three by the A.L.P., and the Government will select one from each. It may happen when the next time comes to select representatives that the Government may think the A.L.P. commissioner has been too liberal in the treatment he has accorded to workers, and he may be put out of his position. The same thing may occur in the case of the representative of the Employers' Federation if a Labour Government hold the reins of office. After three years, a member of this commission should be far more competent than he was at the beginning, but, no matter how competent he may be, the Government may replace him with somebody far less efficient merely because he has not supported their policy. I cannot help but be suspicious of an eleventh hour amendment of this sort.

Amendment (to strike out words) put, and a division taken with the following result:—

| | | | | | |
|------|----|----|----|----|----|
| Ayes | .. | .. | .. | .. | 20 |
| Noes | .. | .. | .. | .. | 17 |

Majority for 3

AYES.

| | |
|----------------|-----------------|
| Mr. Barnard | Mr. Piesse |
| Mr. Brown | Mr. Richardson |
| Mr. Doney | Mr. Sampson |
| Mr. Griffiths | Mr. Scaddan |
| Mr. Keenan | Mr. J. H. Smith |
| Mr. Latham | Mr. J. M. Smith |
| Mr. Lindsay | Mr. Thorn |
| Mr. H. W. Mann | Mr. Wells |
| Mr. J. L. Mann | Mr. North |
| Mr. McLarty | (Teller.) |
| Mr. Patrick | |

NOES.

| | |
|----------------|----------------|
| Mr. Corboy | Mr. Munsie |
| Mr. Cunningham | Mr. Raphael |
| Mr. Hegney | Mr. Sleeman |
| Mr. Johnson | Mr. Troy |
| Mr. Kenneally | Mr. Wansbrough |
| Mr. Lamond | Mr. Willcock |
| Mr. Marshall | Mr. Withers |
| Mr. McCallum | Mr. Penton |
| Mr. Millington | (Teller.) |

PAIRS.

| AYES. | NOES. |
|--------------------|--------------|
| Sir James Mitchell | Mr. Collier |
| Mr. Davy | Mr. Wilson |
| Mr. Parker | Mr. Coverley |
| Mr. Teesdale | Miss Hobman |
| Mr. Ferguson | Mr. Walker |

Amendment thus passed.

The CHAIRMAN: The question now is, that the words "to be chosen from three persons nominated by" be inserted.

Hon. A. McCALLUM: I move an amendment on the amendment—

That the word "three" be struck out, and "two" inserted in lieu.

If the Government want a choice, they will have a choice out of two nominations.

Amendment on the amendment put and passed.

Amendment, as amended, put and passed; the clause, as amended, agreed to.

Clauses 7 to 12—agreed to.

Clause 13—Workers' Compensation Fund:

The MINISTER FOR WORKS: I move an amendment—

That in Subclause 1, after the word "Treasury," there be inserted "shall carry interest at the prescribed rate."

The intention of the amendment is that the Treasury shall pay interest on the fund to be established at the Treasury.

Amendment put and passed; the clause, as amended, agreed to.

Clause 14—Liability of employers:

The MINISTER FOR WORKS: I move an amendment—

That the following proviso be added to the clause:—"Provided that if an employer proves to the satisfaction of the Minister that such employer has before the commencement of this Act established a fund for insurance against liability in respect of injuries suffered by workers employed by him, and has deposited at the Treasury securities charged with all payments to become due under such liability, the Governor may exempt such employer from the liability to make contributions under this Act, and may at any time revoke any such exemption; and provided further, that the workers covered by such insurance shall not have any claim against the fund established by this section in respect of injuries suffered during the period of any such exemption."

People who have the option of self-insurance under the existing Act have asked for the insertion of this amendment, though in my opinion the necessity for it is not now so great. The firms in question are large employers of labour, and probably will be able to do the insurance somewhat cheaper than even the State under the Bill. Naturally the Government would prefer to have the

large employers insuring with the State, since that class of business is the least expensive. However, only employers self-insuring before the commencement of this measure will be permitted to continue the system. If there is one class of self-insurance that should be allowed it is that relating to shipping.

Hon. A. McCALLUM: I have no objection to the proviso as it appears now because I think it has had a good effect. When the public read about high rates operating in various industries, particularly the timber industry, it must be realised that the high rates are not paid by many of the biggest firms because they have their own insurance funds. That applies in connection with the coal mines at Collie and with many large commercial concerns in the city. I presume the Minister has had inquiries made as to how the proviso will affect the construction of the Bill itself and whether or not the funds will be under the control of the commission. What will be the position of the workers? The Bill provides that the commission will control the insurance fund and will have power to say what the worker shall do and so forth. Any action by the workers will be against the commission and not against the employer. If the commission will not have control of these particular funds, the proviso will have to be altered. As it is now, I am afraid the miners at Collie, for instance, will have no redress against the coal owners but against the commission only, and yet the commission will have no control over the Collie mines insurance fund.

The Minister for Works: I think the position is covered by Clause 14.

Hon. A. McCALLUM: At the same time, wherever reference is made to action on the part of the worker, it is set up that that action shall be against the commission, not against the employer, yet the commission will not control the private insurance funds.

The Minister for Works: The commission will have no control over self-insurance funds.

Hon. A. McCALLUM: Then where does the worker stand?

The Minister for Works: If there is any doubt about it I shall refer the matter to the Parliamentary Draftsman again.

The Minister for Mines: At any rate, the worker must not be in any worse position

under the commission than he is in at present.

Hon. A. McCALLUM: No. It seems to me the worker will have no redress against the employers having their own insurance funds, and that is a real danger. I shall be content if the Minister gives me his assurance that this matter will be referred to the Parliamentary Draftsman.

Progress reported.

BILL—FARMERS' DEBTS ADJUSTMENT ACT AMENDMENT.

Report of Committee adopted.

House adjourned at 10.59

Legislative Council,

Thursday, 4th June, 1931.

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

LEADER OF THE HOUSE, TEMPORARY.

The DEPUTY PRESIDENT: I have received from the Acting Premier the following communication, dated the 4th June, 1931:—

The Deputy President of the Legislative Council. Dear Sir,—I very much regret to have to advise you that the Leader of the House, the Hon. C. F. Baxter, has been taken ill, and I have appointed the Hon. H. Seddon to lead the House during the temporary absence of Mr. Baxter. I trust that will be acceptable to yourself and the House. Yours faithfully, C. G. Latham, Acting Premier.