

Minister's attention to one clause of the measure—Clause 7, which says that the Act shall come into operation on the 1st January, 1933. That seems to me a peculiar provision. Usually the Short Title and commencement date go together in one clause. A like provision appears in the companion measure to this Bill; but in the companion measure it stands as Clause 2. For the sake of uniformity, the clauses should be in the same form and appear in the same position in the different Bills.

On motion by Hon. J. J. Holmes, debate adjourned.

*House adjourned at 8.46 p.m.*

## Legislative Assembly,

*Wednesday, 12th October, 1932.*

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

### BILLS (2)—FIRST READING.

- 1, Land Tax and Income Tax.  
Introduced by the Premier.
- 2, Newspaper Libel and Registration Act Amendment.  
Introduced by Mr. Parker.

### MOTION—HERDSMAN LAKE SETTLERS.

MR. MILLINGTON (Mt. Hawthorn)  
[4.35]: I move—

That in the opinion of this House a re-appraisal board should be appointed to revalue the holdings of the settlers on the Herdsman Lake.

My reason for doing this is that I have received a petition from 38 of the Herdsman Lake settlers urging the Government to appoint a re-appraisal board to revalue the holdings occupied by them. The Minister has kindly permitted me to peruse the file dealing with the Herdsman Lake settlement, that is, the recent settlement of 39 or 40 settlers on the east and south sides of the lake. The value placed on the land in those holdings is £70 per acre, and the houses which have been erected are valued at £260, the bare cost of the house. I have nothing to say against that, for it is a fair value. It is only in respect of the value of the land that I am moving for the appointment of a board to re-appraise it. In endeavouring to arrive at the actual value of this land it is necessary to go into the history of the purchase of the estate. As far back as 1916 the Government were approached to purchase the Herdsman Lake, at that time under water. After lengthy negotiations and an endeavour to assess the cost of dewatering the lake, it was eventually recommended that a fair value for the purchase of the lake would be £10,000. The advisory board originally recommending the purchase were undoubtedly influenced by the estimated cost of dewatering the lake. At that time it was generally recognised, although different estimates were given, that the lake could be dewatered for £25,000, and in their estimates the advisory board said that with the original cost of £10,000 plus the cost of drainage, including a tunnel to the ocean, about 2½ miles through the hills, would be from £30,000 to £35,000. It was estimated that the roads, surveys, etc., would cost £15,000, which would make the land worth for valuing from £40 to £45 per acre. After the recommendation had been made, and a start entered upon with the drainage, the trouble began. It was then discovered that the original estimate would be considerably exceeded, and the first estimate of £25,000 was very shortly altered to read £50,000.

Shortly after that there is a note on the file to the effect that the drainage would cost £72,000. As it went up from £25,000 to £50,000, it meant that the land value was increased by £25 per acre.

The Attorney General: The land cost.

Mr. MILLINGTON: Yes, the land cost. This went on and, despite the fact that this land was purchased on the understanding that it would cost £25,000 to drain, eventually it cost £113,000.

The Minister for Lands: That was only the first payment on drainage.

Mr. MILLINGTON: That is all disclosed on the files I have. Prior to the purchase, various reports were submitted, and one in particular by Mr. Mann, the then Government Analyst, who advised caution. He took samples from 23 bores in the lake in order to arrive at the value of the soil, and in addition he endeavoured to compare it with the soils of recognised valuable land in the Osborne Park district. At that time the difficulty was to value the land, which was under water. The water was spread over roughly 1,000 acres, and we have to admit it was extremely difficult to value the land. In very truth this was purchasing a pig in a poke. But at that time there was a desire to purchase lands for the settlement of soldiers, and because of its proximity to the metropolitan area it was considered advisable—if it were possible to do it on a commercial basis—to repurchase Herdsman Lake and drain it. There appears to be an impression that all swamp lands are of equal value, and because swamp lands in the Osborne Park district, land which is perfectly drained and which can be irrigated and used for intense culture, has been sold for £100 per acre, it was assumed that Herdsman Lake land, if it could be drained, would be of equal value to the best land in the Osborne Park district. That is where the initial miscalculation was made. Although it is true those advising the purchase estimated throughout that it would be a practical proposition provided the land could be drained and brought under cultivation for about £40 or £45 an acre, it was never assumed that it was going to cost £100 per acre to de-water the land and to survey it and put in the necessary roads, and so forth. The cost eventually mounted to £100 per acre before

the settler went on the land. And that has nothing to do with the clearing the settler had to put in after the land was allotted to him. In order to show where the initial mistakes and miscalculations were made, I will read a few extracts from Mr. Mann's report. He analysed 23 samples from bores in various parts of the lake and compared them with samples of soil in good country in the Osborne Park district. He reported that the first-class soils in the Osborne Park district contained 40 per cent. of organic matter, that the second-class soils contained from 20 to 40 per cent. of organic matter, and that the third-class soils contained less than 20 per cent. of organic matter. This is what he reports of the samples he took from the bed of the lake—

If we view the Herdsman Lake samples by the light of this classification we find that the 21 samples taken by Mr. Arney, two samples or 9.5 (less than 10 per cent.) are first-class, 11 samples or 52 per cent. are second-class and 8 samples or 38 per cent. are third-class.

Those who were disposed to assume that Herdsman Lake was equal to first-class swamp land in Osborne Park were not entitled to that assumption. Before the land was purchased and dewatered, when those responsible had the opportunity to estimate the value of the land, they were plainly told by the Government Analyst that only 10 per cent. was first-class, 50 per cent. was second-class and 38 per cent. third class land. Despite that information the purchase was proceeded with. I will show later what is the actual economic value of the land and the need there is for re-pricing. Before the land was purchased and before any attempt was made to drain it, the only authority that was available to go by demonstrated clearly and undeniably that only 10 per cent. was first-class land. Mr. Mann went on to say—

I think it would be a fair inference considering the area covered by Mr. Arney's survey. This may be taken as indicative of the proportions of the different kind of soil for the whole area of the lake.

Those responsible for the purchase had sufficient warning. He went on to say—

There is a decidedly bare strip running along the western boundary of the lake, and the best samples seem to be more in the neighbourhood of the eastern bank.

Mr. Mann in his conclusions says—

I am of opinion that the evidence available indicates that this lake if drained could be utilised for establishing market gardens, but that only a small proportion of it would compare with the best market-garden land at Osborne Park.

In February, 1920, the Advisory Board recommended the purchase of the lake at a price not exceeding £10 per acre. At that time the estimated cost of drainage was £25,000. Mr. McLarty, Controller of Group Settlement, referring to the proposed purchase, pointed out that the price was £10,000 and gave the cost of drainage at between £20,000 and £25,000. He indicated that a further £15,000 would be required to line sections of the drains, which would bring the price up to about £45 per acre. He pointed out that if the area could be purchased and drained at that cost it should be a commercial proposition. All through the piece the Government advisers built up their estimates on the assumption that the lake could be drained at a cost of about £25,000. In August of that year Mr. Brodribb, the accountant, placed a minute on the file stating that the estimated cost of drainage was £20,000. From then on, the original estimates were considerably exceeded. In December, 1921, the Minister for Works and Trading Concerns pointed out that the estimated cost had been raised to £50,000. He seemed perturbed that the cost had been doubled. Within a few months it was reported that the cost could be set down at about £72,000. Eventually it was found that the cost for drainage only had amounted to £113,000. I agree there is some excuse for the miscalculation in respect to the commercial value of the land whilst it was under water. The value placed upon it is due practically to the enormous cost of bringing it to its present stage, that is, the cost of drainage. No one has suggested that the land is as valuable as that which brings in £100 per acre in the Osborne Park district. The latter is cleared land; it is not rough such as the Herdsman Lake land, but is cleared and drained, and it is also land that can be irrigated. When it came to valuing the lake I realised the difficulty of the position in which the Surveyor General was placed. Knowing that the land had cost nearly £100 per acre, he placed an arbitrary valuation of £70 per acre upon it. No attempt was made to give it a commercial

value. The price placed upon it was based entirely upon its cost. Some of the land, I believe, was as much as 10 feet under water, and the usual thing was to find it 6 or 7 feet under water. It seems to me that land of this kind is valued according to the quantity of water which has to be pumped or drained from it. We have now reached the stage when the land has been used. Those settled upon it are attempting to use it in a commercial way. They have to bear the cost, not of the actual economic value of the land, which was placed upon it by competent valuers having regard to similar land in the district, but a price which was entirely due to the excessive cost of drainage and to the miscalculations that were made. Had it been realised in the first place that this land would cost so much, it would never have been purchased. The methods I have described have been responsible for the valuation of the lake. Those who are attempting to purchase the land and have commenced to use it, and have discovered its deficiencies, naturally now desire that the correct valuation should be placed upon it. Up to date 39 blocks have been surveyed. They range from five to nine acres in extent, and cost from £610 to £944. The fortnightly payments vary from £1 17s. to £3 16s. 8d. Those people are making their purchases on 30 years' terms, and the interest charged is 6½ per cent. On the average the houses have been valued at £358. On a five-acre block the house would be worth about £260 and the land would be priced at £350. The settlers are acquiring their property over a period of years. They pay interest and purchase instalments on the capital value for 30 years, but now they are working the land, they realise that however competent they may be, there is no hope of their being able to pay that price unless they have some other source of income. The Minister says it was never intended that the settlers should get their living from this land. If that is so, why were they given five acres of swamp land?

Hon. M. F. Troy: Who said that?

Mr. MILLINGTON: The Minister says so.

The Minister for Lands: Did you intend that when you subdivided the land? Your signature is attached to the Executive Council minute.

Mr. MILLINGTON: I am not attaching too much blame to those responsible for the purchase of the lake. I could put up a good case if I desired to make a party issue of it, as to the bungling and blundering that took place over the purchase of the lake.

The Minister for Lands: You cannot implicate me in that.

Mr. MILLINGTON: In the first place the Surveyor General certainly placed a price of £70 per acre on the land, and this was agreed to. At that time no one could know the value of the land and so this arbitrary figure was put upon it. This is what the Minister has to face. Since settlement has taken place, the settlers have complained that the price is excessive, that there is no justification for putting that price upon the land and no hope of getting that value out of it. They objected to a valuation of £70.

Hon. M. F. Troy: For market garden purposes?

Mr. MILLINGTON: Yes. If the Minister suggests that up to five acres of swamp land is a small holding, he knows very little about the subject. That is a big holding of swamp land. I defy any one man to use that quantity. I know of two men who are making a good living off two acres of swamp land. Those men are being charged a first-class price for what Mr. Mann says is only third-class land. No one is going to pay £70 an acre for third-class land, and be condemned for 30 years to pay interest at 6½ per cent. as well as a sinking fund. All the settlers ask is that a competent valuer shall re-value the land. The Minister himself is not competent to do the valuing. I do not suggest that I am competent to value swamp land. If a board were appointed having a knowledge of the value of swamp land and having regard to the evidence which could be adduced from the settlers in the Osborne Park district, it would be possible to place an economic value on the land and render it easier for the men there to pay their way. This is not the first time a miscalculation has been made. Almost simultaneously with the purchase of the lake other swamp land propositions were purchased. In some instances it was impossible to drain them properly, and when an attempt was made to bring them under cultivation it was discovered that the original price was far in excess of the actual value. In other cases the land was written-

down to its economic value. Men would not attempt to cultivate it unless this was done. And that is all we are asking here. No special consideration is being asked for these settlers. The revaluation is not requested because of the recent slump, nor because of the calamities which have recently befallen the agriculturists of this State. We are asking for revaluation because a wrong basis of valuation has been adopted. The suggestion of the settlers concerned is that someone independent of any political party should value the land, having regard to its economic value. The question may be asked, why is it necessary to bring the matter before the House? Because the Minister would take no notice of applications from the settlers. At the request of the settlers I wrote to the Minister in April of last year as follows—

I think a competent valuer would have to agree that the land is over-valued. It seems to me that taking £70 as a basis, being the price charged by the department, and adding to that the cost of clearing and draining—and also consideration must be given to the time it will take for the land to sweeten up until it is fit to produce crops—with the ultimate production under the best conditions and by the most competent settlers they could not possibly pay the overhead charges or the price of the land. Therefore I think the settlers are justified in asking for a revaluation.

Here is the Minister's reply—

I desire to point out that the amount charged per acre does not recompense the Government for the cost of purchase.

Of course it does not, but that is not the fault of the present settlers.

With road construction and drainage, and seeing that markets have been established in close proximity, there is little doubt that the values are fair and reasonable.

When we have a Minister saying that the value of the land as fixed, £70 per acre for third-class swamp land not properly drained, which will cost from £30 to £35 per acre to clear, is fair and reasonable, I consider I am entitled to ask that the price should be fixed by someone more competent and less biased than the Minister. The hon. gentleman goes on to say—

There is little doubt that Southern Europeans and others would welcome the opportunity of securing holdings in this locality at prices in excess of those charged by the Government.

That, of course, is pure nonsense. When the blocks were thrown open during the time of the Labour Government, there were, I think, only three or four applicants for land which is as good as this. I believe one or two of those who at the time secured blocks are still on them.

The Minister for Lands: Did you say that of the settlers who originally selected this land only one or two are left?

Mr. MILLINGTON: Of those who took it up during the time the Labour Government were in office.

The Minister for Lands: Were there not only four blocks selected?

Mr. MILLINGTON: Yes.

The Minister for Lands: And two of those settlers are still there?

Mr. MILLINGTON: Yes. The Minister suggests that Southern Europeans would purchase the land at a price in excess of that charged by the Government. Let me tell the hon. gentleman that Southern Europeans, while good workers, are pretty good judges of swamp land, and that I do not think there is one of them who would select one of the 38 holdings to which I am alluding. They know too much about swamp land; they know that this land would take many years to become productive.

The Minister for Lands: They have been debarred from selecting it.

Mr. MILLINGTON: They would be too shrewd to take up that land, in any case.

The Minister for Lands: When you were fixing the price of this land, you ought to have fixed a price that was reasonable.

Mr. MILLINGTON: We know more now than we did then. I am only blaming the Minister for adhering to an original mistake. The following quotation from the Minister's letter shows how complete is his misconception of the whole position—

As the instalments approximate the rental of a house in town, it is considered not unreasonable to ask holders to pay rental. The settlers have been previously advised that there can be no general exemption granted.

And so on. As regards the approximate rental of a house in town, I have stated that the fortnightly payments on these holdings are from £1 17s. 1d. to £2 16s. 8d. A weatherboard house of the type on these blocks costs about £250 to build. And the Minister suggests that a fair rental for such a house in town would

be from £1 17s. 1d. to £2 16s. 8d. per fortnight. The settlers have no complaints regarding the cottages.

The Minister for Lands: You did have a complaint on that score the first time I was out there with you.

Mr. MILLINGTON: The approximate value of such a cottage in town would be about 8s. per week, or 16s. per fortnight, and not what is the average fortnightly payment on these blocks, £2. I quite agree that in the houses the settlers have reasonable value. There is no suggestion or request that the houses should be revalued. Naturally, I am not blaming either the Minister or the Surveyor General for the price originally placed on the land. I have said that previously. I know that during the term of the Labour Government the Surveyor-General's recommendation that £70 per acre be the price placed upon the land was agreed to; but the settlers, since being placed on these holdings, have discovered to their sorrow—I personally regret very much that it is so—that the land is not of the value originally assumed. This has been proved as a result of cultivating the land and attempting to grow suitable crops on it. It has turned out not to be of equal value with other Osborne Park swamp land. For instance, Professor Prescott was brought into the matter, and this is what he said as late as 1930, after the land had been drained for some years, in respect of the soil of Herdsman Lake—

The rubber-like material which I saw is undoubtedly the material which you sampled and analysed. It is the most remarkable soil I have ever seen, and I think it owes its special character to the fact that the organic matter is not humified. It is difficult to say how long such material would take to become true soil; and there will certainly be a risk involved in cutting up the lake for market garden purposes, as was originally intended.

The Director of Agriculture, being asked to report on the matter, stated that it appeared that the land was suitable or disposed to grow salt-loving plants. He also reported that the water table was too high. In respect of the question that amuses the Minister for Lands, the value of the blocks—

The Minister for Lands: Who said the question was amusing to me?

Mr. MILLINGTON: —and the difficulties of the settlers—

The Minister for Lands: Amused!

Mr. MILLINGTON: The Minister looks amused.

The Minister for Lands: If a man does not cry when you speak, he is amused. I was laughing at something quite distinct from this subject.

Hon. A. McCallum: It is no laughing matter to the men who are asked to pay such excessive prices.

Mr. MILLINGTON: I would like the Minister to give a little attention to the case I am endeavouring to put up for the settlers. Since he would not deal with it departmentally, I am compelled to bring it before the Chamber. The only way in which the value of this land can be determined is to try it out; and this has been done by the settlers, among whom there have been competent men, although of course not all of them had the necessary experience of swamp land. Among these settlers, nevertheless, there have been men whom I could name, who are first-class farmers and have a knowledge of the cultivation of swamp land, and who have failed on these blocks. In fact, the settlers who could afford it have gone off the blocks and got on to other holdings. They realised that it was impracticable to make a living on the Herdsman Lake holdings. In order to have something definite to go on, the settlers got in touch with the Minister, who agreed that the experts of the Agricultural Department should conduct experimental plots on the lake, the settlers agreeing to work under the supervision of the experts. Such a trial should be a fair trial. Yet even under those conditions, the trial plots being supervised, the different plants that should grow on the different soils having been determined upon, and regard being paid also to the directions of the experts as to the fertiliser to be used, the plots proved total failures. Whatever may have been considered the value of this land when under water, and whatever the valuers may consider to be its value now that it is above water, I contend that regard must be paid to the actual produce of the land, to the results of proper cultivation. This test has been applied to the land by the Agricultural Department's experts, and by settlers who have now been on the holdings for over two years. I have here a chart supplied by the Agricultural Department in respect of two holders. One of them, Mr. Hemley, has put a good

deal of money into his holding, and has dug a channel from the ring drain right through his holding in order to get water from the ring drain. On his holding several plots have been tried under the supervision of the Agricultural Department's experts. It is written at the bottom of the chart that each of the plots has been a total failure. Another chart supplied by the agricultural adviser refers to plots put in under his supervision and carefully tended by the holder. The account is signed by F. White, and it states, "General failure on account of acid in land." The samples which have since been analysed show that this land—I presume because of the length of time it was under water—will require an excessive period for sweetening. During that time the purchaser and owner—and this is the important part—has to endeavour to get a living. Since this has been proven, and since these settlers should be not discouraged but encouraged to stay on their blocks—and they cannot possibly do so with the knowledge that the prices they are paying are out of all proportion to the value of the land—I am moving the motion. Irrespective of what was the cost of acquiring and draining the land, and irrespective of the cost of clearing it and putting it in fit condition to be cultivable, it has been shown, as the result of the numerous trials which have been made, that the land, instead of being first class, is third class. The only thing about the whole of the holdings is that the price charged is for first-class land, but that price applies to third-class land. Then, again, the settlers say that as the Government, or the Minister, refused to take into consideration the new evidence produced since the land has been settled and attempts have been made to cultivate it, Parliament should be asked to deal with their condition and decree that an independent and competent board be set up to re-assess the value of their holdings. If that is done, they will have some heart to continue clearing, cultivating and developing their holdings. Another factor was not realised when the land was purchased, and it was not appreciated until recently. I refer to the fact that the natural water throughout practically the whole of the settled area is not suitable for irrigation purposes. Where the water has been used in that direction, it has been found foul and deleterious to plant life.

Instead of helping it to live, vegetation has been killed by the water. In order to get a supply suitable for irrigation purposes, water has to be drawn from the main drain and channels have to be dug right through holdings to make it available. Another factor affecting the value of the land is that the areas cannot be properly drained. One settler asked Mr. Sutton, the Director of Agriculture, why his crop had died. Mr. Sutton's reply was, "It is not remarkable that the crop died, but it would have been remarkable had the plants not died." Owing to the soggy condition of the soil, plants cannot live. I do not know to whom we may ascribe the blame; perhaps no one is to blame. The fact remains that men on the holdings now should not be held responsible for miscalculations of the past. Just because someone at one time or another made a miscalculation and it has cost hundreds of pounds to bring the land to the surface, that is no reason why the settlers, the men in the flannel shirts, should be charged £70 an acre for land that is not worth anything like that amount. I do not know exactly what the land is worth and I want some competent authority to fix the value.

Hon. J. C. Willcock: Will it not be necessary to spend more money there before the land can be sweetened?

Mr. MILLINGTON: Yes, it will be years before any commercial value will attach to the holdings.

Hon. J. C. Willcock: There is too much water there even now.

Mr. MILLINGTON: That is the position. The holdings cannot properly be drained, or irrigated. No land in the Osborne Park district, unless irrigated well, will return sufficient to compensate for cultivation costs. It will be claimed that the scheme I refer to is not an irrigation scheme, and I do not suggest that it is. But it is possible to irrigate all the holdings on which crops can be obtained in the Osborne Park district, and to a great extent that is done. That is not possible in respect of the Herdsman Lake holdings. They cannot be drained in winter, nor can they be irrigated in summer. Therefore, in suggesting that the values for swamp land on which various holdings are settled and can be irrigated can be taken for the sake of comparison when considering land recently settled at Herdsman Lake, is absolutely ridiculous.

That is where the mistake has been made. Therefore, without going further into the question, I consider that the essential points to receive attention are few but important. In the first place, at the outset merely an estimate was made as to what it would cost to drain the area. No definite means were available to the departmental officials by which they could determine what the land was worth until it was drained. Because of that fact, miscalculations were made, and the whole of the burden of those miscalculations should not be borne by the men on the land. The next point is that, the land having been brought under cultivation and tried out under supervision, it is not sufficient to say that the men on the holdings are incompetent. Experts from the Agricultural Department have supervised experimental plots for the cultivation of various types of plant life regarded as suitable for the area, and each plot proved a failure. Thus, all the evidence goes to show that instead of the land being first-class, it is second or even third-class. It is most regrettable that the general opinion of those competent to judge is that not only is the land third-class, but it will take years before it can be properly cultivated, drained and sweetened. That being so, how can it be suggested that the charge of £70 an acre is justifiable? It is positively discouraging to the settlers. They cannot attempt to pay the amount debited against them. Even though the payments extend over 30 years, the burden imposed upon the settlers is too great. If the holdings were revalued, the payments should be considerably less, and even though the holdings, so far as we can see, will not be productive for a long time to come, the readjustment will make it more possible for the settlers to meet their fortnightly instalments.

On motion by the Minister for Lands, debate adjourned.

#### MOTION—MELVILLE ROAD BOARD, ADMINISTRATION.

*To inquire by Select Committee.*

MR. WELLS (Canning) [5.25[: I move—

That a select committee be appointed to inquire into the administration of the Melville Road Board, more especially with regard

to its system of representation and the administration of its finances.

I shall not delay the House for long in dealing with this simple matter affecting the Melville Road Board. The board's area comprises 13,248 acres and the board was first created in 1901. At that time practically the whole of the area was bush land, and it extended from Canning Bridge to the boundary of the East Fremantle municipality. As it was mostly bush, the interests of ratepayers were largely identical. The area was divided into four wards, known as the Applecross, Country, Bieton and Palmyra wards. It will be more simple if I refer to the Applecross and Country wards as the east wards and the Bieton and Palmyra wards as the west wards. The number of ratepayers in the east wards total 1,963, and the rateable value of the property there amounts to £154,035. In the west wards, the ratepayers number 1,507 and the rateable value of the property represents £101,645. Thirty-one years have passed since the board first came into existence, and in the intervening years, conditions have considerably altered. Bieton and Palmyra, formerly containing fewer ratepayers and comprising a smaller area, have progressed appreciably and the population has increased as that of Fremantle has extended in an easterly direction. Trouble has arisen in connection with the ward representation. Bieton and Palmyra are represented by six members, although their area is smaller, their valuations less and the number of ratepayers fewer. The larger wards, with their augmented valuations and considerably larger number of ratepayers, have five members only. Thus there has been a dominating majority of six to five. Possibly such a position would be quite all right in many instances and some road boards have probably the same representation, but the difficulty in the Melville Road Board area has grown considerably of late. There seems to be a determination to vote on party lines when matters are discussed. There is always the vote of six to five, and the larger wards do not seem to be able to get away from that position. Not only is there that dominating majority vote that always operates as I have indicated, but the difficulty becomes more pronounced with regard to loan matters. The expan-

sion of the district has necessitated loans from time to time, and those so far floated, Loans No. 1 to No. 11, inclusive, show that a total amount of £56,695 has been raised from time to time. Of that amount, £37,944 has been spent in the Bieton and Palmyra wards, and £18,751 only has been spent in the two larger wards—Applecross and Country. There has not been much trouble regarding the expenditure of the money. Probably the expenditure was necessary in the proportions indicated, but difficulty has arisen because money has been borrowed to do work in the west wards, but the loan rate has been struck for the whole area. During the period of those loans, the ratepayers of Country Ward and Applecross Ward have paid something like £12,000 in loan rates to do work in the other two wards on the western boundary. Those are the two main points that seem to be agitating the minds of the people, especially those in Applecross and Country Wards, that the representation is absolutely unbalanced, and that with the constitution of the board, it is impossible to get anything for the advantage of those wards. During the last year or so there has been considerable dissatisfaction and the work of the board has not proceeded smoothly. We have had two or three deputations to the Minister. In the first place, I think, the ratepayers of Country and Applecross Wards called a public meeting at which there was a representative attendance of ratepayers, who decided that I should introduce a deputation to the Minister to ascertain whether the trouble could be remedied. We waited on the Minister, but at that time we did not seem to get any satisfactory result. Later a deputation from Bieton and Palmyra Wards, introduced by the member for Fremantle, waited on the Minister, and that did not seem to bear any successful result. Later a combined deputation from the four wards waited on the Minister. I know the Minister was anxious to assist the board to reach some satisfactory conclusion, but judging by his remarks, he realised that something was necessary. The ratepayers of Applecross and Country Wards were anxious that the district should be divided, and that two boards should operate in place of the existing board. When the combined deputation waited on the Minister, one of his first remarks was that he would have to do as Solomon did—cut the baby in halves. He

realised that it was almost impossible for the board to work under existing conditions, and that division would be the best method of bringing the trouble to a satisfactory conclusion. Later on a member of the deputation remarked that east was east and west was west, and never the twain would meet. The trouble has been growing, and smooth working by the board is impossible. Hostility and bad feeling are displayed at the meetings, and I consider that a select committee should be appointed to ascertain whether some satisfactory solution can be found. Personally I think the best scheme would be to create two boards instead of one. That would overcome the present difficulty, and there would not be likely to be any difficulty in future. The question of adjusting the financial affairs and the loan accounts of the board might crop up, but I think a satisfactory adjustment could be made. If there were two boards, I have ample evidence to show that the cost of administration would not be greater, but if anything would be a trifle less, than the cost of the present board. I am aware that it is probably against the policy of the Works Department and of the Minister to create smaller boards, but if the district were divided into two, each would be considerably larger than many of the road districts in other parts of the State. At the latest deputation to the Minister, he agreed to send a departmental officer to investigate the affairs of the board and report to him. That was done. I should like to read the covering note to the report, addressed by the Under Secretary for Works and Labour (Mr. C. A. Munt) to the chairman of the board, Mr. E. F. Edwards, Sullivan-st., Palmyra:—

Following upon representations that have been made from time to time by you and other members of the Melville Road Board in regard to boundaries, etc., the Hon. the Minister promised that the department would investigate the position and subsequently deputed Mr. Inspector Millen to take action and report. It is understood that Mr. Millen has been in close touch with yourself and other members, and the Minister has therefore given his report very careful consideration. A copy of the report is enclosed for your information and guidance.

I am instructed by the Hon. Mr. Lindsay to inform you—(1) That he is not prepared to recommend the Government to divide the district into two; (2) That he is prepared to recommend the Governor to divide the district into five wards, the boundaries to be as out-

lined on the plan which has been sent to you to-day under separate cover, with the exception that the area marked with the red cross should be attached to the Country Ward—not to the Applecross Ward, this for the reason that, although the land has been subdivided, no settlement has yet taken place.

Such action by the Minister would make a present to the ratepayers of Palmyra and Bicton Wards of about £11,568 of the best revenue of Applecross and Country Wards, and would give them nothing better in the way of representation.

The Minister is further prepared to recommend representation as follows:—

- 3 members for the Bicton Ward.
- 3 members for the Palmyra Ward.
- 3 members for the Applecross Ward.
- 1 member for the new Mt. Pleasant Ward.
- 1 member for the Country Ward.

That would still leave the same dominant majority of six to five intact, and so would only aggravate the position in the minds of the ratepayers of Applecross and Country Wards.

In regard to loans and loan rates, it appears that what has happened in your district is that, although from time to time money has been borrowed and spent on works which were of particular benefit only to portion of the district, the board has levied a flat rate over the whole district. When the Road Districts Act is being amended shortly, it is proposed to make direct provision whereby road boards can differentiate when they levy loan rates. It will then be possible, if money is borrowed for a work which is for the benefit of one particular portion of the district only, that the people within that area will be required to pay the loan rate and that condition of affairs would continue indefinitely, provided that if subsequently conditions changed and the board desired to make an alteration, it could be done, but only with the consent of the Governor. The Act will further provide that if a work is constructed which is of particular benefit to one portion of the district and of particular benefit to another portion, then the two different loan rates will be struck.

That will operate from the date of passing, but the ratepayers of Applecross and Country Wards will still be called upon to bear the rate struck on the various loans raised in past years, which seems very unfair to them. That is briefly the position; I do not intend to enlarge upon it. The case, I consider, merits inquiry by a select committee to settle the trouble definitely. Under the present constitution of the board there seems to be very little hope of securing

smooth working. The appointment of a select committee would not involve the Government in any cost, and if the report were accepted by the House, the board would have to settle down to work, feeling that the best had been done in the interests of all concerned. I have ample evidence to support my statements, but I do not think this is the place to submit it. I want the House to appoint a select committee and then the committee could call for evidence from persons authorised and competent to give it. I admit that the matter is purely a local affair, but the position has become aggravated to such an extent that investigation is warranted to determine whether some recommendation cannot be framed that will enable the board to work more amicably and satisfactorily to all concerned.

**THE MINISTER FOR WORKS** (Hon. J. Lindsay—Mt. Marshall) [5.41]: I consider it advisable to reply at once to the motion. There is trouble in the Melville Road Board; the member for Canning said so. It is not the first time the Melville Road Board has had trouble.

Mr. Marshall: It is not the only road board to have trouble.

The **MINISTER FOR WORKS**: A very serious financial position was created in the district a few years ago. Members may recollect that the secretary defaulted to the extent of £5,000, but to-day the financial position of the board is equal to that of the best road board in the State. There have been several deputations to me as Minister. What did they come for? As one member stated, east is east and west is west and never the twain shall meet. From what I can gather, the trouble is all caused by two men; it is not caused by the people. The point is that they wanted to divide the district into two, and asked me to have an investigation. I appointed an auditor to examine the books and report, and he has reported. The Under Secretary has examined the report and has also reported. The decision arrived at is in operation. The member for Canning wants a select committee. For what reason? To inquire into the administration of the Department? The officers of the department are unbiassed and honest, and are more capable of giving a decision on road board questions than would be any select committee that could be appointed.

The hon. member spoke about dividing the district into two. The position is peculiar. At the western end of the district there is a large population; at the eastern end there has been a tremendous amount of land speculation. Huge areas of land have been sold, and nobody lives on them. The land is rateable, and the rates are being paid. When it comes to a question of representation, however, we must consider people as well as values. Applecross and Country wards, though larger in area than the other two wards, have not more people. In Bicton and Palmyra Wards there are 1,507 ratepayers, of whom 933 are resident ratepayers, while Applecross, Country and the proposed Mt. Pleasant Wards have 1,963 ratepayers, but only 198 are resident ratepayers. To create a new road board would mean the bringing into existence of a body with a secretary and all the paraphernalia and all the associated cost for 198 dwellings in that area. The department considered that that was not right and would not agree to the proposal. Then there was the question of to-day's values. The values in the Applecross ward will have to come down considerably, particularly those of unoccupied land. There have been appeals and every person who has appealed against his valuation has had a considerable reduction. The auditors stated that values should come down 33 1/3rd per cent. Then of course there would be considerably less revenue. The hon. member spoke about the area. After all, we do not create a road board merely because of the area of the territory; we create it because people are there. He mentioned the area of the Melville Road Board. The position is that the area of the Bicton and Palmyra wards is 4,103 acres, the number of dwellings is 933 and the population is 3,732. The Applecross, Country and Mt. Pleasant wards contain 9,145 acres, 198 dwellings, and a population of 594. I repeat that even though the acreage is over 9,000 acres, that area does not justify the creation of a road board. There are road boards in the State controlling areas of over 1,000,000 acres. To say that 198 dwellings should have a road board with a secretary and all the paraphernalia is something to which the department will not agree. It has been mentioned that we took figures of valuations from one ward and added them to another.

That is so, because we believe it was the proper thing to do. Mention has been made of the loan rate. A deputation waited on me on the subject and considered that they had a serious grievance. After all, what was done was done by the board. A most peculiar thing about the loan rate is this: A meeting of the board was held on the 24th July when it was decided to levy a flat rate over the whole district. The resolution was moved by Mr. Fletcher of the Applecross ward and seconded by Mr. Simpson, also of the Applecross ward, and carried unanimously. Now the people of the Applecross ward are objecting to that loan rate being imposed. Yet it was moved and seconded by members of that particular ward. No action on the part of this House can now alter that position. It was also mentioned that the amount of money spent on the various wards was £33,826. The loan liability of each ward on the 30th June, 1932, after allowing for debentures redeemed and sinking fund investment account credits, apart from the No. 3 tramway loan, was—Palmyra ward, £6,651; Bickton ward, £6,469; Applecross ward, £9,074, and Country ward £6,864. What is more remarkable is that in connection with the two following loans a rate was struck over the whole district, though the greater part of the money was spent in the Applecross ward. Up to recently, the board has been working in harmony, and but for two members it would still be working in harmony. The department's duty is to assist the board and see that their finances are kept in proper order. I will read a few extracts from the road board auditors' report. For the year ended 30th June, 1926, the auditors state, "The board's financial position was very unsatisfactory." A year later the auditors reported, "The board's financial position is still very unsatisfactory." For the year ended 30th June, 1928, we get this from the auditors—

From the foregoing it will be seen that although the board is by no means free from its financial problems, the present administration has made an honest attempt to place its loans on a more satisfactory footing. With a strict attention to this important branch of the board's activities and a continuance of the present policy, there should be no cause for anxiety on the part of the ratepayers.

For the year ended 30th June, 1929, the auditors reported—

The unsatisfactory financial position of the board as disclosed in the previous audit reports in regard to defalcations, loan rate accounts, loan sinking fund accounts, etc., which have to be adjusted, severely taxed the resources of the board during the year, but by closely watching financial expenditure, re-arrangement, and reorganisation of its affairs, the board has been able to reduce the rates levied by 2½d. in the pound as shown in paragraph 38.

For the year ended 30th June, 1930, the auditors reported—

The general work of the board for the year under review has been of a satisfactory nature. The board endeavoured to pursue a forward policy and to get full value for its expenditure. The large programme of works carried out and the results obtained reflect credit on the secretary, especially as this officer is responsible for all general administration as well as the supervision of all works.

I will now come to the year ended 30th June, 1932, and read to the House what the auditors had to say for that period—

The board will have a difficult task in conducting its affairs during the year 1932-33. The board for the year under review, in addition to the amount of £5,875, provided by the Child Welfare Department, paid as wages to the sustenance workers a total of £1,774 from its ordinary revenue, and further to keep the men employed on useful works had to foot the Bill for cartage of materials, etc. The relief afforded to the residents by the board in this direction materially helped to create the board's present financial position.

In other words, they have not found it necessary to borrow any money at all in the last few years owing to the unemployment relief scheme, and what is more important, the loan will be redeemed in two years' time. The board have made a marvellous recovery. They have done good work and when the loan is redeemed in 1935 they will again be able to reduce the rates by 2½d. in the pound. For that reason the department have made certain recommendations and the carrying of the hon. member's motion will mean practically a vote of want of confidence in the department as well as in the Minister. I believe the right thing has been done. Notwithstanding what we have done, I suppose there are people who would have objected. They have been to me often and I have told them that it is their duty and the duty of the ratepayers, when the next elections come along, to put out the old members and elect others. The position of

the board financially is now good. It was at one time one of the worst from that aspect. To say that we should create a new board for 198 residents is ridiculous.

The Minister for Railways: There are too many boards now.

The MINISTER FOR WORKS: I agree with that. It is also suggested that because other districts like Peppermint Grove which has a road board in a very small area, a board should be granted in the districts under discussion. But between Peppermint Grove and Melville there is no comparison. Peppermint Grove has 299 residents and a population of 1,253. The Melville district has 198 residents and a population of 594.

Hon. P. Collier: What is the difference between "residents" and "population"?

The MINISTER FOR WORKS: I should have said "dwellings" instead of "residents." The report of the auditor is that the position is quite satisfactory now. The valuations of the wards as proposed now are as follows:—Palmyra £65,939, three members; Bieton £56,274, three members; Applecross £63,824, three members; Mt. Proposed, £49,664, one member; Country £28,979, one member. Hon. members can thus see why they are not given more representation. It is country that is represented and not people. Although valuations must be taken into consideration, people must also be represented. On that basis the department have decided to cut up the district. At the last court of appeal a lady—I do not intend to mention any names—who had purchased two blocks for £120, appealed against the valuation placed on them by the road board. This lady said she would give the two blocks to anybody who cared to have them, and later she offered £10 to anybody who would take them off her hands. Valuations will have to come down and then there will not be revenue to enable the new board to carry on. I ask the House to realise that the department has not given its decision without carefully examining the position. I oppose the motion.

HON. P. COLLIER (Boulder) [5.57]: I hope the House will not for one moment entertain the motion. The hon. member was ill-advised in bringing it forward. Merely because there have been squabbles between members of the road boards, the time of the House should not be taken up, and neither should a select committee be appointed to

involve the country in expense in investigating the board's troubles. If we were to pay attention to this kind of thing we should be engaged the whole year round in doing nothing else. The whole matter is in the hands of the ratepayers who have the opportunity at election time of rejecting those who may not be considered desirable representatives. From my experience, the officer of the Public Works Department who deals with road board matters is a very competent man, and if members of the local road board will only accept the advice and decisions of that officer, their position will soon become satisfactory. If they will not do that, I do not think we should bother ourselves about getting them out of their troubles.

MR. SLEEMAN (Fremantle) [6.1]: I listened to the Minister and was satisfied that he put the case clearly and properly. Although I am the member for a large portion of the territory governed by the Melville Road Board, I was quite satisfied to let the Minister decide; in fact, we took a deputation to the Minister asking him to make the final decision, and people from the other end of the district also agreed that the Minister's decision should be final.

Mr. Wells: No, they did not.

Mr. SLEEMAN: I repeat that they did. But before the Minister could make a decision, one of the most disgruntled members of the board was publishing in the newspaper the views of his section. I do not think we should appoint members of the House to waste time sitting on a select committee endeavouring to settle such a squabble as this. The tramway rate, which has been the biggest bone of contention in the board, will disappear within the next two or three years. A mere handful of people are asking the Minister to see that they have greater representation on the board than is given to the more thickly populated area. I hope the motion will not be agreed to.

MR. WELLS (Canning—in reply) [6.3]: I have put my case, and I am prepared to leave it to the House to decide whether that case is sufficiently strong to justify the appointment of a select committee. It is entirely a matter of opinion as to whether I have been ill-advised, but I should like to say there has never been anything unsatisfactory about the administration of the

finances of the board, and I consider the board has done wonderful work during the past few years. My motion is not the outcome of representations by the two members from Applecross, but is the result of two largely-attended ratepayers' meetings in those two wards. Most certainly I have not been influenced by the two members referred to. Under the Road Boards Act, revenue is not based on the number of houses in any particular ward, but is based on the unimproved value, and so houses do not count for a great deal. I am prepared to leave my case in the hands of the House.

Question put and negatived.

### MOTION—WHEAT PRODUCTION, FEDERAL BONUS.

**MR. DONEY** (Williams-Narrogin) [6.5]:  
I move—

That in view of the parlous position of the Western Australian wheatgrowers, and because the welfare of the State is dependent so largely on the wheat industry, this House is of the opinion that the Federal Government should immediately find the funds necessary to provide a bonus of not less than 4½d. per bushel on the same lines as those that operated last year; and that this resolution be telegraphed through the Premier to the Prime Minister.

My object in moving the motion is to strengthen the hands of the Government in their request that the Federal Government should continue the bonus on wheat. Simultaneously, this motion is being submitted in another place. There is nothing of a party nature in this, as can easily be seen. It is not as if we can tell one another much that is new about this question, but I hope the House will discuss it and agree to the motion without the customary formality of adjourning the debate. Dire necessity has prompted the moving of this motion; the plight of the wheat-growers has not improved at all but is, in point of fact, steadily growing worse. A point to remember is that unless there be a big jump in wheat prices—and unfortunately the market at present does not look promising—there cannot be any improvement at all in the financial position of the farmer. Indeed, as I have said, it is becoming worse. His losses of last year have been added to his already very heavy liabilities, and of course the farmer himself and his plant and horses and machinery are all one year older than they were this time

last year. Having regard to that, the farmer's dependence on the bonus plainly has not lessened at all; on the contrary, it has intensified considerably. Members will recall that last year, when the market opened, the price of wheat was 3s. 2d. per bushel. At present it is 2s. 6½d., and the indications are that when the market opens this year, it will be a penny or two less than that. Last year's bonus produced specially fine results in this State, and there were practically no complaints of the manner in which the farmer spent his bonus money. Food and the ordinary expenses of farm maintenance took practically the whole of that bonus money, and so almost all of it went back into the land. It had a strongly beneficial influence upon the big area that is in crop to-day, and I think it had a bearing on the vastly improved psychological outlook of the farmer and of the community generally. Therefore it can be said that neither the Commonwealth Government nor the State Government has lost over the bonus. It was a reproductive investment, and it saved hundreds of farmers from ruin. During the past 12 months we have been teaching the people to expect the re-enactment of emergency legislation so long as the need for it remains, and no doubt it would be stupid to vary that policy. The wheat bonus was an emergency enactment, and since the need for it has been increased, I see no reason why the bonus should not be paid again this year. To-day a bushel of wheat brings no more than 2s. 7d., whereas it costs anything from 3s. 4d. to 3s. 7d. to produce. It is in the contrast between those two figures that the strength of the advocacy for the bonus lies. If we say from 3s. 4d. to 3s. 7d., it would be about right to call the average 3s. 6d. I believe the average of the several sums named in evidence before the Royal Commission on farmers' disabilities last year was 3s. 6d. per bushel. There are those that claim that a bushel of wheat can be grown for 2s. 9d. or even 2s. 6d., and it is conceivable that a very good man working a very good bit of land near a siding, particularly if that man avails himself of the lower costs that years of prosperity gave him, he could produce wheat at that low figure, although I am always suspicious of such a man's bill of costs. But we must not concern ourselves with the favoured few, only a few dozen or so, who can grow wheat at half-a-crown a bushel: rather must we

consider the price it would cost an ordinary man on an ordinary piece of land. We have to concern ourselves also with the geographical position of those out on the eastern fringe of the wheat belt, particularly those in the lakes area. Even though it is objected that those men and farmers generally lost on the year's trading, it must still be recalled that their production helps to maintain the position of everybody in the State who works for a living. I hope members will give thought to the effect the discontinuance of the bonus would have upon the farmers, a considerable number of whom would be forced off their holdings. And there would be an increase in unemployment, in addition to which some £800,000 would be lost to the State. We have to remember, too, that in this State we are in more serious need of the bonus than are the other States, because we have proportionately a bigger number farming, which means that we shall have proportionately a bigger number suffering loss if the bonus be withdrawn.

*Sitting suspended from 6.15 to 7.30 p.m.*

MR. DONEY: I have very little to add to what I have already said. Because we have a proportionately larger number of farmers in this State than are to be found in any other State, we would suffer a bigger adverse per capital effect from a discontinuance of the bonus that would any other State. It is obvious too that whilst we have our huge overseas loan commitments, we must maintain the greatest possible amount of export trade. We can only do that by having a contented and industrious countryside. We cannot have that pleasant condition of affairs if we permit the industry to carry unaided the burden of the loss which is implied by the difference between 3s. 7d. and 2s. 7d. It looks very much as if, when the season opens, the farmer will find himself losing 1s. a bushel. We must have some regard for the national aspect of the question when speaking of the wheat growing industry, and it should be right and proper that the public be called upon to contribute 4½d. out of that 1s. Last year the Commonwealth Government very wisely established the principle that the wheat growing industry was a community responsibility. To be consistent, all that is necessary now is to repeat that bonus. If the authorities

are consistent I shall be satisfied. My attention has been called to an item in this evening's "Daily News," which refers to "wheat price problems, bonus sought in Canada, conference sequel." This shows that in Canada the farmers are faced with the same difficulty that confronts us. They are seeking to solve their troubles in precisely the same way that we are. I hope it will not be considered necessary to adjourn the debate on this motion, and that members will regard that request as reasonable in the circumstances.

**THE PREMIER** (Hon. Sir James Mitchell—Northam) [7.35]: As members know, this matter has already been brought before the Federal Government, who have been asked to do what they can in regard to it. It was hoped some time ago that the price of wheat would improve, and that there would be no need for special assistance. I think the Federal Government are waiting to see what the price will be when the season is nearer to being opened than it is now. Of course I have no authority for saying that. Last year we had the advantage of a 25 per cent. exchange. This was of considerable benefit to the farmers. Of the 25 per cent. I hope they received the advantage of 16 per cent. Naturally, they must pay exchange on their imports of bags, phosphatic rock and other things necessary for the growing of wheat. Possibly they cleared 4½d. in that way, and the 4½d. bonus made a total of 9d., in addition to the price that wheat brought at sidings. Without both the exchange and the bonus, I should imagine it would be quite impossible for the farmers to go on cropping to the extent they have done during the present year. It is quite right that people working in protected industries should contribute something to the men who are creating the only real money we have, and creating the work that keeps everyone going. Exchange does not benefit Australia as a whole. It does benefit the exporter but that is done at the expense of the people of Australia. It does mean a better distribution of the wealth created than would otherwise be the case. It is possible that the exchange will increase if the price of wheat and wool remains as at present. It will be necessary for both to increase considerably before the exchange comes

down I should imagine the exchange cannot be held as low as 25 per cent. with prices as they are to-day. We may get an advantage there. It is within the power of this House to request the Federal Government to give consideration to the desire expressed by the member for Williams-Narrogin. We may merely suggest to the Federal Government what has already been suggested and what, I am sure, is now being considered by them. Everyone knows that unless we can go on producing for export, our position will be worse than it is. It is only possible to pay our way to-day by the aid of export. We cannot borrow abroad to meet our interest bill. This can only be met out of the proceeds of wheat, wool, gold and the other things that we export. It is in the interests of Australia that we should keep up the quantity of production, even if the price be low. That quantity cannot be maintained unless those who are producing can at least cover the cost of production. I should imagine that has not been done during the last two or three years, even with the advantage of the bonus. To-day the producers, whether primary or secondary, are having a very tight time. The unfortunate part about the fall is that it is the wholesale price that has fallen so much. Exporters are wholesale sellers. Retail prices have not come down to nearly the same extent. It is the wholesale seller, the producer, who is suffering most. In this world of ours everyone is in trouble. Anything that adds to the cost of commodities is felt by all of us, whether we are workers, business men or producers. I do not know that we need discuss the matter at any great length. No one in the House will object to a further reminder being sent to the Federal Government of the position in which the farmers find themselves. I should like the House to know, however, that this matter has already received attention and that it is not only now, almost at the 11th hour, that the Federal Government are being reminded of the position, and of the necessity for giving consideration to the payment of a bonus. We have not been unmindful of the situation. It will not be something new to suggest to the Federal Government, if the motion goes forward to them. It is right we should say that. It is not to be supposed they do not know the position, or that we

do not know it, or that the matter has not been mentioned before. The motion will merely emphasise what has already been said and what has previously been put before the Federal authorities. Something is required to improve the cost of production of wheat for export. One does not know what the price of wheat will be. The outlook is not very hopeful. It is not that the world does not want wheat, but that the world cannot trade. We know the duty that has been imposed on the importation of wheat by France, Germany and Italy, nations which bought from us some time ago, and that these high duties are a measure of retaliation due to the fact that Australia has imposed high tariffs against their exports to us. This strengthens our claim that we should be in some way compensated for the disadvantages that these embargoes elsewhere have placed upon us. There is everything to be said in favour of a bonus. I hope it will be paid this year, as it was paid last year. Without the bonus and at least the exchange we had last year, present prices are not attractive, and production next year will certainly suffer if the farmer is not helped. There is a suggestion that something should be done in the way of bonusing the production of fertilisers. That would not suit our case. What the farmer needs is help in cash. In our case the farmer was allowed to handle the cash paid under the bonus scheme, and that assisted materially in the production of this year's crop. I hope the House will carry the motion to-night, in order that the Federal authorities may know of it before the agenda paper for the forthcoming meeting of the Loan Council is prepared. The matter is entirely one for the Federal Government: it is really not one for the Loan Council, except that that body must authorise the borrowing of any money needed to pay the bonus. I commend the motion to the House, although it is somewhat unusual for one Parliament to endeavour to dictate to another Parliament. The position is so serious, and of such vast importance, that I think we can afford in this case to do something that is unusual.

Resolved: That motions be continued.

**HON. P. COLLIER** (Boulder) [7.47]: I support the motion, and the principle underlying it: but I am not sure that the carrying of the motion will have much influence in

deciding the matter so far as the Federal Government are concerned. The motion is, as the Premier has remarked, rather unusual in character. I do not know that such a procedure has been adopted before in this or any other Parliament. For one Parliament to carry a resolution conveying something in the nature of a request, but something that may be construed into a demand, to another Parliament, may have the effect of antagonising some members of that other Parliament. This will give an opportunity for Queensland members to express opinions concerning the White Australia policy and our desire for assistance because of disabilities under Federation. Still, I think that the motion may well go forward, and that perhaps it will assist. It is not a question whether the Federal Government can afford the money to give this measure of assistance to the wheatgrowers of Australia. It seems to me that the Federal Parliament cannot afford to refrain from giving assistance of this nature. Surely to-day it is obvious to everyone who has given any thought to the troubles we have been passing through during the past two years, that unless our wheatgrowers are kept producing, the outlook for the Commonwealth is indeed poor. The price of wheat is lower now than it was last year, and prospects for the wheatgrowers do not seem so good this year as they seemed last year. All the indications are the other way about. Everybody will acknowledge that last year's wheat prices were barely sufficient to enable the growers to continue operations. This year's prospects are even worse; and unless some assistance of this nature is forthcoming, what will inevitably happen will be that the area under wheat will decline. So far as that involves a falling-off in the volume of production and consequently in the quantity available for export overseas, so will the whole structure of Australia fall off. It may prove beyond the power of the Commonwealth to maintain the present rate of exchange. If the rate should fall, the position will be still worse for the producers of export commodities. I hope that the motion will be carried, and that it will have the effect of bringing assistance again this year. All the Australian Parliaments will realise the importance of keeping the producers on the land, and indeed of increasing the area under production. In this regard I hope the wheatgrowers' organisations throughout Australia will take the matter up; no doubt

they are doing so. Their resolutions are likely to have a greater influence on the Federal Parliament than a resolution of this Chamber. There are so many votes scattered around, or associated with, wheatgrowing that they are likely to exercise far more influence on the Federal Parliament than the 50 members of this Chamber can command. If the large numbers of wheatgrowers in Western Australia, South Australia and New South Wales bring their full influence to bear on Federal members it will probably, at all events in some degree, prove a deciding factor. If the reconstruction of the Federal Cabinet takes place to-day or to-morrow and our friends of the Country Party join up, doubtless there will be no trouble whatever about this matter. In fact, now is the opportunity. The Prime Minister is anxious to have the assistance of some Country Party members in his Cabinet, and undoubtedly there are some very able members of that party in the House of Representatives. It might not be amiss if some conditions were laid down by the Country Party as to whether they should join the Federal Cabinet or not.

The Premier: Do you propose to add to the motion something to that effect?

Hon. P. COLLIER: Perhaps that might be done. Indeed, I think the mover of the motion might get into communication with his Federal leader by telephone, and ask him to delay negotiations for joining the Federal Cabinet until this Chamber has had an opportunity of carrying the motion. In any case, I do hope the Federal Government will realise the immense importance of keeping our wheatgrowers on the land and giving them that measure of assistance which alone, it seems to me, at present prices will enable them to carry on next year.

**MR. J. I. MANN** (Beverley) [7.53]: I support the motion, and sincerely believe that it will be carried. The Leader of the Opposition has raised the point that the motion is in the nature of a threat to the Federal Government.

The Minister for Lands: A promise.

**MR. J. I. MANN**: As regards our wheatgrowers, it is anticipated that the opening sales of new season's wheat will realise about 2s. 3d. or 2s. 4d. It is recognised that the cost of producing wheat is 3s.

Member: No; 3s. 6d.

**MR. J. I. MANN:** The bonus of 4½d. paid last year did undoubtedly go a long way towards easing the farmers' position. The Leader of the Opposition referred to the primary industries as being the foundation of the national structure of Australia. Unless farmers are given assistance, or unless prices rise materially, I venture to say that not half the present acreage will be under wheat in Australia next year. Some people imagine, or try to imagine, that Australia has turned the corner. They seek to create an optimistic belief that everything is all right. But this simply means that we are not facing the position. The optimistic spirit to which I have alluded has been a curse to this State and to Australia generally. Unless the farmers receive some aid, they are hopelessly down and out. It would be an excellent idea if this State demanded that the Federal Government reinstate the bonus to the wheat industry generally.

**MR. J. H. SMITH (Nelson)** [7.55]: I oppose the motion.

**Mr. J. I. Mann:** What!

**Mr. J. H. SMITH:** Yes, on the ground that it is an endeavour to bolster up one primary industry at the expense of others.

**Hon. P. Collier:** There may be a bonus for apples later.

**Mr. J. H. SMITH:** It will be needed if last year is an indication of what this year will be. This Parliament should endeavour to evolve some method of lessening the cost of primary production. Our minds and our legislation should be concentrated on arriving at some method of altering the monetary system of Australia, not only of Western Australia. In some way we should bring about a reduction of tariffs.

**Mr. SPEAKER:** Tariffs cannot be discussed under this motion.

**Mr. J. H. SMITH:** I am endeavouring to discuss why we should endeavour to reduce in some way the rates of interest paid by wheat farmers. Costs of production should also be reduced. Last year's wheat bounty cost this State and the Commonwealth half a million sterling. That money has to be paid by other Western Australian industries. If a bounty is given to the wheat industry, there will be a demand for a bounty from the dairying industry, whose position is as precarious as that of wheat-growing. The Paterson butter scheme is

practically wiped out. No assistance whatever is being given to fruitgrowing. Woolgrowing is in a position still more hazardous than that of wheatgrowing, but receives neither bounty nor assistance. The timber industry, which was of great assistance to Western Australia by the payment of high royalties and in other ways, receives no bounty. We should exercise absolutely all our concentration on cheapening costs of production. It is not right to bolster up any industry at the expense of others. Assume that Western Australia has 10,000 wheatgrowers; 8,000 or 9,000 of them are under the Agricultural or the Associated Banks. The only method of relief is to lower rates of interest and reduce capitalisation. Not that I am against the wheat-grower; far from it; but if a bonus is given to one primary industry, it should be applied to all the primary industries, because all of them are in the same boat. What is the use of taxing working-men on sustenance, with perhaps five or six of a family, to raise money in order to pay a bonus to the wheat industry or any other industry? It is not right to take away from one in order to give to another. I must oppose the motion.

**MR. SAMPSON (Swan)** [8.0]: I support the motion and feel grateful to the member for Williams-Narrogin (Mr. Doney) for bringing it forward. There is great anxiety among the wheatgrowers and, in fact, among all primary producers at the present time. The wheat grower is very nearly in a state of destitution and, in most instances, his position is exceedingly difficult and anxious. It is time that the Federal Government made a pronouncement regarding the wheat bonus. I have no desire to introduce anything in the nature of a tariff discussion, but in view of the wholesale difficulties confronting the growers, a pronouncement by the Federal Government is long overdue. I hope that, as the result of this motion, a decision may be arrived at by the Federal Government without further delay. The possibility of a drop in the exchange cannot be overlooked and if there should be that drop, the question will arise as to whether 4½d. per bushel will be adequate to retain the wheatgrowers on the land. There is also anxiety regarding wool.

**Mr. Lamond:** Would you support a wool bonus?

Mr. SAMPSON: To-day I was speaking to a man interested in pigs and he told me it was utterly impossible for that industry to pay its way. The remarks of the member for Nelson regarding the tariff are applicable, but in view of Mr. Speaker's desire that that phase shall not be introduced, I shall not discuss it.

Mr. SPEAKER: The Chair will see to that. You cannot discuss the tariff on this motion and I will not allow any member to do so.

Mr. SAMPSON: Exactly. I will accept your instructions, Mr. Speaker, and will refrain from doing so. Fundamentally the trouble of the man on the land is one of costs.

The Minister for Lands: It is rather a question of prices.

Mr. SAMPSON: Any reduction in costs will be helpful. It seems futile to expect increased prices because the markets of the world are glutted. The motion will at least indicate to the Federal Government that it is time to make a pronouncement instead of waiting till farmers have lost heart and many may have relinquished their holdings.

MR. GRIFFITHS (Avon) [8.3]: It is unnecessary for me to say that I support the motion. Naturally I do so. There is a great deal in what the member for Nelson (Mr. J. H. Smith) said. The bonus is merely a palliative to enable farmers to carry on. To secure a reduction in interest, capitalisation and costs generally should be the one big end we should strive for in order to make wheat growing profitable.

Question put and passed.

## **BILL—PUBLIC SERVICE APPEAL BOARD ACT AMENDMENT.**

### *Second Reading.*

Debate resumed from the 14th September.

**THE ATTORNEY GENERAL** (Hon. T. A. L. Davy—West Perth) [8.5]: I raise no objection to the Bill. It puts into the Act what Parliament originally intended should be included. The position is peculiar. The provisions of the Public Service Appeal Board Act, which secure jurisdiction to that board, are sufficiently wide to cover the class of persons dealt with in the Bill, but when we come to the provisions of the Act that

fix the personnel of the board, there is a gap. The personnel of the board varies according to the particular branch of the service to which the appellant belongs. If he is a member of the Civil Service, then the Public Service Appeal Board consists of the President, who is a judge, and a representative elected by the Civil Service Association, and a representative of the Government. On the other hand, if the appellant is a member of the teaching staff of the Education Department, then the personnel of the Appeal Board consists of the President, a nominee of the Teachers' Union, and a representative of the Government. There is no provision for the composition of the board when the appellant is a member of other sections of the Public Service, such as, for instance, railway officers. Therefore, although the intention regarding the jurisdiction of the Appeal Board is fairly clear, the personnel is not available for all sections of the Government service. Really what the Bill will do will be to give to a person employed in the Railway Department the same right of appeal on pension matters that persons employed in the Civil Service and Education Department already possess.

Hon. W. D. Johnson: What benefit will the Bill confer regarding pension claims?

The ATTORNEY GENERAL: I did not introduce the Bill and I do not know that any onus rests with me to say what the benefits may be. Behind the Bill there is this possibility—I think those who are fathering the measure should know it—that if the Bill becomes law and if some of the persons who desire to secure benefit from it are successful with their appeals, it may create an impossible position for the Government who may be faced with liability for a sum of money that no Government in this State could possibly meet.

Hon. W. D. Johnson: Do you seriously assert the Bill will raise that possibility?

The ATTORNEY GENERAL: Take the man who is, for instance, an engine-driver. At present he is not regarded as eligible for a pension. The Bill will enable him to appeal to the Public Service Appeal Board. If the board decides that he is entitled to a pension or for a qualified pension under the Superannuation Act, then the Government may be faced with a huge number of claims involving expenditure beyond any possibility of being met.

Hon. W. D. Johnson: Did you face that problem previously in connection with the Education Department?

The ATTORNEY GENERAL: Yes.

Hon. W. D. Johnson: The Appeal Board has heard appeals and made representations to the Government. Why did you not act then?

The ATTORNEY GENERAL: Do not say, "Why did you not act then?"

Hon. W. D. Johnson: Then why did not other Governments act?

The ATTORNEY GENERAL: I do not know, but presumably they followed out a uniform policy observed by every Government, irrespective of party, since 1905.

Hon. W. D. Johnson: Will this Bill change that policy?

The ATTORNEY GENERAL: I do not say it will.

Hon. W. D. Johnson: How will the Bill be dangerous from a Government point of view and beneficial from the engine-driver's point of view?

The ATTORNEY GENERAL: It will enable persons who think they have a grievance to apply to the Appeal Board and have their grievance decided one way or another.

Hon. W. D. Johnson: How?

The ATTORNEY GENERAL: The Public Service Appeal Board will consider whether the appellant has a grievance legally or not. If they decide that he has, then the onus will be on the Government to say whether they will be prepared to depart from that policy.

Hon. W. D. Johnson: All Governments have adopted that policy with regard to the public service.

The ATTORNEY GENERAL: May be so.

Hon. W. D. Johnson: Has that caused any difficulty?

The ATTORNEY GENERAL: I think the member for Guildford-Midland (Hon. W. D. Johnson) is saying more than I am, and I think it would perhaps be better for him to reserve his comments until he rises to speak.

Mr. Kenneally: He is asking more than you want to answer.

Hon. W. D. Johnson: I want to give the Minister an opportunity to explain some points.

The ATTORNEY GENERAL: Then I will not answer any more questions. I do not suggest for one moment—

Hon. W. D. Johnson: That the Bill is of any value.

The ATTORNEY GENERAL: I do not say that. I do not pretend that the passage of the Bill will necessarily cover the persons to whom it may apply and assure to them the pensions they claim.

Hon. W. D. Johnson: You know it won't.

The ATTORNEY GENERAL: I do not pretend to say that it will provide pensions for such appellants even if they are successful, because a position may be created that will cause the Government to be faced with huge claims for pensions. My personal view is that the class of person indicated who will be able to appeal under the Bill will fail in the appeal, but I may be wrong.

Hon. P. Collier: All similar appeals in the past have failed.

The ATTORNEY GENERAL: That is so, but that is no reason why these particular people should be denied the right to have their claims investigated.

Hon. P. Collier: Spending their money on appeals and losing them, as they have in the past.

The ATTORNEY GENERAL: That is so; I am not prepared to dogmatise. I do know that as far back as 1904 Mr. Septimus Burt, who was then Attorney General, gave an opinion on the question of who was or was not a person employed in an established capacity.

Mr. Kenneally: Various other differing legal opinions have been given since then.

The ATTORNEY GENERAL: May be, but the opinion Mr. Burt gave was an extremely sensible and reasoned one, and every Government, irrespective of party, has acted upon that opinion.

Hon. M. F. Troy: How many public servants will be affected?

The ATTORNEY GENERAL: I do not know the exact number.

Hon. M. F. Troy: We should know where we stand regarding the liability.

The ATTORNEY GENERAL: I do not think it matters what the liability may be, from the point of view of the Bill. It is right that those people should have their claims determined in the same way as any

other civil servant or teacher can have his claims attended to.

Hon. W. D. Johnson: And the results have been nil.

The ATTORNEY GENERAL: The Government should be prepared to accept the responsibility of saying "yea" or "nay" after the rights of the officers have been determined by the appeal board. Otherwise the appointment of the appeal board has been so much camouflage and nonsense. I think the appeal board should be allowed to determine the claim of every person who considers he should have a pension under the Superannuation Act. That is why I have no objection to the Bill. I do not want it to be thought that the present or any other Government would grant pensions even if the Bill be agreed to and appeals are successful.

MR. KENNEALLY (East Perth) [8.15]: The Attorney General's statement is more remarkable for what it has not made known to the House than otherwise. He mentioned that Mr. Septimus Burt had given an opinion. Various opinions have been given since then. We can come nearer home and quote opinions expressed by legal gentlemen who have not yet gone to their long rest, and many of those opinions disagreed entirely with the opinion of Mr. Burt. This Bill will not carry the men whom it proposes to serve one step nearer to their goal. Section 12 of the Pensions Act of 1871 reads—

Nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services or to any superannuation or retiring allowance under this Act or to deprive the Governor of the power and authority to dismiss any person from the public service without compensation.

The Act proceeds to provide that the Governor-in-Council may grant compensation to persons who have served in an established capacity. It has been ruled from time to time that men serving on the wages staff and those employed on loan works were not serving and could not be considered to have served in an established capacity. How does the Bill propose to alter that? There is no proposal to alter it. There are two hurdles that the men concerned have to negotiate. First of all, they have to show that they have served in an established capacity. On many occasions on which attempts have been

made, they have not been able to show it. Assume, however, that the first hurdle has been successfully negotiated, the Act provides that the Governor-in-Council may grant superannuation.

The Attorney General: This Bill will give them a chance to get over the first hurdle.

Mr. KENNEALLY: It will not place them in the position they would be in if the Government of the day decided to grant pensions. If the Government decided to grant pensions and to do the right thing by the men, there would be no need for the Bill. It is absolutely unfair to the men who are awaiting a decision to be misled into a belief that if the Bill be passed, they will get superannuation. The Attorney General and other members of the Government know that those men will not get superannuation, even if the Bill be passed.

Hon. P. Collier: And even if they succeeded at the appeal board.

Mr. KENNEALLY: That is so. In order to test it out, I propose to support the Bill, but I want the men, who will be looking to the measure for relief, to understand the position. I do not want them to be misled into the belief that the troubles regarding superannuation, with which they have been faced so long, will be solved by the passing of the Bill. The Bill proposes to deal with cases pending. The cases in question are not cases pending, but are cases upon which judicial decisions have been given. Some of them have been referred to the highest tribunals in the land, and how can they be deemed to be cases pending? The measure will raise false hopes in the breasts of many people that at last they are going to be placed in the same position as that of salaried officers of the service. I am not enamoured of the prospect of people getting money to which, under the measure, it would appear that they were entitled. The whole power in connection with superannuation rests with the Governor-in-Council. It is not the right to approach an appeal board that confers the right to get the money. If the Government desired that the wages and railwaymen should receive superannuation just as the salaried staff receive it, there would be no need for the Bill. All that the Cabinet would have to do would be to develop the art of saying "yes" instead of "no" under the section which provides that the Governor-in-Council may grant superannuation.

The Attorney General: But the Government would not have the right to grant a pension unless it was proved that the applicant had served in an established capacity.

Mr. KENNEALLY: That gives the Bill away. If the Government have not the right to grant a pension unless the man has served in an established capacity, this Bill will not affect the position. It proposes to give only the right of appeal to the appeal board, and the appeal board will have to decide whether the man has served in an established capacity. As the Bill does not attempt to alter the position regarding service in an established capacity, there will be only one decision for the appeal board to give.

Hon. A. McCallum: Which the appeal board have given and which the Privy Council have given.

Mr. KENNEALLY: Yes. I propose to show that there have been cases determined by the courts. If we do not alter the basis, it will not be of much use giving deluded people an opportunity to go to an appeal. Under the power vested in the Governor-in-Council to grant superannuation, the James Government determined that only those in receipt of £200 a year or over were people serving in an established capacity. If the applicants were not in receipt of £200 or over, they might as well save themselves the time and trouble of appealing. The Bill does not propose to alter that. All Governments have observed that principle, and the Bill will not alter it. The Public Service Act of 1904 does not specifically exclude railway men from the operation of the 1871 Pensions Act. The only reference in it is that it does not apply to the Commissioner, and that is the Commissioner personally. While the Act of 1904 made provision for excluding from pension rights people who joined the service after that year, it did not specifically exclude railway men from the operation of the Act of 1871. Consequently any rights that railway men—whether salaried or wages men—possessed under the 1871 Act have not by law been taken from them. Let us see what rights they possessed under the Act. It cost the State School Teachers' Union £2,000 for an opinion that the decision of the Governor-in-Council regarding superannuation was final. The Bill does not propose to alter that. It will enable the union

to expend a further sum to obtain a similar opinion, because the foundation will remain unaltered. The Attorney General referred to decisions that had been given. There have been decisions regarding people who have served in dual capacities. There was the case of Mr. Crews, ex-station-master at West Perth. He performed portion of his service on the wages staff and ultimately was promoted to a salaried position. When he retired he applied for superannuation covering the full period of his service, both as a wages and as a salaried employee. After considerable money had been expended on a test case, he received superannuation for the period during which he had served on the salaried staff, and it was ruled by the court that the period of service in the wages capacity was not a period served in an established capacity and therefore he was not entitled to superannuation for that period. There was the case of H. Matthews, who joined the service on the 24th February, 1896, as a driver. He was appointed to the salaried staff on the 1st January, 1901, as a shed foreman. On the 5th September, 1907, he reverted to the wages staff, receiving approximately the same amount as he had drawn by way of salary. On the 1st July, 1913, he was again placed on the salaried staff, and was retired in 1921. The period from the 5th September, 1907, to the 1st July, 1913, did not count for pension rights, nor did the period from the time he entered the service and worked as a driver until he joined the salaried staff. Pension for those periods was specifically cut out of the claim. All efforts to get that rectified have failed, because it has been ruled that the period during which a man was on wages was not served in an established capacity. If he were able to prove that he had served in an established capacity from the time he joined the service until he went on to the salaried staff, and also during the period when he was back on wages, the Governor-in-Council would be empowered under the existing Act to grant superannuation.

Mr. KENNEALLY: We had another case, that of J. Fell. This man joined the service in 1896. He was appointed to the salaried staff on the 24th March, 1903, and reverted to the wages staff on the 25th February, 1907. He was reappointed to the salaried staff on the 1st July, 1921, as a leading hand and retired on the 1st August, 1927. He re-

ceived a pension based on 10 years of service on the salaried staff. Hon. members will probably remember the case of A. J. Hevron. He joined the service in 1886 and was appointed to the salaried staff in 1897. He reverted to the wages staff, though holding the same position, that of car and wagon inspector, on the 1st November, 1903. He was reappointed to the salaried staff on the 18th November, 1919, and retired in April, 1930. In this case the pension was refused as he was not on the salaried staff on the 17th April, 1905. He was in the service before the 1905 Act came into operation; he was in the service under the conditions pertaining to the 1871 Pensions Act, but it has been ruled that because he was not on the salaried staff when the amending Act came into operation, he does not come under the provisions of that Act. As a matter of fact we have had opinions from the present Chief Justice (Sir John Northmore), Mr. Pilkington, the late Mr. Robinson, and the present President of the Arbitration Court, as well as Mr. H. B. Jackson and the late Mr. Septimus Burt. All concluded their opinions with the statement that the granting of a pension was not a matter of right, it was a matter for the Governor-in-Council. The Bill we are discussing does not propose to alter the position. My objection to the methods adopted to-day is that we build up the hopes of people, we tell them to spend their money, and eventually they find that they are to get nothing for that expenditure. The Bill does not alter the basis, it does not grant any right to a man—

The Minister for Lands: This is not a Government measure.

Mr. KENNEALLY: No, but a representative of the Government has spoken to the Bill and it may be interesting to know what negotiations have taken place with regard to it. The Attorney General has been waited upon and he made a statement to the men concerned to the effect that the services of a constitutional lawyer should be obtained. Mr. Ross McDonald conferred with the Attorney General and he drafted a measure which, in effect, is this Bill. In my opinion, as the result of the conferences, there have been put into the Bill nebulous provisions that mean nothing to the men concerned, and we would not be doing our duty to those men if we did not tell them from the floor of the House exactly where the Bill will lead them. It will give them no more than they have now, that is, that if

they have not served in an established capacity they are not going to get any superannuation. I have already said that the Schoolteachers' Union paid £2,000 to test one case and I do not want to see workers' money spent uselessly chasing a proposition such as this, and which, past experience has told them they cannot obtain. If brought into operation the Bill will give the opportunity to people in the railway service whose cases are pending to have the right to go to the appeal board and ask that board to give a decision. What the appeal board will have to determine will be whether the person concerned has a legal right to superannuation. The Bill will not give him any legal right to superannuation.

The Minister for Lands: Unless he proves he has served in an established capacity.

Mr. KENNEALLY: That does not give him the right to superannuation. It simply says that he served in an established capacity and then goes on that the Governor-in-Council may grant him superannuation and Governors-in-Council in successive Ministries since 1905 have said that that does not give a right to superannuation, I am anxious that the men shall get what is justly due to them. This will not give it to them. What is the use of building up men's hopes only to dash them to the ground when we know that the final power rests with the Governor-in-Council. This does not establish any right that was not contained in the 1871 Act; it establishes no right for those who join the service subsequent to the passing of the 1904 Act.

Mr. Griffiths: Is it not time we altered that?

Mr. KENNEALLY: It will not be altered by this means. If it is time we altered it it might be as well for the hon. member in caucus assembled to tell the Government that the Governor-in-Council shall say yes instead of no. Then this measure will not be required.

Mr. Griffiths: I will follow your advice.

Mr. KENNEALLY: I hope the hon. member will be more successful than the Bill is likely to be. Can it be said that cases upon which a judicial decision has already been given, and which have been taken to appeal, can be considered as cases that are pending?

Mr. Richardson: They are finished.

Mr. KENNEALLY: The hon. member says they are finished. If that is so, the effect of the Bill is finished because many

of those men are now waiting to draw their superannuation. Many of the cases are based on exactly the same grounds as the cases of those people that have been determined by the courts of the land. If, as the member for Subiaco says, those cases are finished, then the question of the cases pending will not be embraced, and many of the men waiting for relief will find that they will not get any relief at all. The Attorney General, in speaking on the measure, mentioned that this would rectify an omission from the Act, and would restore the Act to the position that Parliament intended for it when it was passed. Let us see what that means. This will give the railway men the right to appeal to the appeal board. Already in the Bill there is the right given to other people to appeal. The result of the appeals has been that each has been turned down. This simply asks the railway men, independently of the fact that it says "notwithstanding anything contained in the Act" to follow in the footsteps of their brothers who have had their appeals turned down. It gives them the right to go to the appeal board to get their heads chopped off. That is not what the railway men want. They want to have their right to superannuation established, and I cannot possibly see where we can establish it by giving the right to a person to go to the appeal board which has already turned down a similar application. The railway men concerned are wages men, some of whom are entitled to superannuation to the extent that they have served on the salaried staff and to the extent that they did serve on the salaried staff prior to 1904. But the position is now that they cannot get anything for their wages service. The Privy Council declared that they were not entitled to it. That was decided in the case of *Mrs. Laffer*. The Bill does not alter that position and that is where its weakness lies. The Bill itself will not grant any relief. If relief is to be granted, the Government have full power to grant it straight away without the aid of any measure. I should like again to refer to the somewhat anomalous position occupied by the Attorney General in connection with the Bill. He meets representatives in conjunction with the member for Subiaco, he makes certain suggestions with regard to the engagement of a constitutional lawyer. That lawyer confers

privately with the Attorney General as to what is necessary and the result of the conference is that certain clauses are drafted. They are passed on to the men concerned, and those men with the member for Subiaco embrace those clauses in an amending Bill which we have before us now. The position is that if we are not able to give those people the right to obtain superannuation it is not much use to allow them to go to the appeal board, an appeal board which must necessarily give a decision on the law as it stands. Otherwise it will be upset on appeal. There is one opinion I desire to read before I conclude. It is that of Mr. Pilkington who advised—

I have carefully perused the Government Railway Act, 1904, and cannot find anything in it to exclude railway officers from the benefits of the Superannuation Act. On the contrary, the provision in Section 15 that the Superannuation Act shall not apply to the Commissioner indicates that it does apply to all other officers of the department.

Mr. Septimus Burt in 1902 gave this opinion—

I think it is impossible to say that a line repairer, or permanent way man, any more than a railway guard, porter, engine-driver, fireman, cleaner or such like (whose pay is voted in a lump sum on the Estimates) holds an office under the Crown.

Since then we have had the opinions of seven legal men, some of whom say the question as to whether a man is on wages or salary does not count in deciding whether he has served in an established capacity. The parent Act specially says "whether on wages or salary," and one would think that would have guaranteed pensions to the people concerned. I do not want to quote these other authorities just now, but later, when the measure gets into Committee, it may be necessary to use them. I will support the Bill, but I want those concerned to understand that I am not beguiled by what the measure contains. I do not believe that, if it gets through, the Government will be any more likely to grant to the men what they could grant without this measure at all.

**HON. N. KEENAN** (Nedlands) [8.46]: I think I can tell the House something of the position, and I propose to do so in the shortest possible way. In the first place, until in this State we adopted the Super-

annuation Act of 1871, no Government could give a pension. That Act created a power for the Governor-in-Council to give a pension, but it created no right whatever in any person to receive a pension, but only the right to claim a pension. That distinction must be kept carefully before us if we are to understand what was provided. Until then the Government of the day could not grant a pension, no matter how deserving the case might be. But after that Act was passed they were enabled to grant pensions to persons who were not entitled to pensions, but were entitled to claim pensions. What I should like to draw attention to is that the term "established capacity" has nothing to do with receiving an annual salary or a bi-annual salary. It might be that the remuneration was computed by daily pay, or weekly wages, or annual salary. That is especially set out in Section 1 of the Act.

Mr. Kenneally: The difficulty is that even though it is set out clearly, the ruling of the court has been that it does not include wages.

Hon. N. KEENAN: I am aware of that ruling. It is not in any way binding. It certainly has no possible legal substance, because the words of the statute are plain. It does not matter what form the remuneration takes, the person is entitled to claim. It has always given to him the right to claim. That applied to the whole of the public service until the Public Service Act of 1904 was passed. That Act, by Section 83, put an end to any right to claim a pension on behalf of any person in the public service after the passing of that Act. So from that time forward all persons who became public servants were deprived of the right to claim a pension. That Act did not apply to teachers or railway men, and did not affect them. It merely gave them the position they occupied before the passing of the Act, before 1904, namely the right to claim a pension. Then in 1920 the Public Service Appeal Board Act was passed. By that Act a certain board was brought into existence, and among the different matters the board was entitled to deal with was any question arising as to superannuation allowance under Section 1 of the Superannuation Act. It was under that section that application was made by the Teachers' Union to that

board. And the board held that in Mrs. Laffer's case, she was entitled to a pension. Under Section 10 of the Act it is provided that the decision of the board or a majority of members of the board shall in each case be reported by the board in writing to the Government, and shall be final, and effect shall be given to every such decision. It was on account of that section that we proceeded against the Government on behalf of Mrs. Laffer, because it was conceived that the section meant that once the board pronounced a decision the Government of the day were bound to give effect to it. Hon. members know that the history of that case was this: After various stages in the lower courts, it was taken to the High Court, and the High Court, by a majority decision, ruled that the section did not alter Section 12 of the Superannuation Act, which made it a pure act of grace by the Crown to grant a claim made by the public servant. That being only a majority decision by a bench of three judges, the minority judge held that the effect of the Act of 1920 was that the board was given power to pronounce finally on any matters submitted to it under Section 6 of the Act. Consequently, being led to believe that the opinion was right, an appeal was taken to the Privy Council, and, since I was counsel in the case in all its various stages, I should know something about it. The case went to the Privy Council, and the Privy Council held that the Act of 1871 was not altered by the Act of 1920, and that it still remained a matter of grace by the Crown. A claim could be made, and all the appeal board could do was to say the party claiming was one to whom the Crown might grant a pension. Because, before the Act of 1871, the Crown gave a pension to nobody, and the Act of 1871 created a certain class to whom the Crown could give pensions. The interpretation placed by the Privy Council on the Act of 1920 was that a person obtaining a declaration in his favour, was qualified to receive a pension, and therefore it was in the power of the Crown to grant a pension without a breach of duty.

Mr. Kenneally: So without a person going to the appeal board at all, there would be power in the Crown to grant a pension.

Hon. N. KEENAN: But in those circumstances there would be no declaration made. There is no provision to that effect, but the

result of the decision of the appeal board would be that if the Governor-in-Council did please to grant a pension the effect of the appeal board's decision would be to make that pension law. That, of course, was the only result achieved in that case, and it left the position practically the same as it was before the case was taken.

Hon. P. Collier: And where it will be if this Bill goes through.

Hon. N. KEENAN: Of course I am referring to the Act of 1871. When the Act of 1920 was being argued before the Privy Council, and when Section 10 was touched upon, which says that the decision of the appeal board shall be final and effect shall be given thereto, I pressed that argument very strongly as the sheet anchor of our case. The only result was that the noble Lord said it was political eye-wash. What I understand the position of the member for Subiaco to be is this: At least there should be a termination of the position that public servants are not entitled to receive pensions, which would make it lawful for the Government to grant a pension if they chose to do so. To-day the Government could not do so unless those persons were by some examination or authority declared to be persons coming within the scope of the Act of 1871. Certain boards have determined for themselves that the provisions of the Act of 1871 do not apply to certain cases.

Hon. M. F. Troy: You have been on sound ground, but now you are doing a bit of special pleading.

Hon. N. KEENAN: What I want to make clear is that the action taken by the member for Subiaco, although it will not ensure a pension—because that will always remain as it was when the Leader of the Opposition was Premier of the State, in the power of the Government—although the position remains untouched, it will give a public servant the right to say he has been declared entitled to claim a pension, and the Government of the day will have to say that although he is entitled to claim a pension, they will not give it to him. It is a distinction worth having, although it does not bring him any nearer to a pension if the Government are determined not to give him one. That is the position, and I hope the House understands it.

HON. W. D. JOHNSON (Guildford-Midland) [8.56]: Quite a number of my constituents are interested in the Bill, and a fair amount of lobbying has taken place soliciting support for it. That conveys the impression that those who are doing the lobbying and who claim to be entitled to pensions are of opinion that the Bill will assist them in securing pensions. It is wrong for Parliament to pass measures that mislead, and this measure certainly will mislead those who desire to get pensions.

Hon. P. Collier: It does not matter what decision may be given, the Government would not grant pensions.

Hon. W. D. JOHNSON: Successive Governments have refused them. The member for Nedlands stated that under the Act of 1871 the question of established capacity did not apply. But the point is that successive Governments have raised the question of established capacity, and a definite ruling was given many years ago by the Crown Law Department. Mr. Sept. Burt's opinion in that regard has been referred to. That decision was definite, that those employed on Loan works and those employed on wages were not to be recognised as serving in an established capacity. So, successive Governments adopting this opinion discriminated between those that are granted pensions and those that are refused. We have the striking illustration of Mr. Ripper, who was engineer for railway construction for 35 years. He was the engineer in charge of the railway construction from Northam to Southern Cross, and from Southern Cross to Coolgardie, and was the engineer in charge of all railway construction until recent years. After 35 years of service on works of magnitude, and as an executive officer on most of those works, he was refused a pension because it was contended that he had been paid during all his period of service from Loan funds, and because he was an officer depending upon Loan funds for his salary, then he was not in an "established capacity" and the Government of the day refused him his pension. He is only one of those placed in such a position, but his was a striking illustration because of his long period of continuous service on important works in Western Australia. Wages men have exactly the same claim as that advanced by Mr. Ripper, and they have made their claims, which have been refused because of the ruling given by Mr. Burt, and Government after Government have merely en-

dorsed the decision arrived at in previous years. That policy has been continued up to the present time. As the member for East Perth (Mr. Kenneally) pointed out, if a railway officer or railway employee, who was in the service of the Government prior to 1904, makes an application to the Governor, the Governor-in-Council can grant him a pension to-day. That can be done without the Bill at all, although the member for Nedlands (Hon. N. Keenan) said it will be of some value and assistance. Nevertheless, the fact remains that pensions have been granted to railway employees without the assistance of such legislation. In what way will the Bill be of any value? The Governor-in-Council has already decided that certain individuals in the railway service were entitled to pensions, which are being paid to-day. I want to make it clear to my constituents, who are being misled by the introduction of the Bill, that I am not a party to this procedure. I know the Bill is of no value, and will not assist them in their desires. I would like to be able to assist those men, and in many instances I have done everything possible to help them prosecute their claims for pensions, but Government after Government have refused to grant them. While I sympathise with the men's desire to obtain pensions, they should not be misled by the passing of the Bill into the belief that it will assist them in that direction. The member for Subiaco (Mr. Richardson) is wrong in trying to buoy up their hopes by thinking they will secure as a result of the Bill, something that they have been denied in the past.

Mr. Richardson: I have never done that.

Hon. W. D. JOHNSON: Time will prove it. The member for Subiaco must accept the responsibility arising from introducing a Bill the object of which is to help the men to secure their pensions.

Mr. Richardson: That is so.

Hon. W. D. JOHNSON: In future he will have to prove that that which he led them to believe he would do, could not be done although it should be done. The responsibility is his, and that of no one else. At the same time, I appreciate the fact that while the Bill is of no value, it would be wrong to oppose it because that would mean one would have to accept the responsibility of denying the workers that which the member for Subiaco claims he will secure to them if the Bill be agreed to. I will support the Bill right through

in order to give the member for Subiaco an opportunity to do for the workers what he claims he can do under the provisions of the Bill.

**MR. GRIFFITHS** (Avon) [9.6]: I would not have spoken after hearing the member for Nedlands (Hon. N. Keenan) had it not been for the reference by the member for Guildford-Midland (Hon. W. D. Johnson) to the late Mr. William Ripper. We have heard various opinions and quotations from the statements of legal authorities on the question of the "established capacity" of a Government employee, and that applied particularly when I endeavoured to get something done for Mr. Ripper. We have been told that salaried men are entitled to receive benefits under the Superannuation Act. To-night it has been stated that the Governor-in-Council has power to grant pensions, and now the member for Subiaco (Mr. Richardson) is endeavouring to do something that will assist some of the older employees of the Government to have their claims for pensions endorsed or refused.

Mr. Wansbrough: By means of an appeal from Caesar to Caesar!

Mr. GRIFFITHS: Repeatedly it has been asserted that the existing position is not right. According to the member for East Perth (Mr. Kenneally), the 1871 Act that has been referred to to-night, contains the big hurdle that debars many officers from claiming their pensions. If that is so, surely it is time Parliament did something to remove that obstruction. The member for Guildford-Midland (Hon. W. D. Johnson) referred to the position of Mr. Ripper. Fancy a man who had been employed for 35 years in responsible positions being told that he was not employed in an "established capacity" and was therefore not entitled to a pension merely because his salary was paid from Loan funds. Many members representing gold-fields constituencies know men who have been long in the Government service and considered they were entitled to pensions under the Superannuation Act. Some of those men were well known in the early days of the goldfields when the railways were first constructed. I commend the member for Subiaco upon his endeavour to do something in the interests of those older officials, some of whom have con-

tinued on in the hope of securing a pension in recognition of their many years of service. I hope something will be done to assist those men to secure justice.

**HON. M. F. TROY** (Mt. Magnet) [9.8]: I have listened with interest to the discussion, and I have been wondering how many members have spoken fully what is in their minds. The member for Subiaco (Mr. Richardson) has introduced a Bill that, it is suggested, will allow certain public officials the right to apply for a pension and to go to the appeal board to have their claims determined one way or the other. We know that is already done in this State. We know what happened in regard to Mrs. Laffer. Her claim went to the appeal board who decided that she was entitled to a pension. She did not get it. The matter was taken to the Privy Council and the Privy Council decided that she could have a pension as an act of grace. No Government has ever paid a pension as an act of grace, and no Government will ever do so, at any rate until we are more prosperous than we are to-day. Here we are pretending to a section of the Government employees that we are really interested in their desire to secure their pensions. We know that the financial position of the State is utterly hopeless. We have a deficit of over £1,000,000, and the Treasurer is to introduce legislation to impose heavier taxation. We know that thousands of people are living on the dole, and that, during the last three months, Australia has had to borrow £100,000,000 from the banks on a floating overdraft. We know that the prices of our primary commodities are decreasing, and we have to-night discussed the motion to secure the payment of a bonus of  $4\frac{1}{2}$ d. a bushel to the wheatgrowers in order that they may live. We know that the wool market has slumped, and that if matters do not improve we shall be bankrupt by the end of three years. Every member of this House knows that; yet we are pretending, by the introduction of the Bill, that we will provide for pensions. Is it to be wondered at that people outside have an utter contempt for members of Parliament? We, who know better, are pretending to people, who do not know better, that by this Bill we will provide pensions for them. The ordinary people will not know that we are

pursuing a mad pretence. The whole country is bankrupt and although people are talking about the State having turned the corner, we cannot pay our debts. It has been said that we must not borrow, and yet we have borrowed £100,000,000 from the banks during the last three years. We have to borrow to pay, and yet we are deceiving the people by dealing with a Bill to provide for pensions. No Government ever proposed to grant these pensions, and this discussion is merely a damned hoax. It disgusts me. It merely serves to waste the time of the House and to fill the pages of "Hansard" with a discussion that amounts to a mere pretence that we want to do something that we have no intention of carrying out. If there are any men in the gallery to-night listening to the debate in anticipation of securing relief in the future, they can go home knowing that we are not sincere in our discussion on the Bill. That is the position. If the men concerned secured the right to go to the Public Service Appeal Board to-morrow, and they got a decision in favour of their pensions, no Government would ever pay them. The Attorney General, in reply to my question, said that he did not know what this proposal was likely to cost the State. Of course he does not know; he is not concerned, because he knows the Government will not pay it.

**Mr. Kenneally:** He has the power to pay it now.

**Hon. M. F. TROY:** Yes, without the provisions of the Bill at all. Here we have lawyers drawing up a Bill to give men the right to appear before the appeal board, and all the time we know that Governments that have been in power would not pay such pensions because they could not do so, and that no Government will ever do so in the future. The same thing will continue if the Bill is passed. We are deliberately discussing pensions although the State is hopelessly bankrupt. Our people are taxed up to the hilt, and thousands are in want and yet we are discussing pensions! It is all humbug. I do not care whether the second reading of the Bill is agreed to or not. There is no hope of these men getting their pensions and the Government could not afford to pay them. Let us be honest. I do not care how it affects me, but I will be honest with the people.

**MR. RICHARDSON** (Subiaco—in reply) [9.14]: I would not have made any attempt to reply had it not been for the statements made by the member for Mt. Magnet (Hon. M. F. Troy). Evidently he would lead anyone listening to the debate to believe that not one of the speakers this evening has been in earnest. For my part, I believe that every member who spoke to-night has been very much in earnest.

Hon. M. F. Troy: I said the Bill was not in earnest.

Mr. RICHARDSON: I was pleased to hear some of the criticism. A member is entitled to introduce a Bill in this Chamber irrespective of what the condition of the finances may be. I did not introduce the Bill with the object of giving pensions to the railway men. I introduced it with one object and that was to give another avenue whereby they might appeal to a properly constituted power. If this Bill be passed, they will have that properly constituted power. On no occasion have I told the railway men that, by reason of the passing of the Bill, they will receive their pensions.

Mr. Hegney: They all think they will.

Mr. RICHARDSON: They do not expect it. They expect to get a fair and just decision from the appeal board. I am satisfied in my own mind that past Governments and the present Government should have been obliged to pay pensions to men employed in the railway service after 1871 and previous to 1904. That there is room for an appeal board to-day is shown by the statements of members that some men have received pensions and some have not. We want to know why some who have applied for pensions have been turned down, and that can only be ascertained through a properly constituted appeal board. I am pleased that members, notwithstanding that they see many difficulties in the way, are prepared to vote for the second reading. It will at least give the men the right to appoint their own representative, who can state their case in a proper manner.

Hon. P. Collier: And the appeal board may give them a decision and that will be the end of it.

Mr. RICHARDSON: I addressed a meeting of about 500 railway men; they were men who had been engaged between 1871 and 1904, and I told them distinctly that the Bill I was going to introduce would not

give them their pensions. It would give them the right to appeal for their pensions if they were turned down. The Bill will at least give them some chance of securing what I am prepared to say they are absolutely entitled to. Each of those men should have been paid his pension as he was discharged from the railways. I realise that it will be a difficult task for the Government if they have to pay pensions to all the men due to receive them, but I dare say many loopholes will be found in the 1871 Pensions Act whereby the Government can escape payment. But if we can give only a small percentage eligible to receive the pension their rights, I shall be satisfied with the result of the Bill.

Hon. M. F. Troy: Do not you want the whole lot to get their rights?

Question put and passed.

Bill read a second time.

#### *In Committee.*

Mr. Angelo in the Chair; Mr. Richardson in charge of the Bill.

Clauses 1, 2—agreed to.

Clause 3—Amendment of Section 3:

Mr. RICHARDSON: I move an amendment—

That after "organisations," in line 10 of sub-paragraph (bb), the words "and employed exclusively by the Railway Department" be inserted.

In framing the Bill I included only three unions. I discovered afterwards that there were four other unions, some of whose members were engaged exclusively by the Railway Department. I desire the amendment to give men employed exclusively by the Railway Department an opportunity to vote for the representative.

Amendment put and passed.

Mr. RICHARDSON: I move an amendment—

That the following be added to the sub-paragraph:—"The Amalgamated Engineering Union; The Australasian Society of Engineers; The Federated Moulders (Metal) Union; The Federated Society of Boiler-makers and Structural Iron and Steel Workers."

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

#### Clause 4—Amendment of Section 6:

Mr. HEGNEY: Will the clause apply to railway men who have been recently retrenched? A number of them believe that if the Bill be passed they will receive superannuation. The clause states, inter alia, that the word "person" shall include any person employed in the department, whether he be a salaried officer or paid by wages.

Mr. RICHARDSON: I have inquired into that matter and I understand that all men who were employed between 1871 and 1904 and who have been recently retrenched will have the right to apply for their pensions and, if the application is disallowed, to go before the appeal board.

Clause put and passed.

Title—agreed to.

Bill reported with amendments.

### BULK HANDLING BILL, SELECT COMMITTEE.

#### *Council's Message.*

Message from the Council received and read notifying that it had agreed to the Assembly's request and had appointed five members, Messrs. Bolton, Hammersley, Kitchin, Piesse and C. H. Wittenoom, with power to confer with the committee of the Assembly on the Bulk Handling Bill, and had fixed Monday, 17th October, at 2.30 p.m. at Parliament House as the time and place for the first meeting.

### BILL—GOVERNMENT FERRIES.

Received from the Council and read a first time.

### BILLS (2)—RETURNED.

1. Fruit Cases Act Amendment.
2. Reduction of Rents Act Continuance. Without Amendment.

### RESOLUTION—STATE FORESTS.

#### *Council's Message.*

Message from the Council received and read notifying that it had agreed to the Assembly's resolution regarding the partial revocation of State forests.

### BILL—CRIMINAL CODE (SECTION 27 AND CHAPTER LXV.)—AMENDMENT (No. 1).

#### *Second Reading.*

Debate resumed from the 14th September.

**THE ATTORNEY GENERAL** (Hon. T. A. L. Davy—West Perth) [9.27]: I seem to have been debating this measure, or a similar one, with the member for Perth (Mr. H. W. Mann) for many years, and I am sure that whatever I or any other member may think of the Bill, all must have an admiration for the earnestness and persistence with which the hon. member has pressed his views on the subject.

The Minister for Railways: It might be called something else.

**THE ATTORNEY GENERAL**: When one agrees with him, it might be called strong-mindedness; when one disagrees, it might be called obstinacy. I think the hon. member is a little influenced in his views on the measure by another view he holds that is not embodied in this Bill. The member for Perth has a sentimental and perhaps also, to him, a logical objection to capital punishment, and although this is not a measure to abolish capital punishment, it is one to abolish capital punishment in certain cases. The whole of his views, I think he will admit, are tinged with his hatred of capital punishment in any case whatever.

Mr. Kenneally: He proposes to take additional precautions before resorting to capital punishment.

**THE ATTORNEY GENERAL**: He proposes to extend the number of cases in which capital punishment shall not be inflicted. He proposes to create a further class of persons who will be exempt from paying the extreme penalty, a class who at present may be subjected to that penalty. It is difficult, in discussing the Bill, to avoid, as the member for Perth failed to avoid, the question whether capital punishment ought to exist or not. That question is perhaps, strictly speaking, outside the scope of the Bill, but nevertheless touching upon it cannot be avoided, and no member who has debated this measure or its two predecessors introduced by the member for Perth has succeeded in avoiding an expression of opinion on capital punishment. On the necessity or wisdom of retaining capital punishment in our Criminal Code, I entirely differ from the hon. member. The case for the retention of capital punishment

may be summed up in a few words. At the beginning of last century there was a strong move to abolish capital punishment for every crime except wilful murder, and one or two others. The argument used by the advocates for its abolition was that if a man stole a sheep and the penalty was capital punishment, and he was discovered by someone, his mind would argue that dead men tell no tales, and he would therefore kill his discoverer. It was urged that that was a good reason for abolishing capital punishment in the case of the stealing of a sheep, and the other crimes to which it then applied. That argument is a cogent one for the retention of capital punishment for the crime of murder. If we make the punishment for burglary and the punishment for wilful murder identical, that same argument will operate in the mind of the burglar. In a serious case of burglary a less punishment than life imprisonment cannot be imposed, and if the burglar is discovered he will say "Dead men tell no tales," and he will kill his discoverer. For the crime of burglary he will suffer life imprisonment, and he cannot be worse off by destroying the evidence of the discoverer. That is the real reason why we have to retain the penalty for wilful murder, which is more severe than the penalty for any other crime in the Criminal Code. No one contemplates with any satisfaction or happiness the duty of putting a fellow creature to death for any crime. Every man who has been a member of a Government has regarded his duty of deciding whether or not the course of the law shall proceed, or whether the Royal clemency shall be extended to a man found guilty of murder and sentenced to death, as one of the most trying experiences of his life. This Government have had to face the responsibility of making that decision on a number of occasions, just as the preceding Government had to do. It is an extremely unpleasant task but one which is faced with due consideration of all the facts of the case. In my experience both as a member of the Government and as an observer of other Governments, no person has been put to death where there was any suspicion that the state of that person's mind was such as to put him in a different category from that of the ordinary citizen. The member for Perth (Mr. H. W. Mann) said the other night, as he said three years ago and seven or eight years ago, that no normal minded person commits murder, that everyone who commits an extreme crime is abnormal. I

do not agree with him. It appears to me one has only to consider comparatively recent history to see that that argument is a fallacious one. One has only to recall conditions in the west of the United States of America some 40 or 50 years ago to remember that almost every man in the community carried a revolver in his pocket, and not only produced it, but killed his fellow creatures for the most trivial reason, such as a dispute over cards, some slighting remarks made by one to another, and so on. Almost any reason was a sufficient cause for a man to draw his pistol and shoot at his fellow. It cannot be suggested that all the people who lived in the western States of America or in Canada in those days were abnormal persons. They were nothing of the sort. That state of affairs went on until the law was enforced. It is the certainty of punishment for a breach of the law that compels its observance, rather than the severity of the punishment. This measure proposes that in every case in which a person is charged with an offence, for which the penalty is death, shall before his trial be subject to examination by a medical board.

Mr. H. W. Mann: You see no objection to that?

The ATTORNEY GENERAL: I do. The first thing that should be done, when a man is charged with wilful murder, is to determine whether he has killed the man in respect to whose death the charge is made. It may be that there will be a failure to prove that he has committed the act in respect to which it is alleged the crime has occurred.

Mr. H. W. Mann: A medical examination would not affect his trial.

The ATTORNEY GENERAL: Perhaps not. Before a man is submitted to examination by doctors and a psychologist, the first thing to do is to determine whether or not he has committed the act. I would prefer to see the provision in the Bill put in that way.

Mr. H. W. Mann: It was put that way in the first Bill, but it was changed so that the examination was put before the trial.

The ATTORNEY GENERAL: That does not seem to me to be necessary proof that the original way was not the best way. The House has changed substantially in personnel since then.

Hon. A. McCallum: Not for the better.

The ATTORNEY GENERAL: Perhaps not. It may with added experience have become wiser. I would have had no serious objection to raise, except that I think it is unnecessary, if provision were made that after a man was found to have done the deed the medical examination should take place. That is what invariably happens.

Hon. P. Collier: If the question as to his sanity is raised.

The ATTORNEY GENERAL: If the Government have the slightest idea that a man is not perfectly normal, in my experience he is always submitted to a medical examination. The Leader of the Opposition will admit that was the attitude adopted by his Government. I would have no objection to the law declaring that that should be done as a matter of necessity rather than a matter of choice. I can see no reason why we should import into the trial itself the findings of a body which has to examine a man before the trial takes place. The leaving of the question to the jury, as proposed by the hon. member, appears to me to be less of a safeguard to the wrong person being put to death than leaving it to the Government. We had a remarkable instance, which the hon. member quoted in support of his Bill, where the only evidence called as to a man's insanity was that of the Chief Inspector of Insane who had examined him at the request of the Government, and who in court swore that in his opinion the man was insane. In spite of that, the jury found him guilty of murder, and ignored the only medical evidence put before them. It appears to me the hon. member would more safeguard the people he is endeavouring to help if he made it the rule that the Government must, before having the death penalty carried out, obtain the medical opinion which he proposes shall be obtained before the trial and presented to the jury, leaving it to the jury to decide whether they shall listen to it or not. Although I do not agree with the hon. member's view, which really prompts his introduction of the Bill, I can see no very serious alteration in the law as it stands, but it will only declare in a way which I think can be done better what is in fact the practice of Governments now. I suppose this House

will pass the Bill. It carried a similar measure on two previous occasions, and although the personnel of the House has somewhat changed probably the Bill will go through. If the House is going to carry the second reading. I shall be glad if some alteration is made to the clause so that it will be more acceptable to me.

**MR. PARKER** (North-East Fremantle) [9.42]: I trust the second reading of this Bill will not be carried. I see in it a grave danger to the man who may be of unsound mind. When I speak of unsound mind I mean the man who in the ordinary acceptance of the word, and to the ordinary man in the street, is not responsible for his actions. I am not regarding medical opinion or the legal opinion, but the opinion that the gentlemen of the jury would have. In this Bill it is suggested that as soon as the man is indicted a doctor should examine him. In other words, we alter the law entirely. The Criminal Code expressly sets out that every person is presumed to be of sound mind and with having been of sound mind at any time that comes in question until the contrary is proved. We are reversing that entirely. In the case of a person who is charged with a capital offence, such as various forms of treason and wilful murder, a certain procedure is followed. In the case of murder the rule is to hold an inquest, and then the Coroner commits the man for trial. The matter then comes before the Attorney General who files an indictment. Sometimes it is merely a matter of form. The filing may be done on the morning of the trial, a few days before or a week before. Generally, it is done within a week of the trial. It is a formal indictment. Under this Bill, as soon as the indictment is filed and presented, the doctors are called in as well as the psychologist to examine the man to see if he is of unsound mind, or if he is suffering from any mental defectiveness or infirmity or unsoundness of mind. These three persons then examine the individual. From my experience of cases in which doctors have been called in to give evidence at a criminal trial as to the state of a man's mind, the evidence is usually along those lines. The doctor gives evidence and says, "I put the various facts as I was informed they existed at the time of the crime to the ac-

cused, and he did not realise, or appear to realise, the position in which he had placed himself." From my experience, doctors have had to put accused persons under rather severe cross-examination, and occasionally somewhat crudely, in order to test whether or not the accused realised what had happened. It has happened that a doctor has said, "I put all these questions and the man, to my mind, had no idea of the seriousness of his position. He does not realise that he has done anything wrong." I do not see how in the majority of cases the doctors can come to a conclusion until they have gone thoroughly into the details of the case as they are told the details exist, and have put those details to the accused person and got his answers. They have to judge from his manner and demeanour, and very largely from his answers. Under this Bill the accused would have to undergo all that examination prior to being placed before the jury, and before, as the law stands at present, he need answer any question. The man need not, at present, answer any question whatever; but if this Bill is enacted he will be bound to undergo any examination that these three persons like to put him through. Of course the doctors say it is necessary for them to put him through that examination in order to test the state of his mind, whether he is insane, or whether there is any infirmity of his mind or otherwise. In my opinion that is a most dangerous principle to adopt. We must naturally assume that those three persons would act perfectly honestly and diligently; but they have to make their report, and that report can be seen by both the prosecution and the defence. It is obvious that in the course of the examination the accused person will answer those questions. He must. If he remains dumb, the doctors will say, "Of course he is mad. He did not realise his position. He would not answer." If he does answer the questions, it is only natural to assume that some use will be made of the answers. For that reason this is a most dangerous provision to insert in our criminal law. The criminal law as it stands sets out clearly and distinctly what is the position. I would draw the attention of hon. members to the fact that the Criminal Code was prepared by the late Right Hon. Sir Samuel Griffiths, after Mr.

Justice Fitzjames Stephen had drawn up a Criminal Code for India. Sir James Fitzjames Stephen spent a great deal of time on the code, which never became law; but Sir Samuel Griffiths carried it on and introduced it into the law of Queensland. Sir Samuel Griffiths brought the criminal law right up to date in one volume, the Criminal Code; and he went somewhat further than the English law, especially as regards the question of unsoundness of mind. He put the matter into very simple phraseology which a jury can clearly understand. Section 27 of our Criminal Code sets out the matter clearly—

A person is not criminally responsible for an act or omission if at the time of doing the act or making the omission he is in such a state of mental disease or natural mental infirmity as to deprive him of capacity to understand what he is doing, or of capacity to control his actions, or of capacity to know that he ought not to do the act or make the omission.

That is quite simple, and is it not what we want? If a man knows what he is doing and can control his actions, surely he is responsible for an act of murder. If we were to go further than that, I do not know quite where we should wind up. At present, if a man shows any sign at all of insanity, he is medically examined. In all capital offences the Crown has always seen to it that the accused person is defended by counsel. Human nature being what it is, counsel do not like losing cases. The first act of counsel for the defence is to find out the facts. He gathers them from the depositions at the inquest. He sees his client, and the client may tell him something or he may not. Counsel comes to the conclusion, after interviewing his client or reading the evidence which has been given, that his client must be wanting in some respects as regards his mental condition. Then counsel has only to apply to the Crown Prosecutor for mental experts to be made available to him. They always are made available. The Inspector General of Insane and the medical man at the gaol are the doctors who are usually selected for this purpose. In addition, any other medical man desired by counsel for the accused has always been made available. The doctors examine the accused, but what they find is not given to counsel for the prosecution; it is only given to counsel for the defence. The de-

fence can, if they like, make it available to the prosecution. At the same time, the prosecution as a rule also ask these doctors to make a report for the benefit of the prosecution. The doctors then simply make a report, either that the accused is quite sane, or that he is not sane; but they do not go any further and say what has transpired between themselves and the accused person. If they do, it is certainly not under any circumstances allowed to be used in any shape or form, and never is used. I have known of instances where doctors have examined accused persons and have told the Crown Prosecutor and also the police the result; but that under no circumstances is ever used against the accused—I mean, what has transpired between him and the doctors. Assuming the doctors come to the conclusion that the man is sane, the trial goes on in the ordinary way. But under the Bill the doctors may go further and say he is insane and the defence may still contend the accused is sane. The accused may be sane now, but was he sane at the time he committed the act?" At present the public are protected and the accused is protected, because the doctors go into the witness box and are subject to cross-examination. In a case in which I prosecuted, a doctor went into the witness box and said that the accused was insane—it was not a capital offence. Afterwards it transpired that the accused was highly indignant at his friends coming along and giving evidence that he was insane. If found insane, he would have been placed in the Hospital for Insane at Claremont for the rest of his life. As it was, he got a term of imprisonment, and has been long-since at large. Now, if a person is insane at the time of the trial, there is a simple and expeditious remedy provided in the Criminal Code. In my experience it happened on one occasion that an accused was brought up and the doctor informed me that he was of opinion the accused was insane. The jury were immediately sworn in, the doctor was put in the witness-box, and said, "The man is insane." That finished it. The man was not brought up for trial. He was protected. Assume that the jury find that the accused is of sound mind. We had that in the Wray case. The jury found Wray guilty, but did not add what they should have added, "but of unsound mind." They said he was guilty, but

they recommended him to mercy on the ground that he was mentally deficient.

Mr. H. W. Mann: The verdict should have been, "Not guilty on the ground of insanity."

Mr. PARKER: Yes; "not guilty on the ground of unsound mind." The natural thing was to appeal to the Full Court, and the Full Court immediately found that the verdict should have been, "Not guilty on the ground of insanity." And that is what happened. There was a case of an insane man being found guilty in a straight-out way and thus being liable to be hanged; but there was the additional protection of the Full Court, and the matter was speedily rectified. Now assume that the Full Court had not seen fit to alter that verdict. Then, after sentence, that man would have been left in the condemned cell, which sounds rather more dreadful than it is, being merely an ordinary cell. He is in the cell, and is visited daily by the doctor and by various other people. From my experience of the gaol authorities, there is nothing they abhor more than an execution, and if they can possibly find any way out of it they will do so. If there is the slightest sign of any mental deficiency, it is immediately reported and the man is again examined and watched. It is the common law of England and here that no man of unsound mind shall be hanged, even if he was of sound mind when he committed the offence, and of sound mind when tried. If he becomes of unsound mind afterwards, the law does not take its course. So I really do not see any object in this Bill. Again, there is a further danger. I notice the Bill provides that the doctors' reports shall be put in at the trial; and there is no opportunity of cross-examining those doctors so that the jury can decide whether it is a matter of the man being really insane, or whether it is what perhaps doctors may call insane or of unsound mind.

Mr. H. W. Mann: You have not read the Bill.

Mr. Kenneally: There is provision in the measure for the examination of the doctors.

Mr. PARKER: The report is put in at the trial.

Mr. Kenneally: And then the doctors may be examined on it.

Mr. PARKER: They may be, yes, but the report is put in at the trial. One does not want reports put in at trials. I had

an actual instance where the doctor came along and said to the judge, "I put in my reasons in writing." Naturally I objected; and after the judge had finished with him, that doctor was a very sad and sorry gentleman.

Hon. P. Collier: Defending counsel may decide not to offer the doctor as a witness, but may depend on his report.

Mr. PARKER: Most decidedly.

Hon. P. Collier: That might suit counsel for the defence better than the risk of cross-examination.

Mr. PARKER: Yes, and therefore the public would not be protected. All said and done, the criminal law is to protect the public at large; and at the present time there is every safeguard to protect the accused person, and especially an accused person who shows any signs of insanity. We all know that in every murder case a large section of the community is found stating definitely that the person who committed the murder was insane. Every care is taken to see whether that accused person is of sound mind or otherwise. For the reasons I have given I feel that I must oppose the Bill in the interests of accused persons and also in the interests of the public at large.

**MR. F. C. L. SMITH** (Brown Hill-Ivanhoe) [10.0]: I will oppose the second reading, and therefore I wish to give reasons for my attitude. The provisions of the Bill, if agreed to, will effect alterations in the Criminal Code which are not only unwarranted but would be positively dangerous if they were not so ridiculous. I have no doubt the member for Perth in introducing the Bill was actuated by the highest motives. He postulates that he considers the Criminal Code has undesirable limitations with regard to criminal responsibility of the mentally unsound, and he desires to extend those provisions so as to embrace the whole variety of mental equipment of the human race. If the provisions of the Criminal Code are extended, as the Bill will extend them, to exclude from responsibility a state of mental defectiveness that is not already covered in the Criminal Code, which states "a state of mental disease or natural infirmity as not to know that the act he is doing is wrong, or not to have capacity to know that he should not commit the act or make the omission," then it seems to me if we are going to embrace a mental defectiveness other than that already provided for,

the whole field of human understanding will have to be surveyed for the purpose of determining where criminal responsibility begins and where it ends. Mental defectiveness is such an abstruse phrase, such an indefinite kind of thing, as to raise the whole question of mental effectiveness in the whole of the human race. And if that issue is raised, we find that the mental effectiveness of the units of the human race varies very many degrees. And if a mental defectiveness other than that already provided for in the Criminal Code is going to be used for the purpose of a defence, I submit the whole of the criminal class, the really criminal class, have already established their defence. The Bill proposes the appointment of a board, and the members of that board are to have special qualifications. There are to be two duly qualified medical practitioners who shall have a special knowledge of mental diseases, and a psychologist. I take it this board will not function until such time as those provisions in the Criminal Code that we have already established have been exhausted; that is to say, the means we use now for the purpose of determining criminal responsibility will be exercised before the board is called upon to function. Otherwise I think the establishment of a board and the calling upon them to function in every case would certainly be superfluous in many cases. The Bill provides that the board may give a majority decision and a dissent. That is to say, the board may all agree either that the accused is not insane or not entitled to the provisions of the Bill, that he is criminally responsible, or two members of the board may think he is criminally responsible, and the third member may dissent. That is provided for in the Bill. But whether they all agree or whether there is a dissenter amongst the three, both the report and the dissent can be put in for the prosecution or the defence. If the majority decision says the person is not criminally responsible, then the Crown Prosecutor can cross-examine the members of the board. But no provision is made for counsel for the defence to cross-examine the members of the board. Later on we find in the Bill that the report cannot be put in until the judge is satisfied that the facts stated as the basis thereof have been proved at the trial. How can the judge be satisfied that the facts stated

as the basis thereof have been proved at the trial if the report cannot be put in at the trial? That is something I should like the author of the Bill to explain. Then, on the other hand, the dissent may also be put in; that is, if the judge is satisfied that the facts stated as the basis thereof have been proved at the trial, the dissent may also be put in. So the judge is in the position of being satisfied that both the facts stated as the basis of the majority decision have been proved at the trial and the facts stated as the basis of the dissent have been proved at the trial. He has to decide which side has been proved at the trial. That phase of the case would not reach the jury, and it is obvious that if the judge decided one way or the other, refused to allow the dissent to be put in at the trial because he considered the facts stated as the basis thereof had not been proved at the trial, it would influence the decision of the jury. Or it may be the judge would not be satisfied that the facts stated as the basis of the majority decision had not been proved at the trial, and that again would influence the decision of the jury. But no matter what the judge might think with regard to the report, whether it is a majority decision or whether the whole of the members of the board agree with the decision, the jury may still dispute the judge's decision with regard to the report. And then the jury ultimately, if they think fit, may add a rider saying that the death penalty should not be inflicted. If they add a rider to that effect, the judge must acquit the accused. That seems a remarkable provision.

Mr. Kenneally: It goes further and says the man must be kept in custody.

Mr. F. C. L. SMITH: I know it does, but this benefit to those who are charged with a crime punishable by death is not extended to other criminals. It is not extended to bushrangers, motor car thieves, or purse snatchers, unless in the course of their crimes, they happen to shoot someone. If they do shoot someone, then the provisions of the Bill will be extended to them. If they do not shoot someone, they may receive imprisonment for life, without any of the beneficence extended to them that is provided for those charged with a crime punishable by death. Despite that fact, the criminals may be just as mentally defective as those charged with the more serious type of crime.

Mr. Kenneally: But they get life imprisonment just the same.

Mr. F. C. L. SMITH: I know.

Mr. H. W. Mann: The object of the Bill is to prevent the forfeiture of the life of the man who is not mentally sound.

Mr. F. C. L. SMITH: We may all be mentally deficient to some degree, and the difficulty is to know where this will begin and end.

Mr. Kenneally: You should protect yourself.

Mr. F. C. L. SMITH: We have border-line cases. We will always have them, no matter what we may do. We will have to establish some standard under the Bill and, in my opinion, the Criminal Code at present makes adequate provision for men who are mentally unsound or mentally unfit. I agree with the Attorney General that the question of the abolition of capital punishment does not enter into the discussion on the Bill at all, although the member for Perth (Mr. H. W. Mann) had quite a lot to say regarding that phase. Many of the supporters of the abolition of capital punishment make exceptions. They are great protagonists of that particular reform until it comes to a particular case that appeals to them as being appalling. There are not many people who would not agree that the perpetrators of the Lindberg outrage in America should escape capital punishment. We often hear people say, "I have always been in favour of the abolition of capital punishment, but not in this or that case." The famous Robespierre delivered a speech on the abolition of capital punishment in France that is still regarded as a classic. Yet ultimately he not only supported the Terror during the French Revolution but demanded the death of the King, saying, "Louis must perish that the country may live." In my opinion, the Criminal Code makes every provision for the protection of those who are in such a state of mental disease or natural infirmity as to warrant their securing the protection that the law gives them with regard to criminal responsibility. As a matter of fact, the Criminal Code provides that where persons are suffering from delusions they do not escape from criminal responsibility as a result of that defect. When a person is charged with a crime punishable by death, we always find that if they cannot themselves afford to pay for their defence, it is provided for them by the Crown.

The Attorney General: They are not allowed to plead guilty.

Mr. F. C. L. SMITH: Is that so?

Mr. J. I. Mann: Their position is often affected by the type of lawyer employed.

Mr. F. C. L. SMITH: All possibilities are exhausted when the question is whether the accused was insane or not when he committed the crime.

Mr. J. I. Mann: But there may be a big variation between the type of lawyer appearing on either side.

Mr. F. C. L. SMITH: The question whether a person is insane or not, and the amount of criminal responsibility he must shoulder, does not rest, I think, upon the capabilities of his lawyer.

Mr. J. I. Mann: Very often it does.

Mr. F. C. L. SMITH: I should not think so. The lawyer would call medical evidence, which would really determine the issue and influence the jury, and later on would influence the Government with regard to the infliction of capital punishment or otherwise. To suggest that there should be further safeguards is a reflection on the legal profession. The question of the abolition of capital punishment is entirely different from the principle embodied in the Bill, which is to substitute a term of imprisonment for capital punishment. The Bill will provide for a person being acquitted altogether in the event of his mental defectiveness being such as to exclude him from criminal responsibility.

On motion by Mr. Kenneally, debate adjourned.

## **BILL—CRIMINAL CODE (CHAPTER XXXVII.) AMENDMENT (No. 2).**

### *Second Reading.*

Debate resumed from 14th September.

**THE ATTORNEY GENERAL** (Hon. T. A. L. Davy—West Perth) [10.17]: I do not propose to detain the House for more than a few minutes in dealing with the Bill, which appears to me to be entirely right. In the past, owing really to some archaic ideas as to what constitutes stealing, persons who unlawfully assumed control of other people's motor cars were regarded as minor offenders. The Bill merely gives proper weight to the hand of the law in

dealing with persons who commit that type of crime. There may be a big divergence in the degree of criminality of the different persons who unlawfully assume control of other people's motor cars, and that is already provided for under the law. The maximum period under the Criminal Code, during which any person may be confined in gaol for stealing, is three years, but a judge may award anything from imprisonment for one day to imprisonment for three years, and may even inflict a fine apart altogether from imprisonment.

Mr. Kenneally: What is the maximum that an offender may receive now?

The ATTORNEY GENERAL: Such cases are disposed of in the police court, where the offences are dealt with summarily, unless real intention to steal the motor car can be proved.

Mr. Kenneally: And what is the maximum imprisonment that can be awarded in the police court?

The ATTORNEY GENERAL: Six months, I think.

Hon. P. Collier: That would depend upon whether the offender desired to steal the car or merely to assume control of it for a night.

The ATTORNEY GENERAL: Yes, and the difficulty of proving *mens furandi*, which means "a mind tending to steal," is very real. Everyone who owns a motor car has probably at some time or other had it removed from where he left it. I had a motor car that was unlawfully removed on five different occasions. On four occasions I found it a short distance away because the gears were locked and the person who took it had been unable to operate it. It was moved as far as the slope of the hill would permit it to run, and there it was abandoned. On the other occasion the car was discovered on the banks of Churchman's Brook. I gathered afterwards that two young men had taken it for the purpose of attending the Churchman's Brook annual confetti ball.

Hon. P. Collier: A very reasonable explanation!

The ATTORNEY GENERAL: I do not know that I should wish to see those two young fellows sent to gaol for three years, but if they could have been caught, I think they should have been properly punished.

Mr. Kenneally: They could not bring the bail to the motor car.

The ATTORNEY GENERAL: No, but it was my motor car. Perhaps if they had consulted me and invited me to accompany them to the ball, I might have fallen in with the idea, but they did not see fit to do that. It is proper that offences of the kind should be more severely punished when they are mean offences. The removal of a car may not only embarrass the owner of the car but, as the member for Perth pointed out, may severely affect other persons. The cars of doctors have been stolen, and motors belonging to people who needed them importantly for some public service have been removed. It is not a sporting offence. One can always feel sympathy for a man who steals because he is destitute, because his family are hungry, and because he is worrying as to how to furnish necessities for others. Such an offence is incomparably less mean than the offence of a man who, for his own pleasure, takes possession of some other person's property. I imagine that this Bill will have a salutary effect.

On motion by Hon. P. Collier, debate adjourned.

*House adjourned at 10.23 p.m.*

## Legislative Council,

*Thursday, 13th October, 1932.*

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

### BILLS (2)—THIRD READING.

#### 1, Brands Act Amendment.

Transmitted to the Assembly.

#### 2, Dairy Cattle Improvement Act Amendment.

*Passed.*

### BILL—SPECIAL LICENSE (WAROONA IRRIGATION DISTRICT).

#### *Recommittal.*

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

#### Clause 2—Interpretation:

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

The CHIEF SECRETARY: Through an oversight the words "and reduced" have been left in the definition of "licensee." The period fixed by the court for the addition of these words to the name of the company has passed, and there is no further need for these words. I move an amendment—

That in the definition of "licensee" the words "and reduced" be struck out.

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

Bill again reported with a further amendment.

### BILL—INSPECTION OF MACHINERY ACT AMENDMENT.

#### *In Committee.*

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clauses 2 to 4—agreed to.

Clause 5—Amendment of Section 53:

The CHIEF SECRETARY: I have an amendment on the Notice Paper, but Mr. Harris also has one that might be dealt with first.

Hon. E. H. HARRIS: I move an amendment—

That in paragraph (e), line 1, the word "Holman" be struck out, and that all the words after "engine" in line 2 be struck out and the following inserted in lieu:—"Not exceeding 40 horse power used underground in a mine for raising or lowering materials only."

"Holman" is the name of a hoist. Other hoists are now on the market, and it is desirable that the word "Holman," as synonymous for "hoist" should be eliminated.

Hon. C. B. Williams: What is the object of the amendment?