have had no difficulty in obtaining invalid pensions. Yet the invalidity of those people did not arise during the period they were in Australia, and some of them have confessed that they suffered from those disabilities before leaving England. So, as I say, it is not breaking any contract to send those people back Home. Many of the migrants who came out here went first to the group settlements, and thence made their way to the city, having either been put off the settlements or having walked off. Ever since the dole has been in existence they have lived on that. Even if they could secure jobs, it would be impossible for them to do the work, because they are physically unfit for work. When those people are in so weak a state of health, it is unreasonable not to give them an opportunity to get back amongst their friends in England, where presumably they can get some little extra help. Yet we find serious obstacles placed in the way of those people being sent back. I have good reason to know how difficult it is to establish that a person is suitable for repatriation. Even to reach that stage one has to be fortified with medical evidence to prove that those people are incapable of doing any useful work. Then, after reaching that stage, it becomes necessary to get over the barriers raised by the Federal Government, and by the British representative. One of the obstacles raised against the repatriation of those persons is that they still owe some of their outward passage money.

Hon. G. W. Miles: Are you supporting the Bill?

Hon. G. FRASER: Yes, and I want to see that special consideration is given to that question. I rose to refute the criticism that has been levelled at the Government for having sent back some of those migrants. I worked out a calculation to determine whether it would be cheaper for the Government to keep those migrants here or to send them Home, and I found that whereas it would cost the Government £1,100 to keep them here for the rest of their lives, it would cost only £150 to send them back.

Hon. H. V. Piesse: Why not get them invalid pensions, and let the Federal Government maintain them?

Hon. G. FRASER: That would be quite a good idea. However, I will support the second reading.

On motion by Hon. A. Thomson, debate adjourned.

House adjourned at 6.15 p.m.

Legislative Assembly,

Thursday, 21st November, 1935.

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

BILLS (2)—THIRD READING.

1, St. George's Court.

2, Public Service Act Amendment.

Transmitted to the Council.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT (No. 2).

Report of Committee adopted.

ANNUAL ESTIMATES, 1935-36.

Report of Committee of Ways and Means adopted.

STATE TRADING CONCERNS ESTIMATES, 1935-36.

Report of Committee adopted.

BILL—APPROPRIATION.

Standing Orders Suspension.

THE PREMIER (Hon. P. Collier—Boulder) [4.34]: I move—

That so much of the Standing Orders be suspended as is necessary to enable the Appropriation Bill to be introduced and passed through all stages at this sitting.

Question put.

Mr. SPEAKER: I have satisfied myself that an absolute majority of members is present and in favour of the motion.

Question thus passed.

Message.

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

All Stages.

Bill introduced, passed through all stages without debate and transmitted to the Council.

BILL—PUBLIC SERVICE APPEAL BOARD ACT AMENDMENT.

In Committee.

Resumed from the previous day. Mr. Sleeman in the Chair; the Minister for Water Supplies in charge of the Bill.

Clause 2—Amendment of Section 6 (partly considered):

The MINISTER FOR WATER SUPPLIES: I have discussed the clause with the Solicitor-General, and have an interpretation of it. When moving the second reading, I stated that the sole purpose of the Bill was to remove from the jurisdiction of the Appeal Board any dispute which, under the Industrial Arbitration Act Amendment, would be a matter entirely for the determination of the Arbitration Court. Although the clause appears to take power from the Appeal Board, the provisos make clear exactly what is meant, but the whole clause has to be read carefully. The Solicitor-General has stated—

1. Clause 2 of the Bill amends Section 6 of the principal Act which is the section which confers appellate jurisdiction on the Public Service Appeal Board. The amendment in Clause 2 (a) is merely introductory to the amendment in Clause 2 (b).

2. Clause 2 (b) inserts in Section 6 of the principal Act after Subsection (1) a new Section 1 (a). Subsection 1 (a) will limit the jurisdiction of the Public Service Appeal Board in respect of appeals by public servants who are Government officers subject to Part IXA. of the Industrial Arbitration Act, but only to the extent by which the subject matter of any such appeal is within the jurisdiction of the Arbitration Court.

3. Thus the only object and purpose of the new Subsection (1a) is to prevent any possibility of a clash between the jurisdiction of the Arbitration Court and that of the Public Service Appeal Board. In other words, unless the subject upon which a Government officer desires to appeal to the Appeal Board is one which the Arbitration Court has or can deal with, either by award or by interpretation of award, the Government officer can still appeal to the Appeal Board provided the subject matter of his appeal is within the jurisdiction of the Appeal Board under the present Section 6 (1).

The whole of the clause must be read. Each of its provisions qualifies. I think it will be found that those qualifying provisions make it clear that any matter other than those within the jurisdiction of the Arbitration Court can be the subject of appeal by an individual officer or group of individual officers. The clause is certainly lengthy, but the Solicitor General states that what it does is merely to remove from the jurisdiction of the appeal board matters which rightly come within the jurisdiction of the Arbitration Court. Outside those matters, there is a right of appeal. No doubt we are all anxious that the Arbitration Court shall have jurisdiction.

Hon. N. Keenan: The court has jurisdiction, without question.

The MINISTER FOR WATER SUPPLIES: The appeal board also must have power to deal with matters within its jurisdiction. The Solicitor General insists that the court has, but that certain matters have been removed.

Clause put and passed.

Clauses 3, 4, 5, Title—agreed to.

Bill reported without amendment, and the report adopted.

BILL—SUPREME COURT.

Second Reading.

Debate resumed from the 14th November.

HON. N. KEENAN (Nedlands) [4.52]: The Bill was introduced by the Minister for Justice as a consolidating measure which, by reason of the fact that it contains a few additions to the law, it is necessary to bring forward in the form of a Bill. The practice of consolidating existing laws, two or three or more statutes all dealing with the same subject, into one, goes back to 1905. In those days it was provided that on a resolution being passed by the Houses, the Attorney General should be charged with the duty of consolidating the measures named in the resolution. That was altered by an amendment, coming down in 1923, and it no longer was necessary to submit the matter by resolution to the Houses; but it was the consolidation of existing laws, without any attempt being made to alter those laws in any respect. This particular Bill proposes,

as I stated, to make some additions to the law as existing; and therefore it is necessay that the Bill should be enacted by the House. But it does not pretend to be, and is not submitted here as the re-enactment of these special provisions. Yet that is what it amounts to. I take the strongest personal objection to a number of old statutes being brought down for the purpose, it is stated, and may be stated, of consolidating them, and then re-enacting them because they happen to have a few additions or alterations made. When mere consolidation is made, it is made only for the purpose of convenience, and for no other purpose—to enable those who have to make reference to any portion of the statutes consolidated to avoid the necessity for a prolonged search through a number of statutes. But what is done for mere convenience is very different from re-enacting what in many cases are obsolete provisions to be found in old statutes. If the proper opportunity were given, then this House could consider the provisions, including provisions the House had never agreed to. For instance, in this very Bill which we have now before us there are some utterly ridiculous suggestions and proposals and provisions which undoubtedly are law to-day, having come down to us from times when they were proper. But they are no longer so. For instance, as a clear illustration, there is the provision about marriage. A clergyman is safeguarded from any disability arising from refusal to marry divorced persons. In very olden times, when divorce first became lawful, as distinguished from Bills passed through the House of Lords for criminal conversation, there was a certain amount of resentment on the part of the State church in England, the church that the State had a right to tell what it was to do and what it was not to do. As a result clergymen of the State church refused to marry divorced people, and it became a matter that the Legislature had to recognise, that the church they were paying a considerable sum to maintain as a State church was practically casting upon the laws passed by the Legislature some severe censure in refusing to give effect to them. So a clergyman could be compelled to marry divorced people, or to make his church available in certain circumstances, where he himself was disinclined to marry them. We find those ancient provisions appearing in this Bill. They have no more relation to the circumstances of our lives than any other antique provisions to be found in our laws existing to-day have relation to our present-day lives. There are in the Bill provisions which are entirely opposed to the Federal Constitution, to which we have become parties since a great deal of the legislation consolidated by the Bill was passed. I suppose all hon. members are aware that at one time if a man owed a sum exceeding £5 in this State or Colony and attempted to leave the Colony, he could be stopped under what is known as the Absconding Debtors Act. That Act still exists, but of course it cannot be enforced nowadays, because one of the contracts into which we entered when we accepted the Federal Constitution was that there should be absolutely free intercourse between the States. So that law, though it is still a law, is not only obsolete but ineffective.

The Minister for Justice: It is put into operation, all the same.

Hon. N. KEENAN: I have never heard of it being put into operation since the Federal Constitution has been in force. If it is put into operation, it can only be because one is leaving the Commonwealth.

The Minister for Justice: One does not know where a man is going.

Hon. N. KEENAN: Yes. If he is on a steamer bound to London, one knows he is going to Colombo, and one can stop him. The section of the Commonwealth Constitution with which we are all familiar, in regard to intercourse and trade, is now a matter of appeal to the Privy Council; but it is aimed principally at the intercourse of trade. There was an entire taking-away from the formerly independent Colonies of the right to interrupt intercourse except for justifiable reasons, such as statutory reasons and reasons of health, after the Federal Constitution came into existence and instituted free intercourse between the people of Australia. We find, too, some clauses dealing with navigation, provisions which were excellent and necessary when we were an entirely independent State or Colony, and when we were acting under the British Admiralty laws. But nowadays, and especially since the Statute of Westminster was passed in 1927, the Imperial authorities have surrendered all rights which they formerly asserted to govern the laws of navigation. Those laws are entirely handed over, by the last concession made, to the authority of the Commonwealth. Moreover, in regard to the

actual laws determining the relative rights of parties to send goods for carriage by sea, the Commonwealth has legislated; and that legislation is of course supreme. So members will find in the Bill clauses, to which I shall direct attention when the Bill is considered in Committee, that in so far as they are contradictory of the Commonwealth legislation, are invalid.

The Minister for Justice: But we trade between ports within the State.

Hon. N. KEENAN: That is so. These particular clauses were passed at a time when we had the right, as a branch of the British Court of Admiralty, to make our own laws with regard to the control of shipping, wholly independent of any over-riding authority. Now we have the over-riding by the Commonwealth, and I merely mention that phase as an illustration of what we shall be re-enacting if we pass the Bill in its present form. The Minister is right in saying we still have authority as between Fremantle and ports along our coast line such as Wyndham in the extreme North, and Eucla, which represents the furthest point at the other end of our coast line. We have the right to make our own laws in that respect, but in the main matters that are outside our territorial waters are for the Commonwealth, whereas we may have some power regarding matters affecting our own territorial waters. These matters point to the fact that when we consolidate a statute, it is merely for the purpose of convenience and if that is the purpose, let us do so. In those circumstances, it will be distinctly understood that that is all that has been done. It will mean that there has been collected together the various amending measures into one complete statute so that the whole Act shall be made readily available to those who may wish to resort to it. On the other hand, if we desire to re-enact portion, or the whole, of an old statute, let us do so. Unfortunately this Bill does do that. It re-enacts all the provisions to which I have drawn attention. Those provisions represent the law in far-off days and were probably suitable at the time when Parliament, as it then existed, agreed to the legislation. But when we pass those provisions in this consolidating measure, the whole Act will be the law of this Parliament and that, I submit, is not at all desirable. I have placed some amendments on the Notice Paper; I do not know whether the attention of the Minster has been drawn to them.

The Minister for Justice: Yes.

Hon. N. KEENAN: They are all of what I might describe as a minor character and they disclose an attempt to get over small matters that have arisen in the drafting of the Bill. They have also been suggested because the existing law is not suited to existing facts. As an instance, there is the right to obtain a divorce by a deserted woman or by a woman whose husband has entered into an arrangement to separate, either by means of an agreement or by an order of the court, and has failed to carry out the terms of that arrangement. It was held in our courts regarding the provisions made by Parliament that a woman could not get a divorce on the ground of desertion unless that desertion was continuous for three whole years, and that that also applied in the case of a woman who was living under some agreement for separation from her husband or under a deed of separation was entitled to some maintenance, in respect to the payments of which the husband had made default. Unfortunately, the High Court dissented from that view and held that if the woman received no payment from her husband under the deed of separation for separate periods of three months or eight months or other periods at a time amounting in all to three years, during which periods the husband had not complied with the provisions of the agreement or deed of separation, she was entitled to a dissolution of marriage. That is obviously illogical and unjust. If there is anything in the nature of easier terms, then they should be available to the woman who is wholly deserted rather than to the woman who to some extent still retains benefits resulting from the marriage. In respect of the other matters dealt with, the amendments are not of very great importance. The only real exception I take to the Bill is that it creates what I regard as a wrong precedent. If we are to re-enact an old statute without being placed in a position to give consideration to the various provisions contained in the several parts of the Act, then the Bill should be referred to a select committee in order that it may be gone into thoroughly and a decision arrived

at as to how far some of those provisions are applicable nowadays, or how far they should be altered, if not abolished, and then we would be in a position to deal with the Bill. We are not in that position now. All that happens is, in a sense, as a friend of the House, I advise members or point out to them clauses that should be deleted. That is not very desirable in dealing with statutes of importance. However, the Minister has brought the Bill down and that being so, we have to deal with it. When the second reading has been agreed to, I shall deal with various matters that I think should receive consideration in Committee, not because I think action taken in that direction will make the Bill at all suitable, but because I consider that is the best we can do in the circumstances.

MR. SLEEMAN (Fremantle) [5.7]: I confess that I do not know much about the Bill, but in running through its provisions, I noticed a reference to a matter that was discussed recently in this Chamber, namely, the operations of money-lenders. When the Minister replies I trust he will interpret the clause for us. For instance, I find the following in Clause 31:—

(1.) Subject to the provisions of the Money Lenders Act, 1912, there shall be no limit to the amount of interest which any person may lawfully contract to pay.

(2.) In all cases where interest for the loan of money, or upon any other contract, may be lawfully recovered or allowed in any action, suit, or other proceeding in the Supreme Court, or any other court of law or equity, but where the rate of such interest has not been previously agreed upon by or between the parties, it shall not be lawful for the party entitled to interest to recover or be allowed in any such action, suit, or other proceeding above the rate of eight pounds for interest or forbearance of one hundred pounds for a year, and so after that rate for a greater or lesser sum or for a longer or shorter time.

The wording of those subclauses is certainly peculiar and difficult for a layman to understand. The first subclause, in my opinion, is such that it should never have been included in the Bill. The other night, during the course of a discussion, the view was expressed that a limit should be placed upon the amount of interest that an individual would be required to pay to a money-lender. When we deal with this particular part of the Bill in Committee, we should at least specify that not more than a certain amount could be contracted for in connection with a money-lending transaction. We know that when people get into difficulties and fall into the hands of money-lenders, they will contract to pay anything in return in order to get over their temporary trouble. Those people should be protected against themselves. We should provide that if more than 10 or 12 per cent. interest has been contracted for, no money shall be recovered under this measure. While considering money-lenders, we should make provision to deal with those unscrupulous people who exact more than their just dues. For instance, we were informed the other evening that a man who desired to borrow £10 would be forced to pay back £15. In Committee I propose to suggest some amendment that will get over that difficulty. If a man contracts to borrow £10, he should not be required to sign a document as though he had borrowed £15. I think the difficulty might be overcome if it were provided that the money-lenders should make payments by cheque. If we did that, then the man who borrowed £10 would receive a cheque for £10. I certainly do not think any money-lender would give a borrower a cheque for £15 and trust to him to give him £5 back when he cashed it. However, I hope the Minister will interpret these particular subclauses for us, and I trust the Committee will deal drastically with the measure in respect of some of the clauses.

HON. W. D. JOHNSON (Guildford-Midland) [5.11]: If the Bill is to be subject to amendment, it is essentially one that should be referred to a select committee in order that it may be considered thoroughly. It is not a Bill dealing with any given principle, but is supposed to be a consolidating measure. If we are to consolidate the law, and various members deal with particular features of the Bill in Committee and seek to have the clauses in which they are interested amended, I do not think we shall get very far with the consolidation.

The Minister for Justice: No.

Hon. W. D. JOHNSON: Therefore if we cannot pass the Bill as printed —it would appear that amendments are desirable—I respectfully suggest to the Government that we do the work thoroughly and refer the Bill to a select committee with that object in view. If that course be adopted, it will mean that we shall pass a Bill that will be really up-to-date, and embody what is desirable from the point of

view of Parliament and necessary from the Constitutional standpoint.

Mr. Sleeman: It is a big Bill.

Hon. W. D. JOHNSON: That is so, and I do not pretend that I understand the whole of it. I have glanced through the clauses, but it is too comprehensive to grasp in all its details without considerable study. The member for Nedlands (Hon. N. Keenan) has gone into it, and he has special qualifications enabling him to undertake the task. He has pointed out that, in his opinion, parts of the Bill are distinctly obsolete, and other parts are questionable from a Constitutional point of view. The member for Fremantle (Mr. Sleeman) has drawn attention to one provision regarding money-lenders and has indicated that he desires it to be amended. Those circumstances convey to me that the consolidating measure will be subject to attack, so to speak, by members when they deal with it in Committee. I suggest that the only means by which the Bill can be expected to pass through the Committee without attempts being made at amendment, is to refer it to a select committee, which could go through the whole of the clauses. I do not like to agree to the second reading of a Bill that purports to be a consolidating measure in respect of which attempts will be made later on to alter some of its provisions so as to bring it up-to-date. I think it would be better to do the job thoroughly in the way I have indicated.

MR. MOLONEY (Subiaco) [5.13]: I agree with the member for Guildford-Midland (Hon. W. D. Johnson). I listened with interest to the member for Nedlands (Hon. N. Keenan) and in view of the anomalies he pointed out—he has a knowledge enabling him to deal with that particular phase—and also the comprehensive nature of the Bill, we should bear in mind the mistakes that have been made in the past with respect to many such enactments. It has been pointed out that, notwithstanding the eulogies paid by the Minister the other day to the services of the former Solicitor-General, many provisions have found a place on the statute-book that are not in accordance with the desires of many to see equity practised, and to have clarity also. The member for Nedlands (Hon. N. Keenan) desires that the Bill should go to a select committee, and I endorse that sentiment; also the members for Fremantle (Mr. Sleeman) and for Guildford-Midland (Hon. W. D. Johnson) desire that a select committee shall have the handling of the Bill. With a measure such as this, it is not competent for ordinary laymen to dissect and analyse and judge it, and I think before we are asked to give a blind vote the Bill should be referred to a body of men versed in the intricacies of the provisions in it. It is a lengthy document, and certainly it is packed with many phases of legal questions affecting the public generally. We find there provisions regarding money-lending, and certain provisions dealing with contracting out.

The Minister for Justice: No.

Mr. MOLONEY: Well, I think it is so. In other words it provides that certain conditions shall apply, and that it is competent for any rate of interest to be charged. If that is not contracting out, I do not know what is. Section 151 of the Industrial Arbitration Act lays it down that there shall be no contracting out. If that applies in industrial matters, it should apply also in regard to financial matters. But seemingly we are to give them an open go, and let them charge what percentage they like. I am not particularly interested in that phase of it, but I say it arises out of the Bill, and that if it applies to money-lenders we shall find there are numerous other conditions that will be introduced. If amendments are to be made to the Bill, it may be that members in their zeal to secure cherished amendments may do damage to that which they desire. I do not think the Minister should oppose the wish of a number of members to send the Bill to a select committee. I have no desire to impede the progress of the Bill, nor do I desire to see perpetuated something which is obsolete in many respects, as has been indicated by one of the foremost members of the Bar in this State. Cognisance should be taken of his remarks. I do not always agree with the member for Nedlands, but at least I am always prepared to accept an opinion backed up by the experience of the hon. member; that is to say, when it comes to questions of law.

Mr. Raphael: On every occasion?

Mr. MOLONEY: That hon. member has expressed the opinion, and other members also have expressed the opinion, that the Bill ought to go to a select committee. Even the Minister knows that in many respects the law should be improved. For instance, the gambling laws of the State could be remodelled to advantage. If a select commit-

tee were to go through the Bill now before the House and analyse its various provisions, it would be much better for all concerned, which is to say the whole of the community. I desire to see the Bill referred to a select committee.

MR. LAMBERT (Yilgarn-Coolgardie) [5.20]: I should like to say something on the subject brought up by the member for Fremantle (Mr. Sleeman). Clause 31 is a most dangerous provision. I clearly and definitely say that unless we are prepared to restrict the usurers in this State, we shall not be doing our duty. There should be a definite provision with hide-bound provisoes prescribing the manner in which people should be allowed to lend money in Western Australia. I do not wish to relate a recent personal experience I had when I backed a promissory note for a man, except to illustrate the point. It was a promissory note for three months, and 4½ years or five years afterwards I received a letter from a firm of money-lenders stating that the amount had not been paid. So I called at the company's office and asked why I had not been notified of that. But they said there was no obligation on their part to notify me, since the debtor had been paying up his interest.

Mr. Sleeman: It might have been better had you lent the amount yourself.

Mr. LAMBERT: Yes, but my friend only asked me to go along and recommend him. The records of this company disclose the fact that he had paid about £52 in interest on the £25, which was the amount owed. That was the amount the firm had lent him, but in doing so the firm had added £2 10s. interest, thus making the amount £27 10s. The collection of interest has been going merrily on for years past, until quite recently.

Mr. Cross: But you recommended him for only three months.

Mr LAMBERT: Yes. I am not going to reveal the legal catch in this, because as a matter of fact the case may be the subject of litigation. The broad outline of its history is that this man came along to a member of Parliament and asked him to endorse a promissory note. But in such a case one finds later that, instead of being merely the endorser of the promissory note, he has made himself a party to the note. There should be laid down in a clause in this Bill special provision governing the endorsement of promissory notes, so that one might know the exact legal position. I did not know the legal position in connection with this, but I have since consulted my solicitor, and informed him I am going on with the case, if it costs me every penny I have got. I shall certainly expose those money-lenders, if indeed they are going on with the case. I definitely told my solicitor that I would spend every bob I have in exposing this business. The money-lenders said that they would take a lesser sum, so much in the pound, but I said they would not get a single pound from me, since they had received from the debtor so large a sum in interest. I only hope they will bring the case before the court, so as to impress upon Parliament the necessity for curbing the greed of the usurers. They have been driven out of Germany, they have been driven out of Russia, and I think it would be a damn good job if they were driven out of Western Australia. It is an awful position for an indigent person to be in, and it is only because I am able to stand up to them that they are not likely to go on with their case.

Mr. Thorn interjected.

Mr. LAMBERT: I might be prepared to listen to that suggestion, but in this case I can look after myself, and will certainly do so, if it costs me every penny of which I stand possessed. It is a glaring case, one that should certainly be exposed. Should the case come into court I shall definitely take every possible step to expose these usurers. I am in accord with the member for Fremantle, for I certainly think the Money Lenders Act should be amended. People who have to borrow money are mostly poor people, people whom we are here to represent, and I say it will be a positive scandal if we are not prepared to see that there is some remedy against the practice of these thieves and vagabonds who charge 50 per cent. and 60 per cent. on their money.

Mr. Sleeman: I know of one instance in which 120 per cent. was charged.

Mr. LAMBERT: I am not surprised at that. In the case in which I am interested the interest charged was 40 per cent. When I asked the firm why they did not tell me that the promissory note for three months had not been paid, I was told that it was quite unnecessary, because the man was going on paying his interest, and that they could afford to wait until the debtor was in a position to re-

pay the principal. I met one of the money-lenders, and he said he would like me to drop in when I was going past, for they still had this promissory note. When they issued a local court summons, and we applied for discovery, we found that the debtor had paid £52 in interest. It is nearly time that Parliament spend a few useful evenings——

Mr. Marshall: Hear, hear!

Mr. LAMBERT: ——in curbing the outrageous robberies of these usurers by amending the Money Lenders Act and so coming to the rescue of a lot of unfortunates who get into temporary trouble through the thieving practices of the money-lenders. We should definitely limit the rate of interest chargeable by these money-lenders. Also where a man, a member of Parliament or anyone else, is called upon to endorse a promissory note, that promissory note should be set out in the schedule. Moreover, all amounts paid over by the lender should be paid by cheque, and all amounts repaid should be paid, not at the office of the money-lender, but paid into some reputable bank.

The Minister for Justice: Are promissory notes legal tender?

Mr. LAMBERT: We could make them legal tender; we could make anything legal tender. In 99 cases out of a hundred, the ordinary firm has to receive a cheque as legal tender for an account that is paid. A cheque is legal tender then.

The Minister for Justice: No.

Mr. SPEAKER: The hon. member is wandering away from the subject.

Mr. LAMBERT: Some time ago I lent a man £50 with which to take an option over a mine.

Mr. SPEAKER: Is the hon. member discussing the Bill?

Mr. LAMBERT: I am talking of legal tender.

Mr. SPEAKER: That has nothing to do with the Bill.

Mr. LAMBERT: I only wanted to illustrate a point.

The Minister for Justice: You wanted to stop the cheque.

Mr. LAMBERT: The man got the £50, but I got nothing. I endorse what the member for Fremantle has said. Injustices are done to many people that we represent on this side of the House. The sooner Parliament shows its attitude towards these money-lenders, the better it will be for the people. I trust that Clause 31 will be eliminated. I have no doubt the monumental work carried out by the ex-Solicitor-General will be most useful in respect to the consolidation of our statutes, but I trust the Minister will see the necessity of at least amending Clause 31, so that money-lenders shall not be allowed to go on as they are doing to-day.

MR. McDONALD (West Perth) [5.32]: There are certain directions in which this Bill could be amended with advantage. If a select committee is appointed it will be practically impossible to pass the Bill this session. I am in favour of passng it this session and leaving it to the following session for a further investigation to be made by a select committee into the whole of the law on this subject with a view perhaps to bringing down amendments later. The present consolidation is 99 per cent. consolidation, and 1 per cent. amendment of the existing law. I should like to see it passed through Parliament this session. The member for Nedlands has referred to one or two anomalies, and has put upon the Notice Paper amendments which will meet them. If these amendments were dealt with, I think the rest of the Bill could be safely and conveniently passed. It will then represent some contribution towards a clarification of the law. The point about the rate of interest will also be met by an amendment that will be moved by the member for Nedlands. He proposes to reduce the rate from 8 per cent. to 6 per cent. The latter would be the rate that could be allowed by the court or jury by way of interest on claims which have been recovered by the successful litigant.

Mr. Sleeman: Will that cover the case of a man who has contracted to pay a higher rate of interest?

Mr. McDONALD: The existing Money-lenders Act was passed in 1912, although many other Acts of the kind were passed prior to that date. Under the Act of 1912 a money-lender is not only a person who lends money because it is his business to do so, but it includes any private person who lends money, at above the prescribed rate of 12½ per cent. interest. Every person, whether a professional money-lender or a private person, who lends money at more than 12½ per cent. interest, automatically comes under the Act. When he comes

under the Act, he must observe certain provisions that have been laid down for the protection of borrowers. In all cases the rate of interest can be reviewed by the court, either the local court or the Supreme Court, and can be reduced. Even if the rate of interest is fixed in a contract between the parties it can be reduced by the court to whatever rate the court considers fair and reasonable. Several cases of that kind are recorded in our local Law Reports. Courts have reduced the rate of interest charged by money-lenders, even where a contract has existed.

The Minister for Justice: Even where contracts for a higher rate have been made?

Mr. McDONALD: Yes. Where the rate agreed upon has been 40 per cent. it could be reduced to 20 per cent. In one case I know of it was brought down to 18 per cent.

Mr. Moloney: Would not the existence of a contract prejudice the applicant for a reduction?

Mr. McDONALD: No. The court would take an independent view of all the circumstances. When money is lent to a man without security, and merely on his note-of-hand, that would be regarded as a hazardous loan, and one that could reasonably be expected to bear a higher rate of interest.

Mr. Sleeman: Not if the note was endorsed by a man of substance.

Mr. McDONALD: All the circumstances would be taken into account. If a bill were endorsed by the member for Fremantle, no doubt the court would bring the rate down to something very small. If, as stated during the course of the debate, two men of straw endorsed each other's bills, the two endorsements together would hardly be worth more than one signature. The clause to which the member for Fremantle referred appears to him to be rather alarming, whereas that is not the case. Whilst I agree that the Money Lenders Act could well be overhauled, with a view to further protecting the public, I do not think this Bill should be delayed for the purpose of entering upon a consideration of that kind. I support the second reading.

MR. RAPHAEL (Victoria Park) [5.37]: I support the second reading, but oppose the retention of Clause 31.

The Minister for Justice: What do you know about Clause 52?

Mr. RAPHAEL: I have not read that. Since I brought my motion before the House for the appointment of a Royal Commission, and, in view of the attitude adopted by the Government towards that motion in that they did not oppose it, I am led to believe that a Royal Commission will be appointed to investigate the charges made. Since that time more and still more evidence has come to light, proving the correctness of my statements that little or nothing is known of the underhand methods adopted towards the public by so-called money-lenders. A case came before my notice this afternoon of an elector in West Perth. He placed all his troubles and worries before me. He was being pressed by the Prudential Loan Office for the return of moneys that had been lent to him. I also had a case in Victoria Park. In this connection the firm of Lean and Co. is one of the greatest offenders in respect to underhand tactics in thieving from people to get their so-called interest. The representative of that company in Victoria Park cast aspersions on my parentage, to certain people. He took a devious route to induce people to come to me and ask me to back a bill for him This was done so that if a Royal Commission was appointed it could be proved that I was not sincere in my arguments, and that I was prepared to back bills for my friends, thereby annulling any arguments I had put forward.

Hon. C. G. Latham: They would not remain your friends very long if you did that.

Mr. RAPHAEL: I believe that nearly every member of this House at some time or other has been caught by money-lenders.

Mr. Thorn: Speak for yourself.

Mr. RAPHAEL: Only a mug is caught twice in the same way. The hon. member himself has been caught twice.

Mr. Thorn: Speak the truth!

Mr. RAPHAEL: I hope the Minister will allow Clause 31 to stand over. The law requires a fair amount of cleaning up. Little or no consideration has been given to it by any Government in the past. I believe the reason for that is that insufficient limelight has been thrown upon the antics and tactics of moneylenders. Now that their ways have to a certain extent been exposed, the Minister should leave that matter in abeyance until evidence has been secured by the Royal Commission, and it is then possible to make a decent job of the Act. At any rate, I shall vote against that particular clause. Further, I may have to change my opinion

about not voting for the appointment of a select committee.

Mr. Wilson: You cannot change your mind.

Mr. RAPHAEL: We all respect the hon. member, who is now an old gentleman, but we must be allowed to change our opinions when the occasion demands. I hope the Minister will allow Clause 31 to pass into oblivion. I am satisfied that the Government have tacitly agreed to the appointment of a Royal Commission, and, when evidence has been taken by that tribunal after Christmas, it will be possible to make a decent job of the Act.

HON. C. G. LATHAM (York) [5.42]: I am sorry the Government did not follow the procedure usually adopted in the case of a Bill of this sort. Alterations to the existing Act could have been printed in italics, and it would then have been easy to follow the amendments and understand the gist of the alterations being made. What I am afraid of is the revival of old laws bearing on this point.

The Minister for Justice: They will still be alive.

Hon. C. G. LATHAM: As we pass laws in this State, we must not forget that they override the old laws. We must not forget that the last law passed prevails over laws passed previously.

Mr. Marshall: No.

Hon. C. G. LATHAM: If we pass this Bill, it will represent the latest law that has been passed on the subject.

The Minister for Justice: If it is the same as the old law, it will not make any difference.

Hon. C. G. LATHAM: Not if that is so.

The Minister for Justice: It is so.

Hon. C. G. LATHAM: I am sure laws have been passed which have had an overriding effect on old laws. Now that these laws are being brought forward again, and are being amended, they will have an overriding effect on laws previously made.

The Minister for Justice: No.

Hon. C. G. LATHAM: It is difficult to follow. I have tried to get to the bottom of this myself, but find it almost an impossible task. I am inclined to support the suggestion of the member for Fremantle that the Bill should be referred to a select committee. If such a committee were to call as witnesses the departmental officers who drafted the Bill and revised these laws, there would be no difficulty about it. Five members of the House could do the necessary work in a couple of days. I am anxious to see the statutes consolidated. That would be much more helpful for everyone who had to handle them. But it is difficult for us to deal with this kind of legislation. We have to accept what the Minister tells us, and he to an extent has to accept what his officers tell him. I as a layman am in a difficult position and, as I have already said, what I am afraid of is that we shall have a revival of old statutes by the passing of this Act. As we pass a law and it comes into conflict with a law that is in existence, the law that is last passed will prevail. The Minister and other members have run through the Bill very quickly but some of the clauses will require to be carefully considered.

MR. MARSHALL (Murchison) [5.47]: I do not propose to touch upon the merits of the Bill, but I am somewhat concerned with regard to it and I want to cast a conscientious vote either for or against it. I shall vote against the second reading unless I can be assured that some authority will be created, either a select committee or an honorary Royal Commission, to deal with it.

Hon. C. G. Latham: We cannot have a Royal Commission.

Mr. MARSHALL: It is very evident from the information given to the Chamber by those in a position to speak that the Bill does require careful scrutiny, and those statements are much more acceptable to us than the statements of the Minister. When we have gentlemen at the top of their profession informing the Chamber that there are various anomalies in the Bill, and that they conflict in some respects, obsolete in others, and also unconstitutional, statements such as those must be accepted even against what the Minister has told us, and after all the Minister is only a layman. The Minister is justifying his attitude because he must stick to the Bill.

The Minister for Justice: Oh *no*.

Mr. MARSHALL: I do not say that he will on this occasion. Frequently since I have been a member of this House I have listened to "Hansard" being quoted against members who have taken up a certain attitude. Those members have said something with regard to the passage of a Bill and their remarks have been used against them.

My desire is that all our laws, where possible, shall be consolidated.

The Minister for Justice: That is what this Bill proposes.

Mr. MARSHALL: But in the consolidation we must see that modern desires are respected. We cannot get obsolete Acts and consolidate them. Surely we must modernise them, and from what I can understand there are some clauses in the Bill that are pretty obsolete.

The Minister for Justice: Oh no.

Mr. MARSHALL: In this case I am going to accept the views expressed by the member for Nedlands. We must have our laws consolidated. If we refer to some statute, we find that it has been amended three or four times and that regulations have been framed, and so one is in a hopeless mess trying to find out what is really meant by the parent Act plus the amendments and the regulations. I agree with the desire of the Government to consolidate our laws, but while we are consolidating them we must bring them up to date.

The Minister for Mines: When you are consolidating the laws you cannot amend them at the same time.

Mr. MARSHALL: In the broad sense, if there are no amendments necessary, we can consolidate the laws; we are not going to say that we must consolidate the laws first and amend them afterwards. When consolidating laws, we bring all the amendments together and then turn out just what is required. Take the Money Lenders Act. That has not been amended since 1912, when it was passed. Unless the Minister can give me an assurance that the Bill will be referred to a select committee or to a Royal Commission, or to some body that will have the capacity to deal with it and report to this Chamber fully upon what is required, I shall vote against the second reading. I am not going to vote for a Bill to consolidate existing Acts of Parliament unless those Acts are brought up to date and we can start off afresh with the consolidated measure.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton—in reply) [5.56]: I am not at all concerned about the Bill except in respect of giving effect to the policy of the Government, which is to endeavour, as far as possible, to consolidate the laws. In this instance it is our desire to consolidate 41 or 42 Acts into one statute. If either the member for Nedlands or the member for West Perth happened to be Attorney General, I am certain they would have introduced a Bill almost similar to this. As I have already indicated by way of interjection, members have drawn attention to matters of small importance and have tried to damn the Bill with faint praise, by drawing attention to ancient laws, some of which were not applicable to present-day services. Where we think it is desirable, and there is need to bring existing legislation up to date, we introduce amending legislation. What happens is that if we find a law is operating in any way against the public interest, we amend that law. If, however, a law does not affect anyone to any extent, it is permitted to remain on the statute-book. There is no point in wasting the time of Parliament by amending a law that may be 40 or 50 years old merely because it does not suit modern conditions on account of the "t's" not being crossed or the "i's" not being dotted, or on account of some trivial alteration that may be required. If a law is against the public interest and we think it should be altered, then it is amended. But where something does not affect anyone, or is not likely to do so for years, what point can be served by Parliament giving consideration to such a matter? It would be wrong to waste the time of Parliament to do so. What the member for Nedlands termed unimportant matters, other members of the legal profession and judges are desirous that, in the public interests, should receive attention. I am afraid that the hon. member was taken too seriously by other members, much more seriously than he himself intended. He raised a series of doubts with regard to the Bill and now we find that there is a doubt as to whether it will go through.

Hon. W. D. Johnson: It is not a Bill that should have been brought down at this period of the session.

The MINISTER FOR JUSTICE: There are a number of laws in existence dealing with various aspects of our legal procedure and it is very inconvenient to have to search through 30 or 40 different Acts to find out where we are.

Hon. W. D. Johnson: And when you have found out, they are of no use.

The MINISTER FOR JUSTICE: They are of use in some way or other. There are provisions in the Bill dealing with procedure which I admit may not be referred

to once in four or five years, but naturally those provisions are retained as being the laws of the State. If we did not have this consolidation, the position would be no different, and the law as it existed before the passing of the consolidation would continue to exist after the consolidation. I told the House frankly that I would not have introduced the Bill had I not read it and reached the conclusion that its enactment would be desirable. I have seen other Acts from which certain provisions have been taken and inserted in the Bill, but comparatively few alterations are proposed, and in those few instances the position is set out clearly in the memorandum to the Bill. The rest of the law is already in existence and will continue in existence regardless of whether we pass the Bill. Thus, so far as effect is concerned, it matters little what we do, but it is desirable to have the law consolidated. From time to time members have pointed out the need for consolidating our laws as far as possible. When it is not intended to amend a law further, the various Acts may be consolidated under existing statutory authority. In this instance, however, a few small amendments are desired, and that is one reason why the measure has been introduced in this form. Of course some of the Acts were adopted from the British law in former years, and although they have not been passed by the State Parliament, they are nevertheless the law of the land. I think the member for Northam early this session raised the question of consolidating our laws. Here is an opportunity to have one law instead of forty. I have given the House an assurance as to the purport of the Bill, but it might be considered desirable to have an inquiry by select committee so that the Parliamentary Draftsman might give evidence, as well as any other legal gentlemen who so desire. The House, however, has my assurance together with that of the Solicitor-General, the Barristers' Board and the Law Society as to the desirability of the measure for the convenience of those having dealings with the Supreme Court. The member for West Perth said he wanted to see the Bill passed and that it was not necessary to have a select committee. The member for Nedlands did not say that a select committee was necessary.

Hon. W. D. Johnson: He suggested amendments.

Mr. Raphael: What makes me doubtful is that both those members agreed to it.

The MINISTER FOR JUSTICE: We can give credit to every member for the best motives. When a member possesses expert knowledge on a particular subject, we might well accept the benefit of it. I have never known a member set out deliberately to mislead the House. I think those members will give us the benefit of their training and knowledge. If they said that the measure was one that should not be enacted, I would be prepared to drop it at once. From my reading I am satisfied that the House may safely accept the Bill. On the other hand, if members consider that inquiry by select committee is desirable to obtain further information, I am agreeable to that course being adopted. A select committee could probably report in the course of a few days. Thus members must please themselves. My whole object in introducing the Bill was to give effect to the desire for consolidation and make the measure a convenient legal enactment for people having dealings with the Supreme Court. The passing of the Bill would mean that the various laws would be brought together in concise form.

Mr. Raphael: What about Clause 31?

The MINISTER FOR JUSTICE: I do not wish to discuss the clause at this stage, but had the hon. member listened carefully to the member for West Perth——

Mr. Raphael: I want your explanation, not his.

The MINISTER FOR JUSTICE: Then I can merely give him the same explanation, only in different words. Clause 31 deals with the Money Lenders Act. Anyone who lends money at a greater rate of interest than 12½ per cent. is termed a money lender and is subject to the conditions imposed by the Money Lenders Act. When a verdict is given by the Supreme Court entailing the payment of money owing over a period of years and the question of interest arises, the rate shall not exceed that stipulated in the clause.

Mr. Sleeman: Cannot you restrict anyone from lending at more than 12½ per cent. interest?

The MINISTER FOR JUSTICE: Such a man would come under the Money Lenders Act.

Mr. Sleeman: A man who borrows seldom has money to enable him to go to the court.

The MINISTER FOR JUSTICE: Under the clause, subject to the provisions of the Money Lenders Act, there shall be no limit to the amount of interest which any person may lawfully contract to pay. The proposal of the member for Fremantle would necessitate an amendment of the Money Lenders Act. If the hon. member wishes to amend the conditions under which money may be lent by money lenders, any alteration to this clause would not affect the position. In fact, any such amendment would make the clause ridiculous. The clause simply deals with the rate of interest which the court might award on money outstanding. I have no desire to enter upon a discussion of the clauses at this stage and I think I have dealt fully with the principles of the Bill.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Sleeman in the Chair; the Minister for Justice in charge of the Bill.

Clauses 1 to 22—agreed to.

Sitting suspended from 6.15 to 7.30 p.m.

Clauses 23-30—agreed to.

Clause 31—Any interest may be contracted to be paid, but if no contract not more than 8 per cent. may be allowed:

Hon. N. KEENAN: I move an amendment——

That in line 38 of Subclause 2, the word "eight" be struck out and "six" inserted in lieu.

This affects the rate of interest that may be allowed if there is no contract. I do not think the amendment requires any further explanation.

The MINISTER FOR JUSTICE: When this clause was first enacted, the rate of interest provided was 10 per cent., but that was subsequently reduced to 8 per cent. The scale is really a sliding one. The clause says that it will not be lawful to charge above a rate of 8 per cent. I do not know that we want to fix interest rates in Acts of Parliament, but when we have to do that we must see that the rate fixed is a reasonable one. Interest rates of late have been down as low as 2½ per cent., for ordinary purposes. There will always be variations in money values and interest rates, and it may be that two or three years hence the interest rates may be high again. The present maximum rate of 8 per cent. safeguards the position well enough. I should like to see the rate not more than 4 per cent., but it would not be wise to pass into law something that may have to be amended soon after. All the clauses of this Bill are existing law, except where otherwise specified in the memorandum. This particular clause is not mentioned in the memorandum I am not opposed to the amendment, or to the rate of interest being reduced, but am pointing out the difficulty that may arise if we tamper with the existing law. We should not alter the law unless it is absolutely necessary to do so. I have no desire to create the impression that I am opposed to the interest rate coming down.

Hon. W. D. Johnson: Your remarks suggest that you are.

Mr. Marshall: Why fix on 8 per cent.?

The MINISTER FOR JUSTICE: That has been the law for years. If we were going to deal specifically with the rate of interest I might not desire to go even as high as 6 per cent. I do not want to be misunderstood in this matter. I am not objecting to the rate coming down, but suggest it is not necessary that it should do so in this case. If we are to say what the rate should be, I am prepared to accept 5 per cent. The law as it stands being capable of proper interpretation, the clause should pass as printed.

Mr. McDONALD: The Committee should take advantage of this opportunity to reduce the rate of interest. For that there is precedent in the previous amendment, reducing 10 per cent. to eight. The position is not altogether as the Minister has stated. When the court deals with fixation of interest, it fixes a rate fair in the circumstances. Although the maximum rate permissible might be 8 or 6 per cent., the court perhaps would fix 5 or 4 per cent. In many circumstances, however, the rate of interest does not come before the court at all. By reducing the rate to 6 per cent. here, we shall make it more in conformity with the current rate.

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

Clauses 32 to 57—agreed to.

Clause 58—Appeals and applications to, and causes and matters to be disposed of by, the Full Court:

Hon. N. KEENAN: As regards paragraph (a) of Subclause 1, many causes and matters are tried or heard by a judge and jury. Obviously, application for a new trial should be within the competence of the Full Court equally where it is from a judgment made as the result of a trial before judge and jury. True, Section 59 provides for that to some extent; but it is doubtful whether that section does not mean something different—that the Full Court shall have not only power to hear and determine applications which arise on causes and matters tried or heard by a judge and jury, but also power to act by varying, or setting aside, or reducing the damages awarded in such case. Therefore it is safer to insert the necessary words in paragraph (a). I move an amendment—

That the following be added to paragraph (a) of Subclause 1:—"or before a judge and jury."

The MINISTER FOR JUSTICE: I have no objection to the amendment.

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

Clause 59—agreed to.

Clause 60—Restriction on appeals:

Hon. N. KEENAN: Paragraph (d) of Subclause 1 is identical with Clause 114, as hon. members will see when we reach that clause. Paragraph (a) provides that no appeal shall lie to the Full Court—

——for an order absolute for the dissolution or nullity of marriage in favour of any party who having had time and opportunity to appeal to the Full Court from the decree nisi on which such order is founded has not appealed therefrom.

Clause 114 reads—

No appeal from an order absolute for dissolution or nullity of marriage shall lie in favour of any person who, having had time and opportunity to appeal to the Full Court from the decree nisi on which such order may be founded, shall not have appealed therefrom.

One or the other must go. In this instance there appears to be some lapse on the part of the draftsman. I move an amendment—

That paragraph (d) of Subclause 1 be struck out.

The MINISTER FOR JUSTICE: What the hon. member says is to some extent correct. I went into the matter with the Parliamentary Draftsman to ascertain whether there is any need for an almost exactly similar provision to be enacted in two portions of the Bill. The Parliamentary Draftsman has furnished the following statement—

Mr. Keenan suggests striking out the whole of paragraph (d) of Clause 60 (1). That paragraph is identical with Section 6 of the Appellate Jurisdiction Act, 1911, which is repealed, and also with paragraph (c) of Section 31 (1) of the Imperial Supreme Court Act, 1925. Exactly the same provision is contained in Clause 114 of this Bill, and it may be because of such repetition in Clause 114 of the Bill that Mr. Keenan is suggesting this amendment. The present paragraph (d) and Clause 114 are intended to prevent litigants waiting until after a decree nisi has been made absolute before appealing, when they could have appealed against the decree nisi. The said paragraph (d) and Clause 114 of the Bill only continue existing law. The effect of Mr. Keenan's amendment would be to leave only Clause 114. Paragraph (d) of Clause 60 (1) is properly included in Clause 60, which deals generally with the jurisdiction of the Full Court, and Clause 114 is also properly in that part of the Bill which deals specifically with divorce proceedings. There is no legal objection to the repetition. On the contrary, it is proper.

I am not a legal authority. I can only inform the Committee that the Bill was drafted to make the law as perfect as possible. I do not know that the Parliamentary Draftsman would be so stubborn that when a matter was pointed out to him as being not quite correct, he would refuse to effect an alteration. I am assured that it is necessary for this provision to appear in the two parts of the Bill.

Hon. W. D. Johnson: It makes the position doubly sure.

The MINISTER FOR JUSTICE: One deals with divorce matters and in the other place it deals with appeals generally. If we should strike out this paragraph and subsequently it should be found that an error had been made, a difficulty might arise; so I am not prepared to accept the responsibility of agreeing to the amendment. I can only inform the Committee that I submitted these matters to the Parliamentary Draftsman and I ask members to accept his advice that the inclusion of the words are necessary for the sake of clarity.

Hon. N. KEENAN: I am sorry that the Minister does not really grasp the effect of

the position. This does not give the right of appeal at all.

The Minister for Justice: Of course not; I did not say so.

Hon. N. KEENAN: It bars the right of appeal.

The MINISTER FOR JUSTICE: That is so. The language is absolutely identical with what appears in Clause 114. Let us have an intelligent statute and not repeat the same thing over and over again. The Parliamentary Draftsman's contention might be all right if the provision gave anything, but it bars the right of appeal.

Hon. W. D. JOHNSON: We have a difference of opinion between two legal gentlemen. As a layman, it appears to me that if the same words occur twice in the Bill, the provisions are more convincing in their respective applications.

Hon. N. Keenan: Why not repeat the same words three times?

Hon. W. D. JOHNSON: The Parliamentary Draftsman has advised Parliament that it is necessary to repeat the words. If this were an amendment, like the last matter dealt with, I would be inclined to take some notice of the member for Nedlands, but in view of the advice tendered to the Minister, I shall support the provision in the Bill.

Amendment put and negatived.

Clause put and passed.

Clause 61—agreed to.

Clause 62—Decision in case of difference of opinion:

Hon. N. KEENAN: I move an amendment—

That at the end of Subclause 2 the following words be added:—"exclusive of the judge from whose judgment or order the appeal is taken."

The clause itself has been drafted without regard to the fact that we have three judges only and are likely to be in that position for some years to come. As the clause stands at present, it is quite unworkable. When two judges are sitting, there can be no majority. In existing circumstances, unless the judge against whose decision the appeal has been taken, also sits on the bench, there can be no majority because there are only two judges to deal with the appeal. It would be most undesirable to bring in the trial judge who had already expressed his opinion and against whose decision the appeal had been lodged. Subclause 1 is all right as it stands, but if Subclause 2 is agreed to as printed, it will mean the importing of the third judge who had already given his decision. Of course, if the appeal is not against the decision of a judge, Subclause 2 is all right. With the amendment I propose, the position will be clarified.

Mr. Raphael: Anyway, what is the good of the court giving decisions? The High Court knock their decisions about.

Hon. N. KEENAN: The hon. member should not make such observations without knowing anything about the subject. I hope the Minister will accept the amendment, because it will make the clause workable, whereas the clause as printed would be workable only if we had a bench of four judges. I want to avert the position in which a trial judge would have to sit and hear an appeal from himself.

The MINISTER FOR JUSTICE: I submitted this amendment also to the Crown Law Department, but the effect would be that to deal with this properly we would require a bench of four judges. In any case, it is awkward to have two judges sitting on an appeal, even though one might be the Chief Justice. On the other hand, it might be the Chief Justice against whose finding the appeal was brought.

Hon. C. G. Latham: If it be a divided opinion, would it not be swayed by the opinion of the senior judge?

The MINISTER FOR JUSTICE: The opinion of the senior judge probably would prevail, and of course that is not altogether satisfactory. It will be seen that if a senior judge took the original hearing, we might in the appeal court have the finding of that judge overridden by a puisne judge.

Hon. N. Keenan: That is the practice in England.

The MINISTER FOR JUSTICE: But the conditions in England are very different from those here. I have discussed the matter with the Chief Justice several times, and he thinks that, since we cannot have a fourth judge, we must take the best course available. Therefore I think it would be better not to pass the amendment.

Mr. McDONALD: I am not quite in favour of the amendment, although I think that some amendment of the clause is necessary.

Hon. W. D. Johnson: This is another difference in legal opinion.

Mr. McDONALD: The whole world is made up of differences of opinion. That is why we have this House here and this Government, as against some other Government. There are differences of opinion between lawyers and between members of Parliament, and between people outside Parliament, and that must be so always. When the appeal court consists of two judges, necessarily the appeal will be allowed or dismissed according to the opinion of the senior judge. The present practice is that if the appeal is from a senior judge, and is considered by two other judges and they disagree, the appeal is dismissed. Subclause 2 of the clause does not even allow our existing practice to stand. It provides that if an appeal is heard before a full court constituted by two judges who differ in opinion, the appeal shall be reheard before a full court consisting of not less than three judges. In other words, if the two judges of the first appeal court differ, we then have to argue the appeal all over again, and the third judge is the judge who has already expressed an opinion on the case. So we know which way the appeal will go.

The Minister for Justice: But a judge may change his mind.

Mr. McDONALD: Admittedly judges change their minds, and sometimes very properly, as for instance when additional evidence is produced.

Mr. Raphael: That is why their minds are so clean; they are always being changed.

Mr. McDONALD: But in the majority of cases the judge, having given careful attention to the hearing at the original trial, would not change his mind on the appeal bench. I would prefer to see Subclause 2 amended to provide that instead of re-arguing the case before three judges, one of whom originally heard it, if the two judges in the first appeal court disagree, the dismissal of the appeal stands.

Amendment put and negatived.

Hon. N. KEENAN: I had an amendment to move to Subclause 3, but in view of the previous decision I do not propose to move it. I am sorry the Minister did not accept my amendment, because it is an utter farce to argue a case before a judge who has already tried it. I remember on one occasion——

The CHAIRMAN: The hon. member is not in order in discussing a question which has been decided already.

Hon. N. KEENAN: No, but I might be permitted to say that I recollect when three judges used to sit and were always splitting their forces. Thus Chief Justice Onslow would join Mr. Justice Hensman in opposing Mr. Justice James, whereas in the next case Mr. Justice Hensman and Mr. Justice James would be opposed to the Chief Justice and, in the third case, the Chief Justice and Mr. Justice James would be opposing Mr. Justice Hensman. Every single trial judge gives a judgment in favour of himself in the Court of Appeal. That will always happen.

Mr. Stubbs: It is a case of appealing from Caesar to Caesar.

Hon. N. KEENAN: I do not propose to pursue the matter, but the Minister might consider recommitting the clause. Otherwise an extraordinary situation will be created.

The MINISTER FOR JUSTICE: I do not want members to go away with the idea that the last word has been spoken on the amendment. Let me quote the following from the Solicitor General:—

> At the present time, if the Full Court consists only of two judges and they differ in opinion, the judgment or order appealed against stands unaltered because then the opinion of the trial judge is supported by one of the two appeal judges. Clause 62 (2) of the Bill provides that in such a case, instead of the judgment or order remaining unaltered, the appeal shall be heard before three judges, so that a majority decision of the appeal judges can be obtained. With only three Supreme Court judges holding office, Clause 60 (2) of the Bill can apply, but obviously the three judges rehearing the appeal must inevitably include the judge whose original judgment or order is being appealed against.
>
> There is no legal objection to such inclusion, but it is a matter of opinion depending on the point of view of the individual whether or not it is desirable that the trial judge should also sit on the appeal. Those who oppose the practice do so on the ground that the trial judge is predisposed in favour of his original judgment, and cannot approach the appeal with an open mind. In doing so, however, they assume—perhaps wrongly—that the trial judge is so obstinate as not to be open to conviction of his mistake. Those who accept the practice do so because they feel the trial judge who has seen the witnesses giving evidence and can estimate their credibility can, by his information in that regard, help his brother judges in the appeal.

The existing practice is that when two judges sit in the Court of Appeal and there is a difference of opinion, the original verdict or judgment stands. That means that

the trial judge and one of the Appeal Court judges are against the third judge.

Hon. W. D. Johnson: Why is not that included in the Bill?

Hon. N. Keenan: The provision in the Bill is new.

The MINISTER FOR JUSTICE: There is a reference to it in the memorandum.

Hon. W. D. Johnson: Then the alteration would not be wise in existing circumstances?

The MINISTER FOR JUSTICE: The Committee have the information and can decide which system will be the better. The member for Nedlands said it was usual for the original trial judge to stick to his opinion in the Appeal Court.

Hon. N. Keenan: The Appeal Court cannot differ from the trial judge on any matter in which the trial judge had the advantage of seeing the witnesses.

The MINISTER FOR JUSTICE: That is so. I do not know whether we should adhere to the existing law. The Crown Law Department advise us not to do so. If the Committee consider that Subclause 2 should be amended to conform with the existing practice, I will get an amendment drafted and have the clause recommitted. In the circumstances I suggest that we pass the clause for the present.

Clause put and passed.

Clauses 63 to 68—agreed to.

Clause 69—Grounds for petition for divorce:

Hon. N. KEENAN: I move an amendment—

That after "crime" in line 8 of paragraph (e) the words "or misdemeanour" be inserted.

The paragraph provides that amongst the grounds on which a petitioner may obtain dissolution of marriage, one is if the husband has over a period of five years been frequently convicted of crime and sentenced in the aggregate to imprisonment for three years or upwards, and left his wife habitually without the means of support. The wife should be entitled to the same remedy if the husband were similarly convicted of misdemeanours.

The MINISTER FOR JUSTICE: I have no objection to the amendment.

Amendment put and passed.

Hon. N. KEENAN: I move an amendment—

That after "has" in line 1 of subparagraph (iii) of paragraph (f) the word "continually" be inserted.

In the prior part of Subclause 3 a married person is entitled to obtain an order for dissolution of marriage if the other has wilfully deserted him or her without lawful cause continually for a period of three years and upwards. In order to get relief the deserted wife has to prove that she has been deserted for three years continuously. Any period of less than three years prevents her from being entitled to her remedy. A woman may have separated from her husband and be receiving maintenance under an agreement or order, and the husband may have failed to make the payments that were agreed upon or provided for. Such a case came before the court in this State, and it was held that it was on the same basis as in connection with desertion, namely, that the payments must have ceased to be made for a period of three years continuously. On appeal to the High Court it was held that the periods during which payment had been made could be added together to make up the total period over which payments had been made. It seems to me that the same principle should apply to both instances, and that the deserted woman should be allowed to add the broken periods of desertion together to make up the requisite three years.

The MINISTER FOR JUSTICE: There is not much difference between this clause and the other one referred to by the member for Nedlands. Suppose a man did not want to be divorced. An order may have been made against him for certain payments to be made, and if once in every three years he made one payment, the wife would not be entitled to take proceedings for a divorce.

Hon. N. Keenan: The same principle applies in the case of a deserted wife whose husband might offer her a home once in three years.

The MINISTER FOR JUSTICE: But the wife would not accept such an offer.

Hon. N. Keenan: But she would not then have been deserted.

The MINISTER FOR JUSTICE: If a deserting husband wished to dodge divorce proceedings, he could offer his wife a home a week before the three years had expired, and if she refused she could not take pro-

ceedings for divorce. In the other case the husband need not go near his wife. All he would have to do would be to make one payment every three years. To all intents and purposes the woman would have been deserted, but she could not take proceedings for divorce on the ground of desertion. That is not a desirable position in which to leave any woman.

Hon. N. Keenan: My amendment would put the deserted woman and the woman who was receiving maintenance on the same footing.

The MINISTER FOR JUSTICE: The two cases are not analogous. The woman who is left entirely alone and only once in three years receives, say, £1 from her husband is entitled to relief. She is practically left to her own resources. She is deserted in every sense of the word except that some small payment is made to her once in three years. That is not fair, but it is what the hon. member's amendment would bring about.

Hon. W. D. Johnson: It is better to leave things as they are.

Hon. N. KEENAN: I am quite prepared to withdraw the amendment if the Minister will give the woman who is deserted the same right as he gives to the other women. I am fully in sympathy with much the Minister has said as to the former woman's position being one of grave injustice. I do not want to see one woman put in a place of favour when that woman is better off, in that she gets some money.

The Minister for Justice: One woman is offered a home; the other merely gets a pound.

Hon. N. KEENAN: I want the same provision for the woman wholly deserted and the woman partly deserted.

Hon. W. D. JOHNSON: Equitably, both women should be on the same basis. The question whether such an amendment should be included is worth considering

The MINISTER FOR JUSTICE: I give the hon. member the assurance he desires.

Hon. N. Keenan: Will you re-commit the clause?

The MINISTER FOR JUSTICE: Yes.

Amendment put and negatived.

Clause, as previously amended, agreed to.

Clauses 70 to 81—agreed to.

Clause 82—Duties of Attorney General:

Hon. N. KEENAN: I move an amendment—

That the following be added to paragraph (3):—"and may also reverse the decree nisi or make such other order as it may deem fit."

The clause deals with intervention of what is known at Home as the King's Proctor, or out here as the Attorney General or Minister for Justice. If in consequence of information received the officer furnishes to the court evidence of collusion, the court may order costs arising out of the intervention to be paid by the parties or such of them as it thinks fit, including the wife if she has separate property. The court should also have power, if it thinks fit, to reverse the decree nisi. That is the law under 27 Victoria No. 19 Section 46. It wipes out all proceedings on the ground of collusion.

The MINISTER FOR JUSTICE: I have no objection to the amendment.

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

Clause 83—agreed to.

Clause 84—Decree nisi for divorce or nullity of marriage:

Hon. N. KEENAN: Does the Minister intend to include this clause in the Bill, or does he intend to avail himself of the Bill introduced by the member for South Fremantle (Mr. Fox)? On the whole, it would be better to have the provision here.

The MINISTER FOR JUSTICE: This House has already passed, in a separate Bill, a provision similar to the clause. The clause had been suggested prior to the other measure being introduced. That measure has not yet become law, as it awaits to be dealt with by the Legislative Council. If the clause is carried here and elsewhere, the Bill of the member for South Fremantle will not be required at all. That Bill is being kept low on the Notice Paper of another place, in view of the possibility that there will be no need to proceed with it.

Clause put and passed.

Clause 85—Re-marriage of divorced persons:

Hon. N. KEENAN: I referred to this clause on second reading. The first subclause provides that as soon as any decree nisi for a dissolution of marriage or the nullity of marriage is made absolute, either of the parties to the marriage may, if there

is no right of appeal against the decree absolute, marry again as if the prior marriage had been dissolved by death. Subclause 2 provides that no clergyman shall be compelled to solemnise the marriage of any person whose former marriage has been dissolved on the ground of adultery, or shall be liable to any proceedings, penalty or censure for solemnising or refusing to solemnise the marriage of any such person. I do not know how we could compel any clergyman to marry certain persons if he did not desire to do so. A provision of this description was very appropriate when we had a State church which, of course, had to carry out the State laws. Once the State laws said that divorced persons were entitled to marry again, no clergyman of the State church could refuse to marry them. In those circumstances, how could any clergyman be liable to proceedings for refusing to marry? The first portion of the section says that the people are perfectly free to marry. How could a clergyman be liable for doing something that is perfectly lawful?

The Minister for Justice: Are you quite sure there is no other Act that says the clergyman will be liable to a penalty?

Hon. N. KEENAN: There is none that I am aware of. It is true that one church may declare that divorce is not within the law of that denomination, although within the ordinary laws of the State. No clergyman of that particular church would agree to marry divorced persons. Then we come to Subclause 3, which prescribes that if any minister of the Church of England refuses to perform the marriage service between persons entitled to have the marriage service performed in his church or chapel, he shall permit any other minister of the Church of England to conduct the service in that church or chapel. Why pick out the Church of England? Why not the Presbyterian Church, or the Methodist church, or yet again I would suggest—if the member for Yilgarn-Coolgardie were present—why not the Synagogue? I cannot understand the clause at all. It is extraordinary that it should appear in a modern statute. Subclause 1 is material, but we can well drop the other two.

The MINISTER FOR JUSTICE: I cannot assure the Committee that there is no old law tucked away in the archives that does not impose some such penalty upon clergymen in the circumstances suggested. I do not desire to continue anachronisms in our statutes. The member for Nedlands has drawn attention to what he regards as unnecessary in the laws of to-day, and that may be so, unless it be that there is some old Act that has not been repealed, and which affects the position.

Hon. N. Keenan: If you are asking us to re-enact, then you should produce the old law in order to justify your request.

The MINISTER FOR JUSTICE: I am prepared to agree to the deletion of Subclauses 2 and 3, and, if it is found necessary to retain them, I can have them reinserted later on.

Hon. N. KEENAN: I move an amendment—

That Subclauses 2 and 3 be struck out.

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

Clauses 86 to 93—agreed to.

Clause 94—Damages:

Hon. N. KEENAN: I move an amendment—

That a new subclause be added as follows:—"(4) A claim for damages shall be tried before a judge and jury."

Section 30 of 27 Vic., No. 19, deals with actions where damages are claimed, for instance, by a husband for adultery by some man with his wife. It will be noticed that the clause refers to the old Ordinance to Regulate Divorces and Matrimonial Causes, but omits to provide that any such action shall be tried before a judge and jury. As we are preserving the existing law as far as possible, that omission should be remedied.

The MINISTER FOR JUSTICE: The present law provides that in every divorce proceeding there must be a jury, but I do not know that we should force a jury upon people taking the action under discussion if they do not desire one.

Hon. N. Keenan: But this refers to an action for damages.

The MINISTER FOR JUSTICE: That is what the hon. member has been discussing. The law now is that if either side apply for a jury the judge makes an order accordingly. On the other hand there is always a good deal of expense entailed in having a jury for private civil actions. If both sides

are prepared to have a matter tried by a judge without a jury, there should be no objection to that. If either side desires a jury an order is made for a jury.

Hon. N. Keenan: Have you been told by the Crown Law Department to say that? Have they said that under the Bill a litigant is entitled to a jury?

The MINISTER FOR JUSTICE: No, but almost invariably the judge agrees to an application for a jury.

Hon. N. KEENAN: Permit me to interrupt. In the existing law, under the Rules of the Supreme Court of to-day, if you were bringing an action of this kind you would be entitled to a jury. But we have altered that by Clause 42, under which a jury can be claimed only in certain cases. We have amended the existing law by Clause 42. To-day if you are bringing an action claiming damages for adultery by some co-respondent, you are entitled to a jury. The judge cannot refuse it, but under the Bill you are not so entitled. That is the difference. So I am asking under Clause 94 that the petitioner shall be entitled to a jury.

The MINISTER FOR JUSTICE: The right is reserved to either party in the proceedings by Clause 42.

Hon. N. Keenan: No, no. Read Clause 42.

The MINISTER FOR JUSTICE: We cannot go back to Clause 42, but I am assured that it is so.

Hon. N. Keenan: No, that is not right, except in A and B cases.

The MINISTER FOR JUSTICE: But in any of these cases if you want a jury you say so, and the judge has no option to granting your request. I am assured that the right is conserved to either party who desires a jury, and that invariably the order for a jury is made. The cost of a jury might be anything from £20 to £40, and the hearing may take up to four or five days. Still, in appeals for damages, if people are not willing to leave the matter to a judge they can have a jury, in which case they have to pay for it. If litigants are prepared to leave the case to a judge, they should not have a jury forced upon them. The effect of the amendment is that there must be a jury, irrespective of what the contending parties might desire. Under the amendment, the jury must be there and must be paid.

Hon. N. Keenan: That is the existing law.

The MINISTER FOR JUSTICE: But the existing law has been altered, because we do not want to insist upon a jury.

Hon. N. Keenan: But you are going to take the jury away from them.

The MINISTER FOR JUSTICE: No, we are giving them the right to leave it to a judge if they so desire. Has the hon. member even known of an application for a jury being refused?

Hon. N. Keenan: Yes, hundreds of times.

The MINISTER FOR JUSTICE: Even that is better than saying that the litigants must have something that they do not want. You could not bring an action for damages under the divorce law except you had a jury.

Hon. N Keenan: I am objecting to the words "at the request of either party." It is not optional now.

The MINISTER FOR JUSTICE: That probably will be in conformity with Clause 42.

Hon. N. Keenan: No, that is at the discretion of a judge.

The MINISTER FOR JUSTICE: No. Clause 42 says that if anybody wants a jury the jury must be provided.

Hon. N. Keenan: But I have Clause 42 in front of me.

The MINISTER FOR JUSTICE: That does not make it any the better. I cannot agree to the amendment.

Amendment put and negatived

Clause put and passed.

Clauses 95 to 113—agreed to.

Clause 114—Restriction on appeals from decrees absolute:

Hon. N. KEENAN: Are we going to insert the same clause twice over?

Hon. W. D. Johnson: Yes, because the Crown Law Department say it is necessary.

Hon. N. KEENAN: Then I suppose we should pass the Bill introduced by the member for South Fremantle. It is the same thing.

The Minister for Justice: No.

Hon. N. KEENAN: It is nonsense. Repetition does not make the slightest difference.

Clause put and passed.

Clauses 115 to 177, Schedules, Title—agreed to.

Bill reported with amendments.

BILL—LIMITATION.

Second Reading.

Debate resumed from the 14th November.

HON. N. KEENAN (Nedlands) [9.5]: This is another Bill which has only a very small portion enacting new law and the balance is mere consolidation. I have already expressed the opinion on the Bill just dealt with that it is not desirable to re-enact old laws, but that we should merely consolidate them. We are asked to re-enact all these old sections. With the single exception of one, Subclause 1 of Clause 38, I have not been able to find any new matter whatever in the Bill. There may be some but I have not been able to find it.

The Minister for Justice: That is so.

Hon. N. KEENAN: We are re-enacting, instead of consolidating, an old law, as I shall proceed to show. This is the most ancient law in the British Empire, and it is full of most extraordinary anomalies. Let me explain what the law of limitation means. It means the lapse of a certain period of time which creates a bar to bringing proceedings in the courts of law. It does not affect the cause of action at all; it prevents proceedings in the cause of action in the courts of law. Therefore I suggest that the laws of limitation, except those which deal with real property, are mere rules of procedure. They are merely of local application, and therefore can be dealt with without in any way interfering with the traditions of legal jurisprudence in any part of the Empire or of Australia. They are laws we can mould entirely to suit our own views and wishes without in any way interfering with the administration of the law in general. May I give an example to show how purely local the law of limitation is. If a cause of action arose in Victoria and proceedings in respect to that case were brought in Western Australia, the law of limitations applicable to that cause would be the local law, notwithstanding that the cause of action arose in Victoria. That shows how entirely of local application is a law of this character. I said it was within our power to mould it and shape it just as we would without causing any interruption to the ordinary legal procedure. Of all the laws that exist on the statute-book, there is no one law that requires reconsideration more than does this one.

The Minister for Justice: For inconsistency.

Hon. N. KEENAN: Not only for inconsistency but for ridiculous provisions. I will illustrate a few. Yet we are asked solemnly to re-enact this law. It is not a matter for wonder that it should contain those great inconsistencies and glaring provisions, because by far the greater part of this law was passed in the 21st year of James I. in 1623. That is 312 years ago, and that is the law we are asked to-night to re-enact. Actually, the limitations for most actions of tort and all actions founded on simple contract are exactly the same as in the original statute of James I.

Mr. Marshall: They were far-seeing gentlemen in those days.

Hon. N. KEENAN: May I call attention to those limitations. They appear in Clause 38. There are numbers of provisions which have been altered from time to time by certain amending Acts. One of those was passed in the reign of Queen Anne, and it is one of which we must take notice. There were three others passed in the nineteenth century, which are of some importance as they relate to mercantile law, the Civil Procedure Act, and the Real Property Limitation Act, which were more than once amended. Turning to Section 38 from which I will quote, I propose to illustrate some of the extraordinary legal provisions we are asked to enact to-night. To start with, I would refer to actions for slander when the words are actionable per se. A cause of action in this case has to be prosecuted within two years. I should perhaps explain the meaning of the words. It is the case of a man accusing by word of mouth, some other subject of the realm, of the commission of a crime, it must be a crime in respect of which the person accused is liable to imprisonment. If he is only liable to a fine, the law does not apply. It is not then a case of slander by words actionable per se. The reason for this was that in the days when these laws were first made there was a very grave difference between a crime in respect to which imprisonment could be ordered, and a crime in respect to which a fine only could be imposed.

The Minister for Justice: In those days people were hanged for offences for which they are only fined to-day.

Hon. N. KEENAN: There is another provision which creates a right of action for

words actonable per se, and that is when one person accuses another of having some loathsome or contagious disease. To accuse a person of having small-pox does not bring the accuser within this particular law. Then there are other causes of action of the same character, such as when the accusation of unchastity may be preferred against a woman. There was a recent case heard before the English courts where an action was brought in respect to libel and slander, in the same case, against a film company which had staged a presentation of "Rasputin." It was suggested in that case that nowadays it is not a matter of great importance for a lady to be accused of want of chastity. It is not at any rate of the same importance as it was when these laws were made. In this case a person must bring an action within two years. If a simple statement is made about another person, that person cannot take action unless it is proved that the statement will cause him monetary loss, or he can prove special damages, in which case a period of six years is allowed. What degree of logic would allow two years in the case of a serious matter, and six years in the case of a far less serious matter, a matter so far removed from being serious that one has to prove monetary loss, before one can sustain an action. This is to be repeated in this Bill, in subparagraphs 2 and 3. Then there is the case of trespass to the person, which in other words is assault. In law assault is a case of trespass to the person. In that case a man must bring proceedings, or he will be barred, within four years. If it is a case of trespass to property, which may not be so serious, a person has six years in which to take proceedings. I could, if time permitted, show the House that this law, by reason of its great antiquity, is so chock-a-block with anomalies, as to be almost farcical in the light of to-day. What I object to is that for one single amendment, one of no great importance, this is brought down as a Bill for re-enactment, containing all these old musty provisions and anachronisms, which are governed by no real common-sense whatever. Most of them are at least 300 years old. Is that a wise proceeding? Why not drop this small amendment, which is wholly valueless, and rely on the existing statute, which enables all our existing statutes to be codified and consolidated?

The Minister for Justice: That could not be done in the case of Acts that we have not passed before.

Hon. N. KEENAN: All the existing laws to-day, dealing with the Statute of Limitations, have been consolidated. We brought certain laws with us when we founded this colony, laws that were 120 years old when we were only one year old. They were proper laws to have brought with us. We also brought certain other statutes subsequent to the one of James, dealing with the Statute of Limitations.

The Minister for Justice: We cannot consolidate them without an Act of Parliament.

Hon. N. KEENAN: We adopted the Imperial statutes with amendments passed in this colony. What comes from the Imperial Parliament is just as much the law of the land as if it were enacted by the Parliament of this country.

The Minister for Justice: They cannot be consolidated unless we re-enact them.

Hon. N. KEENAN: In what respect does a statute differ, provided we have adopted it, merely because it was passed elsewhere? In every lawyer's library in Perth one can find a volume of adopted statutes. At the head of each volume of adopted statutes there is a reference to the particular statute in our legal record which adopted them. They are the law here. If consolidation merely means, as it really only does mean, collecting together existing laws for the purpose of reference or convenience, they can all be consolidated.

The Minister for Justice: It is for that reason this Bill has been brought down.

Hon. N. KEENAN: It is an extraordinary position. What is happening, apart from any question of controversy, is this. We are asked to re-enact these old extraordinary, musty provisions. I do not care to do so. So long as the law remains unaltered we have to carry them out. If someone commits a battery on a person, and that person does not bring an action within the limited time of four years, he can never bring it. If that same person trespassed upon and damaged some property, the owner could bring his action within six years. That is absurd. We are awaiting an alteration which would put all this on a logical basis. We are asked to re-enact these stupidities. I do not see that the Minister is justified in asking us to do that,

merely because it saves some trouble and time in searching existing records of laws applicable to this matter. That time and trouble, if possible, should be avoided, but it is too high a price to pay to ask us to re-enact all these stale antiquated provisions in order to achieve that very limited result. I hope the Bill will not be read a second time.

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

Ayes	22
Noes	17
Majority for	5

Ayes.	
Mr. Clothier	Mr. Nulsen
Mr. Collier	Mr. Raphael
Mr. Coverley	Mr. Sleeman
Mr. Cross	Mr. F. C. L. Smith
Mr. Fox	Mr. Tonkin
Mr. Hegney	Mr. Troy
Mr. Johnson	Mr. Wansbrough
Mr. Lambert	Mr. Willcock
Mr. Millington	Mr. Wise
Mr. Munsie	Mr. Withers
Mr. Needham	Mr. Wilson
	(*Teller.*)

Noes.	
Mr. Boyle	Mr. Sampson
Mr. Ferguson	Mr. Seward
Mr. Keenan	Mr. J. H. Smith
Mr. Latham	Mr. J. M. Smith
Mr. McDonald	Mr. Thorn
Mr. McLarty	Mr. Warner
Mr. Mann	Mr. Welsh
Mr. Marshall	Mr. Doney
Mr. Rodoreda	(*Teller.*)

Question thus passed.

Bill read a second time.

BILL—ADELPHI HOTEL.

Second Reading.

MR. TONKIN (North-East Fremantle) [9.26] in moving the second reading said: The purpose of the Bill is specific. I would have preferred to deal with the matter by an amendment to the Licensing Act; but such an amendment, having general application, would have provoked much wider discussion. In view of the advanced stage of the session I thought it inadvisable to attempt that course, although it has been adopted previously. The case is urgent, as I shall show; and I believe that when I have finished hon. members will agree that this is the better way to deal with the position. It is desired to give the holder of a provisional certificate in respect of a building to be known as the Adelphi Hotel and situated on land on the south-east corner of St. George's-terrace and Mill-street, Perth, more time in which to apply for a publican's general license. That is the object of the Bill. Section 62 of the Licensing Act provides for the granting of a provisional certificate for any period up to 12 months, but the maximum period for which a provisional certificate can be granted is 12 months. No matter how much the Licensing Court may desire to extend that period, under the Act it has no power to do so. In this case the court granted the maximum time, twelve months, in which to erect the building; but I feel sure the court knew at the time that it would be most difficult to complete a building such as the Adelphi Hotel promises to be, within that period. To me it seems plain that when the Licensing Act was passed it was not contemplated by the framers that there would be erected in Western Australia a building requiring more than 12 months to complete, and that that is why the maximum period of 12 months was fixed. In these modern times very large residential hotels are looked for, and the most up-to-date hotels are huge buildings with magnificent appointments. The Adelphi Hotel is such an hotel. Experience gained in the building of the hotel has shown 12 months to be an insufficient time for its erection.

Hon. W. D. Johnson: Did the people concerned waste no time in starting?

Mr. TONKIN: I shall show the hon. member that as I proceed. Some idea of the size and the appointments of the hotel may be gained from the following particulars: The building when completed will be of five storeys, which with the flat roof will occupy over three acres of floor space. It will be as up-to-date as any building in Australia. It will include Turkish baths, swimming pool, coffee shop and other retail shops, huge lounges, dining-room, ball-room, supper-room, and 56 bedrooms, each bedroom having its independent bathroom and lavatory accommodation. In that respect the sewerage work alone will cost between £5,000 and £6,000. Three modern lifts will be installed. The electric lighting and heating system will be most comprehensive, and provision will be made for electric clocks and wireless throughout.

Hon. C. G. Latham: Are you advertising the hotel?

Mr. TONKIN: That is not my intention.

Hon. C. G. Latham: It sounds very much like that.

Mr. TONKIN: If it is incidental, well and good. The decorative finish will be exceptional, entailing large expenditure. I am endeavouring to show the magnitude of the building and the magnificence of the appointments in order to convey to hon. members an idea of the amount of work involved, as some might be inclined to be a little sceptical when I say that it is not possible to erect the building within the maximum period of 12 months. It will be realised that, in ordinary circumstances, an hotel is much more difficult to construct than ordinary business premises. The Adelphi Hotel involves an immense amount of intricate and technical detailed work. That being so, it will be appreciated that a long time is involved in the construction of such a building. It is estimated that upon completion, the hotel will cost between £100,000 and £110,000, and naturally that expenditure represents a building of tremendous size in this State. It has been found absolutely impossible to complete the work within the stipulated time, and the magnitude of the operations is not the only factor responsible for that failure. I shall mention two others. The building plant available in Western Australia is limited in capacity, because buildings of such a size are not matters of common occurrence here. Therefore it has been found difficult to get building plant large enough for the purposes of the Adelphi. Secondly, there has been throughout the year a shortage of expert tradesmen. I am assured that nine additional plasterers would be employed at the present time if they could be found. The contractor, in his effort to expedite the work, has endeavoured to secure additional tradesmen, and I am told that even now he would be able to employ those nine additional plasterers if they were available, but they are not. Having regard to all the circumstances, it will be agreed that 12 months affords insufficient time for the erection of such a building as the Adelphi. The member for Guildford-Midland (Hon. W. D. Johnson) asked, by way of interjection, if there had been any delay in the commencement of operations. Right throughout from the commencement, operations have proceeded with the greatest despatch.

Hon. W. D. Johnson: When was the work commenced?

Mr. TONKIN: The application for the provisional certificate was granted on the 3rd December, 1934. The plans and specifications before the court at the time were merely provisional, and they were not finally stamped until the 19th December. In order to save time, a separate contract was let for the excavation work, although it was originally intended to let one tender for the whole job. It is estimated that, as a result of letting the excavation work out separately, a delay of six weeks was avoided. While the excavation work was being carried out, the architects were busy preparing the necessay working drawings and taking out quantities to enable the contractors to tender for the job. Tenders were called as soon as possible, and the contract was signed on the 19th February. It will be seen, therefore, that from the time the plans and specifications were finally stamped until the contract was let—

Hon. C. G. Latham: Two months elapsed.

Mr. TONKIN: Yes, but during the first six weeks, excavation work was being carried out, so that operations had actually commenced before the tenders were finalised and the contract accepted for the building. In those circumstances, no time at all was lost.

Hon. C. G. Latham: Tenders were not invited until February.

Mr. TONKIN: The *contract* was signed on the 19th February. It will be recognised that some time had to be allowed to enable contractors to tender. Naturally it would take a fair time for the architects to work out the necessary quantities and drawings for such a building. As I say, actually no time was lost at all. According to the terms of the provisional certificate, the building of the hotel must be completed by the 3rd December next. It is anticipated that it will be the end of December before the work is finished.

Mr. J. MacCallum Smith: Will the relief be passed on in the event of the contract time being exceeded?

Mr. TONKIN: There is nothing in the Bill that will provide for any such relief.

Mr. J. MacCallum Smith: If we give the owners relief, the owners should give the contractors relief, if necessary.

Mr. TONKIN: I am not concerned with that aspect at the moment.

Mr. Moloney: But you agree that they should secure relief?

Mr. SPEAKER: Order! The member for North-East Fremantle has the floor.

Mr. TONKIN: As it is anticipated that the building will be completed about the end of December, that will be really a month late.

Hon. W. D. Johnson: Is that all you are asking for?

Mr. TONKIN: No, I will give reasons why I am asking for a slightly longer period. After the 3rd December the provisional certificate will expire, and it will not be possible for the holders of the certificate to apply for a publican's general license until next March. That will mean that, after completion by the end of December, this £100,000 building and furnishings will be idle for three months. The money so outlayed will not be able, during that period, to earn anything for those who have expended the capital. Secondly, the bond of £1,000 that had to be put up in accordance with the Act will be liable to forfeiture. Those are two consequences of the failure to complete the building within the stipulated time. No reasonable man would desire the imposition of such penalties in the circumstances I have outlined. No penalty should be imposed at all in the light of what I have stated. I therefore ask the House to agree to the Bill, which seeks to extend the period of the provisional license for a further six months. I have specified that period, because I consider that extension reasonable, although probably two months would be adequate. It is quite possible that unforeseen circumstances may arise that will not enable the building to be completed within two months, and if I were to specify that period in the Bill it would mean having to endeavour to secure the passage of another Bill later on. That would be undesirable. It is in the best interests of the proprietors to have the building completed as soon as possible, and it certainly does not follow if I ask for an extension of six months, the proprietors will avail themselves of that period. The very purpose of the Bill is to avoid delay. That is the idea of it; because if the provisional certificate expires it will mean that delay will occur before the proprietors can again apply to the court for their license. They wish to avoid waiting those three months, and therefore although the Bill proposes to give them an extension of six months, it will be quite clear that they will use the smallest portion of that extra period, because every day they can save will be an advantage to themselves and, of course, will mean a substantial consideration in pounds, shillings and pence. In conclusion, I may say there is a precedent for what I am asking the House to do. In 1931 the House agreed to an amendment of Section 62 of the Licensing Act for the very purpose for which I am now asking the House to pass this Bill. But in that instance the buildings had not been commenced; no start had been made and the provisional license had almost expired. A Bill was then introduced for the purpose of extending the provisional license, and this House agreed to the extension, even though not a brick had been put on the ground.

Hon. C. G. Latham: The House did not agree very readily.

Mr. TONKIN: Readily or not, the House agreed.

Member: Weighty reasons were advanced on that occasion.

Mr. TONKIN: However, I do not think those weighty reasons would bear any comparison with the reasons I am putting forward in this case. I have shown that no delay was caused at any stage of the building, that the work was put in hand at the earliest possible moment, that it was prosecuted with the greatest despatch throughout, and that all concerned with the erection of the building have used their best endeavours to expedite that erection. But it has not been physically possible to complete the building within the prescribed time, and so it is only reasonable that the House should be asked to extend the period of this provisional certificate. No case could be more deserving, and it is with confidence I ask members to support the measure. I move—

That the Bill be now read a second time.

On motion by Hon. C. G. Latham, debate adjourned.

House adjourned at 9.43 p.m.