# Legislative Council

Thursday, 10th October, 1957.

CONTENTS.



The PRESIDENT took the Chair at 2.15 p.m., and read prayers.

## QUESTIONS.

### HOUSING AT GERALDTON.

*Homes Under Construction, Allocation, etc.*

Hon. L. A. LOGAN asked the Minister for Railways:

(1) How many—

(a) Commonwealth-State rental homes;

(b) State purchase homes,

are at present under construction in Geraldton?

(2) At what stage of completion is each of such houses?

(3) (a) Have all the Commonwealth-State rental homes in Geraldton been allocated; if not,

(b) How many have been allotted?

(4) What principle is used in the allocation of these homes?

(5) (a) Have all the State purchase homes in Geraldton been sold, or allotted; if not,

(b) How many such homes remain unsold or unallotted?

(6) How many applicants are still awaiting allotment of—

(a) Commonwealth - State rental homes;

(b) State purchase homes in Geraldton?

(7) What amount is required in the form of a deposit for the purchase of a State purchase home?

The MINISTER replied:

(1) (a) and (b) Under construction as at 30/9/57—

| | |
|---|---|
| Commonwealth-State rental | 17 |
| Commonwealth-State purchase | 24 |
| State Housing Act purchase | 1 |
| | 42 |

(2) Commonwealth-State rental—

| | Percentage Completed. |
|---|---|
| Lot 1610 Maley-st | 90 |
| Lot 1611 Maley-st | 79 |
| Lot 1612 Maley-st. | 71 |
| Lot 1613 Maley-st. | 69 |
| Lot 1469 Whitfield-st... | 52½ |
| Lot 1639 Whitfield-st... | 52½ |
| Lot 1642 Maley-st. | 2 |
| Lot 1643 Maley-st. | 2 |
| Lot 1646 Maley-st. | 50 |
| Lot 1618 Maley-st. | 95 |
| Lot 1620 Elliott-st. | 59½ |
| Lot 1621 Elliott-st. | 73 |
| Lot 1623 Elliott-st. | 25½ |
| Lot 1635 Crowther-st. | 2 |
| Lot 1636 Crowther-st. | 6 |
| Lot 1637 Crowther-st. | 6 |
| Lot 1630 Crowther-st. | 42 |

Commonwealth-State purchase—

| | |
|---|---|
| Lot 1598 Whitfield-st... | 92½ |
| Lot 1607 Whitfield-st... | 93½ |
| Lot 1608 Maley-st. | 92½ |
| Lot 1640 Maley-st. | 60 |
| Lot 1614 Maley-st. | 69 |
| Lot 1615 Maley-st. | 85½ |
| Lot 1472 Maley-st. | 49 |
| Lot 1638 Maley-st. | 3 |
| Lot 1641 Maley-st. | 2 |
| Lot 1644 Maley-st. | 16½ |
| Lot 1645 Maley-st. | 45 |
| Lot 1619 Maley-st. | 93 |
| Lot 1476 Elliott-st. | 56 |
| Lot 1621 Elliott-st. | 72 |
| Lot 1624 Elliott-st. | 96 |
| Lot 1634 Crowther-st. | 2 |
| Lot 1633 Crowther-st. | 2 |
| Lot 1631 Crowther-st. | 64½ |
| Lot 1632 Crowther-st. | 77 |
| Lot 1625 Elliott-st. | 7 |
| Lot 1626 Elliott-st. | 2 |
| Lot 1627 Elliott-st. | 2 |
| Lot 1628 Elliott-st. | 2 |
| Lot 1629 Elliott-st. | 45½ |

State Housing Act purchase—

| | |
|---|---|
| Lot 1609 Maley-st. | 59 |

(3) (a) and (b)—17 not allotted. Houses are not allotted until completed.

(4) Houses are allotted in accordance with priority as established by date of application if not regarded as special emergent.

(5) (a) No.

(b) Six Commonwealth-State purchase homes.

(6) Commonwealth-State rentals—

| | |
|---|---|
| 2 units | 11 |
| 3 units | 28 |
| 4 or more units | 69 |
| | 108 |

State Housing Act purchase homes 47

(An officer of the commission will be in Geraldton next week for the purpose of making a physical survey of needs of all outstanding applications. Applicants applying for Commonwealth-State rental homes are considered as applicants for purchase homes.)

(7) A minimum £50 deposit.

## UNIFORM GENERAL BUILDING BY-LAWS.

*Extent of Reconsideration and City Council's By-laws.*

Hon. A. F. GRIFFITH asked the Minister for Railways:

(1) Has any consideration been given to the suggestion made by me when I moved to disallow the regulations made under the uniform general building by-laws?

(2) If so, what is the extent of the consideration?

(3) Do Perth City Council's building by-laws for the Floreat Park area override the uniform general building by-laws?

The MINISTER replied:

(1) Yes.

(2) Amendments to Clauses 41, 330, 341 and 342 have been gazetted. Further amendments are being recommended and other suggestions by the hon. member and Mr. Thomson are receiving the careful consideration of the committee of reference which is charged with dealing with and making recommendations in regard to proposals for the amendment of the by-laws. The committee of reference is also dealing with proposals received from other quarters.

(3) Yes. By-laws made under Section 42 of the City of Perth Endowment Land Act would override the uniform building by-laws where any conflict arose between the two sets of by-laws.

## PRISONS DEPARTMENT

*Reinstatement of Warder Thorne.*

Hon. A. F. GRIFFITH asked the Minister for Railways:

(1) Has any consideration been given by the Government to the case of warder Louis Thorne?

(2) Is it intended that he shall be reinstated in employment?

The MINISTER replied:

Full consideration was given to this case before action was taken, and nothing has transpired since that would cause the case to be reopened.

## BILLS (3)—THIRD READING.

1, Pig Industry Compensation Act Amendment.

2, University of Western Australia Act Amendment.

3, Cemeteries Act Amendment.

*Passed.*

## BILL—JETTIES ACT AMENDMENT.

*Third Reading.*

**THE MINISTER FOR RAILWAYS** (Hon. H. C. Strickland—North) [2.23] in moving the third reading said: In explanation of the point raised by Mr. Simpson regarding the Fremantle Harbour Trust, I have the following information: The fears of Mr. Simpson—that the validity of the regulations made by the Fremantle Harbour Trust and the Albany and Bunbury Harbour Boards might also be challenged—are unfounded. These bodies make regulations under their own Acts, and not under the Jetties Act. The Acts covering those instrumentalities, unlike the Jetties Act, do not preclude the making of regulations for a jetty which is part of a railway owned by the Crown. That will clear up the query that has been raised. I move—

That the Bill be now read a third time.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

## BILL—INTERPRETATION ACT AMENDMENT (No. 2).

*Recommittal.*

On motion by Hon. L. A. Logan, Bill recommitted for the further consideration of Clauses 2 and 3.

*In Committee.*

Hon. W. R. Hall in the Chair; Hon. L. A. Logan in charge of the Bill.

Clause 2—Section 36 amended:

Hon. L. A. LOGAN: The reason for recommitting this Bill arises from the need for some drafting amendments which should have been made earlier. As the Bill stands, a new subsection has been introduced. Certain portions of the Act relating to subsections are to be altered by the Bill. If the Bill is to be left as it stands, it will be necessary to include a new provision as Subsection (2A), and to include in that subsection a reference to

the section. That is the whole purpose of the amendments. The rest are all consequential. I move an amendment—

That after the word "amended" in line 4, page 2, the letter "(a)" be inserted.

Amendment put and passed.

On motions by Hon. L. A. Logan, clause further consequentially amended by—

Striking out the figure "3" in line 5, page 2, and inserting the figure and letter "2A.";

striikng out the figure "3" in line 6, page 2, and inserting the figure and letter "2A.";

striking out the letter "(a)" in line 8, page 2;

adding the following paragraphs:—

(b) by inserting after the figure "(2)" in the second line of subsection (3) the passage "or (2A)."

(c) by adding at the end of subsection (3) the words "within twenty-one days of the passing of the resolution. Provided that no regulation published in the Gazette prior to the first day of January, one thousand nine hundred and forty-nine shall be amended or varied or another regulation substituted for it pursuant to the provisions of subsection (2A) of this section."

Clause, as amended, put and passed.

Clause 3—Section 36 amended:

Hon. L. A. LOGAN: As what is provided for in Clause 3 is included in Clause 2, there is no need for this clause.

Clause put and negatived.

Bill again reported with amendments.

## BILL—CHIROPODISTS.

*Second Reading.*

Debate resumed from the previous day.

**HON. N. E. BAXTER** (Central) [2.33]: This Bill has features similar to those of other Bills that have been considered dealing with occupational therapy and physiotherapists. I could not agree more with Dr. Hislop's contention that these ancillary medical services should be placed under the control of one board instead of our having three boards to deal with them, each with its registrar and secretary. If there were one board, overall expenses of the three services would be considerably reduced.

The composition of the board suggested under this Bill is slightly different from that of the other boards referred to. From memory, I think that the boards appointed under the other legislation have the Commissioner of Public Health or his deputy as chairman. This Bill provides that the commissioner or a medical practitioner nominated by him shall act on the board. The provision in regard to the medical practitioner is similar to that in the other legislation; but there is provision for three chiropodists to be appointed to the board, thus giving the chiropodists a majority.

The other legislation provides for a member of the Senate of the University and two members of the particular ancillary medical service concerned to be on the board. In the Occupational Therapists Bill there is provision for two representatives from the occupational therapists to be appointed by the Government and this measure provides similarly. But there is an association—the Western Australian Chiropodists' Association—which I think should have the right to nominate its representatives, because they are the people who know what is required in the training of chiropodists and what the set-up should be. They would also have more idea than the Commissioner of Public Health or a medical practitioner as to where research should be carried out. I intend to place amendments on the notice paper to deal with that matter.

The Bill sets out that the funds of the board may be applied to the furtherance of research into chiropody in Western Australia. I wonder why the research is confined to chiropody in Western Australia. I consider that such research should be world-wide. I do not know whether this was something that was overlooked when the Bill was framed, but it is a matter concerning which I shall place an amendment on the notice paper. Apart from that, the Bill is fairly neatly put together and should cover the requirements for training and registration of chiropodists and the practice of chiropody in Western Australia.

It is a pity that this Bill and measures dealing with similar types of occupation could not have been considered together as one measure and a board appointed as Dr. Hislop suggested, to control them all, with representatives from the associated bodies on the board and one registrar and secretary to do all the work.

I do not think that the total amount of work involved would be beyond the capability of one registrar and secretary working full-time. Under the present system there will be three officers being paid salaries to carry out a similar type of work in connection with three different services. I support the Bill, subject to the amendments I have suggested.

On motion by Hon. L. A. Logan, debate adjourned.

## BILL—BUSH FIRES ACT AMENDMENT.

*Second Reading.*

**THE MINISTER FOR RAILWAYS** (Hon. H. C. Strickland—North) [2.39] in moving the second reading said: This Bill proposes to amend the Bush Fires Act

following experience gained of the operation of its provisions since the measure was consolidated some years ago.

The Bush Fires Act of 1937 formed the foundation of our present legislation, amendment being made to the measure from time to time in the light of experience and to meet new problems. The Act was consolidated in 1954 and a number of changes mainly directed to securing greater flexibility to meet differing conditions in various parts of the State were included.

The Bush Fires Board which was constituted under the 1954 Act is an organisation, the development of which has proceeded more or less in parallel with the legislation since 1937. The Rural Fires Prevention Advisory Committee was set up shortly after the Bush Fires Act of 1937 to advise and assist in its implementation. This committee has always been very closely associated with local government.

The executive of the Road Board Association originally had three representatives on the committee, which was later increased to four and, in the existing Act, to five members. The other members represent the Forests Department, the Department of Agriculture, the Railway Department and the Underwriters' Association, with the Under Secretary for Lands as chairman.

The departments represented are closely associated with the fire problem and, together with the underwriters' representative, not only are in a position to put forward the views of the organisations they represent, but also provide the other members with a ready source of information on subjects and problems closely concerning their own particular spheres.

Local authorities have the predominant representation on the board—and rightly so, because they are most closely concerned with the bush fire brigades for which they are responsible in their own districts and with the immediate fire problems. As members are aware, the Road Board Association is organised in wards, and each ward most closely concerned in this matter provides one of the five road board members. In this way, through their wards and its particular member, each local authority and the brigades have a direct representation on the Bush Fires Board.

The Bush Fires Board has functioned for a little over two years and in that time it is felt a great deal of consolidation and progress has been accomplished. Its work has been based and directed mainly towards extending and encouraging the co-operation which is so necessary in the field of fire prevention and control. The board has endeavoured to provide advice, assistance and backing to the local authorities and the volunteer organisations. It also has the responsibility of making recommendations and dealing with problems which extend beyond individual districts and have, in some cases, a very great significance from the State point of view. The board has done a good job.

When the Act of 1954 was introduced, some memebrs appeared to be under the misapprehension that it increased restrictions and control. Its intention was far from this; and although additional powers and restrictions were included in it, they were intended to afford alternatives so that different needs in various parts of the State could be met.

In this regard the aim was to secure greater flexibility; and on the whole, experience indicates it has gone a long way towards this end. It has to be pointed out that there is a great deal in the Bush Fires Act which is aimed, not at the responsible members of the community, but at the small minority which, unfortunately, is prepared to take risks which affect not only themselves but the whole community.

There are many problems concerned with fire prevention and control—problems which can change very rapidly, particularly in these days, with the very great advances made in agricultural science. Increased production of crops and pasture inevitably means an increase in the fire menace. A tribute must be paid to the excellent work which has been performed by the local authorities and the bush fire brigades, not only in controlling fires, but in assisting in the more important work of prevention.

When the Bush Fires Act of 1954 was being prepared, a good deal of consideration was given to a problem concerning the restricted burning times, but the then advisory committee did not make any recommendation to deal with the matter, because at that time a practical solution of the difficulties could not be found.

The restricted burning times are fixed in the Act and have been for very many years from the 1st October to the 31st May to cover and include widely varying conditions in different parts of the State. Particularly in some seasons, and with added emphasis in some parts of the State, it was fully realised that the 1st October was too early to bring in all the restrictions on burning off under the Bush Fires Act; and a similar position arose at the other end of the period when the 31st May was too late and the restrictions could safely end earlier. The difficulty is that in the times of the year mainly concerned, seasonal conditions can vary very widely from season to season and from district to district.

The old advisory committee went into a number of proposals to overcome the problem, including zoning of the State for the restricted as well as the prohibited burning times. The prohibited times, however, deal with parts of the year when weather conditions are much

more consistent; and it was not practicable to establish zones for the restricted times because of the much more variable weather conditions. Zones would also have been an added complication.

With the setting up of the Bush Fires Board and the experience gained particularly in connection with local variations of the declared prohibited burning times, the board felt that it would be able now to deal with this matter on the basis of individual districts in accordance with conditions obtaining each season. The board is most anxious that it should have power to effect these modifications in order to encourage protective burning.

Where it is necessary to comply with all the restrictions in the Act, there is a tendency not to burn small hazardous areas. After the 1st October, a permit to set fire to the bush is required. This necessarily takes time; and frequently burning is not done because when weather and other conditions may be suitable, the persons concerned may not be prepared to go to the trouble of obtaining permits for what might be a very small amount of burning, but which might remove a hazard which would be a danger later in the year. It may not necessarily be desirable that the whole of the restrictions should be lifted.

The purpose of the amendment in the Bill is to enable the board to vary or suspend the whole of the conditions on the application of a local authority for any period up to two months at the beginning or end of the present stipulated period for the restricted burning times, so that each district can apply for a change in conditions to suit its own district in that particular year. The Bush Fires Board feels that it is now in a position to be able to handle such applications expeditiously as has been done for variations of the declared prohibited burning times.

At the same time, an opportunity has been taken to resubmit a provision which existed for very many years, but which was deleted from the 1954 Act. The reason was that the original provision was altered in the 1954 Bill in a rather complicated way in an endeavour to meet a particular problem, with the result that there was some misunderstanding about the matter and the whole of the provision was deleted.

This refers to the exercise of powers by bush fire control and bush fire brigade officers in districts adjoining their own. A great deal of concern has arisen with some brigades in not having an automatic power to continue fighting a bush fire or to attend to a bush fire burning in the locality of another road district. If they do fight a fire in such circumstances, and if no officers of the adjoining district are present, the persons concerned have no protection under the Bush Fires Act; nor are they insured against injury or damage to their equipment.

It is possible under the existing provisions of the Act to overcome this difficulty; but it is in a very cumbersome and unsatisfactory way: that is, by the adjoining districts agreeing to a joint registration of the particular brigades concerned. In practice this procedure is liable to break down.

What happens is that one district may have joint registrations with brigades in four or five other road districts which adjoin it, and then the surrounding districts also have a joint registration of other brigades, with the result that the matter becomes extremely complicated. After a few years, some districts forget the joint registrations and a great deal of correspondence ensues. When it is realised there are some 650 bush fire brigades individually registered; and quite a large proportion of these are also the subject of joint registrations, it can easily be seen how confusion can arise.

It also gives the brigades jointly registered much wider powers than the old automatic provision which allowed the officers to exercise their powers in an adjoining district only provided that no officers of that district were present. The volunteer officers do a tremendous job in controlling fires; and if they are denied legal protection, they can get into a very serious position and be liable for considerable damages. It is felt they should have every possible protection in providing the very essential service which they do.

This Bill is mainly to cover the two major points mentioned; but at the same time opportunity has been taken to deal with a number of other matters which have arisen with experience of the operation of the 1954 Act. One of these concerns the use of explosives from which there were quite a number of fires, particularly in one season, and about which there were doubts concerning whether the Bush Fires Act applied.

The implementation of this proposal has largely been left to regulation, because it is felt it would be very difficult to put a stipulated provision in the Act which might be found to bear unduly heavily against some particular operation requiring the use of explosives which might be overlooked in drafting. There is not a great deal of experience in this connection, and it is felt that modifications will be needed in the light of experience.

Provisions have also been included relating to false alarms and vandalism. A good deal of trouble has arisen over both these causes. There have been several instances of wilful false alarms which have caused the brigades concerned a good deal of trouble, and there is the danger of a genuine call consequently being neglected. Whilst it may have been possible to deal with this matter under other Acts, it was

felt desirable to include the reference in the Bush Fires Act as a deterrent in the future.

In connection with vandalism, unfortunately there have been cases which could have had a very serious effect, particularly in view of the fact that in some districts extensive arrangements had been made for emergency supplies of water for fire-fighting purposes to be stationed at farm gates, and in some cases for other fire-fighting equipment as well. It is regretted that this equipment has been the subject of loss and damage in some instances by completely irresponsible elements in the community.

The procedure for prosecutions under the Act has also been brought more into line with other Acts administered by local authorities. At present, every case for prosecution a local authority desires taken has to be considered by it. This causes delays and is unnecessary where the authority concerned has determined a general policy in regard to prosecutions for particular classes of offence. Local authorities will still retain control, but will not necessarily have to consider each individual case.

During my experience here, the Bush Fires Act has been before this Chamber on two or three occasions, and it has always engendered great interest and some very long debates. But in the light of the consolidated Act of 1954 and the experiences of those administering the Act since that time, these amendments are being submitted in an endeavour to clarify some aspects, with a view to improving and facilitating the work of the Act. I move—

That the Bill be now read a second time.

On motion by Hon. A. R. Jones, debate adjourned.

## BILL—ELECTORAL ACT AMENDMENT (No. 1).

Received from the Assembly and, on motion by Hon. F. J. S. Wise, read a first time.

## BILL—NEWSPAPER LIBEL AND REGISTRATION ACT AMENDMENT.

Returned from the Assembly without amendment.

## BILL—FREMANTLE HARBOUR TRUST ACT AMENDMENT.

*Second Reading.*

Debate resumed from the previous day.

**HON. H. L. ROCHE** (South) [2.56]: I must confess I have not often found myself sitting on the fence to the extent that I do now in connection with this piece of legislation; nor have I experienced such difficulty in making up my mind as to how to vote on a measure, as that which I now experience. In the first place, it seems to me that one principle involved is whether we should support in every possible way the deciding of industrial matters by arbitration.

The men in the union concerned certainly can approach the Arbitration Court; but on such evidence as we have been able to secure, it seems obvious that the particular provision on which it wishes the Arbitration Court to give a decision is not workable or possible unless an amendment along the lines brought before this House is agreed to by Parliament. Having all along taken the stand that industrial matters should be dealt with by arbitration, that is quite a considerable justification for Parliament approving the legislation.

Further, we have another industry where the employees are fairly closely connected with the men concerned in this union, and where the principle of attendance money is established. There seems to be no objection by the employers to that principle being applied to the wharf labourers or the Waterside Workers' Federation. Whilst the jobs are perhaps not the same, there is a fairly close connection between the two.

It is possible that in the case of the Waterside Workers' Federation the employers prefer to pay attendance money rather than have the men engaged on a permanent basis. I am not an authority on that matter, and I may not be well enough informed; but I suspect that may have something to do with the case.

On the other side of the question, whilst in some representations that have been made we have been asked to accept the contention that the men belonging to the dock workers union are engaged in skilled work; and whilst I did not have the opportunity the other day of availing myself of the invitation to inspect some of the work, it does seem to me that, apart from a few men, it is rather stretching the case a bit to say that they are skilled workers. I think it might be fairer and more reasonable to describe them as experienced. Much of the work would call for men with some measure of experience, in addition to the few men who could justifiably claim to be skilled.

There is the contention that, should this legislation pass and the Arbitration Court, in its wisdom, extend the principle of attendance money payments to the men in the union, that will not be the end of it; that we would be creating a precedent in connection with other workers.

The principle has been approved in connection with the Waterside Workers' Federation, and I assume that it will not be possible for any other union to obtain

attendance money unless it applies to the Arbitration Court and the court considers its granting will be justified.

One of the biggest obstacles to be overcome is that many shipping companies—perhaps to say "many" is an exaggeration, but some shipping companies—will be called upon to pay the impost which this Bill will impose, although they have very little use, if any, for the services of the men belonging to this union.

On the other hand, there are other shipping companies—particularly the State Shipping Service—which make use of the services of these men to a very considerable degree. From what I have been informed, the State Shipping Service provides nearly half the work that these men do. Therefore, we are faced with the position that the people who make very little use of the services of these men—perhaps no use—have a considerable tonnage of shipping using Fremantle; and they will have to contribute a considerable amount to the fund—an amount out of all proportion to that contributed by a concern such as the State Shipping Service.

It seems possible that some of the people who do not use the services of these men would have a greater tonnage of shipping using Fremantle than the total tonnage of shipping belonging to some of the people who do utilise their services. Consequently, they will be paying more to this fund than the people who really require the service.

It seems to me that if this Bill passes the second reading and goes into the Committee stage, the Minister will need to give consideration to that aspect; and, in fairness to all concerned, frame an amendment in respect of these charges so that the people who need the services of this union will at least contribute somewhat more in proportion than those people who do not make use of its services.

Hon. R. F. Hutchison: It is the same kind of industry.

Hon. H. L. ROCHE: I am not questioning that. I am questioning the contribution necessary to operate this fund; and if this Bill passes the second reading, I think the Minister and those who support the Bill will have to give serious consideration to the point I have raised.

Hon. N. E. Baxter: It would be hard to assess.

Hon. H. L. ROCHE: It may be difficult to assess. The hon. member will notice that I have not suggested that it is my intention to move an amendment. I am not sponsoring the Bill. It is possible that other approaches may follow for attendance money; but that will depend on the legal position of the unions concerned, and whether the court has the power to grant it.

I am sorry I have not made up my mind about this Bill, and as to which side of the fence I am on. However, I have expressed my opinion; and if some of the points I have raised can be answered, I will be very interested.

**HON. R. F. HUTCHISON** (Suburban) [3.7]: I intend to speak only briefly to the point raised by Mr. Roche. The tendency now in industry is to provide security for employees, and that is something which is recognised in all avenues of society as being fair and just. It is necessary to plan for the security of the people who produce the wealth of the world.

Attendance money for this union is just one of the things which must come. Rationalisation in industry is taking place in some big factories in Western Australia in order to give security and better working conditions for the workers. The union concerned with this Bill is, I understand, one of the key unions employed on the waterfront, as its members are specialists. Therefore, if it is so vital, its members should have security, particularly when they are willing to do this work. A sense of insecurity is one of the greatest contributors to inefficiency, while security makes for efficiency.

Since the industrial revolution in England, when drastic mistakes were made and the worker was looked upon as just a piece of machinery, some of the leaders in industry have done much to improve conditions; it has not always been left to the rank and file to do it.

All the members of this union want is security. I have been through times when I did not know where the next week's pay would come from; and when one has a family, that is particularly hard. I would say that that would be one of the greatest penalties of casual work, and would affect the mental condition of these people. I am sure it would affect them drastically at times. It would also have its effect in their homes and on their families, because the feeling of insecurity would make the men irritable and cause them to be unreasonable, and so could reflect on family life—even to the delinquency in children, about which we are all so concerned.

I consider this is a small thing to ask of the shipping companies which, after all, are very wealthy; and I do not think it matters whether they use the services of these men or not; they use the waterfront. Evidently there has been some difficulty in preparing this Bill; but now that it is before us, we should be mindful of the security and welfare of the men concerned.

Hon. L. C. Diver: Don't you think that they should be permanent?

Hon. R. F. HUTCHISON: Undoubtedly. But I am not conversant with all the conditions of this union. However, I think there must be some reason why they

are not permanent. I am told that these men are necessary on the waterfront and are called upon at any odd hour to perform work on the ships. Therefore, I cannot see how they could be permanent. They have to be available at a moment's notice for the turning round of ships, and I doubt if anybody else would be prepared to employ them.

Hon. L. C. Diver: Didn't Mr. Troy ask that they be made permanent?

Hon. R. F. HUTCHISON: I do not know. I have never met Mr. Troy, and therefore do not know him. Furthermore, I have not discussed this matter with anyone. If these men are specialised in their work; and if they are so necessary on the waterfront, we should do something to help them obtain security. I see nothing wrong in asking all the shipping companies to do something which will lighten the burden on these men. Men do not ask for security if it is not needed.

Society today realises more than ever before that the worker is a human being. It is an indignity and sin against human rights not to give men security of employment, even for the sake of their wives and children. That is what I meant when I said that rationalisation should be carried so far as to make the shipping companies pay to see that these men are treated as workers and human beings.

**HON. J. G. HISLOP** (Metropolitan) [3.15]: I do not feel quite so certain about this matter as Mrs. Hutchison appears to be, nor am I involved in any way with the question of whether or not we are dealing with people in a human way. What I am concerned about is the practicability of the Bill.

Hon. Sir Charles Latham: And the principle.

Hon. J. G. HISLOP: Yes. I can deal with the points under the one heading. I understand that up until nearly the end of last year these people were in permanent employment. I am wading in a sea of doubt; but I realise there are members here who will be only too willing to tell me if I am floundering and blundering, and who will answer my questions when I pose them. I understand these people were permanent up until November, 1956.

Hon. F. R. H. Lavery: I don't think that is correct.

Hon. J. G. HISLOP: I understand it was late in 1956 when Mr. Troy asked that they be made casuals. Having been made casuals—and I am quite certain that they became casual workers because they felt they would receive better treatment than they would as permanent employees—they now ask to be decasualised.

The Minister for Supply and Shipping: They were never permanent.

Hon. J. G. HISLOP: I take it they were, because the whole of the Minister's speech was devoted to the decasualisation of these casual workers.

The Minister for Supply and Shipping: No; you should read it.

Hon. J. G. HISLOP: I have.

The Minister for Supply and Shipping: You should read it again.

Hon. J. G. HISLOP: I might. By giving them attendance money we will replace what they now lose in lost time. If we change the position of casual workers by decasualising them, there must be a balance of payment in regard to the two aspects.

I was interested in reading the interim decision of the court in which it was suggested that if this attendance money was given there would be some alteration in what was allowed to these people as casual workers. I would have thought that the total amount allowed would be deducted; but apparently that is not so. What we are really arranging for is a further switch of these workers to another field in order to allow them to have an increase.

I am not querying whether the increase is justified or not; but I want to know whether that is a fact—that we are simply changing the position of a casual employee to that of a decasualised worker; and that such worker expects that, with the alteration of the two monetary arrangements, there will be some gain.

Hon. F. R. H. Lavery: No.

Hon. J. G. HISLOP: Then I cannot read documents.

Hon. F. R. H. Lavery: The suggestion is that these men will receive something in their pay envelope each week.

The PRESIDENT: Order!

Hon. J. G. HISLOP: Another aspect is that this is put to us on the basis that we should give this small thing to these men. I want to be certain that we are dealing with a small thing; because I understand that the moment we grant this, we grant a precedent. And the moment we grant a precedent, there is someone round the corner who feels justified in asking for something as a result of it. So it will not be long before someone else makes a claim.

When we realise that all similar employees in the bigger ports are permanent employees we can imagine that they will now ask to be casualised and then decasualised so that they can receive the increase granted by the Western Australian Parliament through the Arbitration Court.

Are we not setting in train a series of events from a small item, so that the whole national set-up will be affected? I fear there will be that possibility; and that being so, we should not agree to

this lightly, or look upon it as a small measure. We should regard it seriously, and in the knowledge that we are establishing a precedent that could be extended to the other ports in Australia.

Hon. Sir Charles Latham: And to other employment, too.

Hon. J. G. HISLOP: Let me come to that later. What I am concerned about is that we are at the moment in a difficult position in Australia in regard to exporting our goods; and any increase in shipping costs must go on to shipping freights. And when we increase costs and then try to adjust the freights, we find there is always a little bit of profit attached, so that the costs rise. Rising costs might be all right at the moment; but I am concerned with the figures Mr. Simpson gave showing how the fund set aside for the waterside workers has increased. If the assumption is correct that this can be spread through Australia and the fund can rise in the same manner, we will be in difficulties.

Apparently the principle of the administration of the waterside workers' fund has become one of increasing intensity and immensity. What makes me think so is that in one of the reports of the Arbitration Court I read where the president said that he wondered whether it would not be wise to have a statutory body to control many things that are normally controlled in a different manner. In the interim report delivered in October he said this—

> Consideration might also be given as to whether certain other matters which have hitherto been regulated by awards of the court or agreement between the parties would not be more appropriately administered by a statutory authority.

So we might find that before long we have set up a statutory authority to go into the matter of this fund, and we would have the same arrangement as already applies to the waterside workers. If we do this, without really knowing the basic facts, are we not going to ensure this cost rise in exactly the same way as Mr. Simpson pointed out had occurred in another field?

I do not know enough about the question to say that I will oppose the Bill. I want to know whether this will stay where it is, or whether it will snowball, so that we will be running the risk of starting something that will be Australia-wide.

When I say I am anxious about exports from Australia, I am speaking seriously; because with the rising bank rate in England, there must be concern in everyone's mind that there will be a similar, though probably not as high, an increase in the bank rate in Australia within a short time. I understand that already some English firms that will be affected by such a rise in the bank rate are using their Australian funds as cover, and that therefore the call for Australian funds may increase considerably. No one knows what the portent of that might be. It is not beyond possibility that the rise could occur at an early date.

I am not looking at this question so much from the point of view of humanity in regard to the granting of a small sum of money at the moment, but from the point of view of humanity in relation to what might possibly happen if we do the wrong thing in relation to our economy. We are all right at the moment, but the future does not look as certain as it did a year or two back.

Another feature which gives me concern is the action of the Arbitration Court in restricting the hours of trade. The secretary of the union concerned said that his workers desired to go to football matches, and the court did not allow any overtime on Saturday afternoons but said that no work should occur between certain hours on Saturday afternoons. This must increase the costs of any shipping company that is looking to this port.

Hon. Sir Charles Latham: The dearest in the world, probably.

Hon. J. G. HISLOP: Again I get complaints about restriction of hours of trade; but here we see the Arbitration Court not prohibiting overtime on Saturday afternoon, but restricting hours of trade. I am a casual worker. But my fees are the same whether they are incurred at midnight or in the middle of the day; and I think the same attitude should be adopted by other casual workers. We find that these casual workers do a lot of overtime work, so the position is not as easy as it appears on paper. I consider that we require a lot more information before we tackle the question in this manner.

Hon. L. A. Logan: We become the Arbitration Court.

Hon. J. G. HISLOP: We are complete amateurs in this field, but we are asked to make a decision of such vast extent as is suggested here. This might be most unwise. It has been said that the employers' representative on the Arbitration Court, Mr. Christian, said, "I also agree." That appears in black and white; but it is a question of what Mr. Christian agreed to. He was not agreeing with the fact that this award should be given, but that if anything ought to be done it should be done by this House. That is what he agreed to.

Hon. F. R. H. Lavery: That is correct.

Hon. J. G. HISLOP: When he spoke about the award, he said it was fantastic.

Hon. F. R. H. Lavery: That is the award that was ultimately given in the interim decision.

Hon. J. G. HISLOP: No.

Hon. F. R. H. Lavery: They are two entirely different awards.

Hon. J. G. HISLOP: Yes. One is the last document and the other is the interim decision. In the final document he regards the award as fantastic.

Hon. C. H. Simpson: He agreed that the court had no jurisdiction.

Hon. J. G. HISLOP: Who are we, as amateurs, to say that we should decide and pass a Bill like this without complete information, when a man whose business in life it is to make these decisions regards the final award as fantastic? I am still in grave doubt.

**HON. N. E. BAXTER** (Central) [3.29]: I, like some other members, availed myself of the opportunity arranged by the Fremantle Harbour Trust and Mr. Diver, to go to Fremantle early this week and see the painters and dockers work. With other members, I cannot agree more that it is not specialised or skilled work, although a lot of it is most certainly work that involves experience in order that it may be carried out.

A lot of it is simply labourer's work; but of course there are certain jobs that have to be carried out by men of experience.

Hon. R. F. Hutchison: Would you say it is very necessary work?

Hon. N. E. BAXTER: If a worker is doing a job, he is doing necessary work, wherever it may be. However, the work carried on at the wharves is no more necessary than many other jobs. I believe there are three points involved in this question, as far as Parliament is concerned. The first is the giving of power to the Arbitration Court to award attendance money; the second is in regard to how the levy—which will be necessary in order to find the money to create the fund—shall be made on shipping; and the third is: Which body shall administer the fund?

In relation to the first point—the granting of power to the court to award attendance money—I have been led to believe that the court already has power to award attendance money in two ways—but neither of those ways is in accordance with the proposal in this Bill, or with the way in which the court would deal with the payment of attendance money.

I understand that one of those two ways is what one might call "on the up and on the down." In other words, if a shipping company wanted a gang of men to do work on one of its ships, and it employed a gang of 20 men who had been unemployed for seven days, the court could make an award under which the company employing those men would have to pay them a specified amount for the seven days on which they were idle prior to their employment plus the period they were employed.

On the other hand, the court could make an award under which, if the same gang of 20 men were employed, they would be paid for the period they were carrying out their work, and the shipping company would have to pay them for the time they were unemployed waiting for other work. That could be called attendance or loss of employment money. Neither of those ways would be a fair method of saddling one company or one ship with the cost of the idle time, when perhaps the men were wanted for only a short period.

I believe that a body of men—I do not say as many as 128—is required on the wharf to be available on call should a ship require their services. Much has been said about the number of ships which do not require the services of these people; but we have to look at the question in all ways. A ship might use the harbour many times without requiring the services of these people; but there might come a day when it would have a breakdown shortly after leaving the harbour; and in that case it would have to return for some type of repairs, and would of necessity require the services of these men.

Hon. L. A. Logan: Engineering firms would be able to handle it.

Hon. N. E. BAXTER: That may be so. But we have to consider the fact that engineering firms might not have the labour available at that time. Their men might be engaged on other work. Also, these men are on the wharves to give a service immediately they are required, or within an hour or two; and we have to agree that there is a necessity for their service.

It is wrong for some companies to say they would never need the service. They do not know from day to day when their ships will be forced to return to the harbour for repairs, and I cannot see that the union's request is altogether unreasonable. Under the award, the allowance for unemployment is about £1 14s. a week, and I understand that the court will adjust that question if Parliament agrees to the Bill. It will not mean that the total amount of attendance money will be added to the sum that the painters and dockers receive under their award at present. There will be a proportionate reduction in the loss ratio for non-employment when the matter is adjusted by the court.

We Opposition members have always had faith in the Arbitration Court of this State, and I believe that we should not quibble about handing over something for its decision. I agree that, before we make our decision, we have to consider the effect this levy will have on shipping in the harbour. As Dr. Hislop said, we also have to consider whether it will have repercussions elsewhere. But we would only be

guessing in that regard; and already the principle of attendance money has been established through the payment of it to members of the Waterside Workers' Federation. So it cannot be said we are initiating the principle. I believe that if painters and dockers in other ports of Australia had wanted this payment to be made—

The Minister for Supply and Shipping: Don't professional men get retainers?

Hon. N. E. BAXTER: Yes. I believe that if these people in other ports had wanted attendance money to be paid, they would not have hesitated to do something to obtain it some time ago—particularly if they had thought that it would be an advantage for them to obtain it.

As regards the question of how the levy on shipping shall be made, it is hard to evolve any method of striking a levy by trying to distribute the payment on what we might call a pro rata requirement basis. Mr. Roche suggested that that scheme might be given consideration. But it would mean that some companies would say they never intended to use the service; and yet, perhaps after 12 months, they might find that one of their ships breaks down after leaving the harbour and requires to be serviced.

How would a matter like that be handled? It would upset the whole pro rata basis. I admit that it is a tricky point; but after all, the cost to shipping, on the figures submitted, would be only .00164d. per hour, and that would not involve the shipping companies in huge expenses during the time the majority of them were in the harbour. I understand the average time a ship is in the harbour is 100.4 hours.

Hon. C. H. Simpson: Do you think it is fair that they should pay for a service they don't get?

Hon. N. E. BAXTER: It is not a question of their paying for a service they do not get; they are paying for a service which is available if they require it.

Hon. C. H. Simpson: Many of them don't.

Hon. N. E. BAXTER: We have similar examples in other walks of life. Take for instance the licensing of motorcars. Everybody who owns a Holden motorcar pays the same licence fee; everybody who owns a Ford pays the same licence fee. The same applies to a Rolls Royce—if one is lucky enough to possess one—whether one uses the road seven days a week, or only on Sunday afternoons. Everyone who owns a motorcar pays a levy for the right to use the roads.

Hon. Sir Charles Latham: And they pay for it in the petrol tax too.

Hon. N. E. BAXTER: I admit that some people pay more because of the petrol tax; and rightly so. But those ships which used the harbour most would pay the heaviest dues. It is not proposed that every ship using the harbour should pay an equal amount when entering the harbour; but under our licensing laws all those who own cars have to pay an equal amount, whether they use the roads all the time or not.

Hon. G. E. Jeffery: It is the same with the insuring of cars.

Hon. N. E. BAXTER: Yes.

Hon. Sir Charles Latham: That is a silly argument.

Hon. N. E. BAXTER: It is not a silly argument. A person pays £20 or £30 a year to license and insure his car, and he might use it for only half an hour a week; whereas another person, paying the same licence fees, would use his car and the roads 24 hours a day for seven days a week.

I can see nothing unfair in imposing a small levy on all ships that enter the harbour, because the services are available if they require them. If the service were not available; if the men were not there to give the service, and something went wrong and the shipping companies wanted the work done, they would scream louder than anybody.

Hon. L. A. Logan: How did they get on before?

Hon. N. E. BAXTER: I do not care how they got on before. This service has been available for some time. The third point I wished to discuss was: Who shall administer the fund? Naturally there is only one body that is in a position to administer the fund, and that is the Fremantle Harbour Trust, because it already collects dues from ships. That is the simplest part of the Bill.

Hon. C. H. Simpson: Why not have the Stevedoring Industry Board? It is a Federal award.

Hon. N. E. BAXTER: Either body would be quite suitable. However, I take it that the Government has examined all these points and considers that the simplest way to arrange this collection is through the Fremantle Harbour Trust.

The Minister for Supply and Shipping: One is Commonwealth.

Hon. N. E. BAXTER: I suppose it is six of one and half a dozen of the other. Some members have made the remark that Mr. Troy is a communist. We all know he is an avowed communist.

Hon. Sir Charles Latham: That has nothing to do with it.

Hon. N. E. BAXTER: No. I understand, not from men in his union, but from others who are opposed to this Bill, that nobody makes his men work harder than Mr. Troy; and nobody works harder, so far as his union is concerned, than Mr. Troy. I am not sticking up for him, but

I am only telling members what I have been told. I believe he is constantly going around among the ships in the harbour to see that the men are carrying out their work, and he himself works very hard.

We must give credit when they are trying to do a good job; and I do not believe that a great deal of harm would be done if we were to grant the court power to award attendance money. Unless I hear something which causes me to change my mind before we get to the third reading stage, I intend to support the Bill.

**HON. SIR CHARLES LATHAM** (Central) [3.45]: I listened very attentively to Mr. Baxter, but I do not think he knows a great deal of what the Bill covers. It applies to one body of workers on the wharf; that is, distinct from the waterside workers. Many members know as much as I do about the system which operates in connection with the waterside workers. It was a system of payment of attendance money introduced in the Eastern States during the war by the Commonwealth Arbitration Court. It was during a period when manpower was controlled and there was a great shortage of labour, and when men were diverted to jobs all over the place to ensure that there would always be labour available to unload ships so that they could quickly get away from the port. This system was introduced purely for war purposes.

It is a strange thing that although there have been Labour Governments in office for long periods in Queensland and New South Wales, and also for a fairly lengthy period in Victoria, this type of legislation has never been introduced in those States. There is no Legislative Council in Queensland as there is in this State, to review legislation; so there has been nothing to stop Queensland from introducing a measure such as this.

The Minister for Supply and Shipping: Queensland has large dockyards.

Hon. Sir CHARLES LATHAM: It is not a question of dockyards; it is a question of having a surplus of labour in a place from which pool labour may be drawn at any time. The introduction of this legislation has received great encouragement from many sources. Quite a number of casual workers will join a union in question to ensure that there are men available all the time and will use this legislation, if possible, to obtain attendance money.

Hon. F. R. H. Lavery: I don't think that is correct.

Hon. Sir CHARLES LATHAM: I do not think the hon. member has had the same experience as I have had. He certainly has not lived as long as I have. Also, members should not gain the impression that Sir Charles Latham was born with a silver spoon in his mouth. I have often lined up early in the morning to obtain a job which was offering £1 per week. I have a great deal of feeling for the worker; but I am not anxious to ruin industry.

The Minister for Supply and Shipping is having a little laugh to himself; but we will reach the stage where I will tell him who pays for all these benefits that are granted. In many respects we are very lucky; because when additional costs are applied in the way of increased amenities or wages, the employer is able to pass them on. However, to whom are these additional costs passed eventually? They are obviously borne by the man who sells his labour in competition with the cheapest markets in the world; and that is, the primary producer. However, he cannot pass on the additional cost.

The worker can approach the Arbitration Court and say, "I want more wages." But what does the employer do? He merely passes the additional cost on to the price of the article that he is producing. Of course, we have reached the stage when we are imposing fixed charges on our own people.

The Minister for Supply and Shipping: Who pays for that? It is the consumer.

Hon. Sir CHARLES LATHAM: Yes, it is the consumer. But if costs are increased, there is a subsequent rise in wages. The primary producer who has a surplus has to sell that surplus in competition with the cheapest markets in the world. We must not lose sight of that fact. Although I am anxious to help the worker as much as possible, I do not think that this is the wisest way to do the job.

The other day I paid a visit to the Fremantle wharves to watch the workers there; and in my opinion it will not be long before some mechanical device is introduced to do the work that the men are performing at the moment. Science is advancing so rapidly that the labourers are not for much longer going to use their hands for the type of work they are doing. When that happens there will be an additional surplus of labour.

The principal objective of this Bill is to find employment for the workers. However, when there is a shortage of labour, overtime has to be paid to the men already employed. That principle has never been objected to except perhaps on occasions by the unions. When there are men on the labour market seeking employment, they are not anxious that workers shall be paid overtime rates. Further, I would like to point out that Fremantle harbour carries extremely high dues compared to the charges made by other ports in the world.

Hon. F. R. H. Lavery: It is one of the most efficient.

Hon. Sir CHARLES LATHAM: Ships will not call at Fremantle unless it is worth their while. They will not berth at Fremantle if it means they will make a loss.

The Minister for Supply and Shipping: How did they manage to drop the charge on wheat to 3s. 6d. a bushel recently?

Hon. Sir CHARLES LATHAM: That was because there happened to be some surplus ships somewhere or other to enable the wheat to be exported overseas. Does the Minister think that they do not pass those costs on?

The Minister for Supply and Shipping: But they dropped the price of their charges on wheat to 3s. 6d. a bushel.

Hon. Sir CHARLES LATHAM: Yes; I know. Some wheat was being shipped for as low as 2s. 9d. a bushel whilst as much as 7s. 6d. was paid. However, we do not control that. I wish we did have some control over that sort of thing.

The Minister for Supply and Shipping: But you paid it.

Hon. Sir CHARLES LATHAM: Don't forget that at that time we were in the position of wondering what we were going to do with our wheat. We had to hold it; otherwise we would have exported it at a loss. Only the other day I mentioned that we could not export our surplus honey because it would be unprofitable.

Hon. J. G. Hislop: I want some karri honey.

Hon. Sir CHARLES LATHAM: I am glad to know that. Perhaps Dr. Hislop might recommend it to all his patients. If ships' crews were allowed to do the work themselves, many of the ships calling at Fremantle harbour would not require the labour at the port. A ship's crew can do all the work that is necessary whilst a ship is in port except that which is required when the vessel is on the slips. However, a ship's crew is not allowed to perform that work; it is prevented by the union. Can any member say I am not speaking the truth?

Hon. J. G. Hislop: That would be like a locomotive crew unloading the passengers' luggage.

Hon. Sir CHARLES LATHAM: Yes; that is so. In speaking of that, a peculiar incident happened to me in Sydney. I picked up my own luggage to carry it on to the ship and a man came up and glared very hard at me for doing so. However, I stood my ground. I am reluctant to agree to the introduction of a system which I do not think will stop at the wharf. If we agreed to this Bill and other unions approached us with the same request, would we be justified in refusing them? The principle would have to be maintained.

Hon. E. M. Davies: It is set down by the Arbitration Court.

Hon. Sir CHARLES LATHAM: I will tell the hon. member all about the Arbitration Court in this State. That system nearly approaches the methods that are adopted in America. What happens when there is a change of Government? Is not the president of the Arbitration Court elevated to the judiciary if the Government considers that he is unsatisfactory? Is not that done?

That having been done, matters go sailing along according to the policy of the Government. When a change of Government again occurs, it is not long before there is also a change in the presidency of the Arbitration Court. Why is that practice followed? It is to give effect to the policy of the Government of the day. I am not charging one side any more than the other.

The Minister for Supply and Shipping: You have been in and out; you should know.

Hon. Sir CHARLES LATHAM: Yes; but I have been more out than in. Members should be very careful in regard to the passing of this Bill. I believe that the men concerned are a very good type; but by keeping a good check on the situation, there will be enough men available to perform the work when they are wanted. There are many who come down from the country out of work who would be very anxious to obtain a job on the wharf. In most instances the work performed down there is a cleaning type of job.

Hon. F. R. H. Lavery: You did not see the work being done on the "Delamere."

Hon. Sir CHARLES LATHAM: I suggest that the work being done on the "Delamere" would be much the same as the work that I saw being done on another ship. I am not disparaging the Australian worker. In my time I was always a good union man.

The Minister for Supply and Shipping: What union was it?

Hon. Sir CHARLES LATHAM: I belonged to the Shearers' Union.

The PRESIDENT: Order! I hope the hon. member will connect his remarks to the Bill.

Hon. Sir CHARLES LATHAM: Mr. President, I hope you will be tolerant enough to enable me to connect my remarks with the subject of casual labour. As a casual labourer I was not paid attendance money when I worked in a shearing shed. We should not encourage our men to become soft. The best worker in Australia is the man who has the intiative and the will to get things done. The man who is assisted and pushed all the time does not get to the top of the ladder in the same way as the man who helps himself. If a man is not doing well in his job, he can always make a shift. That is why I shifted to New Zealand for five years.

I want to know where this practice will stop. I would say that these workers might be provided with this payment in future. On this occasion we should steady our hands and leave the payment of attendance money in suspense to see whether there is genuine necessity for it. At present there is a sufficiency of labour; because on some days there is no surplus labour but on others there is a small surplus. For that reason I ask the House to suspend the provision of attendance money for a little longer.

*Sitting suspended from 4.1 to 4.18 p.m.*

**THE MINISTER FOR SUPPLY AND SHIPPING** (Hon. H. C. Strickland—North—in reply) [4.18]: It has been pleasing to listen to such a comprehensive debate as has taken place on this Bill, and I am particularly pleased that some members of this Chamber went to Fremantle to observe the type of work performed by the men belonging to this union. As I explained in introducing the measure, their tasks are varied and some of them are very complex.

It has been claimed that the work these men perform cannot rightly be termed skilled work, but I do not hold with that. I contend that there is quite an amount of skill attached to some of the jobs they carry out; and the fact that the Arbitration Court awards them margins for skill shows that I am not alone in my thoughts in that direction. The Arbitration Court will not award any margins for skill unless—

Hon. C. H. Simpson: Riggers get it.

The MINISTER FOR SUPPLY AND SHIPPING: Riggers and others. There are margins for skill in this State award. There are skilled men, and there could be some unskilled men. We find that that occurs in all walks of life. In a calling such as this, the work is very varied and all types of workmen have to be available.

The opposition to the measure has not been based on anything at all substantial. Nothing convincing has been submitted to prove that this body of men should not be entitled to some reward for their attendance at the pick-up centre and walking away from it without being engaged.

On the other hand, submissions have been made by members who have not expressed direct opposition, that the work should be permanent; or that there should be only one union on the waterfront. Both of those observations are admissions that the work should be recognised as having some permanency.

Hon. C. H. Simpson: Permanent work would mean decasualisation.

The MINISTER FOR SUPPLY AND SHIPPING: Of course; but it is not possible to absorb everybody. By way of interjection, one member opposed to the Bill asked who would be expected to pay for a service that he did not get. If we analyse the theory that the work should be permanent, then we have the other point that was raised as to the source from which the payment should come. That is the real question: Who can be expected to pay?

That has always been the question. It is a problem that has been worrying the court. Although the court has not directly said that it would be prepared to award attendance money, it has expressed its thoughts along the lines that there should be attendance money. But the problem has been: Who is to pay? Who is to be the authority?

Dr. Hislop said something about statutory authority. That is the very purpose of the Bill, which has, as its sole intention, the establishment of an authority through which attendance money can be paid from a fund to be levied on the tonnage of shipping which comes to the port.

That is all Parliament is being asked to do: to agree to the establishment of a statutory authority; and then the Arbitration Court will, or will not, grant attendance money. If it grants such an allowance, it will be based on what the court thinks is a fair and equitable amount to pay. The court will also revise the existing award. It said so in the interim judgment. The president stated—

> I should I think say in conclusion that if Parliament does take some action in this matter any privileges granted would almost necessarily have some effect on the margins prescribed by the court, and a provision for liberty to apply to these provisions will therefore be reserved in any award which we issue.

That is quite plain and clear. It indicates the intention of the court in connection with the interim award; and the court was unanimous on the point.

Hon. C. H. Simpson: The men could be better off as they are.

The MINISTER FOR SUPPLY AND SHIPPING: They are not better off as they are, financially. Some could be. But there would not be the turnover of men. The fundamental principle underlying the payment of attendance money to waterside workers and dockers in other parts of the world is to ensure that there will be a pool of men to provide the necessary skilled and semi-skilled labour for shipping casualties and repairs. We cannot get away from the fact that while there is no basis there will be that very situation which Mr. Jones is really a little dubious about. There will always be a number of absentees, as he termed them.

They are not deliberate absentees. If there are any such, there are very few of them. The chief absentees are men who are fortunate enough to find a regular job elsewhere. Having found what

they consider to be a permanent occupation, they do not attend the pick-up or notify the union or the rostering officer; and nobody knows anything about it. There is a percentage of such men. The other absentees consist of men with injuries—men who are on workers' compensation—and men who are sick.

Hon. F. D. Willmott: Or fishing.

The MINISTER FOR SUPPLY AND SHIPPING: Or men who are kept away through some other unfortunate circumstance. I have had supplied to me the reasons for the absenteeism of 10 members of the union on different dates. One man was away with dermatitis; he had been absent for some time. Another man has been absent through prolonged illness and is not expected to return to the industry. He has been away for almost two months. Prolonged illness is the reason given for the absence of another man who has been away for two or three months. Another has lacerated fingers and is on workers' compensation. Yet another was granted leave for personal reasons.

These men must apply for leave. There is a very rigid rule which is rigidly enforced by the union. Another man has been sick with a ruptured spleen; another was granted compassionate leave. Another has been absent as a result of a traffic accident; another because of war-caused illness; and another on account of sickness.

So it will be seen there is a legitimate reason for most of the absenteeism which is worrying Mr. Jones. There could be one or two other types of cases, but my opinion is that there are none who deliberately stay away. I say that for the simple reason that they want work, and cannot live without it.

Dealing with the other point raised by Mr. Jones—that there could be some who merely turn up when there is higher-paid work to be done; who turn up to receive penalty rates for week-end work—I would point out that that does not occur. The roster is rigidly enforced. There is a roster committee, and the only member of the union on it is the secretary. The others include the industrial registrar. It is men like that who see that the roster is enforced.

The disciplinary rules of the union cover such items as refusal to accept employment. Members refusing to accept employment in accordance with the roster, or failing to respond to their numbers when called, are stood down for a maximum period of time equal to the duration of the particular job, or for 48 hours, whichever is the greater.

Hon. Sir Charles Latham: They can change those conditions every day.

The MINISTER FOR SUPPLY AND SHIPPING: I am explaining the rules of the union.

Hon. Sir Charles Latham: But they can change them whenever they want to.

The MINISTER FOR SUPPLY AND SHIPPING: It can be done only by a majority decision of the union. It is by enforcing these rules that they have built up the respect of the employers on the waterfront. When a member of the union is dismissed from his employment for being under the influence of liquor, or for other misconduct, he is immediately stood down from employment for 48 hours. Leave of absence is not granted to any member of the union on the morning of the pick-up. There are all sorts of provisions drawn up by the men themselves, and observed by the great majority of them in order to build up an organisation which is always there to give good service to shipping in the port of Fremantle.

There are penalties provided for unauthorised absence from work. There is a provision that members who are rostered and do not present themselves for employment over an extended period shall, unless they show cause satisfactory to the committee as to why their names should not be removed, have their names taken from the roster list. There are several other rules governing persons leaving the industry, sick leave, and so on, all aimed at expediting the work on the waterfront without any interruption and without an undue number of men being absent.

There are, of course, periods when more men are required than are available; but those periods are of very short duration —one day or even less—and when the men have finished one job, they are transferred to another. When a special job comes in, men are taken away from whatever they are doing and are transferred to the special repairs in order to get that ship on its way again, thus saving thousands of pounds of costs that would otherwise be caused by the delay. I have not heard one substantial argument raised in opposition to the Bill—

Hon. L. A. Logan: There has been nothing substantial in favour of it.

The MINISTER FOR SUPPLY AND SHIPPING: Objections should be substantial before notice is taken of them—

Hon. L. C. Diver: Why could one man earn about £1,100 and another £49?

The MINISTER FOR SUPPLY AND SHIPPING: One of them must have been away sick for a long time, I would think. No doubt there would be good reason, but I do not know the individual details. As I have said, they share the work; and they themselves see that it is rostered.

Dr. Hislop said he was led to believe that these men worked permanently up to 1956, but that is not correct. This employment

has been of a casual nature ever since the war terminated. It was more or less permanent during the war because there were 250 to 350 men in the union at that time and they worked long hours—

Hon. Sir Charles Latham: There was direction of labour then.

The MINISTER FOR SUPPLY AND SHIPPING: Yes. These men were keeping submarines and many other types of vessel in service. An attempt was made to create permanency for these workers by using them on the construction of the new No. 10 wharf at Fremantle and recruiting them from there for work on ships, but that was found far too costly and expensive. Members will realise the time that would be lost in travelling to and fro and the confusion on a job such as wharf construction, with men being taken away and replaced all the time. Apparently Dr. Hislop was not correctly informed.

The Government believes that these men, as waterside workers, should be given some compensation for the time they lose when they offer themselves for work and it is not available for them. They are important to the shipping industry and the waterfront in the State's major port, and we know there would be great losses to the shipping companies if these men were not there to carry out essential repairs and maintenance on shipping at the port of Fremantle.

Hon. Sir Charles Latham: They don't do repair work.

The MINISTER FOR SUPPLY AND SHIPPING: They do a lot of repair work. They chip and paint hulls—

Hon. Sir Charles Latham: That is not repair work. It is maintenance.

The MINISTER FOR SUPPLY AND SHIPPING: Much of it is repair work also. If they do not actually rivet a rivet, they are certainly there to put it in its place; and they are essential, as the hon. member well knows, having seen them on the job. Because of their importance to shipping in Fremantle, the Government believes these men are entitled to the payment of attendance money; and there has been no great opposition to the proposition by the steamship owners. Mr. Simpson read a letter from the steamship owners and it was couched in very mild terms—

Hon. C. H. Simpson: They are absolutely opposed to this.

The MINISTER FOR SUPPLY AND SHIPPING: All the letter said was what the Bill might do, and it contained no definite objection to the measure. I listened carefully to that letter, which was not from the local representative but from the head office; and it was couched in very mild terms. I would describe it as saying, in effect, "We would not like to see attendance money paid to these men; but, by the same rule, we have no serious objection to it."

Hon. C. H. Simpson: You will tell us next that they approve of it.

The MINISTER FOR SUPPLY AND SHIPPING: The letter contained no violent opposition to the proposal. Whenever the Government tries to do anything for the workers, we are usually flooded by circulars from the employers; but on this occasion I have received no correspondence on the matter, and I do not think any member but Mr. Simpson has received correspondence opposing the Bill.

Hon. C. H. Simpson: Perhaps; but there have been plenty of interviews.

The MINISTER FOR SUPPLY AND SHIPPING: No one has interviewed me in opposition to the Bill. Dr. Hislop spoke of the effect of the measure on the nation and its economy; but on the assessed lost time for the last financial year, the cost of this proposition is estimated to show that £5,000 would be paid to the men for lost time and that administration would cost another £1,000.

Hon. C. H. Simpson: You could multiply that considerably.

The MINISTER FOR SUPPLY AND SHIPPING: If a sum like that could be said to affect the economy of the nation, what must have been the effect of some of the cocktail parties that cost much more than £6,000? Members will recall the party at Kwinana, which I believe cost something like £50,000. I went there to see what went on, because I had never before seen how the other half lives; and I certainly got an eye-opener. I know who paid for that! I know who paid for the turkey and champagne at Kwinana.

Hon. A. F. Griffith: You were making a good speech up till now.

The MINISTER FOR SUPPLY AND SHIPPING: I am relating facts that cannot be denied.

Hon. A. F. Griffith: Stick to the Bill!

The MINISTER FOR SUPPLY AND SHIPPING: I am sticking to it. Mr. President will tell me if I get off the beam. Dr. Hislop feared that the economy of the State would be at stake if we set up a precedent by means of this Bill. The Bill does not ask us to say this money shall be paid but merely to provide the machinery whereby the Arbitration Court can authorise payment if it deems fit.

Hon. J. G. Hislop: You have a nice turn of phrase.

The MINISTER FOR SUPPLY AND SHIPPING: Dr. Hislop objected to these men not working at all times, but I know of doctors who will not see anyone at certain times. The hon. member said his fees were the same no matter what time he went to

work. I would remind him, however, that he fixes his own fees. Accordingly I would not place much importance on the views expressed by Dr. Hislop as being his reasons for objecting to this measure.

No substantial reason has been submitted to this House as to why this legislation should be rejected. On the other hand, there is ample evidence to show why it should be passed. I say this because we have found that nobody has been waiting in this Chamber to interview members on this point; none of the representatives of the shipowners have wanted to see us; no circulars have been sent out by these people expressing opposition to the measure.

Hon. L. A. Logan: How do you know?

The MINISTER FOR SUPPLY AND SHIPPING: I have not received any circular or heard anything about it. The only expression of opposition that we have had is from the letter read out by Mr. Simpson.

Hon. L. A. Logan: We had a deputation.

The MINISTER FOR SUPPLY AND SHIPPING: The hon. member did not tell us that. He is only now mentioning the fact; and obviously he could not have been very impressed by the deputation, or he would have voiced any views that might have been expressed by it.

Hon. C. H. Simpson: I think we stated our case strongly.

The MINISTER FOR SUPPLY AND SHIPPING: Many more reasons have been submitted in the debate for this legislation than against it, and those reasons have been particularly strongly submitted by Mr. Lavery and Mr. Davies.

Hon. C. H. Simpson: Will you take my word that the shipping companies and the Harbour Trust are opposed to it?

The MINISTER FOR SUPPLY AND SHIPPING: I would not take the hon. member's word in regard to the Harbour Trust, because that body has not expressed any opposition to its Minister. I rang the Minister in charge of the department this morning to make certain, because the hon. member had mentioned the matter in his speech. I found that at no time had the Harbour Trust expressed any opposition. I remember pointing out, when Cabinet considered this Arbitration Court finding, that it would be necessary for Parliament to set up an authority to administer this attendance money if granted. Both the Harbour Trust and the State Shipping Service were approached and both informed their Minister that they could control this fund adequately and efficiently with the staff they already had; and the State Shipping Service was rather keen to take it on.

Hon. C. H. Simpson: That does not endorse the principle.

The MINISTER FOR SUPPLY AND SHIPPING: There was no opposition from the Harbour Trust, as the hon. member indicated. I do not know whether one or two members of the trust expressed opposition to it; but as a body no opposition has been expressed by the Harbour Trust to its Minister; and if it had any opposition at all it should have expressed it to the Minister; because if there is one board or trust in this country which is almost free from ministerial control, it is the Fremantle Harbour Trust. It is its own master in all respects, and the only time it approaches the Minister is when it requires money.

It was also said by Mr. Simpson that he understood the State Shipping Service would be the principal user, and that it would perhaps absorb 50 per cent. of this labour.

Hon. C. H. Simpson: And the P.W.D.

The MINISTER FOR SUPPLY AND SHIPPING: That is so. Over the last two years the State Shipping Service has had a very big lump of the labour; but the allocation of labour based on the last seven years on an average shows that the State Shipping Service has had 17.5 per cent. of the labour—working for it directly. It has had approximately 10 per cent. of the labour performed on the slipway—working for it. When I say "directly" I mean the work performed by these men, apart from the slipway.

The slipway is controlled by the P.W.D.; and though the hon. member says that the P.W.D. absorbs a lot of labour, actually it is being absorbed for other bodies; because, as has been explained by other speakers, the slipway is controlled by the P.W.D., and any work carried out is billed against the shipowners. In this case it was 10 per cent. We find that 52.5 per cent. of the work has been performed by private shipowners, and that is a fair proportion.

Hon. C. H. Simpson: My figures are different; but I will not question yours.

The MINISTER FOR SUPPLY AND SHIPPING: If we take the figures for the last two years, we will find that the State Shipping Service has had the bulk of the labour, because there has constantly been at least one ship being converted from steam to oil and so on. They have been large ships, and they have had a lot of money spent on them. But the figure I have mentioned is the average, notwithstanding the extra special work that the State Shipping Service required. Notwithstanding that, it is still well down in the draw for labour. Mr. Roche was concerned that a lot of the shipping coming to Fremantle would be paying for something which it might never receive.

Hon. C. H. Simpson: Which it never receives.

The MINISTER FOR SUPPLY AND SHIPPING: It may. Mr. Roche also wondered exactly from where the charge for this fund would be derived. I think the hon. member desires fuller information on this particular aspect; but I am afraid I am not in a position to give him a detailed account of the matter at this juncture. I would, however, be able to give him information if more time were made available to me.

If the Bill passes the second reading stage I will take the Committee stage next Tuesday, and be able to furnish the Chamber with the particulars that have been asked for by Mr. Roche concerning the effect on shipping in and out.

Hon. C. H. Simpson: Why was that not included in the Bill?

The MINISTER FOR SUPPLY AND SHIPPING: Members could perhaps be misled by assuming that the State Shipping Service would not be paying much, and at the same time be using a lot of the labour. I would have to check this to make sure, but I think the fact is that the tonnages that enter Fremantle will pay. The State Shipping Service has ships in and out every week on an average of at least one a week, so that State ships will be paying the tonnage that enters and that which goes out.

Each ship is about 3,000 tons, and does 10 to 12 trips out of Fremantle, depending whether it is going to Derby or other North-West ports. Because the State Shipping Service has six 3,000-ton ships—a gross of 18,000 tons—members should not be under the impression that it only pays a levy on 18,000 tons gross—it pays on every ship that goes in and out of the harbour.

After all, there are many ships on the Australian and Western Australian coast that enter ports and pay for something they never receive. To quote an example, all ships that go to Yampi and are owned by —or if not owned by, are under charter to—B.H.P., must pay wharfage dues, even though the company built its own wharf. It pays all sorts of navigation fees, such as harbour dues and the like, even though it constructed the lot itself.

The Harbour and Light Department has put one or two lights in the vicinity of Yampi, and the Commonwealth navigation authorities have supplied them with radar and directional finding equipment. All the ships that do not go in that vicinity contribute to the cost every time they enter an Australian port.

There is only one way to pool the cost in a manner that hurts nobody, and that is to spread it over the whole industry; because, as has been mentioned before, the industry generally receives the benefit. It is a form of insurance. Nobody knows and nobody can tell when any of the ships entering Fremantle harbour will be required to call upon these men to perform the particular work they carry out.

I think I have covered all the queries that have been raised in connection with this matter; but I would like to point out that even Sir Charles Latham is not violently opposed to the measure. He was of the opinion that it should have been brought in a little later, and not at this stage. That was his way of expressing his opposition at this moment.

Hon. C. H. Simpson: You read his speech later and see if that interpretation is right.

The MINISTER FOR SUPPLY AND SHIPPING: That is how I interpret it. He finished by saying that it should not be introduced just now, but at some other time.

Hon. H. K. Watson: Must one be violently opposed to legislation?

The MINISTER FOR SUPPLY AND SHIPPING: No; but I have listened to very heated and violent debates in this House, some of which have caused bad feeling among members, when legislation of a contentious nature has been introduced. I make those remarks because I feel that, generally speaking, members do not consider this legislation to be contentious. I feel that it has been accepted in a reasonable spirit; and although members are not too sure how they should vote on it, I rather think they would like to give it further consideration.

Accordingly I hope members will allow the Bill to pass the second reading stage, so that I may have time to look up the details for which they have asked and which I am not able to produce at this moment. I refer particularly to the details concerning the cost, and the effect on the economy of the State generally.

There is only one other point on which I would like to speak. More than one member has raised the question that if we pass this legislation in the interests of this particular union, we will have many other workers employed on casual work asking for the same thing. The reply is that it will depend upon the circumstances of their occupation and also upon the Arbitration Court.

Hon. C. H. Simpson: You know there are two logs before the court already.

The MINISTER FOR SUPPLY AND SHIPPING: They are not decided. That is my point; the Arbitration Court will decide the matter.

Hon. C. H. Simpson: After Parliament endorses the principle.

The MINISTER FOR SUPPLY AND SHIPPING: We are not endorsing the principle; Parliament is endorsing the machinery. In actual fact it would be endorsing a principle. But after all, what is wrong with that?

Hon. C. H. Simpson: I think there is a lot wrong with it.

The MINISTER FOR SUPPLY AND SHIPPING: I cannot see anything wrong with it. We know that numerous professional men, in all types of professions, are receiving attendance money in the form of retainers, because they are on call all the time.

Hon. H. K. Watson: By voluntary arrangement.

The MINISTER FOR SUPPLY AND SHIPPING: This cannot be done by voluntary arrangement; the professional people do not have to go to the Arbitration Court.

Hon. H. K. Watson: Your analogy is pointless.

The MINISTER FOR SUPPLY AND SHIPPING: They are facts from which we cannot get away. Therefore, I am hoping the House will allow the Bill to go to the Committee stage, which I will take next Tuesday, when I will be prepared to provide any further information that is required.

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

| | |
|---|---|
| Ayes .... .... .... .... | 15 |
| Noes .... .... .... .... | 10 |
| Majority for .... | 5 |

Ayes.

| | |
|---|---|
| Hon. N. E. Baxter | Hon. F. R. H. Lavery |
| Hon. G. Bennetts | Hon. H. L. Roche |
| Hon. E. M. Davies | Hon. H. C. Strickland |
| Hon. L. C. Diver | Hon. J. M. Thomson |
| Hon. W. R. Hall | Hon. W. F. Willesee |
| Hon. E. M. Heenan | Hon. F. J. S. Wise |
| Hon. R. F. Hutchison | Hon. J. D. Teahan |
| Hon. G. E. Jeffery | *(Teller.)* |

Noes.

| | |
|---|---|
| Hon. J. G. Hislop | Hon. J. Murray |
| Hon. A. R. Jones | Hon. C. H. Simpson |
| Hon. Sir Chas. Latham | Hon. H. K. Watson |
| Hon. L. A. Logan | Hon. F. D. Willmott |
| Hon. R. C. Mattiske | Hon. A. F. Griffith *(Teller.)* |

Pairs.

| Ayes. | Noes. |
|---|---|
| Hon. G. Fraser | Hon. J. Cunningham |
| Hon. J. J. Garrigan | Hon. G. MacKinnon |

Question thus passed.

Bill read a second time.

## BILL—JURIES.

*Recommittal.*

On motion by Hon. A. F. Griffith, Bill recommitted for the further consideration of Clauses 38 and 50.

*In Committee.*

Hon. W. R. Hall in the Chair; Hon. E. M. Heenan in charge of the Bill.

Clause 38—Right of peremptory challenge:

Hon. A. F. GRIFFITH: I am glad this Bill has been recommitted for the purpose of reconsidering this clause. I would like hon. members to hear me again, first of all, in connection with Subclause (3). The Committee did not support the contention which I first put up in connection with this clause. However, I have had some further advice on the matter; and in order that I may be able to submit a better case than I submitted last time, I wish to convey to the Committee the advice I have received.

When considering this particular phase of the Bill I would ask members to appreciate the fact that a jury is being empanelled. No more than 40 persons have been called to attend for jury service; and the court is in the process of sifting them, by the procedure laid down in the Bill, in order to put 12 of the 40 into the jury box to try a case.

When the Crown comes to the point of challenge, it has the right to stand a juror down, without giving cause and without the necessity of making a peremptory challenge. When the person's name is called, the Crown prosecutor is only obliged to say, "Challenge;" and the direction of the juror going to the jury box is changed and he stands by.

On the other hand, the accused, under the Bill and the Act has the right to 12 peremptory challenges without cause. I am informed that the process which takes place at the present time is in favour of the Crown because of the Crown's right to stand by, and because the Crown is not on the same basis of challenge as the defending counsel.

When a jury is being empanelled, both sides to the issue—Crown and defending parties—are given the right to inspect the jurors. The Crown, with the aid of the Police Department, investigates the jurors called; and anybody who shows indifference to the case is duly noted by the Crown on the information given it by the police. On the other hand, the defending parties take the list to the accused; and this would, I suggest, particularly apply in a country centre where perhaps a magistrate is made a commissioner, for the time being, to try a case.

The list is gone through with the accused person, who gives to his defending solicitor a note of any people in that list he thinks would act in a manner not indifferent to the defence. It might be a relative, somebody with whom he works, or a person to whom he objects.

So far as the accused is concerned, there might be eight such persons in the list of 40; and when the process of empanelling the jury takes place and the names are brought of the box, the Crown Solicitor refers to his list and challenges any person who has a mark against his name. The Crown will say, "Stand by." When it comes to the defence counsel he makes use of the word "Challenge."

I want to explain the position where there are 10 men, women or persons in the jury box and two are still required. From

the list that the defence counsel has before him, he has been able to challenge five of the persons he wants to remove. There are still three left. If he has to challenge the sixth person before the juror goes into the box he is then in the position that with only one challenge left he might find, if he does not challenge No. 11, that No. 12 is not indifferent to the case. If he challenges No. 11, he might find that No. 12, when he comes forward, is a man who has some grievance against the accused. Such a juror would not be in the best interests of the accused.

There is no course then left open to the accused to get rid of that man except that he may be challenged for cause. But that is something that is not frequently used. This course has operated most successfully since 1898 and I see no reason why it should be changed. This will provide a great deal more equity for the accused than if we insist that the challenge shall be made before the juror takes his seat, and not afterwards.

When the 12 men have taken their seats, the defence counsel is then in a position to take out one of those jurors where he would not be in a position to take him out if he had to challenge him beforehand. It is necessary to be able to challenge a juror right up to the last moment, because if there are 9, 10 or 11 jurors empanelled and only one right of challenge left, there is a grave risk if there are three or four people remaining in the jury panel. The defence counsel may lose the right of getting rid of some person that he does not wish to be on the jury.

Under Clause 45 a juror, in a civil trial, must be challenged before being sworn. In addition to inconsistency, I am of opinion that a man's life is more important than is the assessment of damages or the hearing of some other civil action. The argument in connection with the inconvenience, of which Mr. Heenan spoke previously, if a juror is challenged just prior to taking the Bible in his hand to take the oath, and the embarrassment he suffers when making his way out of the jury box, does not cut any ice with me. The embarrassment the accused can suffer as a result of the verdict is more important to him than is the embarrassment of the juror.

We are not here to make laws which will flow so easily and prettily that they will not cause embarrassment to people in circumstances such as these. The Crown has the right to stand down the whole panel if it so chooses, and the accused has the right of perempory challenge of only six jurors; and it is equitable that this clause should remain consistent with the Act that has been in operation for the last 60 years. I move an amendment—

That Subclause (3), in lines 11 to 13, page 28, be struck out.

Hon. E. M. HEENAN: One of the reasons for this proposal is that the time of making a challenge was suggested by His Honour, the Chief Justice; and it was the opinion of both His Honour and that of the prior Chief Justice, Sir John Northmore, that a challenge should be made before the juror takes his seat; and that when it is intended to challenge a juror, the challenger should not wait until the jurors are seated and are about to commence taking the oath.

I do not think even Mr. Griffith would argue that either the present Chief Justice or his predecessor would countenance anything that was in any way prejudicial or unfair to the trial of any person. The present procedure is that the names of the jurors are called out and they come slowly forward from the back of the court and enter the jury box to take their seats. They may be challenged at any time while they are proceeding to their seats. Counsel for the accused has had the jury list for a week.

Hon. A. F. Griffith: Under the Bill it is four days.

Hon. E. M. HEENAN: The jury list contains the names, addresses and occupations of those empanelled.

Hon. H. K. Watson: How far do they walk?

Hon. E. M. HEENAN: They would be seated at the back of the court. Counsel generally knows which of them he wants to challenge, and as they walk forward he challenges them. The objection of the judges is to the practice of counsel waiting until the jurors have all taken their seats, and then challenging a juror as he is about to take the oath. This causes some delay as the juror has then to get up and leave the box and walk to the back of the court. Another name is then taken from the box.

I express my opinion that this causes the unfortunate juryman embarrassment and inconvenience, and there are always some people who want to wait until the last minute. Counsel has had a minimum period of probably a quarter of an hour to look at the jurors as they sit in the back of the court. If a juror has taken his seat and is challenged at the last minute, he has to tumble over all his fellows to walk out. In spite of what Mr. Griffith says, very often there is a crowded court, and the unfortunate juryman is caused embarrassment and inconvenience through the unnecessary delay on counsel's part. The Crown only wants to ensure a fair and proper trial. Mr. Griffith seems to think the Crown has some great advantage by this right to tell jurors to stand by.

Hon. A. F. Griffith: The legal fraternity thinks it has.

Hon. E. M. HEENAN: That practice has existed from time immemorial.

Hon. A. F. Griffith: So has the one that you are trying to change.

Hon. E. M. HEENAN: It is the duty of the Crown to ascertain who the jurors are. If the Crown Prosecutor knows of anyone who should not be on the jury—someone who has been in trouble with the police or expressed views that would be inconsistent with his taking part in a fair trial—he just stands him by.

This right of the Crown is often made use of by people who find it inconvenient to attend a trial. They ring the Crown Prosecutor and explain that they have to go to a funeral or attend some important function, and the Crown Prosecutor, if he is satisfied, will say, "Very well. I will stand you by if your name is called." It is a practice that is not abused, and it is something that should be retained.

Hon. J. D. Teahan: Can a juror be challenged for cause if he is sitting down?

Hon. E. M. HEENAN: Yes; with this challenge for cause it has to be shown that the juror has at some time expressed enmity towards the accused.

Hon. A. F. Griffith: You don't mind embarrassing him then?

Hon. E. M. HEENAN: It is rarely availed of, because he is challenged in the ordinary way. I cannot see anything unfair or improper in this system as it operates. The only advantage is that it will save leaving the challenges until jurors take their seats. There is plenty of opportunity before the juror sits down and takes his seat along with the others; there is no necessity to leave it to the last minute. I think it is a worth-while improvement to the existing system, and it has been recommended by men who know a lot more about it than I or the majority of people do—men whose points of view carry a great deal of weight; namely, the present Chief Justice and his predecessor.

Hon. A. F. GRIFFITH: With the greatest respect to the present and former Chief Justice, the advice I have received on this matter has come from prominent members of the legal fraternity who interest themselves in their practices in criminal law. I have talked with a number of them, and they have told me they hope that the Legislative Council will not insist on this. They are not concerned about any delay in empanelling the jury; the fellow most concerned will be the one who may have a rope around his neck.

The defending counsel does not have the same advantages to examine the jury list as the prosecuting counsel. As Mr. Heenan knows, the list is given to the Crown Prosecutor, and he is able to invoke the aid of the police in investigating the jury list to see if there is anybody on it who should not be there. But that advantage is not given to the defence counsel, or anybody on his behalf. If he starts to tamper with the jury list, trouble starts. If the defence counsel makes any investigation—other than to say to the accused, "Do you know any of these people?"—he is in trouble. He or his agent dare not go to the man who lives next door, or make any inquiries at all because they would leave themselves open to the charge of tampering and interfering with a jury.

Hon. E. M. Heenan: That is not so.

Hon. A. F. GRIFFITH: They would not dare to do it. Mr. Heenan did not answer the important part of the case I put forward; and that was the right of the defence counsel to withold one of his challenges in case he gets to the 12th man, whom he wants to challenge, and it is too late to challenge No. 11. As regards cause, he could wait until the juror had the book in his hands and the officer began to recite the words. If he wishes to challenge peremptorily he must do it before the juror gets in the box. I suggest that a challenge for cause could mean greater embarrassment than the peremptory challenge.

In our Supreme Court, where most criminal cases are heard, the jury sits behind the bench and the juror who comes forward to take his position in the jury box does not travel more than 25 ft. I know because I sat behind the Crown Prosecutor and watched. The only time I could see the faces of the jurors was when they came abreast of me; and, as they passed it was not possible to see them properly, until they took up their places in the jurors' seats.

I urge members to support the deletion of this clause. This is not an afterthought. Any defending counsel who did it as an after-thought would be guilty of a grave dereliction of his duty. If there are any after-thoughts about this type of thing a man's life could be in jeopardy. The other night Mr. Heenan said that under British law a man is innocent until he is proved guilty, and any doubt should go to the man who is charged. I think it would be far more equitable to let the position remain as at present. So I hope the Committee will reconsider its decision.

Hon. E. M. HEENAN: I want to correct one wrong impression that Mr. Griffith may have created. Under the Act as it stands the defending counsel gets a copy of the jury list seven days before the trial; and if this Bill is passed that period will be four days. It contains the name, address and occupation of every juror; and the accused is given a list so that he can ascertain, to the best of his knowledge, who the jurors are and, in a legitimate way, find out all about them.

Hon. A. F. Griffith: What do you call "a legitimate way"?

Hon. E. M. HEENAN: I cannot express it more clearly than that. I had a fairly extensive criminal practice in Kalgoorlie

for a number of years; and if I was defending a man who was charged with stealing gold from one of the mines, I would challenge mine managers, mine officials, and so on. I do not know whether I was right or wrong, but I would draw the deduction that such a man might have prejudice against gold being stolen from the mines.

Hon. Sir Charles Latham: You would probably be right too!

Hon. E. M. HEENAN: I have also appeared for accused on numerous occasions in the Criminal Court in Perth, and what Mr. Griffith said about it is correct. But I have never found any difficulty in overcoming the trouble. I have stood up or moved around somewhere else to see them better. I would be the last to urge the point if I thought it had in any way derogated from the rights which an accused person enjoys, and is entitled to enjoy. He should be given every facility and opportunity to take part in the empanelling of the jury.

If there is anyone who might have an objection against a juror, that person should have every reasonable opportunity to voice his objection. I am convinced that ample opportunity is given to the accused and his counsel to object to a juror without either of them having to wait till the very last minute when the jurors have taken their seats.

Hon. A. F. Griffith: What about Subclause (4)?

Hon. J. D. Teahan: That is a safety valve.

Hon. E. M. HEENAN: In regard to the last challenge to which Mr. Griffith referred, that is comparable to a person who is lost in the bush being reluctant to drink his last drop of water. In the past, six jurors have been the maximum number that could be challenged by counsel; but there have been times when I have wished that the number had been eight or nine.

Hon. A. F. Griffith: Can the accused consult with his counsel while the jury is being empanelled?

Hon. E. M. HEENAN: Yes.

Hon. L. C. Diver: Shouldn't every latitude be extended to the accused rather than have an innocent man found guilty?

Hon. E. M. HEENAN: Yes; I entirely agree. Anyone who leaves his challenge of the jury until the last minute is, in my opinion, inefficient.

Hon. L. C. Diver: It is highly desirable in the legal profession.

Hon. E. M. HEENAN: What is?

Hon. L. C. Diver: The last-minute challenge.

Hon. E. M. HEENAN: Defence counsel and the accused, who have the jury list, have had every reasonable opportunity to find out who the jurymen are and what they are. In the past they have had a period of four days in which to review the list of jurymen. A juror can be challenged at any time until he takes his seat among the jury and the empanelling of a jury may take half an hour. In proposing this alteration I am certain that the Chief Justice has taken the view that it be made so that no harm will be done to anyone.

Hon. A. F. GRIFFITH: Members should ask themselves this question: How many seconds would it take a man to travel 25ft. from the place where he is sitting among the jurors to the place where he becomes seated as a member of the jury? The argument put forward by Mr. Heenan is fantastic.

The jurors are certainly sittting in the box, but no juror knows whether his name will be called. A defence counsel can make an assessment of the position very quickly. Mr. Heenan is really on my side; because he said that although a counsel has the right to challenge only six jurymen, there have been cases when he would have liked to be able to challenge eight or nine. Nevertheless, he is trying to deny the accused the right to challenge the sixth juror up to the last moment. In my opinion, therefore, his argument does not hold water.

Hon. J. G. HISLOP: This is one of those problems upon which it is extremely difficult to make up one's mind. I do not think the Chief Justice would make a suggestion for a change if such a change would, in any way, deprive an accused of his rights and liberties.

I am not at all impressed with the view expressed by Mr. Griffith concerning the difficulty with the last selection of a juror. If counsel or the accused has the list of the jurors' names, addresses and occupations, surely they have ample opportunity to challenge any one of the jurors. The challenge of the sixth juror is optional.

Hon. A. F. Griffith: If one could be sure that one would not have to exercise that option, it would be all right; but one is never sure of that.

Hon. J. G. HISLOP: Would Mr. Griffith challenge a juryman because of his face? If he did, I would never be empanelled! I am wondering whether the facts are in line with those set out by Mr. Griffith.

Hon. L. C. DIVER: The fundamental principle underlying this debate is that it would be far better for 10 guilty men to go free than for one innocent man to be found guilty. Also, the Chief Justice made his comment for the reasons outlined by Mr. Heenan; that is, in regard to the belated challenge of a juryman. However, the human element enters into this question; and there are good and bad solicitors. Some may pay greater attention to their duty than do others. In the final analysis, it is the accused we have to consider.

Hon. G. E. JEFFERY: I have had personal experience of jury service. Defending counsel is given every opportunity to view the men who are called to sit on a jury.

Hon. L. C. Diver: How long are they given?

Hon. G. E. JEFFERY: Counsel assemble in the court room before the judge enters, and they have ample opportunity to study those who are called to serve on the jury. Under the existing jury system, a unanimous decision must be arrived at; but it must be remembered that under this Bill a majority decision can be accepted.

Hon. A. F. GRIFFITH: Until Mr. Jeffery made his last statement, I had no intention of replying to him. In my opinion he is far off the beam. Does he not appreciate that we are now dealing with criminal trials where the sentence imposed may be death? Therefore, the Bill provides that in other trials the majority verdict shall apply. So, what Mr. Jeffery has put forward is of no importance.

I think, too, that Dr. Hislop has missed the point. The point is that defending counsel must show cause for making a challenge. I am not certain on this point, but I think the judge is the person to assess cause. He might not think that the defending counsel had put forward any cause. Then he might find a juror, who was not indifferent to the trial, being empanelled and he would run the risk of being unable to challenge that juror. When there were five jurors to be called, he might have three black marks on his list, and any of those three might be called. Knowing the 11th juror, the 12th might consist of one of the three who could not be challenged. In that case one of those three might finish up on the jury.

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

| | |
|---|---|
| Ayes .... .... .... .... | 14 |
| Noes .... .... .... .... | 10 |
| Majority for .... | 4 |

Ayes.

| | |
|---|---|
| Hon. N. E. Baxter | Hon. R. C. Mattiske |
| Hon. L. C. Diver | Hon. J. Murray |
| Hon. A. F. Griffith | Hon. H. L. Roche |
| Hon. J. G. Hislop | Hon. J. M. Thomson |
| Hon. A. R. Jones | Hon. H. K. Watson |
| Hon. Sir Chas. Latham | Hon. F. D. Willmott |
| Hon. L. A. Logan | Hon. C. H. Simpson |
| | *(Teller.)* |

Noes.

| | |
|---|---|
| Hon. G. Bennetts | Hon. F. R. H. Lavery |
| Hon. E. M. Davies | Hon. H. C. Strickland |
| Hon. E. M. Heenan | Hon. J. D. Teahan |
| Hon. R. F. Hutchison | Hon. F. J. S. Wise |
| Hon. G. E. Jeffery | Hon. W. F. Willesee |
| | *(Teller.)* |

Pairs.

| Ayes. | Noes. |
|---|---|
| Hon. J. Cunningham | Hon. J. J. Garrigan |
| Hon. G. MacKinnon | Hon. G. Fraser |

Amendment thus passed.

Hon. A. F. GRIFFITH: I move an amendment—

That the words "for cause" in line 14, page 28, be struck out.

This is merely a consequential amendment.

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

Clause 50—New trial on disagreement:

Hon. A. F. GRIFFITH: Because the Committee has agreed to some amendments to Clause 49, it is necessary to make consequential amendments in this clause. I move an amendment—

That the word "four" secondly occurring in line 34, page 31, be struck out, and the word "five" inserted in lieu.

Hon. E. M. HEENAN: This is consequential to the amendments to Clause 49 which the Committee has passed.

Amendment put and passed.

Hon. A. F. GRIFFITH: I move an amendment—

That the word "three" in line 35, page 31, be struck out and the word "four" inserted in lieu.

Amendment put and passed.

Hon. A. F. GRIFFITH: In order to make the provision clear, I move an amendment—

That after the word "four" in line 36, page 31, the word "jurors" be added.

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

Bill again reported with further amendments.

*House adjourned at 6.12 p.m.*