

measure, and I hope it will be received without opposition. I move—

That the Bill be now read a second time.

**HON. E. H. GRAY** (West) [9.37]: I support the second reading and am pleased that the company have started operations here. I consider, however, that the company have been very much under-rated by the North Fremantle council. According to the report of the select committee, the Solicitor General expressed himself satisfied so long as the representative of the North Fremantle council was satisfied. A sum of £35 per annum has been agreed upon as rates on the pipes run under the street, a ridiculously low amount. Once the measure is passed it will operate for all time. Anyone who has watched the operations of the water supply department knows that no company, after breaking up the streets, would restore them to the same order. The report refers to the pipes running under an unmade road, but that is not to say it will be unmade for all time. I am not satisfied that the people's rights have been sufficiently safeguarded. The amount to be charged to the company for rates is not equal to the license fee charged for a motor bus. I am not content to leave this matter to the North Fremantle council, and I voice my objection to the amount being fixed so low.

On motion by Hon. V. Hamersley, debate adjourned.

*House adjourned at 9.40 p.m.*

## Legislative Assembly,

Thursday, 10th December, 1925.

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

### QUESTION—RAILWAY CONSTRUCTION, YARRAMONY EASTWARD.

Mr. GRIFFITHS asked the Premier: 1, Is he aware that consternation prevails at Hindmarsh, Quelagetting, North Cunderdin, West and East Yorkrakine, Kodj Kodjin, and North Baandee because of the failure of the Government to provide tangible proof of their intention to proceed with the building of the Yarramony Eastward railway? 2, If so, can he indicate whether there is any likelihood of some use being made before June, 1926, of the amount of £30,000 provided on the Loan Estimates? 3, Could not at least the earthworks be started, as an encouragement to the 200 settlers affected?

The PREMIER replied: 1, No. 2, Answered by No. 1. 3, Yes.

### QUESTION—POLICE, TRAFFIC BRANCH.

*Staff; Motor Cycles and Cars.*

Mr. MARSHALL asked the Minister for Justice: 1, How many officers are permanently attached to the Traffic Branch? 2, How many motor cycles, and of what makes or models, are attached to the branch? 3, How many motor cars, and of

what makes or models, are attached to the branch?

The **MINISTER FOR JUSTICE** replied: 1, Fourteen constabulary and four female temporary employees. 2, Two—one Excelsior (1921 model); one Matchless (1925 model). 3, None at present. The purchase of one is now before the Tender Board for the use of this branch and other police purposes. At the present time the Traffic Branch has the use of a car when required.

#### **QUESTION—RAILWAYS COMMISSIONER, APPOINTMENT.**

Mr. E. B. JOHNSTON (for Mr. Thomson) asked the Premier: As indications point to an early close of the session, do the Government intend to appoint a Commissioner of Railways and to submit the appointment to Parliament for approval or rejection?

The **PREMIER** replied: An announcement to this effect was made by the Minister for Railways upon the Railway Estimates. This assurance is now repeated for the information of the hon. member.

#### **BILLS OF SALE ACT AMENDMENT BILL SELECT COMMITTEE.**

##### *Report presented.*

**MR. DAVY** (West Perth) [4.40]: I present the report of the select committee. The committee met on six occasions and have taken evidence from representatives of the merchant community and also from members of the legal profession, including the Crown Solicitor. All the witnesses called were of opinion that an evil exists under the present law that should if possible be remedied. The large majority of witnesses held, however, that the Bill in its present form would create a situation which would be worse than that now existing. At the request of the committee the Parliamentary Draftsman has drawn certain amendments to the Bill which, in the committee's opinion, will remedy the evil without introducing the unfortunate results which it is feared would attend the enactment of the Bill in its present form. The committee recommend that certain amendments be accordingly made to the Bill. The amendments amount

to this that instead of making all unregistered bills of sale null and void it will be possible for any person interested to have a grantor of a bill of sale declared bankrupt within three months of the time of the seizure, and to require the holder of the unregistered bill of sale to come in and share and share alike with the other creditors. Otherwise, it is not proposed, except in minor matters, to alter the law as it stands to-day. The committee investigated the matter exhaustively. It was a complicated question and one very difficult to deal with, and we think that what we have recommended is as far as we should go. I move—

That the report be printed, and the further consideration of the Bill in Committee be made an order of the day for the next sitting of the House.

Question put and passed.

#### **STANDING ORDERS SUSPENSION.**

**THE PREMIER** (Hon. P. Collier—Boulder) [4.44]: I move—

That during the present sitting the Standing Orders be suspended so far as is necessary to enable the Appropriation Bill to be passed through all its stages on this day, and the Roads Districts Act Amendment Bill, the Taxation (Motor Spirit Vendors) Bill, and the General Loan and Inscribed Stock Act Amendment Bill to be passed through their remaining stages.

Question put and passed.

#### **BILL—APPROPRIATION.**

##### *Message.*

Message from the Governor received and read recommending appropriation for the purpose of the Bill.

##### *All Stages.*

In accordance with resolutions adopted in Committees of Supply and Ways and Means, leave obtained to introduce the Appropriation Bill, which was read a first time.

##### *Second Reading.*

**THE PREMIER AND TREASURER** (Hon. P. Collier—Boulder) [4.48]: I move—

That the Bill be now read a second time. It is not necessary to make any remarks upon this Bill.

Hon. Sir James Mitchell: No. Every item has been passed.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Read a third time, and transmitted to the Council.

### **BILLS (2)—THIRD READING.**

1, Loan Bill, £4,000,000.

2, Workers' Homes Act Amendment.

Transmitted to the Council.

### **BILL—ROAD DISTRICTS ACT AMENDMENT.**

Report of Committee adopted.

Read a third time and transmitted to the Council.

### **BILL—TAXATION (MOTOR SPIRIT VENDORS).**

Report of Committee adopted.

Read a third time, and transmitted to the Council.

### **BILL—GENERAL LOAN AND INSCRIBED STOCK ACT AMENDMENT.**

*Second Reading.*

**THE PREMIER AND TREASURER** (Hon. P. Collier—Boulder) [4.58] in moving the second reading said: This is one of those small measures known as continuation Bills which come up for re-enactment every year. The present Bill is required to authorise the fixing of the rate of interest on inscribed stock and debentures issued under the General Loan and Inscribed Stock Act at a maximum of  $5\frac{1}{2}$  per cent. It is known to hon. members that the present rate is six per cent. Under the principal Act the rate of interest is 4 per cent. This rate was increased in 1915 owing to a general rise in rates of interest, and in 1918 it reached  $6\frac{1}{2}$  per cent., which maximum operated for one year only. Then the maximum was reduced to six per

cent., and now I am asking that the maximum shall be  $5\frac{1}{2}$  per cent. Interest rates having fallen, I anticipate that it will not be necessary to pay more than  $5\frac{1}{2}$  per cent., even if so much. Should the Bill not pass, the Government would be compelled at the end of this year to revert to the four per cent. fixed by the principal Act; and of course it is impossible to obtain money at that rate.

Hon. Sir James Mitchell: The Minister for Lands says it is "Kings on the down," so that is good.

The PREMIER: The only difference between the Bill and that of last year is that the duration of the Act last year, as of the Acts for several years past, was limited to one year owing to an amendment in the Legislative Council. Hon. members are becoming accustomed to the fact that that Chamber does not trust us too much.

Hon. G. Taylor: Members there are getting less confident as time goes on.

The PREMIER: Apparently they think that a Treasurer would pay interest in excess of what was really necessary and, therefore, they limited the operations of the Bill to one year so that for that particular year, we could borrow money at a rate not more than that specified in the Act. I hope the provision I have inserted this year will be accepted by another place. I move—

That the Bill be now read a second time.

**HON SIR JAMES MITCHELL** (Northam) [5.2]: I am glad we have come to a time when we can reduce the interest rate.

The Premier: It is highly satisfactory. We have been going up for years and now we are coming back again.

Hon. Sir JAMES MITCHELL: For a long time we had to pay much more than the rate mentioned in the Bill. As a matter of fact fixing the rate of interest does not really affect a Treasurer because he can pay any discount he likes. In effect, however, Parliament will say that  $5\frac{1}{2}$  per cent. shall be the highest rate to be paid on borrowed money under the Act. That is an improvement on last year's position and represents a reduction from 6 per cent. to  $5\frac{1}{2}$  per cent. That must be regarded as satisfactory and we can congratulate ourselves upon the fact that money is becoming cheaper. When money costs a lot a Treasurer has to sail close to the wind all the time, otherwise the State would lose a lot of money as interest on funds to the credit of the public account.

I know that both the Premier, during the early part of his term of office, and I, during the latter part of mine, had a very uncomfortable time. We could not hold money that was costing  $6\frac{1}{2}$  per cent.

The Minister for Lands: With the result that it was not there when you wanted it.

The Premier: Yes, you could not hold it at that rate of interest and when you wanted it, it was difficult to get.

Hon. Sir JAMES MITCHELL: I got the money, but the Treasury officials were a bit scared at times. It had to be done, otherwise the deficit would be much more than it is now. Nowadays we can transfer money from the Old Land fairly easily and the overdraft that was arranged with our bankers in London helped matters very considerably. During my last year of office and the Premier's first year the position was very difficult.

The Premier: Yes, it was impossible to get money out.

Hon. Sir JAMES MITCHELL: The result was that we had to hold a good deal more than was necessary. The Premier found fairly considerable balances in hand when he took over, but it was considered necessary to hold much more than was customary. I am indeed pleased to see that we can fix the maximum rate at  $5\frac{1}{2}$  per cent.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Read a third time and transmitted to the Council.

## **BILL—VERMIN ACT AMENDMENT.**

*Council's Amendment.*

Amendment made by the Council now considered.

*In Committee.*

Mr. Lutey in the Chair; the Minister for Agriculture in charge of the Bill.

Clause 11—Insert after the word "Penalty" in line seven the word "Two hundred and," and delete "three" and insert "twelve":

The MINISTER FOR AGRICULTURE: The clause deals with trafficking in scalps

by fraud and the Council's amendment seeks to increase the penalty from £50 to £250 and the term of imprisonment from three months to 12 months.

Hon. Sir James Mitchell: That is a big advance on what was proposed here.

The MINISTER FOR AGRICULTURE: In view of the fact that those who will be concerned in the trafficking must come from another State, I move—

That the amendment be agreed to.

Question passed; the Council's amendment agreed to.

Resolution reported, the report adopted, and a message transmitted to the Council accordingly.

## **MOTION—DISMISSAL OF CONSTABLE LAMBERT.**

*To inquire by Select Committee.*

MR. MANN (Perth) [5.14]: I move—

That a select committee be appointed to inquire into the dismissal of Constable Lambert. Before proceeding with my motion I wish to thank the Premier for his consideration in giving me an opportunity to bring the motion before the House. While I realise that it is not likely that a select committee will be appointed, I trust that as a result of the facts I will place before the House as given to me, the Government will see that any wrong that has been done to the constable will be righted. Constable Lambert was a member of the Police Force and had upwards of 11 years' service to his credit, the whole of which period had been spent in Perth or Fremantle. For the last few years he had done duty in Fremantle as a plain clothes constable. Part of his work was to control licensed houses and to supervise the operations of the liquor laws. He worked in conjunction with another officer. Their duty required them to visit hotels after trading hours and on Sundays. On Sunday, 3rd May, they visited the Cleopatra Hotel, High-street, Fremantle. They found there six men and took their names with a view to prosecution. Amongst the six men was one who gave his name as Patrick Martin. The usual report was made by the constables and submitted to their officer, who forwarded it to the licensing inspector in Perth. Some 10 or 12 days elapsed before the file was returned to Fremantle from Perth with instructions to prosecute. Constables McNeill

and Lambert then took out summonses for those six men. Some of the men had given false names, while others had given false addresses. The man who gave his name as Patrick Martin gave his address as the Sailors' Rest. Five of the six men were ultimately found and served with summonses. Patrick Martin was not found. In the course of their investigations the constables learnt that Patrick Martin was identical with one Patrick Mooney, and that therefore he had given a false name and also a false address, since he was not then living at the Sailors' Rest.

Mr. Hughes: But that was his address, the place at which to find him.

Mr. MANN: He could not be found there. Ultimately the constables learned that Patrick Mooney had signed on the "Karoola" and was then on the ship proceeding to Sydney. A fresh summons was taken out in the name of Patrick Mooney, alias Patrick Martin. The "Karoola" returned on the 24th May but the officers did not find Mooney until the night of the 26th, for he left the boat immediately it came in. On the 26th the constables were called to quell a disturbance at the Hotel Fremantle. When they went into the bar they found that one of the men concerned in the disturbance was Patrick Mooney. They called him outside and asked if his name was Patrick Mooney. He said it was. They explained they had a summons for him, charging him with being unlawfully on the premises of the Cleopatra Hotel on the 3rd May. Mooney denied having been there. He said he would not answer to the summons, and he threw it on the ground. Constable McNeill told him the responsibility would be his if he did not appear, and that the summons was returnable for the next morning, the 27th. On the 27th the constables attended at the court, but Mooney did not put in an appearance. Constable Lambert gave evidence of having found this man with five others in the Hotel Cleopatra. All the others had been dealt with in the meantime. Mooney was fined £2 and costs, or six days' imprisonment. The constables did not then know that he had left the "Karoola." The magistrate issued forthwith a commitment warrant. The constables went to the "Karoola" to execute the warrant, but found that Mooney had signed off. The commitment warrant was entered up for execution, and Constable Stewart had it in his possession, and had one also for a man

named Patrick Santley, one of the men that were at the hotel on that morning. Constable Stewart was in High-street when he met Patrick Santley and Patrick Mooney together. He told them he had warrants for their arrest. Mooney said he was not the man, that they had made a mistake. Constable Stewart said, "You had better come along until we meet Constables McNeill and Lambert." Down High-street they met Constables McNeill and Lambert and Constable Lambert said, "Yes, that is the man." Constable Stewart then handed Santley and Mooney over to Constables McNeill and Lambert, Constable McNeill taking Santley to the station and Constable Lambert taking Mooney. Mooney was there searched. His property was taken from him, and he was put into the lock-up and kept there until next day, when he was taken from the lock-up to the prison and there detained until his sentence was served. All those facts are admitted. It is from this point onwards that two different stories are told. One is that told by Mooney, and the other that told by the constables. Mooney was discharged, and the next that was heard was on the 3rd July, when Mr. Lane, a solicitor, wrote to the Minister for Police a letter stating that Mooney had been illegally arrested and imprisoned, and making a formal claim. The letter was sent on by the Minister to the Commissioner of Police, and by the Commissioner to Inspector Sellenger at Fremantle, who called for reports from Constables McNeill and Lambert, and who also took a statement from Mooney. If Mooney's statement were correct, I would not waste one moment of the time of the House; because I would not agree, as the Minister has done, that Constable Lambert made a bona fide mistake; I would say that Constable Lambert ought to be prosecuted for having made a malicious arrest.

The Minister for Justice: I took a charitable view of it.

Mr. MANN: Either Constable Lambert is right or he is wrong. If Mooney's statement is correct, Constable Lambert ought to be prosecuted for wrongful arrest and malicious prosecution.

The Premier: At any rate, if Mooney's statement be correct, the punishment of dismissal would not be too severe.

Mr. MANN: Here is Mooney's statement in writing to Inspector Sellenger—

I am a fireman by occupation, and at present am out of employment. My address is

27 Nairn-street, Fremantle. About the 8th February I left Fremantle for Italy by the s.s. "Australplain"; I returned to Fremantle by the s.s. "Orsova" on the 5th May. I received my discharge from the vessel on the same day. I do not know the man referred to as Patrick Martin. I never went under any other name. On the 28th June last P.C. Stewart informed me that he had a warrant for me. I asked what it was for, and he said something about being at the Cleopatra Hotel on a Sunday. I told him there must be a mistake. He then said we had better see P.C. Lambert, and a couple of minutes later P.C. Stewart and Patrick Santley, who was with us, walked up High-street and were met by P.Cs. McNeil and Lambert. Lambert said, "That is the man," pointing to me. Lambert said to me, "Come up to the police station." We all walked there together. On the way up I told Constable Lambert that he was making a mistake, that I was not the man he wanted, and I showed him my discharge, showing that I was discharged from the "Orsova" on the 5th May last. He read my discharge, but made no remark, and handed it back to me. When we arrived at the police station I was searched by P.C. Stewart and my property taken from me, including my discharge. I pointed out to P.C. Lambert at the station the date of my discharge. He looked at it, and appeared to take no notice of it. On the following morning I was taken to the gaol and confined there until the 30th. I did not make any protest at the gaol. I told the gaoler who admitted me that the police had made a mistake, but nothing further was said. I have no recollection of P.Cs. McNeil and Lambert serving a summons on me. I was in town on the 26th June. I was in the Fremantle Hotel on the night of the 26th June, and I had a few drinks that day. The summons may have been served on me, but so far I have no recollection whatever about it. I did not have the summons the following day. I knew nothing about the case coming before the court until the 28th. McNeill did not put any questions to me at any time. It was Lambert who said I was the man wanted, and who did all the questioning. On the way to the station on the 28th of June P.C. Lambert told me I had been charged with being in the Cleopatra Hotel on the 3rd May, that I had been fined £2 5s., and in default of paying the fine I would have to go to gaol for six days. It was then I told him I was not in Fremantle on that day, and showed him my discharge. I had no money on me when arrested. I do not think that P.C. McNeill saw my discharge. I only showed it to Lambert.

This must be the origin of the trouble. The next thing was that Inspector Sellenger instructed Sergeant Gallagher to communicate with the Marine Master's office. They told him that Patrick Mooney's name appeared on the "Orsova," arriving here on the 5th May. The Master told him he knew Patrick Mooney very well and had signed him on the "Australplain" as a fireman in February to go to Europe, that he had not seen him again,

but that his name appeared on the "Orsova" list as a passenger returning on the 5th May. Sergeant Gallagher committed that to writing in a memo. to Inspector Sellenger, who made the following report to the Commissioner of Police:—

It appears from these reports that on Sunday, the 3rd May last, Police Constables McNeill and Lambert found several men coming out of an hotel contrary to Section 129, Subsection (2) of the Licensing Act. Two of the men were well known Fremantle residents. All denied being on the premises—a usual thing—and later it was found several had given false addresses—a not uncommon occurrence. Summonses were served on three, two others not being found. Only one appeared at court, who was defended by counsel. The magistrate considered the charge sustained, and defendant was fined. The charge against the two others after service of summonses was proved, were dealt with *ex parte*, and they were fined. This left two other men, one named Cameron, who it was found had given a wrong name and address, and the other Martin, who had given a false address and probably a false name. In the course of inquiries, Police Constable Lambert had reason to believe that Martin's correct name was Mooney, and it was not until the 25th June that they found him. The constables state they were satisfied beyond all doubt that Mooney was the man who gave the name of Martin and, being armed with a summons for him, served it on him. He denied he was the man wanted; would give them no satisfaction; refused to receive the summons, and when Police Constable Lambert put it in his pocket (Mooney's) the latter threw it on the ground. The case came on for hearing the following day, and Police Constable Lambert says he rang up the shipping office to ascertain if Mooney was in town on the day in question, and was informed that the vessel arrived on the 1st May, and as the offence was committed on the 3rd of that month, Lambert was doubly sure they had the right man. As Mooney did not answer the summonses, and apparently there was nothing to prevent him doing so, the resident magistrate, after having proof of service of summonses and hearing the evidence of Police Constable Lambert, dealt with the case *ex parte*, Mooney being fined £2 and six days' imprisonment in default of payment. of commitment was subsequently issued for six days' imprisonment in default of payment. Mooney was taken to the Fremantle Gaol. I was absent from here when proceedings were instituted, and the first I knew of the matter was when it was referred to me by you. I immediately sent for the constables concerned, and both were very positive that they had not been mistaken in the man. I then directed Sergeant Cassidy to interview the shipping authorities, and the reply from the Shipping Master proves beyond all doubt that a most regrettable mistake had been made by Police Constables Lambert and McNeill in accusing Mooney of being the man they saw coming from hotel premises on the 3rd May, as Mooney

was at sea at the time the alleged offence took place, and did not arrive at Fremantle till two days later. I am quite satisfied that both constables acted bona fide throughout, and that it was a case of mistaken identity. At the same time I concur with Sergeant Cassidy that Police Constable Lambert should have taken more trouble to satisfy himself that Mooney was or was not in town on the day in question, information that Sergeant Cassidy was able to get in a few minutes. Had this been done by Police Constable Lambert, Sergeant Cassidy would not have proceeded further with the case. Both the resident magistrate and Sergeant Cassidy were led to believe there was no shadow of doubt regarding the identity of the defendant on the statements made by the constables. It is not disputed that Police Constable Lambert rang up the shipping office, but it is evident that a mistake was made, either by Police Constable Lambert in giving the name of the vessel, or by the receiver of the message when taking it. Mr. Mooney has also got himself to blame. He was served with a summons requesting his attendance at the court, and if instead of treating the order of the court with contempt by throwing it on the ground and refusing to attend, he had attended, his innocence of the charge could have been proved, and the matter would have been ended there and then.

Following that Inspector Sellenger saw Mooney, whose statement I have read. Constables McNeill and Lambert were asked to make their statements. Lambert says—

I have to report with regard to the attached letter that on Sunday, the 3rd May, 1925, between 9 a.m. and 10 a.m., while in company with P.C. McNeill in Mouatt-street, Fremantle, I became suspicious that trading was going on at the Cleopatra Hotel. I went to the front door of the premises and was in time to see six men let out of the hotel, the door being closed behind them. Two of them were well-known identities. I obtained the assistance of P.C. McNeill and followed the four who were unknown to me, and questioned them regarding their presence on the hotel premises. The four denied being at the hotel and I took their names and addresses as follows:—Patrick Martin, Sailors Rest; John Cameron, 32 Cantonment-street; Patrick Santley, 122 Cantonment-street, and Edwin McArdle, Sailors' Rest. Summonses were issued against the six men for being on the premises, but on inquiry at the Sailors' Rest it was ascertained that no such person as Patrick Martin existed at that address, and the only person likely to be identical with Martin was Patrick Mooney, who was a mate of McArdle and Santley. Patrick Mooney had by this time obtained a job on the s.s. "Karoola" and would not be returning until the 25th June. John Cameron could not be located as he had given a false name and address. On the 5th June. Kilmartin, Kane, Santley, and McArdle were summoned to appear before the police court. The only one of the four to appear was Santley, who was defended, but who was convicted and fined £1 and costs. The cases against the remaining

three were heard ex parte, and each were fined £2 and costs. On the 26th June, the morning following the arrival of the "Karoola," I issued a fresh summons against Patrick Mooney alias Martin. It was not until about 8 p.m., on the 26th June, that I located Mooney. I was then with P.C. McNeill. I called him aside and told him I had a summons for him for being on the premises of the Cleopatra Hotel. He denied that he was the man and became abusive, and declined to give any satisfaction as to where he was or what he was doing on the 3rd May. It was useless to argue with the man so I tendered him the summons, which he refused to take. I placed it in his pocket, and he immediately pulled it out and threw it on the ground, and said that he would not attend any court. He again said that he would not go to court, and walked away. On the 27th instant there was no appearance of Mooney at the courthouse, and the case was proceeded with ex parte, Mooney being fined £2 and costs, and the magistrate ordering the issue of a commitment warrant failing payment immediately. I, with P.C. McNeill, executed the warrant on Mooney and Santley on the day following, myself escorting Mooney and McNeill taking Santley to the lock-up. Mooney then said that he was not the man I wanted, and at the station denied that he had ever been served with a summons to appear at the court to answer a charge. Mooney was then given every chance to prove his innocence, but made no move to do so except the bald statement which was also made by the other five men that I had made a mistake and that they were never in the hotel.

McNeill makes a similar statement.

Mr. Hughes: You would not expect him to make a different one.

Mr. MANN: Why not?

Mr. Hughes: Do you not know the force better than that?

Mr. MANN: McNeill reports—

Constable Lambert later informed me that he had ascertained that Martin had given a wrong name and that his correct name was Patrick Mooney and that he had gone to the Eastern States on the s.s. "Karoola" as a member of the crew. Constable Lambert then prepared a fresh summons for Patrick Mooney returnable on the 27th. In the meantime Kilmartin, Kane, Santley and McArdle had each been served with a summons to appear at the police court. On the night of the 26th J, in company with Constable Lambert, went into the front bar of the Fremantle Hotel to quell a disturbance, and found Patrick Mooney one of the participants. We dispersed them and followed Mooney out to the street. Constable Lambert asked him if he was Patrick Mooney, which he admitted. He was then told there was a summons for him to appear at the Fremantle police court on the following morning for being on the premises of the Cleopatra Hotel on Sunday, the 3rd May last. He denied being there, but the others had said the same. He became abusive

and would not give any satisfactory explanation of where he was on the date in question.

Constable McNeill corroborates what Constable Lambert says about throwing away the summons. There is nothing in these statements about Mooney showing the police his discharge from the "Orsova." Mooney had no discharge from the "Orsova." In fact, he had no discharge when interrogated by the police on the 27th or 28th.

The Minister for Justice: Yes, he had, and McNeill says so.

Mr. MANN: Mooney says he had a discharge from the "Orsova" showing that he left the ship on the 5th May. He said when they saw him on the 27th he showed them the discharge. He had no such discharge in his possession, and has not one now.

The Minister for Justice: He had a discharge from the "Australplain."

Mr. MANN: He had, but from the very beginning of the charge against Constable Lambert the case has been dealt with on the assumption that Mooney showed the police a discharge from the "Orsova."

The Minister for Justice: No, it has not.

Mr. MANN: I will prove that it has. Lambert was dismissed on the assumption that Mooney showed him that discharge, which he said he received from the "Orsova" on the 5th May.

The Minister for Justice: Nothing of the sort. You do not know what you are talking about.

Mr. MANN: We shall see.

Hon. Sir James Mitchell: I expect he does know.

The Minister for Justice: He does not. He says he knows why Lambert was discharged.

Mr. MANN: The Minister said that Mooney was not dealt with on the assumption that he had a discharge from the "Orsova" which he received on the 5th May. This is what the Crown Solicitor wrote when he advised the Commissioner of Police—

On the 26th June Patrick Mooney was charged with being found on the licensed premises of the Cleopatra hotel, Fremantle, on Sunday, 3rd May. He was under the influence of liquor when served with the summons and did not appear at the hearing. The case was heard in his absence. He was fined £2 or six days' imprisonment and he served the term. It was, however, a case of mistaken identity. Mooney was a fireman on the "Orsova" which apparently did not reach Fremantle from overseas until the 5th May. P.C. Lambert in summoning Mooney and proceeding with the charge acted bona fide. He believed Mooney was the

offender. Lambert served a summons on Mooney at the Hotel Fremantle at 8 p.m. on the 26th June. Mooney protested that Lambert was making a mistake and produced his discharge from the "Orsova." If Lambert had looked at the discharge he would have seen that he was mistaken and that Mooney did not arrive at Fremantle until the 5th May, and therefore could not be the offender on the 3rd May. Lambert was therefore negligent in the discharge of his duty. If he had exercised greater care and had looked at Mooney's discharge when asked to do so, the mistake would not have happened.

There we have the Crown Solicitor telling the Commissioner of Police that Lambert was negligent, that he did not look at the discharge which Mooney had in his possession and which was claimed to be a discharge from the "Orsova" dated the 5th May. The Crown Solicitor claimed that Lambert was negligent in the discharge of his duty, and that he should have exercised greater care and looked at the discharge when requested to do so, and that then the mistake would not have happened. The Crown Solicitor's statement goes on—

Mooney prima facie has a cause of action against Lambert for damages. It is not a case however where the constable can be charged and fined or imprisoned under Section 24. That section relates only to insubordination or misconduct against the discipline of the police force. Inquiries are held into charges of breach of duty or conduct rendering it unfit that an officer should remain in the police force only in case of superior officers. In the case where a constable is charged with such negligence that he is unfit to remain in the force, the Commissioner may under that section with the approval of the Minister remove the constable. The provisions relating to inquiries by a board do not apply in cases of such removal.

We have Mooney making a statement to Inspector Sellenger and we have the Commissioner of Police sending that statement to the Crown Solicitor for instructions. I am going to repeat Mooney's statement because I am endeavouring to make the case as clear as I possibly can from the point of view of both sides. This is Mooney's statement—

I left Fremantle for Italy about 8th February by the s.s. "Australplain" and returned to Fremantle on the s.s. "Orsova" on the 5th of May. I received my discharge from the vessel on the same day. On the way to the police station I told Lambert he was making a mistake, that I was not the man he wanted, and showed him my discharge. The discharge showed that I was discharged from the s.s. "Orsova" on the 5th May last. He read my discharge, made no remark and handed it back to me. When I arrived at the police station I was searched by P.C. Stewart and all my pro-



perty was taken from me, including my discharge. I pointed out to P.C. Lambert at the police station the date of my discharge. He looked at it but appeared to take no notice of it. I did not make any complaint at the gaol. I told the gaoler who admitted me that the police had made a mistake, but nothing further was said.

That is a deliberate falsehood.

Hon. W. D. Johnson: Is that statement signed by Mooney?

Mr. MANN: Yes. It is a deliberate falsehood because we find that Mooney after having been discharged from prison went to Mr. Jarman, shipping master, and asked for a discharge from the "Orsova." That was on the 3rd July. Mr. Jarman says that on that date he received a telephone message from the Seamen's Union asking him to grant this discharge to Mooney and he replied that he was unable to do so. Yet we have Mooney telling Inspector Sellenger that he showed his discharge to the constable.

The Minister for Justice: That was the discharge he had from the boat in which he went away from Australia.

Mr. MANN: The Minister will have his opportunity of replying. I am giving the facts as they are. Mooney told Inspector Sellenger that he produced a discharge from the "Orsova," and Mr. Sellenger told the Commissioner, and the Commissioner submitted the matter to the Crown Solicitor. It was on those facts that the Crown Solicitor recommended Lambert's discharge. This is Mr. Jarman's statement—

I am Deputy Superintendent of the Mercantile Marine office, Fremantle. I know Patrick Mooney, a ship's fireman. He came under my notice first in the early part of 1924, when he left the vessel at Fremantle. On the 9th February, 1925, Mooney was signed on the s.s. "Australplain" as a member of the crew to go oversea. I cannot swear that Mooney ever joined the "Australplain," which left Fremantle about the 9th February, 1925. The next occasion on which Mooney came under my notice was on the 30th May, 1925, when he was signed on the s.s. "Karoola" and signed off again on the return trip on the 26th June, 1925. On the 3rd July, 1925, I received a ring from the Secretary of the Seamen's Union, Mr. Houghton, requesting me to supply Patrick Mooney with a shipping discharge from the "Orsova," which request could not be granted as he was not discharged before me at this port. I said if he sent Mooney to me I would see what could be done. Subsequently Mooney came to my office and asked me for a discharge from the "Orsova," which vessel arrived from England on the 5th May. Not knowing how Mooney returned to Fremantle—that is, pro-

vided he left the State by the "Australplain"—on the 9th February, he not having been discharged through my office in the usual manner as a seaman or fireman, I was unable to comply with his request.

Surely that proves clearly that Mooney did not have a discharge when he was arrested and consequently could not have shown it to the constables. It also proves that Mooney lied to Inspector Sellenger when he said "I have a discharge from the 'Orsova,' as a fireman, and I showed it to the constable when he arrested me." That was a deliberate lie. We have the evidence of the two constables whose records of service are both long and good. Both gave their versions of what happened on the three occasions when they encountered Mooney. Then we have Mooney's statement to Inspector Sellenger wherein Mooney said that he had a discharge from the "Orsova" and showed it to the police officers. Yet, on the 3rd July, eight days later, we find he is endeavouring to get a discharge from Mr. Jarman. We also have the two officers determinedly stating that Mooney was the man they saw at the hotel; they said that at the court when interrogated by Inspector Sellenger, and they say it to-day. Now here is the peculiar position. Those officers went to the court to give evidence, and as a matter of chance, Constable Lambert was called by the sergeant to state the facts. It might just as easily have been Constable McNeill. Constable Lambert gave the facts. Constable McNeill was prepared to give the same evidence, and he has given similar facts in a statement made since. Surely, if Constable Lambert was guilty of negligence, Constable McNeill was equally guilty.

The Premier: But it was Constable Lambert who arrested the man.

Mr. MANN: Both were there.

The Minister for Justice: Lambert was supposed to have made the inquiries.

Mr. MANN: Lambert said that Mooney was the man and McNeill agreed with the statement. McNeill took Santley and Lambert took Mooney. If there be an offence, there is no difference in it, and I am going to suggest that the inquiry that followed was conducted in a most slipshod manner.

The Minister for Justice: They must have slipped since you left the Force.

Mr. MANN: Never mind about that. Constable Lambert was dismissed purely on the statement made to Inspector Sellenger by Mooney. After Lambert was dismissed, in-

quiries were set on foot. Why? There must have been a doubt in the minds of the department that wrong had been done.

The Minister for Justice: The Police Association made all sorts of requests.

Mr. MANN: And they were entitled to do so. Mr. Jarman told the police that they should make inquiries on the "Orsova." That could easily have been done, because the "Orsova" was at Fremantle for seven weeks. Lambert had been dismissed. He was not in touch with Mooney and he could not conduct an inquiry, but he did go to the "Orsova" several times and he saw everyone who was in a position to give him information. He described Mooney to all the stewards and officials he could see, but they were unable to remember him.

The Minister for Justice: That would not be unusual.

Mr. MANN: The police were in touch with Mooney. All they had to do was to take Mooney to the "Orsova," confront him with some of the officers or stewards and say "Do you remember this man coming back with you on your last trip?" They did not do that, but they did go down there. They were there repeatedly making inquiries. I submit that the inquiries did not suit them; they did not confirm Mooney's statement. If the inquiries had shown that Mooney came back on the boat, there would have been a statement to that effect on the file.

The Minister for Justice: You are suggesting that all the police are in the bag.

Mr. MANN: I am not.

The Minister for Justice: You are.

Mr. Latham: Evidently it is a jolly good case for an inquiry.

Mr. MANN: I am contending that they did not conduct the inquiry as they should have done.

The Premier: I hope it is not common for the police not to pursue inquiries when they do not get the kind of information they desire.

Mr. MANN: The Premier will surely agree it was the natural thing for them to do—

Mr. Hughes: That is what you used to do?

Mr. MANN: The natural thing for them to do was to take Mooney to the ship.

Hon. Sir James Mitchell: Of course it was.

The Minister for Justice: Who made the inquiries on the "Orsova?"

Mr. MANN: I am informed that Inspector Sellenger himself did so.

The Minister for Justice: Do you suggest that he found the inquiries did not suit him?

Mr. MANN: I am saying that he did not do the job—

Mr. Stubbs: Properly?

The Minister for Justice: That he was in the bag.

Mr. MANN: I am not suggesting that, and I shall not have the Minister saying that I am.

The Minister for Justice: You say they did not get the information they wanted, and therefore did not want what they got.

Mr. MANN: I ask that the Minister's statement that I suggested Inspector Sellenger was in the bag be withdrawn.

Mr. Hughes: You did suggest it.

Mr. MANN: I did not.

Hon. S. W. Munsie: What else did you suggest?

Mr. MANN: That the Inspector did not follow up his inquiry as an officer should have done, and that he was guilty of negligence. Surely the Minister is not entitled to suggest that I am accusing the inspector of being in the bag?

Hon. G. Taylor: The Minister must withdraw the statement.

Mr. SPEAKER: The member for Perth insists upon a withdrawal.

The Minister for Justice: Of what statement?

Mr. SPEAKER: The statement that he suggested Inspector Sellenger was in the bag.

The Minister for Justice: On a point of explanation, what the member for Perth said was that the police officers made an inquiry and, when they did not get the information that suited them, they took no notice of it. To that statement I objected.

Mr. Hughes: O course he said it.

Mr. SPEAKER: That is not the point. The statement made was that the member for Perth suggested Inspector Sellenger was in the bag. The hon. member objects to the statement and it must be withdrawn.

The Minister for Justice: I said that, according to his statement, the inspector must be in the bag.

Mr. SPEAKER: I ask the Minister to withdraw the statement.

The Minister for Justice: If the hon. member did not make that statement, I withdraw. If he did make that statement, there is only one inference to be drawn from it.

Mr. MANN: I do not wish to jeopardise the prospect of an inquiry. What I said was

that the police did not conduct the inquiry as they should have done.

Hon. S. W. Munsie: You said that afterwards, not first of all.

Mr. MANN: The Honorary Minister interrupted me before I had finished the sentence. The police were in touch with Mooney.

Mr. Latham: Evidently there is a good case for an inquiry.

Mr. MANN: They were interviewing Mooney, who said he had come back on the "Orsova." Constable Lambert's whole career is at stake and his future is to be damned on the one point whether that man was on the boat or not. On that one point Lambert has been dismissed and has lost compensation to the amount of about £300. If the police had taken Mooney from the bottom end of Cliff-street to the "Orsova," they could have verified or disproved his statements. I am entitled to make that comment.

Mr. Hughes: You said that when the police did not get the information they wanted, they stopped.

Mr. MANN: I did not.

Hon. S. W. Munsie: You did.

The Minister for Justice: No doubt you said it.

Mr. MANN: I said they did not continue their inquiries as they should have done.

The Minister for Justice: Because they did not get the information they wanted.

Mr. MANN: I repeat that they did make inquiries on the "Orsova." If the information they obtained there was of importance and bore out Mooney's statement, it should be on the file.

Hon. Sir James Mitchell: That is so.

Mr. MANN: But it is not on the file. I am therefore entitled to assume that they did not get any information to confirm Mooney's statement.

The Minister for Justice: You are twisting now.

Mr. MANN: I am not. Mr. Jarman suggested that the information could be obtained on the "Orsova," but the police did not trouble to get that information and Lambert was unable to do so. The other five defendants have not been seen, but they could have been seen and statements could have been obtained from them as to whether Mooney was the sixth man. It seems to me the police thought that immediately they got rid of Lambert, the inquiry was completed. As a matter of fact it was only just beginning. The other five defendants should have

been seen; they would have stated whether Mooney was the sixth man. That, however, was not done. So we reach the point where two constables swear definitely to this man, and the man denies it, and in defence produces a discharge from the "Orsova" to show that he was not present when the offence was committed and could not be the offender. They deny that, and that is proved to be untrue. They admit that he did have a discharge, but it was a very old one. McNeill says that it had no bearing on the case at all.

The Minister for Justice: He says nothing of the kind.

Mr. MANN: He does.

The Minister for Justice: You read his statement and see.

Mr. Latham: Yes, let's have McNeill's statement on that point.

Mr. MANN: I do not see it in McNeill's statement; it is in Lambert's statement.

Hon. Sir James Mitchell: Anyhow, he did not have a discharge.

Mr. Latham: Why did not he appear and show the discharge?

The Minister for Justice: What would you have done had you been in his place?

Mr. Latham: I would have gone to the court and seen it through.

Mr. MANN: Mooney's record shows that he was an unreliable man, and that he was in the habit of signing on ships and failing to join them. There is information to show that he came to Fremantle early in 1924 where he deserted his ship. On the 7th March, 1924, he signed on the "Port Macquarie" but did not join the ship. The next day he signed on the "Port Caroline" but did not join her. On the 5th September he signed on the "Apolda," made a trip in her and left her at Bunbury. Then he disappeared and turned up on the s.s. "Pennyworth," and deserted her here. I suggest it is more than possible—even probable—that Mooney never went away on the "Australplain."

The Minister for Justice: You can suggest that, but he had a discharge to show that he did.

Mr. Latham: The Minister did not see the discharge.

Hon. Sir James Mitchell: Inspector Sellenger does not say so.

Mr. MANN: If there is such a discharge, it should be on the file. Inspector Sellenger never saw it.

The Minister for Justice: McNeill says he saw it.

Mr. MANN: If it takes half an hour, I shall go through the file to ascertain what McNeill does say, seeing that the Minister is so persistent on that point.

Hon. G. Taylor: Yes, take your time and find it.

The Minister for Justice: The records in the watchhouse say he had a discharge.

Mr. MANN: That is admitted, but it was an old discharge—dated 1916. The constables admit that he had a discharge, but Lambert did not see it. Mooney would not show it to Lambert. For some reason or other, he was more antagonistic to Lambert than to McNeill. McNeill says it was an old dirty discharge from the "Australplain" dated 1916.

Mr. Hughes: You said previously that he did not show a discharge to either of them.

Mr. MANN: I said he did not show a discharge from the "Orsova." I am not going to have the hon. member putting into my mouth words that I never used. All my case has been that Mooney did not show a discharge from the "Orsova," and that is the material point.

Mr. Hughes: Read Lambert's statement which you read previously and you will find you said Mooney never produced a discharge.

Mr. Latham: Let us settle it by an inquiry.

Mr. MANN: He said he showed them a discharge from the "Orsova." His words were, "I left Fremantle for Italy about the 8th February by the 'Australplain' and returned to Fremantle by the 'Orsova.' I received my discharge from that vessel on the same day. The discharge showed I was discharged from the s.s. 'Orsova' on the 5th May. He read my discharge, but made no remark and handed it back." That was Mooney's statement to Inspector Sellenger, and it was a definite statement that he had a discharge from the "Orsova."

Hon. Sir James Mitchell: Why did not Inspector Sellenger ask him to show it?

Mr. MANN: This is Constable McNeill's statement to Inspector Sellenger:—

Further to my report in reference to the service of a summons and ultimate arrest of Thomas Mooney, I have to report that on the night of the service, Constable Lambert and I followed Mooney from the Fremantle Hotel to the corner of Cliff and Phillimore-streets. After Constable Lambert had spoken to him, he produced a seaman's discharge but would not give it to Constable Lambert but told me to have a look at it. I had a look, but it was too dark to make out anything on it.

The Minister for Justice: Lambert said he did not see it.

Mr. MANN: Neither he did. McNeill's report continues—

I had no idea why he wanted me to look at it but to humour him, as it is the usual custom for seamen when in trouble to refer to their papers, I said, "Is this from the 'Karoola'?" He said, "No, from the 'Australplain.'" I said, "Come over nearer to the light near by," which he did, after taking back the discharge. Constable Lambert then looked at the discharge, but made no comment. I also looked and saw it was a discharge from the "Australplain," but I could not make out the date. It looked like 1916.

Mr. Hughes: In the previous statement did not you read that Lambert called him out of the hotel? Now they say they collared Mooney up the street.

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

Mr. MANN: In explanation I wish to say that if owing to interruptions I was thought to have alleged that the police took only evidence that suited them, it is quite a mistake; I never intended to make any such suggestion. I desire to clear up and emphasise certain points. Both Constables Lambert and McNeill swore to Mooney being the man they interrogated with others on the morning of the 3rd May. One of the six men whom they found leaving the Cleopatra Hotel on the morning of the 3rd May was Patrick Santley. Patrick Santley was the companion of Patrick Martin on that morning. Patrick Santley was the companion of Patrick Mooney on the night of the 27th June. This is only a circumstance, but it is something from which an inference can reasonably be drawn.

The Minister for Justice: That is very thin.

Mr. MANN: The Minister is anticipating what I am going to say. Patrick Santley was Martin's companion at the hotel on the morning of the 3rd May. Patrick Santley was the companion of the man who gave the name of Martin on the 3rd May. Patrick Santley was the companion of Patrick Mooney when the summons was served on him on the night of 27th June at the Hotel Fremantle. Patrick Santley was in company with Mooney when he was apprehended on the 28th. At all events this shows that both Martin and Mooney were companions of Santley, if Martin and Mooney are not identical. On the other

hand, if the police are correct, Martin and Mooney are identical, and so it was the one man all the time who was in the company of Santley. Now, Santley was there when Mooney was arrested, and is it not reasonable to expect that if Mooney was not the man, Santley would have said, "This is not Martin; this is not the man that was with me at the hotel on the morning of the 3rd May; you have made a mistake"? But Santley stood by and made no protest.

The Minister for Justice: He did not say it was the man, at any rate.

Mr. MANN: No; of course he did not. One would not expect him to do so. Men of that kind do not do that sort of thing, and the Minister knows it. They are more apt to try to prove a companion's innocence. Men of that description are not the men to stand by and see a mate put in prison if their word can save him. If Santley had said in the lock-up, "Mooney is not Martin; this is not the man who was with me on the 3rd May," the police would have been bound to take notice of the statement. But he made no such statement. He made no protest, but stood by and saw what is now alleged to be an innocent man put in prison. The reasonable inference is that Mooney was Martin, and that the two constables are right when they say that that is so. Mooney was not a stranger to the police. I have interviewed Constable Lambert, and he tells me that he knew Mooney very well under the name of "Paddy," and that earlier in the year Mr. Jarman called him over one day and said, "Look, Lambert, that chap is giving us a great deal of trouble. He signs on a ship but does not join. He has done that several times since he has been hanging about the port. You might have a word with him." In that way Lambert knew Mooney by the name of "Paddy." He did not speak to the man as suggested by Mr. Jarman, but in that way the man came under his notice.

The Minister for Justice: He must have been told his name. You say he knew him as "Paddy."

Mr. MANN: When Lambert, after his dismissal, started to make inquiries with a view to clearing matters up, Jarman said to him, "That is the man I spoke to you about earlier in the year." I am not trying to build up a case, but just trying to put the facts before the House as they have been put to me. I am not aggressive, and I hope the Minister for Justice will let me put my case. Then

he can reply. I realise that had it not been for the Premier's generosity and consideration, I would not have been able to bring this matter before the House. I have made the two points that Santley was one of the six men who on the Sunday morning were interrogated by the police, and that he was arrested together with Mooney and did not protest that Mooney was not Martin. He stood by and saw Mooney put in. Now, Mooney was in the lock-up from Sunday until Monday afternoon, and he made no protest to the sergeants there. He never asked to see the inspector. He never made any protest at all. According to his own statement he was taken to the prison, and he made no protest there. It was not until after his discharge that he raised the question of the "Orsova" and protested his innocence, claiming that he had been on the "Orsova." He did not say one word about the "Orsova" until after his discharge from prison. He did not say a word about the "Orsova" to either of the two members of the police force who arrested him, or to the reserve officer at the station, or to the gaoler—not a word. Not until two days after his discharge did he make application to the shipping master for a discharge as regards the "Orsova," a document he alleges he had when he was arrested. Unfortunately, the statement he gave to Inspector Sellenger was accepted without verification. Mr. Sellenger sent it to the Commissioner, who accepted it and sent it to the Crown Solicitor. The Crown Solicitor in turn accepted it as being correct, and on that recommended Lambert's dismissal. We now know that the document supposed to have been in existence, on the strength of which Lambert was discharged, never existed, and does not exist to-day. It is regrettable that Inspector Sellenger, when taking the statement from Mooney, did not say to him, "Where is your discharge? Show it to me." Then he could have attached either the discharge or a copy of it to this file. Apparently, however, the inspector merely accepted Mooney's bald statement and never asked to see the discharge. The constables to-day say that Mooney was the man. It is not for me to show that he was the man, or that he could have been the man. It may be that he never went away although he signed on. Somebody else may have gone in his name, and come back in his name.

The Minister for Justice: And then given the discharge to Mooney.

Mr. MANN: Mooney never had a discharge.

The Minister for Justice: He did have a discharge.

Mr. MANN: That was an old discharge.

The Minister for Justice: Who said so?

Mr. MANN: It was dated 1916. At any rate, surely that matter could be inquired into—did Mooney get a discharge from the "Australplain" in 1916? The Commonwealth shipping service would have a record of it. If it were shown that he got a discharge in 1916, that would bear out McNeill's statement. Rather than sacrifice a man's career, is it not worth while to make these inquiries? Lambert is a married man with 12 years' service, and he is dismissed from the force, which involves the loss of the whole of his compensation, £300. In the circumstances can it be maintained that to make inquiries would involve too much trouble? The fact is that this thing was rushed on the Minister. Now these points have been raised, it would be well for him to say, "We will inquire into them." I have proved that Mooney's statement to Inspector Sellenger was untrue. Mooney misled Inspector Sellenger, who in turn misled the Commissioner of Police, who in turn misled the Crown solicitor, who recommended the dismissal on false premises. I wish I had the opportunity of inquiring into this matter as a Commission. I would clean the whole thing up. I am confident that it can be done even now. We still have both the constables, men without a blemish upon their record, who are still convinced that Mooney was the man. We have circumstances supporting their belief. I repeat, it is regrettable that the police did not take Mooney to the "Orsova" during the seven weeks she was here, and inquire on board, "Did this man come back on this steamer as a passenger?" If that had been done, it is certain that if he had been on the boat, someone among the third-class or steerage stewards would have been able to say, "Yes, I remember him." The Minister will agree that it is regrettable that was not done. Lambert went down several times and described Mooney to people on the "Orsova," and he says that he could find no one who remembered Mooney. At that time, of course, Lambert had been dismissed, and he had not the machinery to conduct an inquiry, as the Police Department could have done. He was not in touch with Mooney. I understand, too, that the man who gave his

name as Cameron can be found at Fremantle and he would have been able to say something about it as well. Surely that should be done. I have shown that an injustice has been done to Lambert because the evidence on which he was dismissed was incomplete; it was on the evidence of a man who was untrustworthy and unreliable that the constable was dismissed in preference to accepting the evidence of Lambert and his colleague, McNeill. If it is possible that a mistake was made, it would be an extraordinary mistake and one that, in the circumstances, ninety-nine out of a hundred men might have made. If it was a mistake, than I submit that the punishment meted out to Lambert was far too severe for an officer who had never made a mistake before—if this was a mistake. It was too severe altogether to dismiss him from the force and fine him £300, for that is what it amounted to.

Mr. Marshall: Who fined ex-Constable Lambert £300?

Mr. MANN: In a few months he would have been entitled to draw compensation amounting to about £300.

Mr. Marshall: You did not mean that a direct fine had been imposed?

Mr. MANN: No. That was the pecuniary loss to the constable. I hope I have not missed any points that I should have made, because I feel very much my responsibility in putting up the case on behalf of Lambert. The police are so unnerved regarding the question that at first they would not trust me in the matter. They feel that they have no one that they can rely upon to give them a fair deal. It is regrettable that that feeling should exist. Although I served in the force for 20 years, they had not sufficient confidence in me at first to ask me to take up the case. I am sorry that they took the wrong course and rushed to the newspapers with columns of stuff, including references to matters that did not affect the position, and which got them no further. When I went to them about it and saw the executive of the Police Association, they thought at first that I was too much in touch with the head of the department and the Minister to give them a fair deal. Therefore I wish to make every point that I can in order to establish Lambert's innocence, or at least to furnish sufficient grounds to warrant the holding of an inquiry. I feel I have done that and that the House and the Government as well will realise that an injustice has been

done to Lambert and that an inquiry should be granted regarding his dismissal. I move the motion standing in my name.

On motion by the Minister for Justice, debate adjourned.

Hon. Sir James Mitchell: Will this motion be brought forward again?

The Premier: Yes.

## **BILL—MINER'S PHTHISIS ACT AMENDMENT.**

### *Second Reading.*

Debate resumed from 8th December.

**HON. SIR JAMES MITCHELL** (Northam) [7.50]: I do not intend to offer the slightest opposition to the Bill which seeks to amend the Act passed in 1922. It is a necessary measure. As I have endeavoured to impress upon the Minister for Works from time to time, we cannot construct perfect legislation the first time. Acts require amendment and so, bit by bit, we get near to the right thing. Men who suffer by reason of their work underground in the mines deserve the greatest possible consideration that can be extended to them. Consideration was extended to them in the original Act that was presented to Parliament by Mr. Scaddan when Minister for Mines, and consideration is again shown to them in the Bill now before us. Justice will have to be done to these unfortunate people. We should see to it that everything that can be done for them is done. There will probably be married men with children who may be growing up or have grown up and it may be possible to settle a number of them upon the land under such conditions that they will be able to enjoy better health.

Mr. Marshall: None of the men who will come out of the mines under the provisions of this legislation will be able to work on the land.

Hon. Sir JAMES MITCHELL: Yes, they will. I have discussed this matter often with the Minister and with Mr. Scaddan when he was Minister for Mines.

Mr. Marshall: Well, they won't.

Hon. Sir JAMES MITCHELL: Then if that is so we might just as well pass the Act out altogether.

Hon. S. W. Munsie: There is no question about it; the majority of those who will come

out of the mines under the provisions of this legislation will be able to work.

Mr. Marshall: Not at all.

Hon. Sir JAMES MITCHELL: Of course that is the position. I saw one man who was dying from miners' phthisis and I do not want to see any more. I want to help them in every way possible. If we can place them on the land where the climatic conditions are right and settle them properly on the land they will be able to live in some degree of comfort and feel that their dependants are provided for. The Premier knows I have discussed this matter with him often. At one time I thought we should endeavour to secure one or two of the large sheep farms in the Great South-ern.

The Premier: Yes, about Gnowangerup.

Hon. Sir JAMES MITCHELL: Yes. If we could place them there, they would have fairly easy work. We must do our duty by these men. I am glad the Bill has been introduced, and it has my whole-hearted support. At the same time I hope these unfortunate people will not be left in the position of having their affairs handled by ordinary officials. I trust that someone will be appointed, perhaps an official from a Government department, whose sole duty it will be to look after these people. If they go to the departments and meet officers who are already over-busy they will not have a very comfortable time. Someone should be appointed to concern himself about the requirements of these men and do all possible to help them in any dealings they may have.

The Premier: We have appointed a board to assist them.

Hon. Sir JAMES MITCHELL: Yes, but I would like the Premier to appoint someone whose time would be devoted specially to looking after them and getting to know their requirements.

Mr. Heron: Someone who is not too office-bound.

Hon. Sir JAMES MITCHELL: At any rate, someone who will be able to look after them specially.

The Premier: Whose whole time will be devoted to conserving their interests.

Hon. Sir JAMES MITCHELL: If we leave them to find their way about Government departments without assistance, they will meet officials who are already busy and nothing much will be done for them. I merely throw out that suggestion to the Minister in the hope of assisting him.

The Minister for Mines: It is a good suggestion.

Hon. Sir JAMES MITCHELL: From my experience I know that these men have played their part in serving the country and they are men jolly well worth helping. Our duty is clear and we should do the best we can for them.

The Premier: Yours is a very good suggestion indeed.

Hon. Sir JAMES MITCHELL: I hope so, for I believe that is the only way we will be able to assist them adequately. By the provision of such an officer these unfortunate people will have ready assistance and the officer appointed will be able to take them to the officials who will have to deal with their business. At the same time, of course, I wish to make it clear that I am not saying a word against the departmental officers.

The Premier: No, you merely point out that they would have their ordinary work to do.

Hon. Sir JAMES MITCHELL: Yes. I support the second reading of the Bill.

Question put and passed.

Bill read a second time.

#### *In Committee, etc.*

Mr. Lutey in the Chair; Minister for Mines in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 9:

Mr. HERON: Paragraph 4a in proposed Subsection 2 sets out that compensation to be paid shall be not less than that prescribed by the scale of relief in force under the Mine Workers' Relief Fund. That is rather indefinite.

The MINISTER FOR MINES: It means that the miner will receive not less than the amount prescribed in the Mine Workers' Relief Fund scale. The man may receive more, but he cannot receive less. I am well aware that the relief fund has not been making such payments as one would like to see paid.

Mr. Heron: It is because of that that I asked the question.

The MINISTER FOR MINES: Any payments made beyond the scale referred to will have to be made up from elsewhere.

Clause put and passed.

Clause 3—agreed to.

Title—agreed to.

Bill reported without amendment and the report adopted.

Read a third time and transmitted to the Council.

#### **BILLS (2)—RETURNED FROM THE COUNCIL.**

1, Land Drainage.

With amendments.

2, Racing Restriction Act Amendment.

Without amendment.

#### **BILL—CONSTITUTION ACT AMENDMENT.**

*Second Reading—Defeated.*

Debate resumed from 8th December.

HON. SIR JAMES MITCHELL (Northam) [8.2]: I wish I could support the Bill as whole-heartedly as I was able to support the last one. However, I entirely disapprove of this one. The Premier does not seek to do away with another place altogether, but he and his Ministers have said that the idea is bit to bit to so arrange the franchise as to enable them to abolish the Upper House later on. The Council has come in for a good deal of abuse in the House, particularly at the hands of the Minister for Works.

The Premier: Not abuse. Criticism.

Hon. Sir JAMES MITCHELL: Well, has been criticism approaching abuse.

The Minister for Lands: I am surprised I thought you would readily support the Bill.

Hon. Sir JAMES MITCHELL: I am always anxious to protect the rights of the people, particularly those of the worker. But this proposal of the Premier's says that any habitation shall qualify a man as a elector to another place. The Act of to-day says in effect "a moderate dwelling," but the Premier says "any habitation attached to the ground even though it be a hessian structure."

The Premier: Some of our best citizens live in such places.

Hon. Sir JAMES MITCHELL: Perhaps but only temporarily. Most of our people are sufficiently well paid to be able to have their families occupying very decent houses.



The Premier: It is largely a matter of occupation and locality.

Hon. Sir JAMES MITCHELL: To some extent, naturally, in a country such as ours. I repeat that our citizens are fairly well housed. I suppose that houses in Kalgoorlie are cheaper than houses in any other part of the State. I have seen whole houses with their furniture deserted by people who, unfortunately, had to leave the district and who found it not worth while paying freight on either the building or the furniture.

The Minister for Lands: Some properties have so depreciated that the occupants are no longer entitled to a vote for the Legislative Council.

Hon. Sir JAMES MITCHELL: I myself sometimes feel strongly about the Council, and I know that members there criticise us freely. But as an institution they ought not to be attacked as the Minister for Works has attacked them. And while he attacks them for refusing to pass his legislation, my complaint against them is that they pass far too much of it. I do not know why the Premier should object to a second Chamber. He says the Council is no longer a House of review. At any rate it is a House of second thought.

The Premier: There is something to be said for a second Chamber, but not one constituted as ours is.

Hon. Sir JAMES MITCHELL: I will deal with that later. The Premier mentioned that in the Old Land there is a Parliamentary Act under which if the House of Lords reject a measure twice and it be passed a third time by the House of Commons, it can be assented to by His Majesty without further reference to the Lords. That is one way by which the Government of the day can carry out their policy without let or hindrance. However, I do not know that that would suit in this great free country. The system here is better than that in the Old Land.

The Premier: What is the good of the most liberal franchise for the Commons or the Assembly if the final say rests with another place?

Hon. Sir JAMES MITCHELL: If the franchise of our Legislative Council were not an exceedingly liberal one, there would be some point in the Premier's argument. The Premier has said there is no great need for the Federal Senate on its present basis. I agree that from our point of view there seems

mighty little reason for the Senate. Whilst it was originally intended to be a States' House, it has become a very strong party House and has been so for some years past, with the result that the party successful in the House of Representatives would be very unlikely to lose control of the Senate. The only difference between the two Houses is that the Senate is representative of the States. The franchise for the two Houses is the same, and so there scarcely seems to be reason why both Houses should exist. In Victoria and Tasmania they have elective Upper Houses, as we have. In New South Wales there is a nominee Upper House. In Queensland the Upper House was a nominee House. The Government had power to appoint their own nominees, and so they arranged to abolish the House. Would the Premier like to be Premier in Queensland?

The Premier: Yes.

Hon. G. Taylor: He would have a pretty short life there.

Mr. Teesdale: We treat you much better here.

The Premier: I am quite content to stay here.

Hon. Sir JAMES MITCHELL: Mr. Ryan, who was Premier of Queensland, had the advantage of an Upper House. But he saw what was going on, and so he went into Federal politics. Mr. Theodore followed him as Premier. It got a little too warm for Mr. Theodore, and so he got out. The powers outside of Parliament proved too strong for him. He did everything he thought necessary to make himself comfortable. The Upper House was abolished by him and he arranged for proxy voting in his single Chamber. He thought he had made everything comfortable, but the unseen hand was too strong for him and so, after a considerable time and much argument and unpleasantness, he got out. When it was suggested that he should introduce the 44-hour week he said the thing could not be financed and that he did not propose to attempt it. But of course the powers were too strong for him and he had to either introduce the Bill or go. He introduced it and he did go also.

The Premier: Then it was not a question of choice: he had to do both.

Hon. Sir JAMES MITCHELL: First he made his choice and submitted the Bill, but subsequently he retired to contest a Federal seat. Mr. Theodore is a very able man. He

made the mistake of his life when he abolished the Upper House, because then the outside influence became very strong. He was followed by Mr. Gillies.

Hon. G. Taylor: He did a wise trick.

Hon. Sir JAMES MITCHELL: But he had to go.

The Premier: I am thinking of creating a board of trade here.

Hon. Sir JAMES MITCHELL: Everyone knows what happened to Mr. Gillies. I do not approve the suggestion that he went to get a better job. He went because things had got too hot for him.

The Premier: It is rather unkind, pointing out to me the fate that lies in store for me.

Hon. Sir JAMES MITCHELL: I want to make the Premier see the fate that will be in store for him if he does provide for the abolition of the Upper House.

The Ministers for Lands: That is not in the Bill:

Mr. Latham: No, but it is the intention underlying the Bill. The Minister for Works said so.

The Premier: This will strengthen the Upper House, backed up by a greater number of people.

Hon. G. Taylor: The Minister for Works put the show away.

Hon. Sir JAMES MITCHELL: I have shown that Premiers of Queensland have been killed through the abolition of the Upper House. Parliaments there do not exist because they are controlled by Trades Hall.

The Minister for Lands: Let us deal with matters at home. Why go to other places? You are only assuming things from what you have read in the papers, which things have been sent by a supporter of your party.

Hon. Sir JAMES MITCHELL: They have been sent by an honest man, if he does support my party.

The Minister for Lands: I do not say he is not honest.

Hon. Sir JAMES MITCHELL: There are many people in the country who support my party.

The Minister for Lands: They are the same as others.

Hon. Sir JAMES MITCHELL: It is not fair to say that because a man holds the same political views as I do he cannot be straight as a journalist. So long as there is a Labour Government in Queensland it

will be squeezed because of the abolition of the Upper House. There was recently a railway strike in that State. The Government were defied by the employees and made to do what they said they would not do, and do it quickly. Recently the farmers there protected the waterside workers in the handling of their cargo. In New South Wales the Upper House is a nominee House. In this State the Upper House is elected on a liberal franchise. If a man possesses £50 worth of freehold property or pays £10 on a Crown lease, or occupies a house worth 6s. 6d. a week, he has a vote for the Council.

The Minister for Lands: 6s. 6d. will not do it, and 8s. will not do it.

Hon. Sir JAMES MITCHELL: I am quoting the Premier when I say 6s. 6d.

The Minister for Lands: It depends on the rates.

Hon. Sir JAMES MITCHELL: Let us call it 8s. 6d. It would not be possible to get much of a house in North Fremantle for that.

The Minister for Lands: That is 2s. more than you say.

Hon. Sir JAMES MITCHELL: The proposal is that if a tent is a fixed abode it will suffice. So long as the building is attached to the ground it shall entitle the occupier to a vote. There may be only four poles put up, 8s. 6d. worth of hessian put round them and a little iron on the top. This will entitle a man to a vote. When we say that the payment of rent of £17 a year will qualify a man to vote for the Council we go far enough. I do not know that any married man is unable to go as far as that. The Premier has not asked us to agree that the franchise for the Upper House shall be the same as that for this House. The Upper House is not a rich man's house. It is really a poor man's house.

Hon. G. Taylor: With many poor men in it.

Hon. Sir JAMES MITCHELL: Surely every married man has a vote for the Upper House, and certainly the thrifty man who has £50 worth of property has a vote. No one complains about the present franchise or objects to the qualifications.

The Minister for Lands: Many want an alteration.

Hon. Sir JAMES MITCHELL: I have not met them. I see people of all classes. I do not think the public bothers about the franchise.

The Minister for Lands: They think so little of the Council they will not vote.

Hon. Sir JAMES MITCHELL: They do not vote well for the Assembly either. There is no justification or demand for a change. We cannot have good government if the minorities are ignored. We are in a minority in this House. Members opposite, including Mr. Speaker, number 27, and we number 23. We have very little influence over the legislation.

The Premier: We had eight years' experience of that.

Hon. Sir JAMES MITCHELL: Apparently it was not a good thing for the Premier. We treated him when he sat here with every consideration, but our views have not received the same consideration. True, most of the legislation to which I refer has been brought down by the Minister for Works. Minorities must be considered. Members opposite were not returned by a majority of the votes cast. But 52 per cent. of the voters on the roll exercised the franchise, and I doubt if members opposite received more than 25 per cent. of the votes cast. They cannot claim that they have a mandate to do whatever they please, as the Minister for Works would have us believe, and they cannot complain if the people have some representation elsewhere. The workers often want some protection. I do not think Ministers are in touch with the workers in the country. They are in touch with their organisations, but these are often out of touch with the workers. We all want good government, and the people are entitled to ask for it. It is more essential to the workers than probably to other people that the government should be good. It often happens that people make money when the Government is not quite as strong as we would like it to be. It happens, too, that the workers suffer when such is the case. The influence of the Government is important. We want enterprise to be encouraged. We want the workers to have work and good wages. They cannot all work for the Government. Those who work for the Government must have their wages earned for them by those who produce, unless it be during the expenditure of borrowed money. It is necessary that our enterprises should be protected and encouraged, just as the workers should be protected and encouraged. No Parliament in this continent

has given greater consideration to the interests of the workers than this one.

The Premier: This House, you mean.

Hon. Sir JAMES MITCHELL: I mean this Parliament. I include this House. All good things originate here. Our Parliament is very good. We have passed a lot of legislation for the good of the workers. Take our land laws, and our assistance to settlers. Take also our mining legislation. We have passed many liberal laws for the good of the worker, which make it possible for him to get away from the rack. I do not know why the Government desire to liberalise the franchise. They have not much cause for complaint. The Government are anxious to put through the Industrial Arbitration Act Amendment Bill. We told the Minister for Works it was a bad Bill and ought not to be passed. We said it was not all bad, that there were some good proposals in it. These are being left in the Bill.

The Premier: Like the curate's egg, I suppose, it is good in parts.

Hon. Sir JAMES MITCHELL: The parts that were good were not very big. I believe the good parts will become law if the Government are willing when the amended Bill comes back.

The Premier: It is the good things that will go, unfortunately.

Hon. Sir JAMES MITCHELL: The Government will have little cause for complaint. The Premier has less cause for complaint as Treasurer, against the Upper House, than I thought I had as Treasurer. Many of my proposals were rejected by another place.

The Premier: Some of the members of another place are writing in the news papers that they are responsible for your defeat. Do you think they were serving the country then?

Hon. Sir JAMES MITCHELL: I think they flatter themselves.

The Premier: I think so too.

Hon. Sir JAMES MITCHELL: It was a bad thing for the country when they defeated me, and I should think that their subscribers would return their papers to them to-morrow.

The Premier: If their claims be sound do you not think they deserve to be abolished for that alone?

Hon. Sir JAMES MITCHELL: No. I would not agree to that.

The Premier: They ought to be severely punished, if not abolished.

Hon. Sir JAMES MITCHELL: We find misguided people wherever we go. They are not all wise, and are not all perfectly honest. Naturally, after five years a change is wanted. I am surprised that they boast now that they had some hand in my defeat.

The Premier: They claim it absolutely. They say I was your supporter when I was on the other side of the House, but that it was they who destroyed you. Some of them say that.

Hon. Sir JAMES MITCHELL: I do not propose to destroy them.

The Premier: You are turning the other cheek.

Hon. Sir JAMES MITCHELL: Some of them individually ought to go, but that is another matter. A majority of members of the Upper House do the right thing. My complaint is that they are too good to this Government. I think it will be found that the workers will object to some of the legislation that the Upper House has approved. The Upper House has agreed to legislation that I disapprove of—taxation measures, high rates for this and high rates for that. The Upper House has been very good to the Government and I am afraid they have not been watchful of the people's interests. I am surprised at the Premier asking for the abolition of the Upper House.

The Premier: I am not asking for its abolition; I think this little advance will eliminate that element that you and I complain about.

Mr. Davy: The element that put our party out and put you in!

Hon. Sir JAMES MITCHELL: I have no quarrel with them because of their attitude towards me.

The Premier: You are most generous to them.

Hon. Sir JAMES MITCHELL: I have for so many years been abused that I do not mind, but I do not think I have ever been abused by honest men.

The Premier: That is not a bad one.

Hon. Sir JAMES MITCHELL: Therefore I can afford to be generous.

The Premier: Now we can begin to pick them out.

Hon. Sir JAMES MITCHELL: If the Upper House were reactionary, obstructive, and non-progressive; if it represented the views of the worst men, I could understand

the move, but it does not. If it were elected on a franchise similar to that of the Assembly, it would not be a bit more liberal than it is to-day. The Minister for Works will not agree with my remarks. I say he represents only 25 per cent. of the electors yet he claims to have a mandate from the people. When he introduces a Bill he says that there is no need to discuss it, to read it a first, a second or a third time, that there is no need even to have it assented to.

The Premier: Now you are exaggerating.

Hon. Sir JAMES MITCHELL: I have told that to the Minister for Works many times. We know the Minister for Works very well; we know his good qualities and we know his weaknesses. I think that 52 per cent. of the voters on the roll went to the poll. I hope they will interest themselves even further and the position then will become totally different. The Premier will tell us that we on this side represent the minority who exercised the franchise at the last elections. As a matter of fact, we sit here because, by 69 votes, the party opposite were elected to the Treasury bench.

The Premier: That is not very sound reasoning.

Mr. Marshall: What about Murray-Wellington, Mt. Margaret, and even Northam, where I think your majority was only 90?

Hon. Sir JAMES MITCHELL: Turn over 69 and there would be none of you over there at all.

The Premier: Turn over another couple of hundred and there would be only half of your side on the Opposition benches. We can give you one for one. What about your majorities of 17, 19, 9 and so on? What about Avon and Mt. Margaret and Murray-Wellington?

Hon. Sir JAMES MITCHELL: You sit on the Ministerial side because of 69 votes.

Mr. SPEAKER: I would remind the Leader of the Opposition that the Bill deals with the franchise of another place.

Hon. Sir JAMES MITCHELL: Yes, and the other place represents all the people.

The Premier: Do they represent the 144,000 who have no votes.

Hon. Sir JAMES MITCHELL: They represent all the people. I agree with the Premier that all who come here forget that they represent all the people. They get into the habit of saying, "I represent a district; this proposal does not concern my district, and therefore it does not interest me." That

is not representation of the people. We must do what is right and just by all the people, and legislate for them all. We expect every member who comes here to do his best for all sections, and it should be so with another place. I do not say that the Legislative Council cannot be improved, but I do say that the Premier's way is not the way to do it.

The Premier: What would you do?

Hon. Sir JAMES MITCHELL: I would leave it as it is. If the Premier had his way, he would wipe out all qualifications.

The Premier: My view is represented in this Bill, at any rate for the time being.

Hon. Sir JAMES MITCHELL: Yes, that is honest; it is just a step nearer to the carrying out of the wishes of the party to which he belongs. Before I vote for the Bill I want the Premier to show me that it will be better for the people if we further liberalise the franchise of the Upper House, but he cannot show me that. The House is capable of improvement, but the improvement can be made only by the electors. If the electors do their duty, the House will be improved.

The Premier: Then we want some new blood amongst the electors.

Hon. Sir JAMES MITCHELL: We want the electors to do their duty.

The Premier: We debar from having a vote the men who would improve it.

Hon. Sir JAMES MITCHELL: The electors have returned good and capable men to another place, men who are fair and who have courage, men of ability and whose desire it is to do what is right. There are bound to be some poltroons returned. By poltroons I mean men without courage. For the most part, however, the members of the Upper House are exceedingly capable and fair. The men who should be eliminated can be eliminated under the present franchise. The Premier says that the Upper House has been his trouble, but that is not peculiar to the present Government; the Upper House has been a trouble to every Government. Sometimes members there pass hasty legislation.

The Premier: We check their amendments then.

Hon. Sir JAMES MITCHELL: They do not initiate legislation.

The Premier: They do not initiate, they execute.

Hon. Sir JAMES MITCHELL: The Premier complains that they execute; I say

that they pass Bills that they might well refuse to consider. I think they sometimes go a bit too far in amending legislation. Sometimes they almost redraft a Bill from cover to cover, though not very often. But members there do serve a useful purpose. The Upper House in Queensland has been abolished and the Upper House in New South Wales is about to be abolished. The people in those States are no better off than those in other States where the Upper Houses are elective like ours. If we desire to make any drastic change, we must show good reasons for doing so. I know that bit by bit the Legislative Council has become more or less a party House. When I first came here 20 years ago it was a non-party House. The change is to be regretted, but for the most part the members of the Upper House exercise calm judgment and they are actuated by a desire to do what is right. The Premier says that the Council is no longer a House of review. I do not agree with that. Members there may go a bit further than was originally intended, and I think they sometimes do, but they also do useful work. When we set about making alterations, we have to do so with the idea of improving the condition of the people. What we are concerned about is good government, and that is what the people are concerned about. It is essential to the worker of this country that the enterprising should be encouraged. It is essential to the whole people that the interests of the minority should be respected. The Premier will agree with that. He knows the difficulty of finding all the money we want, and he knows how difficult it is for the enterprising to get the money they would like to put into ventures that would absorb people and provide employment. To-day there is more Government work going on than is usual at this time of the year, and yet there are men out of work, simply because people who are enterprising and would do things cannot get money at a reasonable rate. The position will not be improved if, by any act of ours, we brought our Parliament on to the level of the Parliament of Queensland. Although the Premier may not agree with me, undoubtedly the people of Queensland are not as well off as when they had an effective second Chamber.

The Premier: There is no evidence at all of that.

Hon. Sir JAMES MITCHELL: There is. If one can believe the figures, the people of Queensland are not as well off now as they were before.

The Premier: That is only an assertion.

Hon. Sir JAMES MITCHELL: The public reports show that the savings bank balances of the people have declined. The workers of Queensland have become almost impoverished.

The Premier: Do you know the economists hold that a reduction of bank balances indicates increased prosperity? The people are withdrawing their money and putting it into other things. Large savings bank balances are evidence of bad times.

Hon. Sir JAMES MITCHELL: Then I think the Queensland people who are withdrawing their money must be putting it into the Golden Casket sweeps.

Hon. G. Taylor: That is not a very safe place to put it.

The Premier: When things are prosperous bank balances are low, but when things are not so good the people keep their money in the banks.

Hon. Sir JAMES MITCHELL: I have heard the Premier argue in precisely the opposite way. He cannot have it both ways. As head of the Government the Premier here is very much better off with an Upper House than he would be in Queensland without one. It is not only the party to which the Premier belongs who would exercise undue influence if there were no Upper House.

The Premier: There are other executives?

Hon. Sir JAMES MITCHELL: Of course. So it is better that we should have a second Chamber elected on the liberal franchise now provided. The Council is not a party House to the extent that this House is and it never will be, although I consider it is becoming too much of a party House.

The Premier: It is absolutely a party House, with the exception of a few members.

Hon. Sir JAMES MITCHELL: To some extent it is.

The Premier: In the main it is.

Hon. Sir JAMES MITCHELL: There are some members of another place who are not very strong party men, and they do not meet members from this Chamber and do not agree upon legislation before it reaches them.

The Premier: There are not many such members.

Hon. Sir JAMES MITCHELL: But there are some.

The Premier: They had a party meeting with regard to the Arbitration Bill last session and agreed amongst themselves on amendments that were to be made.

Mr. Latham: That was only to save time.

Hon. Sir JAMES MITCHELL: That was a meeting of members of another place. They did not meet members of this House in conference.

The Premier: No; last year members of another place met together and decided as to what amendments they would make to the Arbitration Bill.

Mr. Latham: I suppose all the members were invited.

The Premier: All the members were not invited.

Hon. Sir JAMES MITCHELL: To an extent it is not a party House, and it might become a non-party House to a much greater extent. Certainly it has been very impartial. In my time I received no greater consideration with my legislation than has been extended to the present Premier. In fact, the Council have given him more consideration. I am certain that if I had sent along some of the legislation that he has sent them, it would have received short shrift.

The Premier: You are becoming a humorist.

Hon. Sir JAMES MITCHELL: What I say is true. For my part, a bit of hessian will not qualify an elector to vote for the Council. When we have the rent of a house down to £17, the payment of £10 on a Crown lease, or the possession of property worth £50 as the franchise for another place, we have gone far enough. Above all things I hope members here will realise that their duty is to provide good government by doing the right thing when fixing the franchise for another place, just as we should do the right thing by the people in every measure we consider in this House. It is not for us to serve party in this matter; we must serve the country. I am not concerned beyond that. I hope, notwithstanding that it is the declared policy of the party opposite that the Legislative Council should be abolished, we shall not be foolish enough to pass this Bill.

MR. BROWN (Pingelly) [8.53]: I shall oppose the second reading.

Mr. Marshall: I felt sure you were in favour of the Bill.

Mr. BROWN: The Premier might as well have gone the whole hog and provided for

adult suffrage straight out. This measure will not be at all workable. It will merely lead to a lot of confusion. How many people in the city of Perth are not living in a house of habitation?

The Premier: All those who are not living on the Esplanade.

Mr. BROWN: Very few are living on the Esplanade. Even those who are dependent on the Government for food have to go to some place to sleep, and that must be a house of habitation. Take a man who has a house for which he is paying a rental of 30s. or 35s. a week. He may use it as a lodging or an apartment house and have 10 or 12 people living in it. All of them would be entitled to be enrolled as voters for the Council. This Bill deals with the Council only, because we have adult suffrage for this House.

The Premier: Where did you get the idea that 10 or 12 lodgers are entitled to the franchise?

Mr. BROWN: They would be living in a house of habitation, would they not?

The Premier: You have not read the Bill.

Mr. BROWN: In the country a farmer employs a man who does not live in a stripper. He probably lives in a house of habitation, and has a right to be put on the Council roll. His work is only of a temporary nature. If he gets on a province roll it may not be long before he moves to another province and gets on that roll also, and possibly after a while his name will be found on the roll of almost every province in the State.

The Premier: You have not read the Bill at all.

Mr. BROWN: That is the way I interpret it.

The Premier: Why not have a glance at it?

Mr. BROWN: Plural voting is probably stopped, but when a man is on the roll for one province he has a right when changing his address to get on the roll for another province. Thus a man with no permanent abode might soon have his name on the roll for every province in the State. I would as soon see adult suffrage adopted for both Houses as this proposal. If we had adult suffrage for both Houses, another place would cease to be a House of review. The Government would make it a party House. It would only be necessary for them to submit legislation here and it would have to pass another place.

When a Government Bill is made a party measure here, we have the spectacle of Government supporters remaining silent, refraining from criticising in any way because the Government want the Bill to go through. Given a reduced franchise, it would be the same when such a measure went to another place.

Mr. Stubbs: We would not want another House then.

Mr. BROWN: That is so.

The Premier: You are wandering too far north for me. I am not prepared to go that far.

Mr. BROWN: I still say we should have a qualification for the upper House.

Hon. G. Taylor: I think you must be a bit of a Communist.

Mr. BROWN: Another place is developing into a party House. When an election occurs the Labour Party, the Nationalist Party, and the Country Party each strives to get its candidate returned. There are really three parties in both Houses at present.

The Premier: No, the other place is a non-party House!

Mr. BROWN: Well, that should not be; Every measure should be open to review. If this measure be passed, the Council will become a party House in real earnest. That is the Premier's object. He wants to get control of another place. There is no escaping that fact. If he could gain control of another place by securing the return to it of his supporters, we would have a Bill here quick and lively proposing the abolition of the Council.

The Premier: You should not make charges.

Mr. BROWN: I know something of the objective of the Labour Party. I believe in making the franchise for another place as liberal as possible. But there should be some restrictions. If we granted the franchise to every adult, legislation might be passed that would prove detrimental to the welfare of the country.

The Premier: How far would you go in liberalising the franchise?

Mr. BROWN: So long as a man was the tenant or owner or was living in a house, even if he was paying only a shilling a year, I would give him a vote.

The Premier: That is my Bill.

Mr. BROWN: I do not understand the merriment of members. This Bill is a very dangerous one.

Mr. Teesdale. You are worse than the Bill.

Mr. BROWN: If it is impossible to go the whole hog, people try to get the thin end of the wedge in. If this Bill is carried, the Government will go a bit further next session. That, I feel sure, is the Premier's object.

The Premier: What charge are you making against me now?

Mr. BROWN: That the Premier has introduced a very cleverly worded Bill. If he gets it through without amendment, he will have done an excellent thing for his party. I am given to understand that a measure of this kind has been introduced before. Evidently the proposal does not make much progress. Perhaps the previous measure was more drastic than this one, and experience has led the Premier to think, "I'll try to get in a little bit at a time."

The Premier: What is wrong with the Bill?

Mr. BROWN: The present franchise is thoroughly liberal. Is any householder of Perth not entitled to be on the Legislative Council roll? I would not cavil at how much rent an occupier was paying, so long as he was a permanent resident.

The Premier: That is what the Bill provides.

Mr. BROWN: There is much more than that in it. Unless the Premier can show me that the Bill is restricted to what he suggests, I must oppose it.

MR. DAVY (West Perth) [9.4]: This measure does not strike me as unimportant. It proposes a drastic change in our Legislature, although it has been introduced at a stage of the session when people are inclined to take things humourously. Personally I am a firm believer in second chambers. That view is shared by many eminent constitutionalists who are qualified to speak on the subject. One may hold the belief in question, and at the same time quite consistently believe that the will of the majority of the people should prevail. I believe that it should. However, I think the will of the people should be a considered will, and not merely the ebullition of a moment of hysteria or of a view not informed and not considered.

The Premier: That is the argument for second chambers. There is much to be said on those lines.

Mr. DAVY: I am glad the Premier agrees with me there.

Mr. Hughes: Can the will of the people prevail if a third of the people have the right of veto?

Mr. DAVY: I am not talking about that at the moment. The argument in favour of second chambers is that we must ensure that the view of the people is such as they are likely to hold in a few years' time. The second Chamber is necessary as something in the nature of a brake on hasty legislation. I shall be told that we have had examples of hasty legislation from another place.

Mr. Hughes: Shocking examples.

Mr. DAVY: We need not use opprobrious terms, but once another place sent us a Bill which I am sure had not been considered sufficiently. On that occasion we acted as the brake and put the measure out. A gathering of the wisest and most industrious people in the world may have moments of aberration and do ill considered things.

The Premier: Even Homer sometimes nodded.

Mr. DAVY: Yes. The wise man is not always up to form. Particularly is that the case where one is dealing with a collection of people. Psychology recognises that the opinion of a collection of people is not exactly the sum of the opinions of the people making up that collection. It is quite understandable that even a House of review might occasionally do something hasty. We are here to rectify that.

The Premier: Every good leader of a party is supposed to have some judgment of mob psychology.

Mr. DAVY: Without it he will never be a successful leader. It is the quality which frequently makes the demagogue as well as the successful leader. In my short experience here I have seen even the Assembly in a silly mood. It must be so.

The Premier: Yes, the House being human.

Mr. DAVY: Such being the position, the advantage of having an Upper House, though likewise liable to silliness, lies in the chance that the moments of silliness will not synchronise. One has to consider whether the second chamber should have the same Constitution as this House, or a slightly different one. Personally I consider it should have a slightly different one, because



we do not want an Upper House representing the same point of view at the same moment as this Chamber. In my opinion, the Upper House should be a little more cautious or Conservative than we are here. The system upon which the Legislative Council has been elected in the past seems to me to give just that necessary element of caution. The existing franchise for another place is really a household franchise. Broadly speaking it means that the heads of families vote for that place. Heads of families, whatever their financial position or their means of livelihood, tend to be slightly more cautious than people, either men or women, who are without family responsibilities. The head of the family is the person who, in the legitimate sense of the phrase, has a stake in the country. This does not necessarily mean the man who owns land: it means the man or the woman carrying family responsibilities. The present franchise for the Upper House seems to me just about to meet the position. That being so, I do not favour the alteration of the amount entitling a person to vote. I do, however, find it difficult, in following out the view I take, to support plural voting. On the Road Districts Act Amendment Bill I opposed the abolition of plural voting for local authorities. That, however, seems to me a different proposition from this one. The principal object of a road board is merely to spend, within very definite limits, a sum of money contributed by certain people. It seemed and seems to me logical that the people who put more money into the pool should, to a certain extent, have more voice in the spending of it. Here, however, is a different proposition. True, Parliament as a whole has as one of its functions the spending of money. But it has also the power to pass laws which affect every citizen of the country at every moment. Therefore it seems to me that the argument in favour of plural voting for road boards does not apply to the franchise for electing members of another place. Provided we have this very low but still sufficient franchise to ensure that those who elect members of the Upper House shall be responsible persons, I am content to trust the people of Western Australia to see that another place has just the sufficient caution and the sufficient stability to act as a brake. I cannot say that the Premier has stated it, but a member of his Government has stated in this House—and I do not think the Min-

ister was joking—that this Bill was merely a first move towards abolishing the other place. By way of interjection the Minister for Works said the other night that that was the sole object of the Bill.

The Minister for Lands: He did not say that. Somebody said to him, "Why don't you abolish the other place?" and he said, "How can we do it unless we get the members to do it?"

Mr. DAVY: The Minister for Works gave me the very clear impression that in his view the object of the Bill was simply to get members sharing his political views into another place, with the object of its abolition.

The Minister for Lands: I was not here, but I read the "Daily News" report.

Mr. DAVY: I was here, and heard the Minister say it.

The Premier: I heard it, too; but it was in response to an interjection, "Why don't you abolish the other House?"

Mr. Latham: I said it was a plank of the Labour Party's platform, and the Minister could tell us how it could be given effect to.

The Premier: Yes, something like that.

Mr. DAVY: The member for York (Mr. Latham) reminds me that this is a plank of the Labour Party's platform.

Mr. Hughes: Some members of the Legislative Council would like to abolish this Chamber.

Mr. DAVY: If the Labour Party's objective were achieved I would regard it as disastrous and would view this move as a very serious one indeed. I am encouraged in my view by some of the legislation that has been introduced during the short period I have been in this Chamber. I cannot forget that the Minister for Works introduced an Arbitration Act Amendment Bill that contained clauses which, from my point of view—I do not say I am necessarily right—were grossly unjust. I will refer to one. We thrashed the matter out here at considerable length. The Minister proposed that if a man were prosecuted under the provisions of the Arbitration Act, for any offence against that piece of legislation he would be deprived of the right to secure the assistance of the trained section of the community when he was standing his trial. If it had not been for the Legislative Council, that provision would

have become law. I considered that proposal was a wickedly unjust one.

Mr. Marshall: Are you speaking on behalf of your own profession?

Mr. DAVY: The hon. member can have it that way if he likes. I do not intend to waste time in answering statements of that description.

Mr. Richardson: It was merely a silly interjection.

Mr. DAVY: The Minister for Justice, it will be remembered, introduced provisions in a Fair Rents Bill to which I took strong exception. I do not complain of the general nature of the Bill, nor do I claim that a Fair Rents Bill must necessarily be an unjust one, but that Bill contained a clause that I have not yet been able to consider justified.

Mr. Hughes: Did you not get all the amendments you wanted to the Bill?

Mr. DAVY: No. The Minister remained obdurate, and insisted upon it being passed largely as it was presented here. One of the provisions was that the rent of a building should be based on so much percentage of the capital value, and he defined what that should be. If that provision had been agreed to, it would have been tantamount to the confiscation of the wealth of a large number of people in Western Australia. It could not be regarded as anything but confiscation. The Minister said that the capital value, for the purpose of calculating the rent to be charged, was to be based on the amount paid for the land plus a percentage in respect of the building.

Mr. Sampson: Although the land might have been bought last century?

Mr. DAVY: At any rate the land might have been bought 30 years ago, and its value quadrupled since.

Mr. Hughes: Due to the people as a whole.

Mr. DAVY: That was how the Minister proposed to calculate the market value of a property at the present time in order to arrive at a fair rental. I must confess that from my point of view when I remember such measures and think what would have happened if they had become law, I am frightened at the prospect of the Legislative Council vanishing. I have heard members, even some sitting on the Government side of the House, say when I have been arguing privately with them, that such and such a clause was wrong, and add, "What does it

matter, it will be knocked out." Sometimes it may be that Ministers too have entertained similar thoughts. If it were not for the Council, it is possible that they might be a bit more cautious. I do not for one moment, however, think that Ministers entertain that view. If I thought that they did entertain such views and hon. members had been a little bit careless because they felt that there was a safety stop or back stop elsewhere, my fear regarding the abolition of the Legislative Council would not be so acute. I do not think that members on the Government side of the House do really take up that attitude. I can only conclude therefore that legislation introduced last session represents an honest expression of the view of respective Ministers who introduced the Bills. Therefore I cannot help viewing with considerable trepidation any concerted plan to abolish the Legislative Council. While I will vote for the Bill, I would be better prepared to vote in favour of the proviso if placed in such a position that it could stand by itself. I do not think it is necessary to alter the franchise, but I cannot justify in my own mind the plural voting provisions that stand to-day.

MR. HUGHES (East Perth) [9.23]: The member for West Perth (Mr. Davy) said that he was in favour of the will of the people being allowed to become law, provided that that will had been sufficiently stable over a number of years. If that is his point of view, he should vote for the Bill because no matter how stable the will of the people may become in this State there is no chance of that will ever being given effect to in our legislation under existing conditions. If two-thirds of the people desire the passage of certain legislation and maintain their point of view through a life time, the Upper House, representing the remaining one-third of the people, still has the right of veto. How can the will of the people become law, no matter how long that will may have remained stable, if the representatives of one-third of the community have the right to veto the legislative expression of that will? It seems to me that the hon. member was not very consistent in the conclusions he drew. Certainly it is not possible for the will of the people to become law in Western Australia. All that can become law is that which meets with the approval of the representatives of one-third

of the electors. For the two-thirds of the people to return members of Parliament to the lower Chamber and expect them to place enactments upon the statute-book, is merely so much waste of time so long as the Council has the right of veto. How can we expect to get any reform, and how can the people have the right to govern themselves? We see people from time to time holding up their hands in horror when they read about reforms being brought about in other countries by means of violence. They ask why those reforms cannot be secured peacefully through the legislative halls of the respective countries. The history of the world points to the fact that people in possession of a privilege never part with that privilege voluntarily. I am not advocating a sort of "Pride's Purge" in connection with the Upper House, but I wonder how we can bring about reforms in this State. I wonder how we can place upon the statute-book legislation in accordance with the will of the people, and how we can give the people the right to govern themselves. Particularly do I wonder how it is possible to achieve these things when I remember that the Upper House has the right of veto and certainly will not forego it. It is a stupid argument to advance to a man who has not a vote for the Upper House, that he should get men returned to represent his voice. How can we do it, seeing that we have no vote for the Upper House?

Mr. Sampson: Why do you say you have no vote?

Mr. HUGHES: Two-thirds of the people have no vote for that Chamber.

Mr. Sampson: But there is nothing to prevent you from having that vote.

Mr. HUGHES: Yes, there is.

Mr. North: Even the proposal in the Bill will not extend the franchise very much.

Mr. HUGHES: That is so. I am sorry the member for Pingelly (Mr. Brown) did not agree to vote for the second reading of the Bill and then in Committee bring forward the far-reaching amendments he indicated. If we are to have a second Chamber it could be justified if the electoral provinces were divided evenly from a population point of view. It is not possible to give the people adequate representation with each electorate containing the same number of electors. Thus we have the discrepancies between the voting powers of members of Parliament, one casting a vote equal to that

of another member, representing 10 times as many constituents. An Upper House elected entirely on an adult franchise, each province being equal from a population point of view, could possibly be justified because it could then be said that the House represented a majority of the people, and thus was a House of review. By that means whatever legislation might pass through the Lower House would be reviewed by a Chamber that would have a good claim to represent the majority of the people. As it is at present we hold elections, spend the people's money and the electors are told to obey the law, to govern themselves and to elect people who will expound their point of view. At the same time we deny the people the very right we suggest that they should exercise. For that reason I wonder how it is possible to bring about a reform in this State. There are any number of people in lodgings in the city who pay their four guineas to six guineas per week for board and lodging, particularly in hotels in the city. In that £4 4s. there is a proportion for the accommodation given, and in many cases the accommodation is of greater value than that of a suburban residence. Rates and taxes and various other charges made in respect of a dwelling-house are also included. So the lodger pays rent and rates and taxes, just as much as does a householder. If a man had a 12s. 6d. office he would have a vote; yet he may be paying £6 6s. weekly for a couple of rooms in a hotel and have no vote. When the House of Commons was on a property qualification lodgers were given a vote. So it would not be introducing anything new if we were to give lodgers a vote. Again, a man may have a block of vacant land, his only interest in the country, and he is given a vote, where a man with a family living in lodgings is denied a vote. So, the people are not allowed to govern themselves.

Mr. E. B. Johnston: The Bill does not go as far as you would like.

Mr. HUGHES: No. I am inclined to follow the lead of the member for Pingelly (Mr. Brown). The member for West Perth (Mr. Davy) believes that the will of the people should prevail, provided that it be the stable will. But the will of the people can go on for generation after generation and never get on the statute-book, because so small a section of the community can prevent it. If we cannot get the slight reform contained in the Bill, we ought to look

around and see by what other means we can give the people the right to govern themselves.

**THE PREMIER** (Hon. P. Collier—in reply) [9.35]: A good deal of the criticism has been directed, not so much against the Bill itself as against the possibility of something that might eventuate in regard to another place. The arguments as to whether another place should be abolished are really beside the question. We are called upon only to deal with the Bill as it stands, not to keep at the back of our heads something that might happen in the remote future. For, after all, it must be understood that another place cannot be abolished except by the consent of that body itself. So, if we were to carry the Bill and subsequently advance still further until eventually we should have adult franchise for another place, even then that House could not be abolished except by the will of the majority of the people.

Mr. Davy: In Queensland the Council was abolished in spite of a referendum.

The PREMIER: But the Queensland constitution is entirely different from our own. Even if there should come a time when every adult who to-day has a vote for this Chamber would also have one for the Legislative Council, the Legislative Council could not be abolished except by consent of the Council; and naturally they would not give that consent unless a majority of the people voted for its abolition.

Mr. North: Like the Senate.

The PREMIER: Exactly. Apart from our individual views in regard to the wisdom of having another Chamber, if the majority of the people were deliberately, of their own choice, and freely to declare for its abolition, who should stand in their way? So it will be seen that the question of the abolition of the Council is entirely beside the discussion on this Bill. The Bill has been described as a drastic alteration, and the "West Australian" in its report of my speech on the second reading used the heading "A drastic amendment." I do not know of any amendment I could prepare to the existing Constitution that would not go as far as the Bill goes. If we are to go any step at all beyond the existing Constitution, we cannot halt short of the Bill. It is the most moderate advance we could possibly make. If, as some hon. members say, we have to-day practically a household franchise for the Council, then by abolishing the £17

clear annual value qualification and substituting household qualification I am going very little farther than the Constitution. So, how can it be called a drastic alteration or amendment? To merely go a little farther than the Constitution, to bring in a comparatively few people amongst those already enfranchised, is that any great alteration? The only other phase of the Bill is in regard to plural voting. I do not think I need argue that that constitutes no very drastic amendment to the Constitution. So I say that if we are to make any amendment at all we cannot halt short of the Bill. The Leader of the Opposition spoke of four poles in the ground and the 7s. or 8s. worth of hessian that might be put over them. He argued that people occupying such habitations should not have a vote for the Legislative Council, that really they were not entitled to a vote. But if we say that, are they entitled to a vote for this House?

Mr. Latham: Yes, under the Constitution.

The PREMIER: Of course, I know. But I mean from the point of view of the member who said they should not have a vote for another place. If it be said they have not sufficient stake in the country to entitle them to a vote for another place, I think we ought to say they should be disfranchised altogether.

Mr. Davy: On that argument you would have to introduce adult suffrage for the Council.

The PREMIER: I believe there ought to be adult suffrage for the Council. At the same time I agree there is something to be said for the point raised by the member for West Perth (Mr. Davy), namely, that we might well have a House elected on the same franchise as the Assembly but, in order to guard against periods of heat and passion, or ill-considered action on the part of the majority of the people of the country, we could perhaps have a continuous Legislative Council, such as it is at present: so that not all its members would go to the country at the same time and perhaps obtain a verdict, as verdicts have been obtained in times of excitement, a verdict that did not really reflect the true will of the people. That contingency could be overcome by having the Legislative Council elected for a longer period than the Assembly, and having its members go to

the country at intervals, just as they do to-day. So, we would have men elected on an adult franchise, yet whose votes on important matters would not be influenced by consideration of an impending election.

Hon. G. Taylor: That is what happens in this Chamber.

The PREMIER: And perhaps in all Chambers where all the members go to the country at the one time. A House of review elected under conditions such as I have sketched might be justifiable. I am not going to contend that there is nothing to be said for a second Chamber. In my opinion there are weighty arguments to be advanced for a second Chamber. I do not say that of the Chamber constituted as the present one is. By bringing in a greater number of the people of the country under the franchise for the Legislative Council it would have the effect of strengthening it rather than weakening it. If we add to the 59,000 electors another 10,000 or 20,000 by an amendment of the Constitution it could not be said that it would weaken the Chamber or operate in the direction of bad government, or in any way be detrimental or harmful to good government. I think it would have quite the opposite effect. The Leader of the Opposition raised a point in regard to strikes in Queensland. He instanced the recent railway strike, and seemed to connect it up with the fact that there was only one Chamber in that State. The question of strikes has nothing to do with the existence of another Chamber. Whilst it is true that a strike occurred in the railway system of Queensland, it is also true that there have been railway strikes in nearly every other State from time to time.

Mr. Marshall: We have one now.

The PREMIER: On the Midland railway. There have been railway strikes in this State. There was one only four years ago.

Hon. G. Taylor: And another 24 years ago.

The PREMIER: There have also been railway strikes in Victoria. This has no bearing upon the point. I believe, with the Leader of the Opposition, that good government does consist of the voice of minorities being heard. It will be a bad day for the Government of any of our countries where the voice of the minority in Parliament goes unheeded or unconsidered.

We have known times when the majority in Parliament has not represented the voice of the people, but what I am saying now has no application to the present time.

Hon. G. Taylor: We will not argue that question at present.

The PREMIER: I sat for eight long lonely years on the other side of the House, and there were occasions when I felt that we really and truly represented the voice of the majority of the people.

Hon. G. Taylor: And it was proved later on.

The PREMIER: Yes, when they came round. That is the cycle of events. It is a question of how rapidly the wheel turns. Minorities have rights, and good government depends upon these being recognised. It is a different thing to giving to the minority the right to rule and the right to govern. To give minorities consideration and representation and to hear their views is a different matter from giving them the right to govern the country.

Mr. Davy: No minority could possibly have the right to govern the country here.

The PREMIER: The minority has the right to be heard.

Mr. Davy: You govern the country.

The PREMIER: I am referring to legislation. So far as government consists in legislation the minority has full power to govern this country.

Mr. Davy: To veto legislation.

The PREMIER: That is the right to govern. Even though every one of the 50 members of this Chamber might agree on a programme of legislation, the Council representing less than one-third of the electors, has the right to veto it.

Mr. Davy: Probably each of the electors of the Upper House is the head of a family. It is a representative vote.

The PREMIER: I do not know about that. We can only consider the number of electors. Even giving that in, there can be no question but that they do not represent the majority of the people so far as the people have a right to express their opinion at a ballot box. They may hold up legislation from this Chamber indefinitely. That is where they have greater powers than the House of Lords. They may continue to do this from year to year, and quite ignore the expressed will of the people, even though it is shown by a majority of the members of this House.

Hon. G. Taylor: We want to get some work out of them next week, so do not be too hard upon them.

The PREMIER: Minorities must not rule. We get a worse form of government when minorities have the right to govern the people, when one-third of the people have a greater power than two-thirds. The Legislative Council may refuse to give assent to any Bill.

Hon. Sir James Mitchell: I wish they would refuse to do so in the case of many, but they do not do it.

Mr. North: Except in regard to the purse.

The PREMIER: They do not control that.

Hon. G. Taylor: Now they are fighting that question in Tasmania.

The PREMIER: I am not reflecting in the Bill upon the personality of the Legislative Council. It is not because I am dissatisfied with the attitude that the Upper House adopts towards Bills sent up by the Government, but I do think the time has arrived when the franchise ought to be broadened. That is why I have brought forward this Bill. Anomalies could be pointed out indefinitely under the existing franchise. I cannot find what particular virtue there is in a £17 qualification, any more than there is in a £15 or £20 qualification. There does seem some logic in a franchise based on a household qualification, and in saying that every man who has a house, or is a resident in, or occupier of a house, should have a vote. There is reason in a proposition of that kind. It does not aim at the destruction of the Legislative Council because nothing can be done without the assent of that Chamber. I should like to see members pass this Bill unanimously, so that it might have a greater influence upon the Council. I do not suggest that members of the Council shape their attitude towards Bills according to the majority that may support them in this place. I feel, however, that we would be only reflecting the voice of the vast majority of the electors who sent us here if we were to say that the time has arrived when we ought to abolish plural voting and ought to have the household franchise for the Legislative Council.

Mr. SPEAKER: This being a constitutional matter the second reading must be carried by an absolute majority.

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

Ayes	..	..	..	..	18
Noes	..	..	..	..	18
					—
Majority for ..					2
					—

## AYES.

Mr. Angwin	Mr. Lambert
Mr. Clydesdale	Mr. Lamond
Mr. Collier	Mr. Lutey
Mr. Corbooy	Mr. Marshall
Mr. Coverley	Mr. Millington
Mr. Heron	Mr. Munalo
Mr. Hughes	Mr. Sleeman
Mr. W. D. Johnson	Mr. Troy
Mr. Kennedy	Mr. Wilson
	(Teller.)

## NOES.

Mr. Angelo	Mr. North
Mr. Barnard	Mr. Sampson
Mr. Brown	Mr. J. H. Smith
Mr. Davy	Mr. J. M. Smith
Mr. E. B. Johnston	Mr. Stubbs
Mr. Latham	Mr. Taylor
Mr. Lindsay	Mr. Teesdale
Sir James Mitchell	Mr. Richardson
	(Teller.)

## PAIRS.

AYES.	NOES.
Mr. McCallum	Mr. Maley
Mr. Cunningham	Mr. Denton
Mr. A. Wansbrough	Mr. C. P. Wansbrough
Mr. Chesson	Mr. Thomson
Mr. Pantou	Mr. George
Mr. Withers	Mr. Mann
Mr. Willcock	Mr. Griffiths

Mr. SPEAKER: As the affirmative does not constitute an absolute majority of the House, the matter can proceed no further.

## BILL—STAMP ACT AMENDMENT.

## Second Reading.

THE PREMIER (Hon. P. Collier-Boulder) [9.58] in moving the second reading said: This is another of the continuation Bills that we have inherited from the war period. There are four clauses in it. The first makes provision for the payment of duty on each sale of a property. The second is for the continuation of the increase of the stamp duty on conveyances of property, imposed as a war measure and continued from year to year. It also provides for bringing into line goldfields racecourses with those in the country districts so far as the tax on betting tickets is concerned. Finally, it exempts from stamp duty cheques drawn by

friendly societies and similar bodies on State or Commonwealth Savings Banks. With regard to the first point, transfers which are generally referred to as transfers by direction, it often happens that a parcel of land is sold several times before the transfer is actually effected. As the law now stands, stamp duty is payable only on the last transaction; that is, on the amount realised from the last sale before a transfer is registered. For instance, A might sell a property to B for £500, and B sells it to C for £600, and C sells it to D, and D to E. Then, under what is called transfer by direction, stamp duty is payable on the last consideration only. Thus, although the land may pass through several hands, transfer duty is paid only on the last transaction.

Mr. North: Half-a-crown per contract of sale.

The PREMIER: Whatever the amount may be. That is not fair. It aids only the land speculator. Each sale that takes place should be subject to stamp duty, and because it is not so a considerable amount of revenue is lost to the State each year.

Mr. Sampson: When the transfer has not been finalised or completed.

The PREMIER: A transfer is signed in blank from one to the other. A person who buys land with the object of dealing in it, is a speculator. He does not effect the transfer, but sells the land to another person, who sells to another and so on. It is only when the person who acquires the land is not a speculator, but intends to make use of it, that the transfer is completed and becomes liable to stamp duty. There is at this moment in the Titles Office a case where transactions of that nature have taken place, with the result that the revenue will lose about £500 because of the transfers by direction which have been going on. It is only the land speculator who benefits by the existing state of affairs. The position is not at all in favour of the purchaser who buys a farm, or a home, or business premises, as the transfer is effected right away and the stamp duty is paid. The speculator holds off the transfer as long as possible, while the other kind of purchaser registers the transfer at once and pays the duty. Therefore, no undue hardship will be inflicted upon anyone by this alteration. It has long been recognised that the policy of what is known as transfer by direction is not equitable and should be altered. As regards the taxation of betting tickets issued on goldfields race-

courses, the present Act divides racecourses into two classes for the purpose of taxation; within the grandstand of a metropolitan or goldfields racecourse represents one class, the second class being elsewhere within the grounds of a racecourse. In respect of the former class a tax of 2d. per betting ticket is levied; in respect of the other class the tax is a halfpenny. The effect is that on metropolitan and goldfields racecourses the bookmaker has to pay a tax of 2d. on each ticket, while on all other racecourses the tax is a halfpenny. I think the distinction was made because it was considered that a greater amount of racing and a greater volume of betting took place on metropolitan racecourses and also, when the Act was passed, on goldfields racecourses. However, owing to the somewhat depressed condition of the goldfields, the position has entirely altered of late years. As a fact, the racecourses at Kalgoorlie and Boulder are at the present moment practically insolvent.

Mr. Latham: But this proposal will not relieve them.

The PREMIER: It will relieve them.

Mr. Latham: The racing clubs do not pay the tax on betting tickets; the bookmakers pay it.

The PREMIER: The hard times of the race clubs are reflected on the bookmakers, who in turn take it out of the betting public.

Mr. Latham: Goldfields bookmakers do not bet only on local races, but on every race run in the State.

The PREMIER: The hon. member is wrong. In some parts of the State there is a good deal of betting on races everywhere but very little of that kind of betting is done on the goldfields.

Mr. Latham: On the goldfields you can bet on any race, the same as with a bookmaker in Perth.

The PREMIER: There is not very much of that on the goldfields.

Hon. S. W. Munsie: If it were so, there are no tickets issued.

The PREMIER: The member for York (Mr. Latham) is quite wrong. To my own knowledge, most of the bookmakers have disappeared from the fields and the volume of betting there has very much decreased.

Mr. Davy: Is the object of this amendment to encourage the bookmakers to come back?

The PREMIER: The volume of betting on races outside Kalgoorlie and Boulder is very small indeed.

Hon. Sir James Mitchell: But who will get the benefit of this except the bookmakers?

Mr. Latham: Only the bookmakers will benefit.

The PREMIER: I suppose bookmakers are considered a desirable section of the community, in that we allow them to operate. As a matter of fact, the alteration is asked for by the racecourses, and not by the bookmakers.

Mr. Latham: I do not see how the racecourses are going to get the benefit.

Hon. S. W. Munsie: You cannot see anything.

Mr. Latham: That is why I am here.

The PREMIER: As the alteration is asked for by the goldfields racing clubs, it must be in some way of benefit to them.

Hon. Sir James Mitchell: It is reasonable, too.

The PREMIER: Yes. There is this to be said for it, that if the alteration is of no benefit to anyone except the bookmaker and we need not concern ourselves about the bookmaker, why was the distinction made originally? Why was the bookmaker who plies his calling at country race meetings called upon to pay only a halfpenny whilst the bookmaker operating on metropolitan and goldfields racecourses was compelled to pay 2d.?

Hon. Sir James Mitchell: I think the tax is absolutely wrong.

The PREMIER: Possibly; but there must be some reason why the distinction was made in the first place.

Hon. Sir James Mitchell: It was a question of small bets.

The PREMIER: If there is a justification for the lesser rate obtaining to-day at all country meetings, then I say goldfields racing has reached the stage when it requires the same consideration.

Mr. Davy: That is logical.

Mr. Latham: Wagers are smaller now.

The PREMIER: At one time on the goldfields a working man who was betting would hardly put on less than £5. To-day he puts on 5s. I have personally observed that.

Mr. Latham: It is the bookies who will get the benefit of this alteration; the clubs will not get much benefit from it.

Mr. Clydesdale: The bookmaker cannot afford to pay the fees charged, and so the clubs lose revenue.

The PREMIER: We should bring them all into line, or else make this concession to the goldfields racing clubs.

Mr. Latham: Why not relieve them altogether by wiping out the tax, which is quite illegal?

The PREMIER: That is another matter.

Mr. Sampson: Consistency is a jewel.

The PREMIER: Yes; but it is not to be found in the hon. member. As regards the present rates of stamp duty on transfers and conveyances, hon. members will recollect that an increase was made in 1918 as a war measure. That increase has been continued ever since. It is desired now to make the increase a permanent charge. We have been continuing it from year to year.

Mr. E. B. Johnston: That is 1 per cent.

The PREMIER: The increase is set out in the schedule. It is not, I think, excessive, and there is just as much justification for it to-day as there has been during recent years. With regard to the proposed exemption from stamp duty of cheques of friendly societies drawn on the State and Commonwealth Savings Banks, this question has come up through the Commonwealth Savings Bank raising the point whether cheques on savings banks used by friendly and other societies are dutiable. It was stated that the cheques used by the clients of the Commonwealth Savings Bank had in the past been embossed, and that the clients had thus escaped the stamp duty. As it was decided to have a new form of cheque, the point was again raised. There being nothing in the Stamp Act whereby such societies are exempted, the Solicitor General, to whom the question was referred, has ruled that the form in use is undoubtedly subject to stamp duty. On the ruling given there was, accordingly, no alternative but to notify both the savings banks that the Act must be complied with. The friendly societies who bank with the Commonwealth and State Savings Banks are deserving institutions, and I think it is not going too far to ask that in future they should be exempt from stamp duty as in fact they have been for a considerable time in the past. I move—

That the Bill be now read a second time.

On motion by Mr. Davy, debate adjourned.



## **BILL—FIRE BRIGADES ACT AMENDMENT.**

### *Second Reading.*

Order of the Day read for the resumption of the debate from 8th December.

Question put and passed.

Bill read a second time.

### *In Committee.*

Mr. Lutey in the Chair; Hon. S. W. Munsie in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 50:

Mr. NORTH: While I support the clause, I regret the necessity for it. Fire brigades, which exist for the protection of property against fire, are supported by the Government, local governing authorities, and the insurance companies. It seems unfortunate, therefore, that the brigades cannot raise money in the cheapest possible way through Government loans. The clause will facilitate advances from the Commonwealth Bank.

Mr. DAVY: I do not think the hon. member has offered any serious criticism against the clause, because most of the local authorities get their money from the Commonwealth Bank. Brigades will be able to get money on the same advantageous terms as the Perth City Council or any road board. The clause merely completes the security from the Commonwealth Bank's point of view.

Clause put and passed.

Clauses 3, 4—agreed to.

Title—agreed to.

Bill reported without amendment, and the report adopted.

## **BILL—WEIGHTS AND MEASURES ACT AMENDMENT.**

### *Second Reading.*

Debate resumed from 8th December.

MR. SAMPSON (Swan) [10.20]: It is generally acknowledged that a measure of this description has been urgently required for a long time. The existing Act was passed in 1899 and under that measure any work in connection with weights and measures has to be carried out. In 1915 an amending Bill was passed by both Houses of Parliament but has never been proclaimed. The need

for this measure is widely felt and it is stated that to-day probably 70 or 80 per cent. of the scales and weighing machines used in Western Australia are incorrect. I do not mean that they are incorrect to the point that the customer suffers in every instance. As time goes on, however, the wear has an adverse effect upon the machine and that fine point of accuracy and sensitiveness, so necessary to secure correct weights, does not remain with the machine. The testing of weighing machines is necessary every two years and in Sydney those tests are carried out every six months. At first blush I was under the impression that the operations of this measure should be controlled by the Perth City Council, but, having given a little consideration to the question, I realise that such a course would be inconvenient and give rise to numerous difficulties. The council could be effectively in control only within the metropolitan area, and, consequently, seeing that the whole of the weighing machines throughout the State must receive attention, it is essential that the Act shall be administered by the Government. I have been surprised at the extent and importance of this question. It is one that calls for the greatest exactitude, and one that presents numerous difficulties. A visit by a weighing machine mechanic or tester is not always viewed with pleasure. Years ago, when I was working in my father's wood yard, we weighed the wood on a primitive type of beam scale with weights of half a cwt. When the tester came he would extract a section of lead from the weights and on his next visit he would replace it. I never could understand how the adjustment was effected, but to-day I realise that a great advance has been made in the inspection of weighing machines. One difficulty is that in a great many centres there are no weighing machines. I can recollect an incident when I was in Ireland. In the Connemarra district, near Galway, I noticed a load of peat which was quite a substantial one. I was surprised later when I noted the diminished load that was submitted for sale. I was told that the man had unloaded his cart and had spent some hours in reloading it so as to make that load represent two or three loads. In this State firewood is usually sold by the load, and I consider that practice should be altered, and firewood should be sold by weight. It is impossible to properly decide what is a full, a half or a quarter load.

Mr. Marshall: Most dealers in firewood prefer to sell by weight.

Mr. SAMPSON: That was the feeling in the woodyard where I was employed.

Mr. E. B. Johnston: Wood is often sold by measurement.

Mr. SAMPSON: That is unsatisfactory because it is impossible to obtain a ready check. I remember that I was occasionally required by householders to take my load of wood to the Government weighbridge in order to secure a check weight. I was always able to show that we had the right weight.

Mr. Marshall: You must have been sitting on the load.

Mr. SAMPSON: In all regulated establishments, where weights and measure are checked, precautions are taken to see that the standards are carefully looked after. They are not allowed to come into contact with rough substances, and are handled with extreme care. In the Imperial Treasury the standard weights are most carefully guarded. The finer quality weighing machines are extremely sensitive and, it is claimed, are capable of detecting the weight added to a postage stamp by a pencilled initial. To-day in various shops we see extremely advanced mechanical appliances, that not only weigh goods but actually compute the price to be paid. In the opinion of many people the cheap spring balance should be abolished, for such balances are considerably affected by atmospheric changes. The Bill deals with fixed measuring instruments, including those petrol supply systems, in which I understand it is possible for the valve to become defective. Whilst I believe that with the best class of filter there is little to be feared, nevertheless the public will welcome a guarantee of accuracy that can only be secured as the result of periodical examination. Another matter, one to which the Minister has not given attention, is the diminutive glasses in which beer is usually served. I understand the glasses are steadily decreasing in size. I contend that when a person goes into a hotel for a glass of beer he should receive a just quantity. During the past few years the "pint" has gradually decreased in size until to-day it is a masterpiece of deception.

Mr. Hughes: Like some of the week-end papers.

Mr. E. B. Johnston: The Commonwealth excise has been enormously increased.

Mr. SAMPSON: Yes, but there should be a definite sized glass, and a "pot" should

contain a fixed quantity. That matter has not been dealt with in the Bill.

The Minister for Justice: Yes, the Bill covers everything sold by measure.

Mr. Latham: The beer glasses are becoming shockingly small.

Mr. SAMPSON: It is our duty to see that the size of the glass is prescribed and maintained.

The Minister for Lands: You cannot do that. It all depends upon the cost.

Mr. SAMPSON: Recently I heard a true story. In a department store were some drinking glasses, too large for liqueur glasses, and too small for sherry glasses. A lady connected with a hotel, on seeing the glasses, ordered a dozen, declaring that they would just suit as sherry glasses. Then she said to the salesman, "And, by the way, I want a set of scales and weights, for I believe my butcher is cheating me in the weight of meat he supplies."

Mr. Hughes: She ought to be the president of the landlords' association.

Mr. SAMPSON: Another matter is the possibility of faulty speedometers on taxi cars. It is important that the distance covered should be correctly recorded.

The Minister for Justice: Everything like that can be brought under the Bill.

Mr. SAMPSON: The only way to check distance is by means of the measured mile.

The Minister for Lands: I suppose you know one is already laid down near Midland Junction.

Mr. SAMPSON: I am not aware of that.

The Minister for Lands: That is on the Guildford-road and the posts have been put up.

Mr. SAMPSON: That is the only reliable way of checking speedometers. There can be no juggling with the measured mile. The partial inflation or deflation of tyres is a matter that has an effect upon the distance travelled. Another question on which the Bill is silent is in regard to the particular standards on which the department will work. Is it intended to adopt the British Board of Trade standard, or will the department fix their own standard?

The Minister for Justice: The schedule deals with the standards.

Mr. SAMPSON: There are different standards. It would be possible for standards to be brought in that might render inaccurate those already in Western Australia. There must be definite standards. If they are according to the British Board of Trade

standards, I think the Government will be acting wisely. The Public General Acts of 1899 embody an Act relating to weights and measures that was passed in the fourth session of the 24th Parliament of the United Kingdom of Great Britain and Ireland. This Act says—

The Board of Trade shall from time to time cause such new denominations of standards for the measurement of electricity, temperature, pressure, or gravities as appear to them to be required for use for trade to be made and duly verified, and those new denominations of standards when approved by Her Majesty-in-Council shall, whether derived from Imperial or from other standards, be Board of Trade standards, in like manner as if they were mentioned in the Second Schedule of the principal Act.

The Board of Trade bears the responsibility of determining this most important matter. The Bill prescribes the penalty to be imposed in those cases where the weight is less than appears on the packet. Some consideration should be given to the effect that a climate like ours has upon certain commodities. The same argument applies with regard to the packing of volatile spirits such as hair oil, and carbon remover, in connection with which it is possible that loss may be sustained through the spirit escaping.

The Minister for Justice: That is provided for.

Mr. SAMPSON: Glue also weighs less in the summer than it does in the winter. I shall be glad if the Minister will state whether the necessary standards for weights and measures have been deposited at the office of the Commissioner of Police.

The Minister for Justice: They have been purchased, but they are not yet unpacked. They have been in the State four or five years, pending the proclamation of the Act.

Mr. SAMPSON: The Bill provides for the examination and licensing of skilled repairers, and generally for their supervision and control, including a prohibition against the use of the designation "scale adjuster." That is a wise provision. I am glad no one is to be allowed to use this term unless he has been examined and a license has been issued. The issue of licenses should be limited to those who have both the necessary equipment for the verification of weights and measures, and the necessary skill.

The Minister for Justice: That will be done by the department.

Mr. SAMPSON: I take it that otherwise licenses will not be issued.

The Minister for Justice: No.

Mr. SAMPSON: To-day both the public and the trade are suffering. In some cases the machines weigh light, and in others they weigh heavy. The utmost care has to be taken to ensure that they are in good condition. In 1922 the then Inspector of Weights and Measures, reporting to the Perth City Council, said it was satisfactory to be able to report that taking the city as a whole there was little to complain of in respect to the condition of the scales and weights in use for the purposes of trade. In a later report it was said that it was desirable to give power to enter into any shop and weigh any goods that were being purchased therein, and to take proceedings in the event of short weight being discovered. Power should be given to do these things. The Bill does give a lot of power to ensure that the public are protected. In respect to those articles which must be branded with their correct weight, and must be of a certain weight when packed, I take it that it is not the intention of the Minister to prevent the sale of stocks of goods that are now on hand. I presume he will allow shopkeepers and merchants a reasonable time to dispose of such stock.

The Minister for Justice: Yes.

Mr. SAMPSON: In many instances the charges which the Minister proposes to make have been doubled compared with those of the 1915 Act.

The Minister for Justice: Everything else has doubled since.

Mr. SAMPSON: The Minister said this was not intended to be a profit-making measure. Moreover, we must acknowledge that with the growth of business in Western Australia there is to-day a far greater number of scales and weights and measures in use than was the case even in 1915. Accordingly I question the equity of increasing the charges to the amounts set out in the Bill. I am aware that the 1915 Act was never proclaimed, and that consequently the charges were never made; but in the opinion of the House at the time they were reasonable. In the fees to be paid for verifying weights and measures under the avoirdupois system, there is, generally, an increase of 100 per cent. The charge for the 56lb. weight is raised from 6d. to 1s. The same rate of increase applies to many items of the schedule. In the case

of computing scales a fee of 5s. is proposed for verification. Previously the charge was 2s. 6d. Such scales are owned by small shopkeepers, and I hope that the rate previously decided upon will be retained. Certainly there is no justification for the doubling of the rate.

The Minister for Lands: We used to buy a weekly paper for 1d. in 1914, but we have to pay 3d. for it now.

The Premier: And advertising rates have gone up correspondingly.

Mr. SAMPSON: The "Western Weekly Times" in Cornwall could not be bought for a penny.

The Premier: But we used to get the "Farmer" for a penny.

Mr. SAMPSON: No. The rate for testing fixed measuring instruments is set down at £1, which seems to me a very high charge. Leather measuring machines are scheduled at the same rate.

The Premier: I would remind the hon. member that these are subject matters for Committee, and not for second reading.

Mr. SAMPSON: Very good, Sir. Since I am advised that a few minutes suffice for making a check, it appears to me that a charge of £1 is excessive. I hope members will give these matters attention in Committee, and reduce the charges to what is reasonable and proper in the circumstances.

Question put and passed.

Bill read a second time.

*House adjourned at 11.56 p.m.*

## Legislative Council,

*Friday, 11th December, 1925.*

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The PRESIDENT took the Chair at 3 p.m., and read prayers.

### QUESTION—SITTINGS AFTER CHRISTMAS.

Hon. J. NICHOLSON (without notice) asked the Chief Secretary: In view of the large number of Bills that have reached this House from the Legislative Assembly, and the prospect of further Bills being received from that House, will the Government make arrangements for Parliament to continue its sittings after Christmas so that due consideration may be given to the various measures brought forward?

The CHIEF SECRETARY replied: I intend to make a statement that will cover the question.

### QUESTION — PARLIAMENTARY AL- LOWANCES ACT AMENDMENT BILL.

Hon. J. J. HOLMES (without notice) asked the Chief Secretary: In the event of the Standing Orders being suspended to-day, does the Minister propose to finalise the Parliamentary Allowances Act Amendment Bill during to-day's sitting?

The CHIEF SECRETARY replied: I cannot bind myself in regard to any particular Bill. I will exercise my discretion. If the Bill is amended to any extent I will not attempt to put it through. It may require revision before being finally disposed of.