Legislative Council,

Thursday, 13th November, 1913.

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

BILL—CITY OF PERTH IMPROVEMENT.

Read a third time and *passed.*

BILL — CRIMINAL CODE AMENDMENT.

In Committee.

Resumed from the previous day; Hon. W. Kingsmill in the Chair, the Colonial Secretary in charge of the Bill.

The CHAIRMAN: Progress had been reported on a new clause by Hon. D. G. Gawler, to stand as Clause 2, as follows:—"Section 191 of the Code is hereby amended as follows, by the addition of the following paragraph:—Any person found committing any of the offences defined in this section may be arrested by a police officer without warrant. By striking out the words "two years," in the eighteenth line of such section, and inserting in lieu thereof the words 'not less than one and not exceeding two years.'"

The COLONIAL SECRETARY: It was his intention to oppose the proposed new clause, because it was quite unnecessary. By Section 544 of the Criminal Code, a police officer had the power to arrest without warrant any person whom he found committing an indictable offence. To allow a police officer to arrest a person for alleged procuration without a warrant, for instance, on a mere *ex parte* statement, hon. members would admit, would be extremely dangerous, particularly as Section 191 provided that no person could be convicted for procuration on the uncorroborated testimony of one witness. The proposed new clause would give tremendous power to the police; it would enable a constable to arrest without a warrant; in fact, it would be a specific instruction to him to arrest without having recourse to a warrant. The police as a body were a tactful and prudent class of men, but it had to be remembered that they entered the force while they were still young and inexperienced men, and full of enthusiasm. They might go out in the performance of their duty and come to the conclusion, perhaps on very poor evidence, that some person had been guilty of procuration, and they might lodge him in the lock-up, and that person might eventually prove that he was an innocent man. Under the existing law it was not likely that such an arrest would be made without a warrant, though they could do so. If the proposed new clause was added, a constable would have the power to arrest without a warrant on any occasion.

New clause put and negatived.

Schedule, Preamble, Title—agreed to.

Bill reported without amendment.

Recommittal.

On motion by Hon. M. L. Moss, Bill recommitted for the further consideration of Clause 9.

Clause 9—Restraint of marriage:

Hon. M. L. MOSS: It was unfortunate that there was not a larger attendance of members present, because he would have liked to have tested the feeling of all on the question of the advisableness of the retention of this clause. Nevertheless, he still wanted the House to record another expression of opinion upon this most extraordinary clause. It had not been introduced by the Government, and was not part of the Government policy; it had been introduced by a private member in another place, and it was the most extraordinary attempt at legislation ever heard of. It was certain that such a clause did not find a place on the statutes of any other British possession, particularly Subclause 4, which, perhaps, was to be found only in the Customs Act or the Immigration Restriction Act, and which provided that the complaint in the

summons would be deemed to be proof in the absence of proof to the contrary. In this great, free country, where everyone was innocent until proved guilty, were we going to support a measure which contained such a provision? It was only necessary for an employer to threaten to dismiss a man and he would render himself liable to a fine up to £500. Such legislation would not be found even in darkest Russia or anywhere else on the face of the earth. We should not disfigure the legislation on our statute-book by such a provision. Another expression of opinion should be obtained from the Committee, and if there was not a larger attendance of members before the vote was taken, he would be candid and say that when the third reading stage was reached he would still persevere in his desire.

Hon. J. D. Connolly: Let progress be reported until Tuesday.

Hon. M. L. MOSS: Any other hon. member could take that course, but he could not. This was not a trivial affair, and he was doubtful whether it ought to be in the Criminal Code at all. Even if we were to pass this class of legislation, it would be hard to justify it from the public platform. Hon. members surely did not recognise how far they went at the previous sitting when they voted in favour of the retention of the clause.

Hon. A. SANDERSON: On the previous day he remained silent on this clause because he did not believe that the Council would pass it. Much to his amazement it was carried. He did not think it was necessary to make any strong comment at present, because possibly there had been some misconception on the division yesterday. If the clause could not be cut out, he trusted that the matter would be thoroughly discussed and that there would be a full division.

Hon. J. F. Cullen: Is the Minister willing to report progress and allow this to stand over till Tuesday?

The Colonial Secretary: Yes.

Progress reported.

BILL—LAND VALUATION.

Second Reading.

The COLONIAL SECRETARY (Hon. J. M. Drew) in moving the second reading said: This is rather an important piece of legislation, and what I propose to do is to give briefly and precisely an outline of the Bill, and afterwards explain its provisions, clause by clause. The object of the Bill is to endeavour to establish a uniform system of valuation for Government and local authority purposes. A measure having a similar object is already on the statute-book of New Zealand. I do not say that this Bill has been copied from the New Zealand Act; it has not. In some respects this measure differs from the New Zealand legislation, but in many respects the principles are identical. The Act which is in existence in New Zealand has proved a very useful piece of legislation, and there has been no suggestion since it was placed upon the statute-book for its repeal. I think the necessity for the introduction of this Bill has already been very well demonstrated. Revenue is raised by the Government and local authorities per medium of taxation on the values of land. The arrangement of the rate of taxation presents no difficulties, but to arrive at a fair value of land is quite a different matter. The Government have their own valuers, the local authorities have theirs; each authority has its assessors and each assessor proceeds on his own lines. Each is swayed by his own particular ideas, and the result, very often, is that there are grave disparities between the valuations. It very often happens that there is a very wide difference between the valuations in one district and those in the district adjoining, and for no perceptible reason. The land may be exactly the same in point of quality, but it has been shown in many instances that there is a very wide difference between the valuations, and this is all due to the fact that different valuers have been chosen and there is no uniform system of valuation. Then the Taxation Department sends an officer along to make a valuation and he strikes

out on his own, and perhaps comes to a totally different conclusion. All this has created considerable discontent in the community, and tends to show the need for some well-ordered and uniform system of arriving at the true value of land. That is what this Bill is designed to do. It may not be a safeguard against defective valuation because we all know that perfection of human effort is impossible, but it will be an improvement on existing methods by which some people carry lighter and others heavier burdens of taxation than are justified. The Bill provides for the appointment of a Valuer General and staff who will be entrusted with the responsibility of valuing all lands for State purposes and also for local government purposes. The powers in that respect now enjoyed by the local authorities will be taken away and concentrated in the Valuer General and his staff.

Hon. M. L. Moss: Are you going to tell us what this department will cost to run?

The COLONIAL SECRETARY: I have no figures on that point. Right of appeal against any assessment is given under the Bill. The taxpayer must take action within 60 days after the assessment, and the decision of the court of review, which is established under the measure, will be final. The taxpayer can also appeal annually whether there is an annual valuation or not. It is not proposed to have a fresh valuation every year but the opportunity is afforded the taxpayer of appealing once a year if he wants to do so. The values fixed under this system will be used for State land taxation purposes, municipal, health and roads board rating, and the determining of probate duty. The valuations will also be of some help to Government institutions which lend money—the Agricultural Bank, the Savings Bank, and the Workers' Homes Board. I do not say that the valuations will be accepted, but at any rate they will be of some aid. There is another aspect of the case which is worthy of consideration and that is that this system will render unnecessary the present duplication of valuing. There will be one valuation instead of two, and whilst that will be, no doubt, a bad thing for the professional valuer, it will be a good thing for the general taxpayer. The Bill will also apply to all land resumed by the Government for railway and public works purposes, and the values arrived at under the measure will be used for the purpose of deciding what compensation the person whose land is resumed is entitled to. Many instances have occurred in which owners, in sending in their returns to the Commissioner of Taxation, have put in very low valuations, but a few months afterwards when the land has been resumed by the Government for public purposes, the price of the land has gone up two, three, and sometimes fourfold. The position in respect of these resumptions is this: if the first valuation was too low the person who sent in that valuation was attempting to rob the Government, and probably did rob them, and if it was correct in the first instance the second claim was to take something from the Government which the owner should not take. It is recognised that very careful valuation is necessary for purposes of resumption and a provision is inserted in the Bill whereby, in such cases, a special valuation may be made, so that the interests of the owner are safeguarded in every respect. There is also an appeal against this special valuation; in fact, there can be no alteration of the register at all in regard to the value of the land without giving the owner of that land full opportunity to appeal against the valuation. As I said before, a somewhat similar measure is on the New Zealand statute-book, and I will read an extract from the report of the Valuer General of New Zealand on the operations of the measure and its beneficial effects in the Dominion. He says—

> Prior to the passing of the Government Valuation Land Act, 1896, there was an entire absence of uniformity in the system of making valuations of land within the Colony for Government purposes. Each lending department employed a separate set of local valuers for valuing mortgage securities. The Land Tax Department periodically

employed a small army of temporary valuers when it required a new valuation of the land of the Colony for taxation purposes, and each local authority had its own particular method of making up its roll for the levying of rates. With such a diversity of methods employed it is not to be wondered at that values were uneven, and in many cases unreliable. Some valuers possessed sufficient independence to act fearlessly; others did not. Some had a system of their own which was different from that adopted by others, and some did not thoroughly understand the principles affecting land valuation. The advent of the Government Valuation of Land Act, however, introduced a new system, under which the defects of the former system were, if possible, to be overcome. All values required by the Government Departments and by local bodies, whether for loan, taxation or other purposes, are now made by valuers employed by the State. Those valuers work upon the one system which is laid down by the above-named Act, and are responsible to the Government alone. They receive a regular salary, and when valuing for loan purposes are not dependent for their remuneration upon the good will of the person whose property they are valuing. Land tax is levied on the unimproved value, and so also are the local rates in districts where the rating on Unimproved Value Act is in force. It is therefore particularly necessary that uniformity of unimproved values should be studied by the valuer, otherwise one owner would be rated unfairly in comparison with his neighbour. When the values appearing on a roll become out of date revision takes place, but before any revised values can take effect the district must be gazetted for revision by Order in Council. There is no fixed period between one revision and another. The necessity for revision depends upon whether or not the roll values are correct.

That Bill was passed in New Zealand in 1896, over 17 years ago, and it appears to have given general satisfaction ever since; at any rate, there is no suggestion that it should be repealed. I will now direct the attention of members to the different clauses of the Bill. The definition of "improved value" is taken from Commonwealth legislation. The improved value is arrived at by adding to the capital sum representing the unimproved value the value of any improvements on the land, and the unimproved value is taken as the sum which the fee simple would be expected to realise if offered for sale on such reasonable terms as a bona fide seller would require. That is the basis of calculation which has been adopted in other legislation in which the capital unimproved value had to be detemined. For the purposes of the Bill "owner" includes every person having any interest in land and the immediate owner is the person in possession or enjoyment or use of the land, but the term is extended to apply also to a mortgagee in possession. Under Clause 3 the Governor is empowered to fix by proclamation districts for the purposes of the Bill which shall have no application to land outside of such proclaimed districts. The Bill will not come into force automatically throughout the State; it will come into force by instalments per medium of proclamation. The provisions of the Bill also will not apply to any land which is not subject to rate or tax under a State law. In Clauses 5, 6, and 7 provision is made for the appointment of a Valuer General and a deputy, whose offices may be held in conjunction with any other office in the public service. It will be possible to hold office in the public service and to be appointed Valuer General or officers of the staff of the Valuer General. Consequently it will be seen that it is not intended to inflate the civil service through the coming into operation of this measure if it passes the House.

Hon. J. F. Cullen: It would do so, though.

The COLONIAL SECRETARY: Under Clause 8 the Governor may at any time by proclamation direct the compilation of a district register. The Valuer General shall proceed with the compila-

tion of the register, which shall show forth the required particulars specified in this clause in respect of each separate piece of land within the district. The Governor, however, may authorise the omission from the register of any of the particulars included in the schedule. Should any land be subject to more than one lease from the Crown, then the valuation shall be as if two separate classes of land were being dealt with, and entries shall be made in the register in regard to each separate piece of land. Clause 11 provides for the publication of a complete valuation in the *Gazette* and also in a local newspaper, and objection may be taken by any owner to any valuation within 60 days of the publication. This clause contains a direction to the Valuer General to supply every owner with a copy of the valuation of his land, but failure to supply that copy does not in any way invalidate the valuation. Under Clause 14 when the register is once compiled it will continue in force until (a) the district is abolished, (b) a new register comes into operation, or (c) the Governor by proclamation declares the register abrogated. Under Clauses 15 and 16 at the commencement of any year modifications to any existing register may be published by the Valuer General, and such modifications will become automatically a part of the register, and objections within 60 days may be lodged as in the case of the original compilation. Under Clause 17, even though no modification be made, owners may each year lodge objections against the existing valuation in the register. This practically means that any valuation is subject to annual review at the will of the owner of the land. The owner, however, must be prepared to go to the length of appealing if he is dissatisfied with the decision of the Valuer General on his application for a readjustment. Clauses 19 and 20 empower the Valuer General to issue a new edition of the register in any year, and by notice in the *Government Gazette* such new edition shall have effect from the beginning of the year. Similarly the Valuer General may at any time make any necessary corrections or amendments in the register, that is, amendments to a valuation during the currency of the register, but in any such case notification of the amendments must be sent to the owner of the land in order that he may appeal if he desires to do so. Clause 21 provides that by notice and on the payment of the prescribed fee an owner may require the Valuer General to make a new valuation of his property. The powers of valuers are defined in Clauses 21 and 22, and include the right of entry for self and assistants, production of books and documents containing any entry relating to the land subject to the provisions of the Bill, compulsion to reply to questions, and also free search at the Titles Office. In reference to the penalties for the obstruction of valuers, these are dealt with in Clauses 23, 24, and 25. It is constituted an offence against this measure if anyone obstructs a valuer in the performance of his duties, gives wilfully misleading information, or fails to answer questions truthfully. Another offence is the refusal by an owner to a valuer of entry to his land. Very properly a severe penalty is provided, £50, in the event of a valuer disclosing information which he obtains in the execution of his duties. Clause 26 provides that on the sale of a piece of land a notice in prescribed form, with a plan and description of the land, is to be supplied to the Valuer General, and such notice must also state the name and address of the purchaser. Under Clause 27 on the approval by any local authority of any subdivision of land within its district the secretary or town clerk, as the case may be, must supply the Valuer General with particulars of the subdivision and a notification of the local authority's approval. Clauses 28, 29, and 30 set forth the rules to be adopted in connection with the valuation. These are largely machinery clauses.

Hon. M. L. Moss: Clause 30 is the most important in the Bill.

The COLONIAL SECRETARY: Valuations are to be made on the assumption that the land is subject to no other charge than rates or taxes payable under a State law, and no regard is to be paid to any machinery fixed to the land or to any minerals. In the case of a goldfields hold-

ing, except a miner's homestead lease, no other improvement than buildings is to be taken into account. In the case of Crown leases the unimproved value is to be set down at a sum equal to 20 times the annual rent. As is well known, under the Land Act a reduction of rent is granted in cases where the stocking regulations have been complied with—I think there is a reduction of rent to the extent of 50 per cent.—but in all cases the unimproved value for the purposes of this measure shall be assessed on the annual rent irrespective of such reduction. In the case of land held from the Crown under timber lease or license the unimproved value is fixed at a sum equal to 5s. per acre of the land comprised in the lease or license. On exclusive licenses under the Pearling Act of 1912, it is fixed at twenty times the annual rental paid. Miners' homestead leases and leases under the Workers' Homes Act are specifically excluded, as well as any other lease held from the Crown on a peppercorn rental. For the purpose of arriving at the annual value of land the procedure adopted in the Municipalities Act is followed as set out in Clause 30.

Hon. M. L. Moss: Look at Subclause 2.

The COLONIAL SECRETARY: Clause 31 deals with objections and appeals. Objections to valuations are to be considered in the first place by the Valuer General. Any objection which is made must be made to him, and he may dismiss it or he may allow it, and such a decision on his part will be final unless there is an appeal to the court of review and his decision is upset. Clauses 32, 33, 34, and 35 deal with the courts of review. If an owner is dissatisfied with the decision of the Valuer General he may appeal to the court of review, lodging a deposit of not less than £1 or more than £10. Failure to pay the required deposit, of course, will void the appeal. In those cases in which the valuation appealed against does not exceed £1,000 unimproved value and £2,000 improved value, it is provided that the court of review shall be the nearest local court although the Governor may appoint any special magistrate to hear an appeal. In all other cases the court of review shall be a Supreme Court judge. An appeal pending in a local court may be removed into the Supreme Court and *vice versa* by order of a judge of the Supreme Court A valuation appealed against is to be operative during the period it is pending, but subject to adjustment in the terms of the decision given as a result of the appeal. Clause 37 provides that unless a case is stated by the court of review for the Full Court, or an appeal by leave is granted to the Full Court, the decision of the court of review is to be final. Clauses 39, 40, and 41 show the purposes of valuation; the purpose of the Bill is disclosed in these clauses. It is provided that every valuation in a register shall be accepted as the true valuation for the purpose of land tax, municipal, health, and roads boards rates, and rates under any other Act as well as the duty payable under the Administration Act, 1903. The clauses are made sufficiently elastic to permit of departures from the register if (a) improvements have been added to or removed from the land after the date of valuation in the register, (b) the appraisement is required to be made under a particular statute on a different system from that adopted in making the valuation in the register, (c) in any case in which some element occurs which was not taken into account in the compilation of the register. Under Clause 41 it is provided that the Valuer General's register shall be adopted by a local authority as a basis of valuation, and the Valuer General may, instead of issuing a fresh valuation, direct the local authority to adopt a previously existing valuation. That means that there will be no longer any necessity for a local authority to employ valuers to make valuations of ratable property each year as at present.

Hon. M. L. Moss: Clause 39, Subclause (f), is a peculiar thing to be in the Bill.

The COLONIAL SECRETARY: We can deal with that in Committee. Clause 42 limits the basis upon which appeals against assessment for land tax may be based insofar as valuation by the Valuer General in concerned to specified grounds

of appeal. With regard to compensation claims under the Public Works Act I may say that this is not in the New Zealand measure. Clause 43 provides that in connection with claims under the Public Works Act for resumption of land by the Government, that the valuation appearing against any land in the register shall be accepted as the true value at the date of valuation. If, of course, a claimant can show that there had been an increase in values since the valuation was made, it would be for him to do so before the compensation occurred. If a claimant could show that it would be very good evidence indeed to justify him in getting more than was shown in the register. A valuation under this Bill might take place, say, in last December, and the land might be resumed this week. It could perhaps be shown that there had been an increase of 10 per cent. since the valuation, and under this measure I think that could be claimed. It will be seen from this clause that if there were any elements occurring that were not taken into account when the valuation under this Bill was made, a claimant would be entitled to claim consideration of those as affecting the valuation. All that is done in this Bill is to declare that in connection with land resumption claims the register shall be accepted as a basis of valuation at that time. I move—

That the Bill be now read a second time.

On motion by Hon. M. L. Moss, debate adjourned.

BILL—MINES REGULATION.

In Committee.

Resumed from the previous day; Hon. W. Kingsmill in the Chair, Hon. J. E. Dodd (Honorary Minister) in charge of the Bill.

The CHAIRMAN: Progress was reported on Clause 35—General rules.

Subclauses 24 to 26—agreed to.

Subclause 27—Materials not to be raised or lowered on the same cage as men:

Hon. J. D. CONNOLLY: The first part of the subclause stated—

> No iron, timber, tools, rails, sprags, or other material, except when repairing the shaft, shall be placed on the same cage, carriage, receptacle, or platform in which men are being lowered or raised from their work.

No exception could be taken to the rule so far as it went there. The subclause went on to say—

> And no men shall enter or be upon the same conveyance as such materials for the purpose of being lowered or raised.

The first portion protected the workmen so that they would not be lowered or raised with tools or bars of steel and so on, but the latter part went too far because a man might want to go with a small quantity of tools from level to level or even take some tools with him in the ordinary cage and this would prevent it. The tools would have to go down by themselves and the man in another cage. No doubt the first part of the subclause would protect the worker to the extent required by the Minister. He moved an amendment—

That all the words after "work" in line 4 of the subclause be struck out.

Hon. J. E. DODD: The subclause was designed to prevent men from riding on a cage at any time when tools were being sent up and down. That was a very dangerous practice at any time and once we allowed the system to creep in for men to ride with any tools there was a danger of it extending, as the men would take a considerable amount of responsibility upon themselves, and sometimes it might be convenient for them to take a certain number of tools with them to the surface or to a level. It was a very difficult thing sometimes to prevent men riding in a cage with tools despite the danger.

Hon. J. D. Connolly: The first part of the subclause covers the time when men are being raised or lowered from their work.

Hon. J. E. DODD: Often a man had to go to the level below him or the level above him, or levels two or three stages away, to get certain tools, and at the

same time he would ride in the cage with those tools. It was a very dangerous thing to do. Personally he thought some provision might have been made to allow the tool carrier to have some responsibility in this respect.

Hon. J. D. Connolly: That was exactly the man he wanted to provide for.

Hon. J. E. DODD: Personally, he did not see a great deal of objection to it. He did not see much objection to a man in charge of tools in the cage being allowed a certain responsibility.

Hon. J. D. Connolly: Allow these words to come out and if you do not think the workmen are sufficiently protected you can insert other words in lieu.

Hon. J. E. DODD: Although he had no objection himself to the words coming out with a view to inserting something else, he would point out that this clause threw the responsibility on the man and the onus on the man, so that the only damage he could possibly recover would be under the Workmen's Compensation Act.

Hon. R. G. ARDAGH: The Committee should not strike out the words. He was looking at the question not altogether from the point of view of the miners underground, but from the standpoint of the engine-driver on the surface or level. Numerous accidents throughout Australia had occurred through men riding in cages carrying tools also, and there was nothing that irritated an engine-driver more when pulling a cage to the surface or level with a lot of loose drills or machines in it than to find men jumping out. The provision should remain as it was a prohibition against the men in that respect more than anything else.

Hon. A. SANDERSON: His inclination was to support the subclause as it stood, although with some hesitation.

Hon. J. D. Connolly: The Minister says he has no serious objection to the words being struck out.

Hon. A. SANDERSON: It was a question of safety. It was a question whether an inspector could not be made responsible. There seemed a certain amount of risk. The present Government could not last very much longer now so he did not think we need irritate them in their dying days more than was necessary. For that reason he proposed to let the subclause go through.

Hon. J. D. CONNOLLY: While he agreed with Mr. Sanderson to a certain extent, namely, that the present Government were in their dying days, he believed the Honorary Minister agreed with him that the restriction in question would hamper the work of the mines to a certain extent and afford no decent security to the miner. There was a law in relation to warehouses which prevented passengers from riding in a luggage lift. What was needed here was that men should not ride with tools and machines when going to or returning from their work. Would the Honorary Minister prevent a man in a warehouse from going in a luggage lift with a small quantity of tools, a hammer for instance, from one floor to another?

Hon. R. G. Ardagh: That is rather a fine point.

Hon. J. D. CONNOLLY: It was right that men should not be allowed to ride in a cage which was full of tools, but this was sufficiently protected in the earlier part of the subclause. If the words he objected to were struck out the Minister could, if he thought necessary, add other words on recommittal.

Hon. J. CORNELL: It was to be hoped the subclause would be allowed to stand as printed. No facilities should be afforded any man to take undue risks. In the larger mines men were continually changing from one level to another, and to allow a man to ride with tools of any sort was bordering on manslaughter.

Hon. J. D. Connolly: You must give consideration to the smaller mines.

Hon. J. CORNELL: Mr. Connolly had drawn on his imagination when he said that men would not be permitted to take down a hammer with them. He hoped that for the protection of men in the mines it would be made an offence to ride with tools of any sort. If the amendment were agreed to it would be possible for a man to take with him in the cage

a rock drill weighing 4cwt., together with a mass of other tools.

Hon. J. E. DODD: It would be a mistake to allow the words to go out unless some modification were inserted in their place. One of the points raised by Mr. Connolly might be summed up in this way: a tool carrier sent down his tools to the level and brought them up from the level; such a man might have to take up only one or two drills from a particular level, in which case the risk would not be very great. But unless some amendment was provided confining the risk to this, the amendment ought not to be agreed to.

Hon. J. D. CONNOLLY: The Honorary Minister had admitted that there was a good deal to be said in favour of the amendment. If the words were struck out the Minister could, on recommittal, insert other words. Hon. members should realise the enormous difference between the conditions in a big mine and those in a small one. In a small mine with only a few men going down it should be permissible for those men to take their tools with them. This was a common practice in small mines where the hammer and drill process was in vogue. These restrictions would be very severely felt in small mines.

Hon. J. E. DODD: It was to be remembered that the clause was introduced with the very significant qualification, "As far as reasonably practicable these general rules shall be applied." Surely this was sufficient to cover the point exercising Mr. Connolly's mind.

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

Ayes	10
Noes	7
Majority for ..	3

AYES.

Hon. H. P. Colebatch	Hon. M. L. Moss
Hon. J. D. Connolly	Hon. C. Sommers
Hon. J. F. Cullen	Hon. T. H. Wilding
Hon. D. G. Gawler	Hon. R. J. Lynn (*Teller*).
Hon. V. Hamersley	
Hon. A. G. Jenkins	

NOES.

Hon. R. G. Ardagh	Hon. J. M. Drew
Hon. J. Cornell	Hon. J. W. Kirwan
Hon. F. Davis	Hon. A. Sanderson
Hon. J. E. Dodd	(*Teller*).

Amendment thus passed.

Subclause as amended agreed to.

Subclauses 28 to 55—agreed to.

Subclause 56—Box method of rising:

Hon. J. D. CONNOLLY moved an amendment—

That in line 3 the word "twenty" be struck out and "thirty" inserted in lieu.

Very little rising was done, on account of the expense entailed. It would be quite impossible to confine the rising to 20 feet, for reasons already given in respect to the sinking of shafts and the height of stopes. If a manager was refused the right to put in a rise the ground would go unprospected. The box method was so expensive as to be unwarranted for prospecting purposes, and therefore this system prevented prospecting by rising.

Hon. J. E. DODD: Again hon. members should remember that the clause was introduced with the qualification "As far as may be reasonably practicable, these general rules shall be applied."

Hon. J. F. Cullen: Twenty feet would be quite practicable.

Hon. J. D. Connolly: So would 10 feet, but not economical.

Hon. J. E. DODD: If it was not practicable to carry out this provision it would not be carried out. Rising was admittedly the very worst possible phase of mining. From a health point of view there was nothing else so bad in mining as rising. No man could work a week in a rise without injury to his health, and to limit the height of a rise to 20 feet without the box system imposed no hardship at all. The box system might be somewhat expensive at the outset, but it was quite possible that a rise constructed on such a system would become the least expensive to the management in the end; because if it was well put in it would eventually become the pass down which the ore was sent, and so would provide the second means of exit referred to earlier in the Bill.

Hon. J. D. Connolly: You do not use every winze for a pass.

Hon. J. E. DODD: No, but many winzes were so used. The box was constructed in the centre of the rise, leaving an air space on each side. In this air space the ladder way could be put to provide means of exit from the mine. If members fully realised the unhealthy conditions to be met with in a rise they would not support the amendment.

Hon. J. D. Connolly: Will the box method alter those conditions?

Hon. J. E. DODD: It would create a certain amount of circulation of air, and this was why the box system was advocated. The present Act provided for rising 30 feet without having recourse to the box method. If every amendment were to be accepted the Bill would be on all fours with the Act in all respects. The use of the Holman hoist was doing away almost entirely with the necessity for rising. He hoped the subclause would pass as printed.

Hon. A. SANDERSON: On the second reading debate practically everybody had been quite prepared to support the humanitarian point of view. As the Minister had pointed out, if we were to accept all these amendments it would have been better to knock out the Bill on the second reading. There were, perhaps, half a dozen big points on which it seemed impossible for the Minister to have his way. That being so he would appeal to Mr. Connolly not to press too hard on points which were not so material. Such an attitude would be only a reasonable concession to the Minister and to the industry. With one exception all the members from the goldfields had supported the Bill. If we were to have a division on this point, with some hesitation he would support the clause.

Hon. R. G. ARDAGH: Mr. Connolly ought to be aware that a rise was about as bad a place as a man could get into in a mine. It was because of that the clause had been inserted. Mr. Connolly had said that most of the rising was done for prospecting purposes. As a matter of fact the question of rising largely depended upon the nature of the country. The box system served to alleviate in some degree the evils of rising, and so was distinctly beneficial to the men. Clause 36 provided that, if in the opinion of the inspector the observance of the general rules or any of them was not reasonably practicable in any particular mine, the Governor might by notice in the *Government Gazette* suspend, alter or vary such rules in respect to such mine. Surely this was sufficient safeguard to satisfy even Mr. Connolly.

Hon. J. CORNELL: The case in favour of the amendment was the poorest effort Mr. Connolly had yet made in respect to the Bill. That hon. member's remarks seemed to infer that rising was limited to 30 feet.

Hon. J. D. Connolly: Take the next rule.

Hon. J. CORNELL: But the hon. member proposed to strike out the next rule. The idea of the Bill was to limit the height of rising, and the clause provided that rising might be carried to 20 feet without the box system. If it was wished to go higher, then the permission of the inspector had to be obtained and the box system resorted to. The amendment would allow rising to be carried to 30 feet without any special permission and without recourse to the box system. If the hon. member would be content to endeavour to insert "thirty" in the next succeeding rule, which it was proposed to strike out, that would limit the height of rising to 30 feet, unless the inspector gave permission to go higher, when it would be necessary to adopt the box system. But the intention of the hon. member was not to limit the height of rising at all.

Hon. R. J. LYNN: Mr. Connolly might reasonably be prevailed upon to withdraw the amendment. If a rise exceeding 20 feet in height resulted in such foul air and evil conditions as the Committee had been given to understand it did, then 20 feet was going quite far enough.

Hon. J. D. Connolly: But you can go to 30 feet.

Hon. R. J. LYNN: Notwithstanding that, in his opinion, 20 feet was sufficient.

Hon. J. D. CONNOLLY: Mr. Lynn had only shown by his remarks that he knew very little about the subject. The hon. member's argument was that better air could be got at 30 feet than at 20 feet. How could a better current of air be obtained in a shaft that was timbered than in one that was untimbered? He had no objection to adopting the suggestion of Mr. Cornell to make an amendment in the next subclause and allow this one to remain as drafted.

Hon. H. P. COLEBATCH: The difficulty could be overcome by inserting after "shall" in line 4 the words "if required by the inspector."

Amendment by leave withdrawn.

Hon. H. P. COLEBATCH moved an amendment—

That after "shall" in line 4 the words "if required by the inspector" be inserted.

Hon. J. CORNELL: Whilst agreeing to a certain extent to giving discretionary power to the inspectors in any new clause, he certainly thought it was a retrograde step to give that discretionary power after seven years operation of an Act which did not give that discretionary power. The present Act allowed a height of 30 feet without any discretion to the inspector.

Hon. J. E. DODD: The amendment should not be adopted. He would like to see the whole system of rising abolished. There were few places where a rise was absolutely necessary. It might be necessary in isolated instances to put up a rise for a few feet, but mining could be carried on without rising.

Hon. J. D. Connolly: How would you prospect a drive without rising?

Hon. J. E. DODD: The only drive that could not be prospected was where a shoot of ore was struck in the drive which had not been met with in the level above. Even then he thought the difficulty could be overcome. Once again he would draw the attention of the Committee to the words at the beginning of the clause "as far as may be reasonably practicable." To insert the words "if required by the inspector" would be superfluous. Rising should be restricted as far as possible, without allowing any latitude. He knew the injury which the system of rising had done to the health of the miners.

Hon. W. PATRICK: The most uncomfortable place in a mine was a rise, and from his little experience of mining he was inclined to support Subclause 56 as printed.

Amendment put and negatived; the subclause put and passed.

Subclause 57—Limit of height of rises:

Hon. J. D. CONNOLLY: Having agreed to Subclause 56 why was it necessary to have Subclause 57 at all?

Hon. J. E. DODD: This subclause provided that no rising should be permitted at all unless the inspector certified that rising was necessary. The intention was to try to restrict rising to the lowest limit possible.

Hon. J. D. Connolly: You have already given protection to a distance of 20 feet.

Hon. J. E. DODD: The preceding subclause merely said that a rise should not be taken more than 20 feet without the box method.

Hon. J. D. CONNOLLY: Rising on the box method was not likely to go much beyond 20 feet, because as a rule the box method was too expensive. This subclause aimed at preventing rising altogether. He moved an amendment—

That the subclause be struck out.

Hon. R. G. ARDAGH: Subclause 56 distinctly stated that rising should not be allowed above 20 feet unless the box system was used. This subclause would not allow rising at all unless on the certificate of the inspector. He knew of rises which had been taken to a height of 100 feet. He hoped the amendment would not be carried.

Hon. J. CORNELL: If the reference to the box method were taken out of Subclause 56 and inserted in Subclause 57 it would be an improvement in the drafting. The Committee had arrived at a decision that a rise could be taken to 20 feet without the box, and this subclause made it necessary to get the permission of the inspector in order to carry

the rise beyond 20 feet even with the box.

Hon. H. P. Colebatch: The last clause limits the height to 20 feet in any case.

Hon. J. CORNELL: The height of rising was limited to 20 feet without the box system, and the previous subclause stated that if the rising went higher than 20 feet the box system must be adopted. If the inspector permitted the rise to go higher than 20 feet then the box system must go with it.

Hon. J. D. CONNOLLY: The previous subclause simply stated that there should be no rising beyond 20 feet without the box method. If the Bill stopped at that, it would be possible to rise to any height that the inspector would allow, provided the box system was adopted.

Hon. W. Patrick: They would have to get the inspector's permission to go beyond 20 feet with the box.

Hon. J. D. CONNOLLY: And when the rise got to 29 feet the inspector might say that it must go no further. It was provided that the inspector could stop the work at any time after it had reached 20 feet. The next subclause, however, said that notwithstanding one boxed it, one must get the inspector to certify before going to 21 feet, although the previous clause had said one must not go 20 feet without adopting the box method. It was plain as the noonday sun that there was no meaning in the subclause. All the protection that was required was given in Subclause 56.

Hon. J. E. DODD: Subclause 56 stated that rises could not be taken more than 20 feet without the box method. The next subclause said that if a rise was going to be taken more than 20 feet the inspector had to certify in writing that such rise was necessary for the proper working of the mine.

Hon. J. D. CONNOLLY: Is it possible to work a mine under that system?

Hon. J. E. DODD: Those commencing a rise would get the sanction of the inspector when commencing it, not wait until they got up 20 feet. When the management of a mine commenced a rise they knew exactly where it was going to. If they wanted to go more than 20 feet they would get permission from the inspector to do so without waiting until they got a rise of 20 feet, when the inspector might be in the back country or away somewhere else and they would be hampered in their work.

Amendment put and negatived; the subclause agreed to.

Clause 35 as amended put and passed.

Clauses 36, 37—agreed to.

Clause 38—Coroners' inquests:

Hon. D. G. GAWLER moved an amendment—

That in Subclause 3 the words "and to the issue whether the accident was attributable to negligence or any omission to comply with the provisions in this Act," be struck out.

The function of coroners' inquests was to find out the cause of death, and Subclause 3, with the words objected to in it, left it open to the parties to bring out evidence on any question between them from the point of view of a Supreme Court action for damages. A coroner's inquest was never intended to be a vehicle for allowing evidence of that sort to be brought out, and for inquests to be loaded with evidence of this sort was entirely foreign to the nature of such inquests and also exceedingly undesirable. The clause allowed not only a representative of the mine owner, but a representative of the workmen and also a representative of the person killed to be present at the inquest. So, unless the amendment was carried, it would be a matter of wrangling from start to finish as to whether the accident was attributable to the negligence of one party or the other.

Hon. J. E. DODD: The words which Mr. Gawler sought to have struck out were very important to the clause. As the hon. member had stated, a coroner's inquest was held simply to inquire into the cause of death, but it ought not to be merely that. A coroner's inquest, especially in relation to a mining accident, ought to do something far more than that. It ought not only to inquire into the cause of death but ought to be an in-

quiry to point out how similar accidents might be avoided in the future.

Hon. J. F. Cullen: For that an inquest is the wrong tribunal altogether.

Hon. J. E. DODD: In his opinion there was no better body than a coroner's inquest to find out the cause of an accident, and if there was any neglect or omission to try and rectify it. He thought Mr. Gawler would agree that a coroner's inquest had no power whatever upon an action in the Supreme Court.

Hon. D. G. Gawler: You are trying to make it so by these words.

Hon. J. E. DODD: Evidence considered in the Supreme Court would be evidence that would have to be heard there, not evidence given at a coroner's inquest. The Committee should reject the amendment, as there had been times when persons at coroners' inquests had been restricted in their examination of witnesses and the real cause of the accident had not been brought out.

Hon. J. F. CULLEN: Coroners' inquests were loose enough and prolonged enough as they were, but to make a coroner an expert in mining matters would make confusion worse confounded. An inquest was not a tribunal to determine the degree of blame to this man or that, but to ascertain the cause of death. There was a mining tribunal to find out who was to blame for the accident and other courts to deal with claims for damages.

Hon. H. P. COLEBATCH: This subclause contemplated a rather extraordinary departure from the usual practice of coroners' inquests. While he was in accord with any suggestion that might help in exactly locating the cause of an accident with a view to preventing similar accidents in the future, he did not see any reason why coroners' inquests in regard to persons killed on mines should proceed on lines different from coroners' inquests in regard to people killed anywhere else.

Hon. D. G. GAWLER: It should be further noted that a coroner in nearly all cases was an absolutely unqualified man from the standpoint of sifting evidence, but we were seeking to enable him to decide upon evidence which could only be brought out by a legally qualified person such as a judge or a magistrate. A coroner's inquest was not guided by the rules of evidence at all, but the clause was seeking to establish liability on the part of a mine manager upon evidence that might not be accepted in any other court. Clause 30 provided for an inspector's examination into the cause of the accident and the Mines Regulation Board was another tribunal to inquire into accidents, so if the Minister's main object was to have the cause of an accident inquired into to see if the regulations had been observed, ample provision was made by Clauses 30 and 40. He (Mr. Gawler) had had experience of inquests himself and he knew the tendency there was for one party or the other to endeavour to bring out evidence with a view afterwards to an action at common law. The Committee would be well advised to strike out these words.

Hon. H. P. COLEBATCH: Mr. Gawler would be well advised to include in the words proposed to be deleted the further words, "may examine any witnesses as to the cause of the accident." If this were done it would not prevent any of those persons examining a witness, but they would have to act under the ordinary procedure laid down for the conduct of coroners' inquests and ask questions through the coroner.

Hon. D. G. GAWLER: The suggestion was a good one. He would ask leave to include those words in his amendment.

The CHAIRMAN: The proper form to pursue was to ask leave to withdraw the amendment, and move it again with those words added. It was very necessary that this should be done, because objection might be taken to the withdrawing of the amendment.

Hon. D. G. GAWLER: In the circumstances he would ask leave to withdraw the amendment.

Amendment by leave withdrawn.

Hon. D. G. GAWLER moved a further amendment—

That in lines 7 to 11 the words "and may examine any witness as to the

cause of the accident and to the issue whether the accident was attributable to negligence or any omission to comply with the provisions of this Act" be struck out.

Hon. J. E. DODD: The extension of the amendment made it even worse than it was. What would be the position if we struck out those words "may examine any witnesses as to the cause of the accident"?

Hon. D. G. Gawler: You then go on to Clause 30. There is there ample provision for inquiry.

Hon. J. E. DODD: Clause 30 did not deal with inquests at all, but merely with inquiries. To strike out the words which Mr. Gawler had now added to his original amendment would further limit the scope of a coroner's inquest, and would debar any person appearing on behalf of either side from examining witnesses as to the cause of the accident.

Hon. R. J. Lynn: They are not restricted to-day.

Hon. J. E. DODD: The amendment would restrict them, quite apart from the issue as to whether the accident was attributable to negligence. Whatever justification there might have been for the earlier amendment there was no justification whatever for this.

Hon. H. P. COLEBATCH: Perhaps the Minister could give the Committee some reasons why there should be a different procedure in regard to coroners' inquests on mining fatalities as against coroners' inquests on any other fatalities.

Hon. J. E. DODD: The reasons were self-evident. When a man was injured in the street the accident could be seen by everybody. But a man in a mine was working under unique industrial conditions, and an accident in those circumstances might be quite unlike any other class of accident. In all places of which he knew there were certain extra privileges accorded to representatives of societies and relatives of persons who might be killed in a mine.

Hon. H. P. Colebatch: Can you give us an instance where it is done?

Hon. J. E. DODD: At Broken Hill.

Hon. H. P. Colebatch: Can you quote the Act?

Hon. J. E. DODD: The hon. member, who had been there for some years, ought to know that there the secretary of the union visited the scene of the accident and appeared at the coroner's inquest.

Hon. H. P. Colebatch: But he could not ask questions, except through the coroner.

Hon. J. E. DODD: That was all that was asked here.

Hon. H. P. Colebatch: Oh no. Here the representatives may themselves ask questions direct.

Hon. J. E. DODD: It was only right that those persons should be privileged to fully inquire into the cause of the accident.

Hon. D. G. GAWLER: The purpose of a coroner's inquest was to find out the cause of death. The Honorary Minister had said that if we were to strike out the words "and may examine any witnesses as to the cause of the accident" we would unduly restrict the representatives of the deceased. But this would not be taking away from the coroner the right to examine witnesses. It would merely be restricting the interested parties, who would be required to put their questions through the coroner. It was only right that the interrogating of witnesses should be left to the coroner himself. If the Honorary Minister looked at Clause 30 he would see that enormous powers were there given to workmen's inspectors.

Hon. J. E. Dodd: There are none.

Hon. D. G. GAWLER: But if we were to leave workmen's inspectors in the Bill they would be invested with the powers there given.

Hon. J. E. DODD: What was the reason of permitting representatives to visit the scene of the accident if they were merely to inquire into the cause of death? Why should representatives of a society or of the person killed have the right to visit the scene of the accident if they were not to be allowed to ask questions of the witnesses?

Hon. D. G. Gawler: In view of a subsequent action at common law on behalf of the deceased.

Hon. J. E. DODD: In this way the hon. member was defeating his own case. We were dealing with coroners' inquests only. If the persons appearing were only to be allowed to inquire into the cause of death, why allow them to visit the scene of the accident? Again, why insist upon the jury being a jury of miners? Whatever occasion there might have been for the deletion of the words which Mr. Gawler had first sought to have struck out, there was no justification whatever for the extended amendment.

Hon. J. CORNELL: The practice in coroners' courts on the goldfields to-day was that the representative of the miners' union appeared and cross-examined witnesses as to the cause of death. The original amendment would still have allowed these representatives to do by law what they were to-day allowed to do by custom. That was really all that was necessary. The inspector of mines was allowed to be present on the coroner's inquest on the goldfields. Mr. Gawler himself had pointed out that the coroner was not always a fully qualified man. Therefore to allow a representative of the miners' association, an inspector of mines, and the representative of the person killed to be present at the inquest would materially assist the coroner and save time.

Hon. W. Patrick: All that is in the clause now.

Hon. J. CORNELL: The amendment would prevent the representative doing anything further than viewing the scene of the accident.

Hon. W. Patrick: And he can examine any witnesses as to the cause of the accident.

Hon. J. CORNELL: It was proposed to strike out those words, and it would be a case of attending the inquest and doing nothing.

Hon. H. P. Colebatch: He could ask questions through the coroner.

Hon. J. CORNELL: Why not give him the right to assist the coroner?

Progress reported.

House adjourned at 5.17 p.m.

Legislative Assembly,

Thursday, 13th November, 1913.

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

PAPER PRESENTED.

By the Minister for Railways: Copy of a minute of Executive Council approving the terms of re-appointment of John Tregerthen Short as Commissioner of Railways.

QUESTION—WAGIN-DARKAN RAILWAY.

Mr. MOORE (for Mr. George) asked the Minister for Works: 1, On what date was any provision made in connection with the proposed Wagin-Darkan railway in the Loan Estimates? 2, What was the amount allocated—(a) as to surveys; (b) construction of the railway; (c) rails and fastenings? 3, Is the total amount so provided lying dormant or has it been appropriated for other purposes? 4, If dormant, is the interest payable on the borrowing being debited to the Wagin-Darkan railway? 5, If appropriated for other undertakings, is the Wagin-Darkan railway relieved of the incubus of interest on loan? 6, If allocated to other undertakings, upon what authority has this been done? 7, Do the Government propose to proceed with the Wagin-Darkan railway, and when? 8, If not, why not?

The MINISTER FOR WORKS replied: 1, 21st December, 1909, £10,000; 6th February, 1911, £18,000. 2, (a) None—separate vote; (b) all; (c) none—separate vote. 3, Lying dormant—unappropriated. 4, No. 5, Replied to by (3). 6, Replied to by (3). 7 and 8, Representations in regard to this matter