of providing for sure and certain development in future, and that the House will reject the Bill.

On motion by Mr. Thomas, debate adjourned.

House adjourned at 10.24 p.m.

Legislative Council,

Tuesday, 5th November, 1912.

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

BILL—INDUSTRIAL ARBITRATION.

As to Recommittal.

Hon. J. E. DODD (Honorary Minister) moved—

That the Bill (reprinted as amended in Committee) be recommitted for the purpose of further considering Clauses 41, 53, 87, and 92.

Hon. T. H. WILDING moved an amendment—

That Clause 4 be added to the motion.

Hon. J. D. Connolly: It would save time to have the whole Bill recommitted.

Hon. J. E. DODD asked leave to withdraw the motion.

Motion by leave withdrawn.

Hon. J. E. DODD moved—

That the Bill (reprinted as amended in Committee) be recommitted for general consideration.

Hon. Sir E. H. WITTENOOM: After one or two clauses had been disposed of progress ought to be reported so that members could look through the reprinted Bill.

Question passed; the Bill recommitted.

Recommittal.

Hon. W. Kingsmill in the Chair; Hon. J. E. Dodd (Honorary Minister) in charge of the Bill.

Clauses 1, 2, 3—agreed to.

Clause 4—Interpretation:

Hon. T. H. WILDING moved an amendment—

That after paragraph (c) in the definition of "Industry" the words "provided that agricultural and pastoral industries shall not be included in this definition" be added.

Hon. J. E. DODD: As this matter had already been thoroughly fought out in Committee it was useless to repeat the arguments already used. He opposed the amendment.

Hon. V. HAMERSLEY: When the arguments were put up previously in connection with this question he was not present. He supported the amendment. In nearly every clause of the Bill he saw entanglement for all concerned in the agricultural industry. It would work untold harm to the industry if the Bill was made to apply to it. The agricultural industry differed from other industries because it was one in which added difficulties or costs could not be passed on. A system of grading or combination among the hands would work untold harm. There were many who objected to join unions, there were many not allowed by the unions to join, and there were employers who objected to employing unionists. To those who did not want to join unions, or could not join unions, or who wished to retain their freedom, the only outlook was the agricultural industry. He could imagine men ploughing or drilling in one field and stock breaking into a standing crop in the adjoining field, and the ploughmen or the drillers not taking steps to save the farmer's crop because they were not classed as stockmen, and it was no busi-

ness of theirs to keep an eye to the stock. Complications like this were bound to arise. How would the eight hours system work in the case of a bush fire? To bring the agricultural industry into the court would mean that the employer at every turn would find fifty and one other burdens placed on his shoulders, though his difficulties were great enough to-day to study out the various means by which he could pay wages to those men he employed, and the best means of cultivating and how to meet all sorts of difficulties from day to day. How the court was going to overcome climatic conditions and at the same time make rules for the men working out in the open was altogether beyond his practical comprehension. It would all result in forcing the employer out of the business. In his opinion it would be wise to exempt the agricultural industry from this legislation.

Hon. A. SANDERSON: In other circumstances it might be wise to follow the example of the Honorary Minister and refuse to discuss this question. But he recognised that Mr. Wilding and Mr. Hamersley were admirably qualified by their knowledge and their position to act as spokesmen for the agricultural industry, and, consequently, he would appeal to them to take a broader view of the subject. Those gentlemen were in a position to speak for the employers in the industry, but they would scarcely venture to speak on behalf of the employees.

Hon. V. Hamersley: Unless the amendment is carried a number of the employees of to-day will not be able to get a job.

Hon. A. SANDERSON: The arguments brought forward by the hon. member in regard to the difficulty the court would have in deciding the wages to be paid applied with equal force to every other industry. The difference was that Messrs. Wilding and Hamersley were intimately acquainted with their own industry, and had an opportunity of speaking in Committee on behalf of it, whereas other industries were not directly represented in the Committee. If direct representatives of those other industries had an opportunity of speaking before the Committee they would probably succeed in each establishing just as good a claim for the exemption of his own particular industry. Personally he viewed the amendment with a comparative amount of indifference, but he maintained that from the point of view of equality and justice the employees in the agricultural industry were as fully entitled to the privilege of going to the Arbitration Court as were those in any other industry. Was it fair that Messrs. Wilding and Hamersley, sitting as arbiters of the destinies of the State, should use their knowledge and influence in regard to their own industry to exempt it from the arbitration laws, instead of taking up the attitude that the whole system of arbitration was radically unsound from start to finish?

Hon. F. DAVIS: The arguments adduced by Mr. Hamersley constituted a direct reflection on the Arbitration Court. The hon. member had declared that the difficulties of the industry were incapable of being dealt with by the Arbitration Court, which meant, of course, that the president of the Court would be incapable of dealing with them. More than that, the hon. member's remarks amounted to a direct reflection upon the employers in the agricultural industry, to the extent that the hon. member had inferred that those employers would not be able to put their case clearly before the Arbitration Court. The agricultural industry had no claim whatever to special consideration. Difficulties might arise in respect to the working of the eight hours system in the agricultural industry just as in other industries, but there were not likely to be difficulties which could not be overcome by a reasonable compromise in the shape of an award by the court. He hoped the amendment would not be carried.

Hon. Sir E. H. WITTENOOM: It was his intention to support the amendment, for it would be in the best interests of all concerned. He feared, however, that if the amendment was carried it would give rise to a great deal of discontent among the employees in the agricultural industry. All employees con-

sidered that they had a right to go to the Arbitration Court. The carrying of the amendment would probably set up a grievance among the agricultural employees and, notoriously, there was nothing more to the disadvantage of the employer than a grievance among the employees.

Hon. J. CORNELL: For his part he would oppose the amendment. In the discussions which had taken place on several different clauses the inclusion of the agricultural and pastoral workers had been used as a stalking horse, and the argument adduced was that it was necessary that these employees should be included. Now it was proposed to strike them out again. Were the Committee going to strike out that which the Committee had specially inserted, or would the Committee display some consistency in their work?

Hon. Sir E. H. Wittenoom: Every member has a perfect rigt to change his mind. You change your mind at times.

Hon. J. CORNELL: Only after due reflection did he ever change his mind. It had been said that arbitration was the fashion of the day. As a matter of fact arbitration was very unpopular. There was at the present time a resolution before the metropolitan council of the Australian Labour Federation, having for its object the prevention of unions going to arbitration. He feared that the work put in by the Committee prior to the recommittal of the Bill had practically killed arbitration. If the Committee were to carry the amendment he would be convinced that so far as the workers were concerned arbitration had been definitely killed.

Hon. Sir J. W. Hackett: It is only half-way through yet.

Hon. J. CORNELL: If the amendment were carried arbitration would be dead. What was good for one was good for all. If one section of the workers were to come under the Bill all sections should be in the same position. It was interesting to hear agricultural members in one breath supporting the amendment, confessedly in their own interests, and in the next breath asking that it should be agreed to in the interests of the workers.

Hon. M. L. Moss: You know it is not practicable to apply this legislation to the agricultural industry.

Hon. J. CORNELL: There had never yet been a reform that was not by sceptics said to be outside the bounds of practicability. If it was not practicable to apply the arbitration laws to the agricultural industry no harm would come of making provision for such application; but if, after all, it were practicable but was not provided for, no effect could be given to it. The Committee should be consistent and stick to the previous decision for the sake of the members who were absent from the Chamber. He realised now that it was essential for every member to be present when a Bill was re-committed. If the amendment was carried, a smaller number of members would be undoing what 23 members had done.

Hon. T. H. WILDING: Agricultural employees were not asking to be included in the measure. There was good evidence to prove that. For nearly two years an energetic man had been working in one of the main agricultural districts endeavouring to get the employees to form a union.

Hon. J. Cornell: Who is it?

Hon. T. H. WILDING: Mr. Dhue.

Hon. J. Cornell: I am glad you think him energetic.

Hon. T. H. WILDING: This man had been unable to get the employees to join a union. Agricultural employees were reasonable and sensible men, and realised that it was impossible to carry on the industry under a system of so many hours a day. There must be give and take. In an orchard, ten or twenty men might be working on a hundred acres of land, and a man could be put in charge of them to see that the employer got value for his money, but on a farm men might be scattered in twenty different places, and it was impossible for an overseer to see that the employer got value for

his money. If employees were asking to be included in the scope of the measure, it would be a different matter. Members of other unions, desirous of obtaining greater political power, were making the request—that was at the bottom of it, and nothing else.

Hon. D. G. GAWLER: These workers ought not to be excluded from the operations of the measure, and he would vote against the amendment. The agricultural industry might be hampered, but against that must be placed the fact that the president of the court would recognise the hardships under which the industry would suffer, and would do his best to modify them. At the same time, a man who worked as an agricultural labourer in a field was a worker just as much as a carpenter working on a house which was being put up in a field. The Government had received a mandate to improve the law in regard to its technical points, and one of the principles of the original Act was the inclusion of agricultural labourers. The country had not asked that such workers should be excluded from the measure. While largely in sympathy with supporters of the amendment, he could not see his way clear to vote for it.

Hon. J. E. DODD: The right of the agricultural labourer to secure redress under the Arbitration Act had been in existence for ten or twelve years, and it existed at present. Was it likely that Mr. Wilding's proposal would be accepted? It was struck out of the last amending Bill, and another place refused to accept the amendment. Now we were asked to exempt these employees again. There was no possibility of any injustice being done as Mr. Hamersley and Mr. Wilding seemed to think. The president was appointed to decide these matters, and the right at present enjoyed should be allowed to remain.

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

Ayes	..	..	8
Noes	..	..	8
A tie	..	..	0

AYES.

Hon. E. M. Clarke	Hon. T. H. Wilding
Hon. H. P. Colebatch	Hon. Sir E. H. Wittenoom
Hon. V. Hamersley	Hon. J. D. Connolly
Hon. R. J. Lynn	(*Teller*)
Hon. M. L. Moss	

NOES.

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

The Chairman gave his casting vote with the Noes.

Amendment thus negatived.

Hon. T. H. WILDING moved an amendment—

That at the end of the definition of "Worker" the following words be added:—"but shall not include any person engaged in domestic service or in connection with agricultural or pastoral pursuits."

The CHAIRMAN: The hon. member could not move the latter part of the amendment.

Hon. T. H. WILDING: Then he would make his amendment read—

That at the end of the definition of "Worker" the following words be added:—"but shall not include any person engaged in domestic service."

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

Ayes	..	..	8
Noes	..	..	8
A tie	..	..	0

AYES.

Hon. H. P. Colebatch	Hon. T. H. Wilding
Hon. J. D. Connolly	Hon. Sir E. H. Wittenoom
Hon. V. Hamersley	Hon. E. M. Clarke
Hon. R. J. Lynn	(*Teller*).
Hon. M. L. Moss	

NOES.

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

The Chairman gave his casting vote with the Noes.

Amendment thus negatived.

Hon. M. L. MOSS: In view of the small attendance of members, he asked

the Minister to agree to report progress; otherwise the Bill would be again recommitted.

Clause put and passed.

Clause 5—Penalties:

Hon. M. L. MOSS: Would the Minister explain whether he was prepared to adopt the suggestion in regard to reporting progress at that stage, in order to save a further recommittal?

Hon. J. E. DODD: The passing of the Bill was of the utmost importance to the State at the present time. No Bill had been so thoroughly and fully discussed as the Arbitration Bill, and members knew that it was to be recommitted on this particular afternoon, and it was unfair to ask now that progress should be reported so that a larger attendance of members might be secured.

The CHAIRMAN: It was not competent for the Committee to discuss the question of reporting progress.

Hon. M. L. MOSS: Whilst recognising that what the Chairman said was correct, all he desired was to get an expression of opinion from the Minister regarding the advisability of reporting progress until a larger attendance of members was present.

Clause put and passed.

Clause 6—What societies may be registered:

Hon. H. P. COLEBATCH: There was no desire on his part to move an amendment, but he would ask the Minister to consider the absolutely one-sided nature of the provisions contained in the first part of the clause. In regard to domestic servants, it was a general practice to have one or two in a household, and whilst it was competent for 15 to form a union of workers, it would take at least, on this basis, 25 employers to form a union. It was the same in the case of agricultural labourers. There were many farmers who did not employ, within the terms of paragraph (a) of the clause, more than two men. The proposal was altogether one-sided.

Hon. J. E. DODD: If the hon. member desired to move an amendment to provide that there should be no regard to the number of employees, it would receive his support.

Clause put and passed.

Clause 7 to 40—agreed to.

Clause 41—Members of Court:

On motion by Hon. J. E. Dodd, the clause was consequentially amended by striking out Subclause 2, and the clause as amended was agreed to.

Clauses 42 to 52—agreed to.

Clause 53—Court to decide according to equity and good conscience:

Hon. D. G. GAWLER moved an amendment—

That in line 2 the words "and in any proceeding under this Act" be struck out.

This would make it clear that in any other proceeding the rules of evidence should bind the court.

Hon. J. E. DODD: There would be no objection on his part to the amendment.

Hon. H. P. COLEBATCH: Many of the proceedings were of quite minor importance, compared with the general work of the court. The amendment he (Mr. Colebatch) tried to get the Committee to adopt was negatived, and he would prefer now to vote against the whole clause, because he could not see, when issues of vast importance were to be decided, why the court should be allowed to proceed in any other than ordinary and legal fashion. Mr. Gawler saw the absurdity of a man being fined without having all the advantages of legal procedure, but the hon. member did not appear to see anything in a man's livelihood being taken from him, or an industry being destroyed in a casual fashion. If in order, he would move that the whole clause be struck out.

The CHAIRMAN: Whether the clause was negatived or not, the hon. member could vote against it.

Amendment put and passed.

Hon. M. L. MOSS: It would be a good thing to strike the clause out of the Bill.

Clause, as amended, put, and a division taken with the following result:—

Ayes	9
Noes	9
A tie	0

AYES.

Hon. R. G. Ardagh	Hon. Sir J. W. Hackett
Hon. J. Cornell	Hon. J. W. Kirwan
Hon. F. Davis	Hon. B. C. O'Brien
Hon. J. E. Dodd	Hon. A. G. Jenkins
Hon. J. M. Drew	(*Teller*).

NOES.

Hon. E. M. Clarke	Hon. M. L. Moss
Hon. H. P. Colebatch	Hon. T. H. Wilding
Hon. J. D. Connolly	Hon. Sir E. H. Wittenoom
Hon. D. G. Gawler	Hon. V. Hamersley
Hon. R. J. Lynn	(*Teller*).

The CHAIRMAN: In order to admit of further discussion I give my casting vote with the Ayes.

Clause as amended thus passed.

Clauses 54 to 86—agreed to.

Clause 87—Proceedings not to be impeached for want of form:

Hon. J. E. DODD: A question had been raised as to whether there should be a right of appeal from the Arbitration Court. In order to meet the objection raised by Mr. Moss and to meet the wishes of hon. members he moved an amendment—

That the following proviso be added to the clause:—Provided that when any person has been convicted by the Court of any offence or of the breach of any industrial award or agreement, and (a) a term of imprisonment is imposed on him without the option of a fine; or (b) a fine or penalty is imposed on him exceeding £20; he may, in the prescribed manner, appeal to the Court of Criminal Appeal constituted under the Criminal Code against the conviction and sentence or against either of them, and such court may, on or in respect of the appeal, give any such judgment, make such orders, and exercise such powers as it could give, make, or exercise in respect of an appeal under Section 668 of the said Code, and the provisions of such Code shall so far as capable of application apply mutatis mutandis to such appeal, but the validity of an industrial award or agreement made or purporting to be made under this Act or any Act repealed hereby shall not be called in question on any such appeal.

Hon. M. L. MOSS: Would it not be fair for a long amendment like that to appear on the Notice Paper so that members might see what it meant?

Hon. J. W. Kirwan: Why delay the Bill?

Hon. E. M. CLARKE: The amendment should have been given notice of. It was rather lengthy for one to carry in his cranium.

The CHAIRMAN: If hon. members would move to report progress instead of talking they would be in order.

Hon. M. L. MOSS: There was no desire to move to report progress because members in doing that would be open to the accusation that they were taking the business out of the hands of the Minister, but he would impress upon the Minister the importance of giving notice of such important amendments. The amendment was intended to give to every person who was liable to a prosecution for a criminal offence before the Arbitration Court the right of appeal against a sentence to a term of imprisonment or to a fine of £20. The amendment might be quite in order, but members were not in a position to know that. The only alternative to allowing opportunity to consider it was to vote against the whole clause.

Hon. J. E. DODD: The object of the amendment was simply to give to anyone who had been convicted of any offence the right of appeal. As it was the judge who was inflicting the penalty the appeal could not be made to another judge; therefore, a right of appeal was given to the Court of Criminal Appeal. That was all the amendment contained. Had the Bill been rushed through he would have been pleased to fall in with the suggestion of Mr. Moss, but that had not been the case, and he assured members that the speedy passage of this Bill was to his mind a matter of vital importance. It would probably be another three or four weeks before the Bill was finally disposed of in this House, and he asked members to look at the measure in that light. He had, as far as possible, placed every amendment on the Notice Paper, but that same consideration had not been shown to him by other members.

Hon. J. D. CONNOLLY: It was unfair for the Honorary Minister to suggest

that members were trying to delay the Bill. The hon. member was not treating the Committee fairly in asking members to adopt an amendment of such length without having had it before them. There was no excuse for the amendment not being before members, because the Minister could, even if it had been drafted only to-day, have sent it to the Government Printer and had slips printed for distribution in the House. He would suggest that the clause be postponed till the end of the Bill and considered on the following day.

Hon. J. W. KIRWAN: Any hon. member who followed the reading of the amendment could very easily arrive at its general tenor. The proposal must also go before another place and if alteration of it was desirable it could be done there. Every day was of importance just now in connection with this Bill. Some hon. members seemed to shut their eyes to the fact that two big industrial disputes were impending and it was extremely desirable that the Bill should pass as soon as possible. Some members, instead of voting straight out against the second reading, had done their best to kill the measure in Committee and delay it as much as possible.

Hon. E. M. CLARKE: Members had listened to a great deal about the employee, but the employer did not seem to be much considered. He resented the suggestion that members were trying to block the Bill. All he wanted was an assurance from the Minister as to how the amendment operated, and to be sure that there could be an appeal by the employer as well as by the employee. Even a trained mind could not retain the whole of that proviso on hearing it hurriedly read out.

Hon. M. L. MOSS: In order to prevent any misconception arising as to whether the Bill was of the utmost importance in regard to two impending disputes he wished to say that one would have thought, after listening to the speech of Mr. Kirwan, that this Bill was to provide machinery for the settlement of disputes and that there was no machinery in existence now. Every member knew that there was an Act on the statute-book at the present time containing all the necessary machinery.

Hon. B. C. O'Brien: Which is inadequate.

Hon. M. L. MOSS: It had proved itself quite adequate up to date.

Hon. J. E. Dodd: The hon. member knows better than that.

Hon. M. L. MOSS: There was sufficient machinery under the present Act to enable parties to any projected dispute to get an award. And workmen were either operating under an industrial agreement which was the effect of awards or under awards given under the Act. The hon. member said that this Bill was a great improvement. There was not much improvement. When the grading and classifying clauses had gone out, and the preference to unionists had gone out, there was not much difference between this Bill and the present Act.

The CHAIRMAN: The hon. member was scarcely discussing the proviso.

Hon. M. L. MOSS: One could not carry the exact effect of the amendment after hearing it read. Members should see it in print. Mr. Connolly stated what was the usual course adopted.

Hon. B. C. O'Brien: Did he always follow that course himself?

Hon. M. L. MOSS: The hon. member knew that Mr. Connolly did. Members were only asking for a little consideration. The Government had had the Bill reprinted and a large number of members of the House never contemplated that it would be rushed through to-day. He (Mr. Moss) had before him a list of members, most of whom had taken a very important part in the proceedings on the Bill and who were not present. Unfortunately we would not be getting a true reflex of the opinions of the Legislative Council if a division was now taken. If the Government thought this Bill would add to industrial peace by placing it on the statute-book, then he would be only too pleased to assist in placing it there, but the Bill should not be rushed and settled when a true reflex of the opinions of the majority of members was not given.

Hon. J. W. Kirwan: It has been two months before the Chamber.

Hon. M. L. MOSS: That was quite right, and during that time it had been subject to necessary criticism to put it in the position in which we now found it.

Hon. J. W. Kirwan: We had better put it in the waste-paper basket.

The CHAIRMAN: Hon. members must confine themselves to the amendment.

Hon. J. E. DODD: When the Bill in its reprinted form came before him a number of amendments which had been carried in Committee were omitted from the reprint, and he had to take steps to get the Bill right to be placed before members. As the Bill stood it only came before him this morning, and it was a matter of impossibility to get the proposal now before members printed in order to lay it before the House. There was nothing in the amendment as far as he knew, and the Crown Law authorities stated that it was not likely to be of any detriment; it was only to meet the wishes of Mr. Moss and others that the amendment was drafted which gave employers and employees the right to appeal from the decision of the Arbitration Court.

Hon. J. W. Kirwan: And it was drafted by the official draftsman.

Hon. M. L. MOSS: In speaking on the second reading he had drawn attention to the fact that there was no appeal in these cases, and the Minister very properly had adopted his (Mr. Moss's) suggestion and brought a clause down providing for an appeal. The importance of the clause demanded that members should be given an opportunity of considering it. Mr. Kirwan had said that the clause was drafted by the Parliamentary Draftsman. So were a good many Bills, but they did not always leave the House in the same position as when they were introduced.

Hon. J. W. Kirwan: The hon. member can read the amendment now.

Hon. M. L. MOSS: Members should be allowed to consider it calmly.

Hon. D. G. GAWLER: The amendment was intended to give opportunities to appeal by any person who had been imprisoned or fined up to a certain amount. The clause was a desirable one. He had had an opportunity of reading it before coming into the Chamber, but he had not had an opportunity of grasping all the provisions. The Minister should allow the clause to stand over until an opportunity had been given to members to consider it.

Hon. A. G. JENKINS: On a casual persual of the amendment it appeared to be very lengthy. The Minister might see his way to postpone the clause for a little time at any rate to allow it to be considered.

The CHAIRMAN: In order to refresh the memory of members he would read the amendment.

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

Ayes	.. .. ..	11
Noes	.. .. ..	7
Majority for	.. ..	4

AYES.

Hon. R. G. Ardagh	Hon. Sir J. W. Hackett
Hon. E. M. Clarke	Hon. A. G. Jenkins
Hon. J. Cornell	Hon. J. W. Kirwan
Hon. F. Davis	Hon. B. C. O'Brien
Hon. J. E. Dodd	Hon. D. G. Gawler
Hon. J. M. Drew	*(Teller).*

NOES.

Hon. J. D. Connolly	Hon. T. H. Wilding
Hon. V. Hamersley	Hon. Sir E. H. Wittenoom
Hon. R. J. Lynn	Hon. H. P. Colebatch
Hon. M. L. Moss	*(Teller).*

Amendment thus passed; the clause as amended agreed to.

Clauses 88 to 91—agreed to.

Clause 92—Prohibition of strikes or lockouts:

Hon. J. E. DODD moved an amendment—

That paragraph (d) be struck out.

In reprinting, the paragraph was put in the wrong place; but apart from that, it should be struck out. Clause 77 provided that the court could fix what constituted a breach of an award and the penalty therefor, and Clause 78 contained provisions for enforcing awards. It was provided that if any party or person on whom an award was binding committed any breach thereof, an applica-

tion could be made to the court for the enforcement of the award, and the court could impose a penalty for the breach of the award; so it was unnecessary to retain in Clause 92 the words that had been inserted on the amendment moved by Mr. Gawler providing that no person should commit any breach of any industrial agreement or award, or disobey any order of the court.

Hon. D. G. GAWLER : Clause 92 was supposed to deal with a separate state of affairs from Clauses 77 and 78, to which the Honorary Minister had referred. Clause 77 really had relation to Clause 64, which defined the party to an award. Clause 77 was really intended to deal with an association or body of employers or employees, and therefore it was necessary to retain in Clause 92 a provision fixing an offence on the individual committing a breach of an industrial agreement or an award of the court. There seemed to be confusion between the provision the Honorary Minister sought to strike out and the third subclause of Clause 78, but this provision was dealing with a separate matter.

Hon. M. L. MOSS: Clause 77 conferred on the Arbitration Court jurisdiction to do certain things to enforce its awards on the parties, but Clause 92 created offences punishable before justices and the Arbitration Court as well, so that a constituent element of a union committing a breach of an award could be brought before the court and punished, and even imprisoned in default of payment of the fine inflicted. It was often difficult to prove a strike or lockout, but it was a simple matter to get the individual worker or individual employer charged with committing a breach of an award and punished accordingly under Clause 92. The provision should be retained.

Hon. J. E. DODD : Clause 92 was intended to deal with people taking part in strikes or lockouts, or suspending or discontinuing employment. It was not necessary to deal with persons committing breaches of agreements or awards because they were already covered by Clauses 77 and 78.

Hon. D. G. GAWLER : The paragraph the Honorary Minister sought to strike out was in the original Bill and Clauses 77 and 78 were in the original Bill. Evidently it was originally the intention of the Government to let the provision stand as it now appeared in the Bill before the Committee.

Hon. J. E. DODD : The Arbitration Court would now impose penalties in the place of a court of summary jurisdiction, therefore there was no need to retain the paragraph.

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

Ayes	10
Noes	8
Majority for ..	2

AYES.

Hon. R. G. Ardagh	Hon. Sir J. W. Hackett
Hon. J. D. Connolly	Hon. J. W. Kirwan
Hon. J. Cornell	Hon. B. C. O'Brien
Hon. F. Davis	Hon. R. J. Lynn
Hon. J. E. Dodd	(*Teller*).
Hon. J. M. Drew	

NOES.

Hon. E. M. Clarke	Hon. T. H. Wilding
Hon. H. P. Colebatch	Hon. Sir E. H. Wittenoom
Hon. V. Hamersley	Hon. D. G. Gawler
Hon. A. G. Jenkins	(*Teller*).
Hon. M. L. Moss	

Amendment thus passed; the clause as amended agreed to.

Sitting suspended from 6.15 to 7.30 p.m.

Clauses 93 to 114—agreed to.

Schedule, Title—agreed to.

Bill again reported with further amendments.

The HONORARY MINISTER (Hon. J. E. Dodd) moved—

That consideration of the report be made an Order of the Day for the next sitting of the House.

Hon. M. L. MOSS moved an amendment—

That consideration of the report be made an Order of the Day for Tuesday next.

It was quite unfair to deal with the Bill in Committee in the way in which it had been dealt with to-day. In the absence of such a large number of members divisions had taken place to-day which did not represent a proper reflection of the opinions of hon. members. In fact, when it was suggested that the Bill should be re-printed, a large number of members had no idea that the print of the Bill would have been here to-day and that the measure would have been taken through Committee without an opportunity being given to so many who were absent of expressing their opinions. In respect to the votes taken to-day it was quite obvious that the result would have been entirely different had we anything like a full muster of the Committee. In fairness to those who were absent Mr. Dodd would not deny them the opportunity of having the Bill re-committed for the purpose of arriving at a proper expression of opinion from hon. members. It was quite unnecessary that the report should be considered so early as to-morrow, and he appealed to Mr. Dodd not to take advantage of what at least savoured of a series of snap votes.

Hon. B. C. O'Brien: That is an unfair inference.

Hon. M. L. MOSS: In his opinion it was a perfectly fair inference. We knew well that important divisions had been decided to-day on the casting vote of the Chairman (Hon. W. Kingsmill). He was not complaining of the exercise of that casting vote. The Chairman had given the vote in strict accord with constitutional practice, and had he (Mr. Moss) been in the Chair, he would have voted in the same way. But it was not desirable that an important Bill like this should be carried through and these issues decided upon a casting vote given without any regard to the merits of the question, but rather with the idea of affording opportunity for further discussion.

Hon. B. C. O'BRIEN: The hon. member who had just sat down based his motion on the grounds that sufficient information had not been given to the Committee in regard to one or two trivial amendments made this afternoon; and had used as a lever the fact that divisions had been decided on the casting vote of the Chairman. The Chairman had used his casting vote in all good conscience, and therein had acted rightly. Mr. Moss had also gone on to say that the Minister had taken advantage of an opportunity to get snap votes. That was rather an unfair statement. All hon. members had known that the House would meet at 4.30 to-day and, if it happened that there was not a full muster the Minister in charge of the Bill could scarcely be blamed for that. The Bill had been before the House and the Committee for the last couple of months. The Honorary Minister had told us this afternoon—and all would agree that Mr. Dodd was eminently fair to both sides—that the reprint of the Bill had only reached him this morning, and that he had made every endeavour to knock the amendments into shape in order that they might be put before the House in a proper way. What more could hon. members want? We were all aware of the fact that if we desired industrial peace—and that was what all parties must desire—it was necessary to frame a measure that would meet the impending occasion. There seemed to be trouble brewing, and while we hoped that it would not eventuate, very properly we were endeavouring to frame a measure which would, to some extent, obviate that trouble. It appeared to him that certain members were seeking to throw obstacles in the way. He hoped Mr. Moss would not persist in his opposition to the motion moved by the Honorary Minister. Considering that we had had this measure before us for so long and had thrashed it out from end to end there was no reason for further delay.

Hon. Sir E. H. WITTENOOM: Hon. members would sympathise with the Honorary Minister in his anxiety to get the Bill completed, indeed it would be a relief to most hon. members to get it out of the House on some lines satisfactory to all parties. However, the Minister would have been well advised had he taken his (Sir E. H. Wittenoom's) suggestion to postpone the discussion until to-morrow. The Minister's own admission supported

this, inasmuch as the Minister had said the reprint of the Bill had only come into his hands this morning, and that he had scarcely time to peruse it. However, the Minister was quite within his rights in going through with the Bill and he (Sir E. H. Wittenoom) would have nothing to do with blaming the Government for their action this afternoon. The blame was rightly attachable to those hon. members who did not attend and look after their own business. If those hon. members would not attend to their own business we could not blame the Government for putting the business through.

Hon. J. W. KIRWAN: In his opinion the amendment was quite unworthy of Mr. Moss. It was unpardonable to suggest at this time the postponement until Tuesday of a measure for which the whole State was waiting with a great deal of anxiety. It was unnecessary to point out that there was a very serious industrial dispute impending which would affect the whole of the mining industry. Some hon. members and many people outside scarcely realised how serious was the position to-day, affecting as it did an industry paying £200,000 a month in wages. Even those members who were prone to discredit the mining industry and to minimise its importance, would, if they reflected, recognise how serious the situation was, not only to the goldfields but to the whole of Western Australia. Certain members had shown on the second reading that they were opposed to the Bill. They said they would vote for the second reading because it was clear at the recent general election that the country was desirous of an amending Arbitration Bill. When the measure reached Committee they sought to delay it as long as they possibly could and to redraft the Bill, and instead of the Bill brought in by the representatives of the people—the Government—being passed, they had sought to remodel it and to make it representative of a majority of the Chamber which merely represented one-third of the people of the State. The point involved was whether or not the whole of the people, as represented by the Government in another place, were to frame a Bill of this kind or a Chamber representing one-third of the people. The first reading was passed on the 10th September and it seemed that members who had not the courage to vote straight out against the Bill and who would not take on their shoulders the onus of showing themselves opposed to compulsory arbitration, sought to defeat it by underhand methods and kill it in the Committee process. They thought that what happened last session would happen again this session. It was killed, and killed by the action of members of this House. The Minister, he hoped, would divide the House on the question, because a division would clearly show the people those members who were desirous of pushing the Bill through to avoid serious industrial trouble, which, if it eventuated would throw back the State for many years—the members who were genuinely desirous of pushing the Bill through so that it would be in operation for any emergency, and it would show the members desirous of delaying and blocking the measure and killing it by indirect means.

Hon. W. KINGSMILL: While not affected by the speech of Mr. Kirwan, he did not propose to support the amendment by Mr. Moss. He did not think it would be necessary to delay the Bill further than to-morrow. As his name had been frequently mentioned during the discussion, and as it had been cast upon him no less than three times out of five divisions to give a casting vote on this matter——

Hon. Sir E. H. Wittenoom: You did quite right.

Hon. W. KINGSMILL: That was his hope. After all the casting vote of the chairman in a thin House was not the vote which should decide the fate of any amendment. In explanation of his casting votes he gave them according to what he considered constitutional practice. The Chairman in giving a casting vote had to be influenced by a good many reasons which perhaps did not appeal to the ordinary member and he was sure did not appeal to the outside public. He was therefore often forced into false positions so far as political opinions were

concerned. He might be pardoned for referring to the votes he had given to clear up his own political character and to place himself *au fait* with the House and the Committee over which he presided. With regard to the two votes and the amendments to Clause 4, he believed in the inclusion of agricultural labourers under the measure. It was a matter of expediency, because we would be foolish to have disputes in the agricultural industry sent to the Federal Arbitration Court rather than tried in our own court. On the other hand, he had given a vote directly against his conscience when he voted for the inclusion of domestic servants, who he thought should not be included in the Bill. With regard to the inclusion of the clause as amended, naturally he had voted for it in pursuance of the dictum that a Chairman should give his vote in the direction of ensuring further consideration. It would be seen plainly that the casting vote, and more especially one in a thin House, was not the vote which should decide questions of this sort, and if the hon. member tomorrow or on a future occasion moved for the recommittal of the Bill in order that the sense of a full House might be taken, he would undoubtedly have his support. He was sorry if it could be said that any undue delay had occurred in the circumstances, the gravity of which he believed was somewhat exaggerated by Mr. Kirwan.

Hon. J. W. Kirwan: Delays make one suspicious.

Hon. W. KINGSMILL: The hon. member should exclude him because he had voted in the same direction as Mr. Kirwan. He would hesitate to vote in any manner which would cast on the Chamber even a suspicion of wishing to delay a Bill in the principle of which at all events he believed, and in the discussion of which he did not believe members had been actuated by the motives attributed by Mr. Kirwan.

Hon. J. W. Kirwan: It has been two months before this House.

Hon. M. L. MOSS: In view of what Mr. Kingsmill had said regarding the recommittal of the Bill on the following day, he asked leave to withdraw his amendment.

Amendment by leave withdrawn.

Hon. J. D. CONNOLLY: It was not his desire to oppose the motion, although he quite agreed with Mr. Moss that it would be better if more time was given for the consideration of the Bill. The Minister stated that he did not have a reprint of it until that morning and therefore it was hardly to be expected that members could make sure what the Bill really was. From glancing through it he noticed two clauses which were not in conformity with the context of the Bill.

Hon. W. Kingsmill: Clauses 60 and 61?

Hon. J. D. CONNOLLY: Yes. One referred to a majority of the court, whereas the court now would consist of a judge of the Supreme Court: therefore there could be no majority. It was in the interests of the measure that there should be some delay. It was idle for Mr. Kirwan to make the assertion that the Bill meant industrial peace or war. It meant nothing of the kind. The hon. member knew perfectly well, and if not he knew little of the subject of which he was speaking, that it would not affect the question one iota because the men referred to refused to go to the court today. They could go to the court under the present law and there was nothing in the Bill which affected them any more than in the present Act. The hon. member was wrong in saying it had any effect on the threatened trouble in the mining districts.

Hon. J. W. KIRWAN: In speaking to the motion he desired to explain to members of the House who might not know what bearing this Bill had on this or any industrial trouble. Mr. Connolly had simply shown that ignorance of his electors and electorate which was only to be expected. There was a great deal more on that subject which perhaps he had better leave unsaid. Those concerned in the industrial trouble on the goldfields said that the present Act was not an Act which was introduced or sanctioned by their representatives. It was his desire to be able to say that this measure was

introduced by a Labour Government, that it embodied the views of the employees' representatives in this Parliament—of their own Government—and it was extremely desirable that we should pass as nearly as possible the measure in the form in which their representatives had introduced it, and in that way endeavour to see if it would not be successful. It had been said that previous Acts had been failures. Previous Acts were practically framed by those who represented the employers of labour exclusively. Now we had a Bill framed by those who represented the employees. The differences were not very great and they were not so great that the House might not have agreed to the measure as nearly as possible in the form in which it was introduced. It was extremely desirable that we should have a Bill passed which could be pointed to as having been introduced by the representatives of the workers and passed with scarcely any modification and the workers could then be appealed to to accept it. There would then be no doubt as to the future of arbitration. It had been said that arbitration had been a failure up to the present. If so, why not give the measure introduced by the employees' representatives and by the Government which represented the employees a chance. It was of the gravest possible importance that the Bill should be passed as nearly as possible in the form in which it was introduced.

Hon. J. E. DODD: It was his hope that this time we would get a measure which another place would accept. Having that desire he was anxious to see this Bill go through as soon as possible. During the discussion on the amending Bill last year he had drawn attention to troubles likely to arise and troubles had arisen. There were strikes of engineers and moulders which had almost paralysed the mining industry and had the Bill been passed he was certain that those troubles would not have occurred. Whether the parties had made the excuse that they could not get to the Arbitration Court in sincerity, he would not say. They had advanced the fact that the Bill was not in force as a reason for not going to arbitration. It was not the Bill which was introduced in 1902.

Hon. W. Kingsmill: Is that the sort of points they use?

Hon. J. E. DODD: They had used that excuse. It was a measure that had been cut to pieces by the High Court judges and the judges of the Full Court, and there was no question about it that if the employers raised the point the men could not go to the Court. He also desired to say a few words in regard to the tactics that had been adopted over the Bill. No Bill had been before the House for such a period for many years past which had been more fully discussed than the present measure. Members ought to know every clause and every line of it. For quite a long time it was before the House on the second reading, and almost nightly it had been considered in Committee, yet it was found now, at the last moment, an attempt was being made to further delay its passage. Members would know that after the Bill left the Legislative Council it would take perhaps another month to go through the Legislative Assembly: the amendments which had been made by the Council would have to be considered there, and he was not able to say what reception they would get.

Hon. M. L. Moss: I desire to get an expression of opinion on the question of related industries.

Hon. J. E. DODD: That very question had been fought out on three occasions, very bitterly.

Hon. M. L. Moss: Not bitterly.

Hon. J. E. DODD: The hon. member got up quietly and nicely when he moved his amendments, but there was no question about it that in the hon. members' mind there was a feeling that he had been beaten, and now he was endeavouring to get revenge.

Hon. M. L. Moss: That is not so, and there was no bitterness about it.

Hon. J. E. DODD: It was satisfactory to hear the hon. member say so. On the very question which Mr. Moss was to bring forward, that of related industries, there had been more debate in this Chamber than on any other part of the Bill; on three occasions it had been fought out

in the Chamber, and it still remained in the Bill, and now the hon. member desired to take another opportunity of fighting it, and he wished also to consult his friends who were not here, ignoring the fact that some of those who were in favour of the Bill might not be present when the hon. member's friends were. For the credit of the House, every effort should be made to put the Bill through as speedily as possible.

Hon. Sir E. H. WITTENOOM: What he desired to bring under notice was the fact that members had a Bill before them with the amendments which had been made, and all that was asked was that the consideration of the report should be fixed for the next day. The Minister said he knew every line of the Bill.

Hon. J. E. DODD: I said the House ought to know.

Hon. Sir E. H. WITTENOOM: All that members wanted to do was to see how the amendments fitted the Bill. The Honorary Minister was perfectly within his rights in asking that there should be no further delay, and if hon. members kept out of their places the Minister should not on that account be expected to delay the passage of the Bill. Out of courtesy, however, the Minister should agree to the postponement of the consideration of the report until the following afternoon.

Hon. V. HAMERSLEY: There was no desire on his part to delay the House but he wished to endorse the remarks of Mr. Moss, not however in any antagonism to the measure. The fact remained that the Minister himself had only received a reprint of the Bill that morning. When members left the House for the country, at the end of last week, it was understood that the Bill was to be reprinted so that they would have the opportunity of going through it and seeing how the amendments applied. It was presented to members that afternoon, and as the Minister had only received it himself that morning there had not been time to go through it again carefully. He (Mr. Hamersley) admitted having voted without knowing in the least how one of the principles of the Bill was going to work, and he certainly did not think that the reprinted Bill, after its distribution, was to be considered immediately. Members should have a further opportunity of looking over the clauses which had been amended.

Question put and passed.

BILLS (3)—FIRST READING.

1. Money Lenders (Hon. R. G. Ardagh in charge.)
2. Timber Lines Traffic (Hon. F. Davis in charge.)
3. Supply, £492,225.

Received from the Legislative Assembly.

BILL—SHEARERS' ACCOMMODATION.

Recommittal.

On motion by Hon. F. Davis, Bill recommitteed for the further consideration of Clauses 3 and 7.

Hon. W. Kingsmill in the Chair; Hon. F. Davis in charge of the Bill.

Clause 3—Definition:

Hon. F. DAVIS moved an amendment

That the definition of "Asiatic" be struck out.

The reason for moving this amendment was obvious. The Pearling Bill contained a similar clause and it was deleted from that measure for diplomatic reasons.

Amendment passed; the clause as amended agreed to.

Clause 7—Tent accommodation:

Hon. F. DAVIS: When the Bill was previously before the Committee, the last line and a portion of the second last line were struck out, and the effect was to leave the decision as to when tents should be provided for shearers entirely to the station owner or the pastoralist. Objection was taken to the clause as it originally stood on the ground that if the matter were left to the shearers they might at any time take exception to the accommodation provided for them and refuse to work. There was a certain amount of reason in that, and in view

of that fact he desired to move an amendment—

That the following words be added to the clause:—"to the satisfaction of the inspector."

That would be a compromise, because the inspector was a disinterested person.

Hon. Sir E. H. WITTENOOM: I have much pleasure in seconding the amendment.

Amendment passed; the clause as amended agreed to.

Bill again reported with further amendments.

BILL—FREMANTLE HARBOUR TRUST AMENDMENT.

Second Reading.

Debate resumed from the 24th October.

Hon. M. L. MOSS (West): I understand that Mr. Davis moved the adjournment of the debate, not with the intention of speaking, but in order to give me an opportunity of saying a few words on this measure, and I thank him for the opportunity he has afforded me. This Bill is a short, but very important one, and there are principles in it to which I very strongly object. Under Subclause 2, paragraph (a) the commissioners seek to take power for the working of cranes, and other appliances provided by the Trust. That is simply a reenactment of Section 31 of the present Act, but paragraphs (b) and (c) of that clause contain principles which I think the House should not agree to. Some few days ago when a Bill was introduced by the Government in connection with the establishment of State hotels I did my best to prevent that Bill getting on the statute-book, because I said it was another advance in State socialism, and I am against the provisions contained in paragraphs (b) and (c) of Cause 2 because it is legislation of the same character as that contained in the State Hotels Bill. Apart from that, it is widely objected to by a large number of interests that will be affected. First of all the Lumpers' Union at Fremantle, a body of some 700 men, has passed a resolution opposing the principle contained in this Bill. Then again, the Bill is objected to by the Steamship Owners' Association (that is, the interstate companies), by the representatives of the oversea companies, by a number of persons at Fremantle who are carrying on the business of stevedores, and it is strongly objected to by the business people who are concerned in the export of wheat and timber. There is bound to be at Fremantle as a result of the opening up of the back country, a considerable expansion in shipping business, and I think the question may be pertinently asked—can the Harbour Trust Commissioners do all the work which is imposed upon them under the Fremantle Harbour Trust Act of 1906, and also carry out the additional obligations which will be entailed upon them if Parliament gives them the power to load and unload vessels at the request of the owner or the agent of the owner? In other words, can they carry out all their functions and in addition conduct a general stevedoring business.

Hon. F. Davis: Why not?

Hon. M. L. MOSS: It is very doubtful whether with other obligations on their shoulders they can do this. But the fact remains that the various interests, the lumpers, the Steamship Owners' Association, the representatives of the oversea companies, the private stevedores, and the business people engaged in the export of wheat and timber all object to giving this power to the Trust.

The Colonial Secretary: How do they object?

Hon. M. L. MOSS: This is one instance of how they object. The Fremantle Chamber of Commerce in a letter addressed to me on the 20th September, stated—

> At a Joint Committee meeting held this morning, the provisions of the Fremantle Harbour Trust Act Amendment Bill, now before Parliament, were considered, when the following resolutions were passed, which I was directed to convey to you, and to commend to your consideration:—1. "The Fremantle Chamber of Commerce strongly pro-

tests against the provisions in the proposed Amendment to the Fremantle Harbour Trust Act 1902, giving the Commissioners power to load and unload vessels, as neither the merchant nor shipowner has asked for a change in existing methods at the port, and it further considers no change is desirable or necessary." 2. "That the Joint Subcommittee is of the opinion that Subsections 54, 55, and 56, Section 3, of the Harbour Trust Amendment Bill, 1912, should be struck out, and the section amended to read as follows:—'Section 65 of the principal Act is hereby amended by repealing Subsection 41 thereof, and all regulations made pursuant to such subsection shall cease to have any effect or force.'"

That is one of the items of objection.

Hon. F. Davis: Was that by the committee or the whole of the Chamber?

Hon. M. L. MOSS: It says, "A joint committee meeting held this morning." The lumpers' union has also objected to it.

The Colonial Secretary: In the first instance.

Hon. M. L. MOSS: I do not know whether it was in the first instance or not, but I do know why the lumpers object to it. At the present time there are a number of persons who are capable of employing these men. There are the stevedores (persons outside the shipping companies altogether), there are the companies that do their own stevedoring and stevedore for other companies, and there are persons who take bulk cargoes of wheat and timber. The Lumpers' Union consists of a large number of sensible men, and they do not wish to see employment for them restricted to only one body in Fremantle. That is what the Bill means. They want to have the opportunity of working for a number of employers. It is said, and I do not want to take the responsibility of stating that it is true, that if we give all this work into the control of one body the person in charge of this work will have his favoured few. I discredit such a statement. I think those in charge of the Fremantle Harbour Trust will act fairly and squarely, but there is a very strong opinion that to throw the whole of the labour into one hand is not in the interests of the general body of workers.

The Colonial Secretary: Does the Bill do that?

Hon. M. L. MOSS: Yes; it says that the Trust may do stevedoring at the request of the owners or agents for the owners. The effect of that is that whilst I honestly believe the Trust officials will act fairly and squarely in doing this work, yet I suppose that in 99 cases out of 100 a steamer will request the Trust to undertake the work because the Trust have the fixing of the charges, they have the electric cranes on the wharf, in fact all the facilities, and they would have the opportunity of giving the greatest amount of dispatch. When we have a number of stevedoring firms bidding for the business, and shipping companies doing the work for themselves and for others, we have that healthy competition in business which ensures the work being done at a reasonable price. This Bill enables the Harbour Trust, with the consent of the Government, to make regulations for imposing, levying, collecting and receiving charges for such work, and providing the conditions under which the same is to be undertaken. When we destroy competition, we put into the hands of the Harbour Trust the power to fix their own charges by regulation, and the people are compelled to pay them. When we crush out competition, and at the same time enable the Harbour Trust to fix the charges they are going to impose, the principle is as bad as it possibly can be. Clause 3 contains a subclause relating to the commissioners assuming certain responsibility for damages to, or loss of, cargo discharged outside what are declared by the regulations to be the ordinary working hours of the port. Under the Fremantle Harbour Trust Act, it was competent for the commissioners to fix what should be the ordinary working hours of the port, and they fixed them as being, say, from eight in the morning till five in the afternoon, and then in connection with the discharge of cargo outside those ordinary working hours the Trust declined to assume

responsibility. The legislation proposed in Clause 3 has reference to the commissioners assuming certain responsibilities under certain conditions. A difficult position arises through the intervention of the Harbour Trust. How it is to be overcome so as to meet all the varying interests and give complete satisfaction I do not know, but the position is this: A ship takes custody of goods at Melbourne or Adelaide; those goods are brought to Fremantle. It is necessary in the interests of the merchant, the shipping company, and the Harbour Trust that ships should work outside the ordinary working hours of the port, because if they were only permitted to work between the hours of eight in the morning and five in the afternoon there would be such congestion in connection with the shipping at Fremantle that the Harbour would not be able to do the work which it is called upon to do at the present time. This night work is undertaken, and the difficulty then arises, when the Trust decline to take responsibility for what may occur outside the ordinary working hours. The merchant's goods are found to be ullaged or they are absolutely lost or destroyed. The Trust decline to take any responsibility, the ship is relieved of responsibility as soon as the goods leave the ship's slings, and the merchant is without a remedy. The position is a serious one indeed. I recognise that if the Trust are to assume responsibility during the ordinary working hours, and after those hours, it may be that the charges levied will have to be greatly increased. There are at the present time instances which are operating very detrimentally against the mercantile community. It is a singular thing that both with regard to the goods that are carried by sea between another State and Western Australia and with regard to the goods that are carried from port to port in this State, a different provision applies from that which the law has laid down with regard to the carriage of goods on the railways, and the duties and responsibilities of the Harbour Trust when they receive the custody of those goods as wharfingers. What I mean is this: the Commonwealth Parliament passed an Act known as the Sea Carriage of Goods Act, and this Act applied to goods carried from one State to any other State in Australia, so that when goods were carried from one Australian State to Western Australia that Act had force and effect on any bill of lading; and in 1909 we copied that Act and made it applicable to the carriage of all goods coast-wise from port to port entirely within our State, for instance, from Geraldton to Roebourne. Now, before that Act became the law in the Commonwealth and in the State it was customary for shipowners to endorse on the backs of shipping receipts or bills of lading a large number of conditions in small type closely printed together, until, to use the words of a very eminent judge now on the bench of England, Mr. Justice Scrutton, who published a well-known work on charter parties and bills of lading, the carrier of goods had whittled down his obligations as a carrier so that the only duty that was imposed on him was to receive freight from some consignor and take no responsibility at all. The United States first led off and said this was an unjust state of affairs, and they passed what is known as the Harbour Act, what we know in Australia as the Sea Carriage of Goods Act, both State and Federal. The Sea Carriage of Goods Act provides that "where any bill of lading or document contains any clause, covenant, or agreement whereby the owner, charterer, master, or agent of any ship, or the ship itself, is relieved from liability for loss or damage to goods arising from the harmful or improper condition of the ship's hold, or any other part of the ship in which goods are carried, or arising from negligence, fault, or failure in the proper loading, stowage, custody, care, or delivery of goods received by them or any of them to be carried in or by the ship," or where the obligations are cut down to making a ship sea-worthy, such clause, covenant, or agreement is declared to be illegal, null and void, and of no effect; and the only thing the Sea Carriage of Goods Acts permits is if the default in delivery arises from "faults or errors in navigation, or perils of

the sea or navigable waters, or acts of God or the King's enemies, or the inherent defect, quality, or vice of the goods, or the insufficiency of package of the goods, or the seizure of the goods under legal process, or any act of omission of the shipper or owner of the goods, his agent or representative, or saving or attempting to save life or property at sea, or any deviation in saving or attempting to save life or property at sea." Therefore copying the American provision, when we deal with the carrier by sea we say, "You are only to be excused from the obligation to deliver goods put into your custody provided one of the instances in the Sea Carriage of Goods Act applies; but when we come to the railways of the State, although the Commissioner of Railways is declared to be a common carrier, we have permitted him in our Railways Act to make so many regulations that he can contract himself almost entirely out of all obligations; because under the Railways Act goods are carried under what is known as "owner's risk," and under "Commissioner's risk." But "Commissioner's risk" is nothing, because the rate of freight is so high that no one can carry under "Commissioner's risk." All the goods of this country from a mercantile point of view are carried on the railways at "owner's risk"; and unless the owner is able to prove that the failure to deliver is the result of one of the Commissioner's officers stealing the goods, or unless he is able to prove negligence, in order to do which it is necessary to watch the goods all the time, the owner of the goods can never thrust home a claim on the Commissioner of Railways. The same will apply to the Fremantle Harbour Trust and Bunbury Harbour Board. The Fremantle Harbour Trust Act gives the power to make regulations, and the Commissioners regulate and regulate until they regulate themselves out of all responsibility.

The Colonial Secretary: They do that under an Act the hon. member supported.

Hon. M. L. MOSS: I do not blame this Government.

The Colonial Secretary: You cannot blame them.

Hon. M. L. MOSS: I know perfectly well it would be absurd in the highest degree to blame this Government, and I am quite prepared to take my share of the responsibility in connection with it. The Fremantle Harbour Trust Act of 1906 amended the Act of 1902. In Section 65 there are 53 subsections, which enable the Commissioners, with the consent of the Governor in Executive Council, to make a variety of regulations. I shall quote one or two by way of illustration to show what I am driving at. By Subsection 40 the Commissioners may make regulations—

> Limiting the amount of liability on each package of goods coming into the custody of the Commissioners, and enabling the Commissioners to rely upon, and the owner of goods to be bound by all statements, exceptions, and conditions endorsed on ships' receipts, bills of lading, or ships' manifests for goods, as to declarations of value.

And then again, in Subsection 44 the Commissioners may make regulation—

> Exempting the Commissioners from liability for damage to or loss of goods which may have been delivered on their premises, but for which the Commissioners or their servants have not given a receipt.

I could quote quite a number. I think the leader of the House will find that I am quite correct.

The Colonial Secretary: The hon. member has not quoted the section dealing with the responsibility after 5 p.m.

Hon. M. L. MOSS: They have power under this section to make a regulation to prescribe what shall be the ordinary working hours of the harbour. Then they have power to make another regulation which says that they may contract themselves out of liability in respect to loss and damage to goods discharged from the boats outside what, by the regulations, are declared to be the ordinary working hours of the harbour. My point is this: with regard to the goods carried by sea, whether inter-State or entirely within the State, the shipping companies are precluded from contracting themselves out of liability; and I must confess that the

provisions of the Sea Carriage of Goods Act are perfectly fair and reasonable. It is a monstrous state of affairs that, by an almost scientific process that is resorted to, the shipowner can so go to work—to use the language of Mr. Justice Scrutton—that the only obligation on his shoulders is to receive freight. Practically Parliament has said, "You must receive freight, but to do so and relieve yourself of the obligation to deliver what you receive in good order and condition is an unfair proposal;" and legislation was brought in to stop it. I say what is good for the public as against the shipping companies appears to be no good at all when the public are bound to deal with the State and the Harbour Commissioners who are the delegates of the Government. The provisions of the Railway Act are outrageous. There is no provision in the Act which provides that the court shall say whether these things are fair and reasonable. In England the railway and canal companies, who work under the provisions of the Railway and Canal Companies Act, put on these conditions, but not one of the conditions is of any value unless the court before which a case is tried declares that it is a fair and reasonable one. We have not this in the Railways Act, and we have not this in the Harbour Trust Act, but I say what is good for the public when dealing with shipping companies should be good for the public when dealing with the State or the Harbour Trust, who are constituted the delegates of the Government. Mr. Lynn has pointed out Subsection 39 of Section 65 of the Harbour Trust Act. This provides that the Commissioners may make a regulation—

> Limiting the liability of the Commissioners for goods deposited, stored, in transit, warehoused, landed, lodged, or left on any part of the property of the Commissioners, including all wharves and sheds, in case of damage to or loss of such goods from any cause whatever.

This only proves what I have said before, that the Commissioners, in relation to the goods entrusted to them as wharfingers: instead of having the common law obligation they are bound to take, are empowered by this set of conditions contained in Section 65 of the Harbour Trust Act of 1906 to make a large number of regulations to try to regulate themselves out of liability. I want to be fair. The present Government have no blame attached to them with regard to this power of regulation. The Government of which Mr. Connolly was a member, and the James Government, of which Mr. Kingsmill was a Minister and in which I was his colleague in this House, have to take the responsibility for it, because we were the persons responsible for the Act, and for putting these sections in the Act. The Act was largely taken from the provisions of the New Zealand Act at the time, and it was largely experimental, and the experiment has operated to the great advantage of the State. No one would contend for a moment that the Harbour Trust legislation in this State is perfect, and that it cannot be remedied, but there is on the part of the shipowner and merchant—the two people concerned in the matter of the working and carriage of goods—a great deal of dissatisfaction. Whether they have ground for it or not is for the House to say, but while it is equally for the advantage of the ship as it is for the port that overtime work should be done, it is greatly to the advantage of the large labouring community at Fremantle. Ask the lumpers whether they are satisfied to work from eight o'clock in the morning till five in the afternoon only. These men are all strong supporters of eight hours a day—with overtime.

Hon. W. Kingsmill: They could not live without it.

Hon. M. L. MOSS: The hon. member has correctly said they cannot live without it; but the additional pay the men get after five o'clock is as greatly to their benefit as it is an advantage to the harbour to give the ships proper expedition, and to the shipping companies to send ships to Fremantle to carry on their business. I am not prepared to say what is the proper method of solving this difficult question. I do not believe it can be done by Clause 3, and therefore I do not propose

to vote for this clause when we get into Committee. I have indicated with regard to the ships that they make them assume the whole responsibility, but I believe it would be better to compel the Harbour Trust, as I believe it would be better to compel the railways, to assume the responsibilty of giving back to the people what the people give them to carry, or pay for it. It may be that it will be necessary to increase the dues to do it, it may be that the dues are sufficient for the purpose. I believe that when goods are delivered to a ship and are delivered outside the ordinary hours of the work and for the proper despatch of vessels and for the benefit of the port and also for the benefit of the lumpers, it is necessary to do this overtime work, and it would be a bold man who would say that we should shut down work at Fremantle or Bunbury at five o'clock. I think that when goods are delivered to the ships the full responsibility should be taken for those who deliver those goods at the port whether in ordinary working hours or not. Now in Clause 5 there is a very necessary amendment. It appears that when the Harbour Trust Amending Bill of 1906 was passed, power was given to the Trust to appoint a constable. Hon. members will understand, in dealing with the large quantity of goods which come off the wharves and are handled in the sheds at Fremantle, unfortunately, from time to time dishonest people forget themselves and carry away goods to which they have no claim. It was thought proper to enable the Harbour Trust to employ a person vested with all the powers and authorities of a police constable for the purpose of making arrests of persons caught redhanded in illicitly dealing with these goods. But the provision in the Bill did not go far enough. It merely enabled the constable to carry out his duties within the limits of the harbour, which constitute a certain area of water and a certain area of land bounded by the fence running between the railway premises at Fremantle and the Trust's wharves and yards. It has frequently happened that the thief has got away with goods and been found with them in High-street or Market-street, and although the constable in the service of the Harbour Trust has had such suspicion of the man as would justify him in making an arrest, while at other times it has been found expedient to watch a man and arrest him later, the constable has not the power to do that. Moreover, the constable may not see what the operations of the thief are while the thief is on the Trust's premises, but may subsequently trace the stolen property. It is highly desirable that the additional power provided in the clause should be given. Mr. Connolly tells me the power now sought was in the amending Bill of 1906. All I can say is that it is a pity it did not pass. In dealing with the Fremantle harbour there are important matters to which I think the Government may well give attention. I believe they are giving very serious attention to these matters. I am looking at what is necessary in connection with the immediate future at Fremantle. We have been blessed with a good season, and there is going to be a great export of wheat from Western Australia, greater, I have no hesitation in predicting, than has ever taken place in the history of the State. I believe the opening up of the back country will go on by leaps and bounds in the future, and the work the Fremantle harbour will be called upon to do at no distant date will be far greater than the present accommodation at Fremantle provides for. There is also the great increase in the size of ships. Then there is the work going on in deepening the Suez Canal and the harbour at Colombo. The Government must keep pace with what is going on at Colombo and at Suez, if Fremantle is to continue to be a first-class Australian port. Fremantle is on the west coast of Australia what Sydney is on the east, and we must not be left behind in the race that is taking place. The question of further harbour improvements at Fremantle is not a work to be undertaken in a day, a week, or a year. The Government must be in advance of public requirements. I am sure they recognise the necessity of being well abreast of what is taking place elsewhere. If unfortunate delay should take place in connection with the extensions at Fremantle

it will be a very serious thing for the State. The producer is already subjected to a sufficient number of imposts, and nothing should be done in connection with the export trade which will further add to the cost of production. We should be able to deal with the handling of wheat at the lowest possible price, and to give every accommodation to ships, and such despatch that charters will be obtainable at as low a price for Fremantle as any other port in Australia, or, if possible, at even a lower price, so that the extra burdens placed on our producers by the Arbitration Bill may be somewhat compensated. This work should be kept steadily in view as one of the most important that can come before the Government. Opening up the back country is all very well, but if the cost of producing the wheat and putting it on the ships is to be too great, it becomes a serious matter. With many commodities an increase of wages means merely a little more in price, and the consumer has to pay. That is all very well when you are dealing with matters exclusively confined within the boundaries of the State, but when you have to take wheat and timber out into the markets of the world there is no friendship actuating the people purchasing at the other end. They will only take it if you can produce it at a price which allows it to compete fairly or, if possible, on favourable terms with the wheat from other countries. So sure as the cost of production is increased so that the wheat cannot compete with that of other countries, Western Australia will cease to produce. The extension of the harbour at Fremantle is of the utmost importance to the State at large. We are risking a great deal in this agricultural industry, and we have to do all that can be done to cheapen production. I am only giving expression to these observations in order to support the Government in what I know they are seriously considering. I had an opportunity recently of listening to the Premier replying to a large and representative deputation at Fremantle. The Premier indicated on that occasion what his intentions are for the immediate present, and they are, I may say, very satisfactory. But for the near future it is absolutely necessary to do much more than the Premier has indicated, given that the finances of the State will permit. As I have said, I am only making these observations to urge the Government on, and to support them in a work which I believe they are seriously considering. I shall support the second reading but endeavour to eliminate the objectionable provision I have alluded to when in Committee.

Hon. F. DAVIS (Metropolitan-Suburban): Unlike the previous speaker, I desire to support the Bill because it will provide a further instalment of socialism, as generally understood. At the present time we have in operation what is known as a State steamship service, and I understand it is desired in the Bill to give proper authority to carry on that service by means of the Harbour Trust. That seems a very reasonable provision to make, namely, that the business in connection with the State steamship service shall be carried out in its entirety, both in regard to the running of the ships and so far as the handling of the cargo is concerned. While the Harbour Trust are doing that work, it seems there can be no reasonable objection raised to their going a little further and doing the work required by others, if requested to do so. It has been said during the debate that there are objections on all sides to the provisions of the Bill, and amongst others who have been said to object to the Bill are the members of the lumpers' union at Fremantle. That may seem strange, but I would like to point out that I am informed on the best of authority that at the meeting at which this decision was arrived at there were only 30 present out of 700 odd, and therefore it does not represent the full voice of the majority of the members, and cannot reasonably be taken to represent the lumpers' union. It is more than probable that if a full meeting were to be held the decision would be reversed. So I fail to see how it can be claimed that the lumpers' union are in accord with those who oppose the provisions of the Bill.

Hon. R. J. Lynn: It is wrong; I have it from the secretary of the lumpers' union that it is wrong.

Hon. F. DAVIS: I have the positive information that only 30 members were present out of over 700. Furthermore, some doubt might be raised as to whether others said to be opposed to it are really as strong numerically as we are told. Are not some of those who compose the oversea agents and those who compose the State agents for the steamship companies —are they not in some cases one and the same, acting on different bodies? If that be the case it ought not to be considered as all genuine opposition to the provisions of the Bill. The statement has been made that the charges levied are too high. I believe Mr. Patrick stated that the charges were excessive, and cited some instances. He also said he thought the revenue obtained was more than was necessary to carry on the operations of the harbour. I am informed that for the last 12 months the actual net profit was less than £300.

Hon. R. J. Lynn: Where did you get the figures?

Hon. F. DAVIS: From the Honorary Minister in the Assembly.

Hon. J. D. Connolly: What made the difference between this year's finances and last year's?

Hon. F. DAVIS: I am speaking of last year's. It is stated that the amount of profit was only £289 as opposed to the £4,000 mentioned by Mr. Lynn.

Hon. R. J. Lynn: But the figures are here.

Hon. F. DAVIS: I believe that when the question was discussed in the lumpers' union—and it has been stated that they were opposed to the measure—one of the representations made was that if the Bill were carried into effect there would be only one employer whom they could serve, namely, the Harbour Trust. The Bill does not make it mandatory that all operations shall be carried out by the Harbour Trust. It is merely permissive in the event of the Trust being called upon to operate. Consequently it stands to reason that the other shipping companies, whose interests would be served by having control and carrying on operations as at present, would certainly refuse to ask the Harbour Trust to act for them, and therefore there will still be more than one employer from whom the members of the lumpers' union may seek employment, and the representation made that there would be a monouoly does not hold good.

Hon. J. D. Connolly: When you spoke about profit did you refer to handling charges or to wharfage?

Hon. F. DAVIS: To the whole of the operations. It would seem reasonable that when the Harbour Trust are dealing with wheat, for instance, passing it from the trucks to the holds of the vessels, they are only carrying the operation a little further to do the whole work and stow the wheat away in the hold of the ship. In fact, that is what the Bill asks for, that the Trust should carry on the whole of the operations. They have the plant for transporting the goods from the truck into the hold and why should there be any dual control in the form of other men taking the goods from the Trust afterwards and simply stowing them away. We have two bodies operating on the one thing, and one can do the work more easily and effectively. When one looks at the thing reasonably, that is what should take place. The Trust should be given power to do the whole work when requested and it will do it more effectively and I should say with less cost than would be the case if two separate bodies did the work.

Hon. R. J. Lynn: You should have some experience to know that.

Hon. F. DAVIS: Experience is not necessary to take a reasonable view of circumstances. Under some circumstances experience may be good, but a man need not put his finger in the fire to know that it burns. It seems to me for the reasons I have stated that the Bill is one that this House can justly accept and give effect to. It asks for no excessive power, and it seeks to impose no injustice on anyone; it simply asks permission for the Trust to carry out work which it should carry out under ordinary conditions today, and to do that work thoroughly and

well. For that reason I have much pleasure in supporting the Bill.

Hon. D. G. GAWLER (Metropolitan-Suburban): After the very able speech delivered by Mr. Lynn, there is not much for a layman, so to speak, of the House to say. My friend has given information which is very useful to all of us in considering the Bill. I do not intend to approach the measure as a commercial or technical man, but purely as one of the public. The first question to which we who object to this Bill deserve a straightout answer from the Government is, who is asking for this Bill to be brought in?

The Colonial Secretary: The Government are responsible for this Bill.

Hon. D. G. GAWLER: The parties chiefly interested in the Bill, the commercial men at the port, the shipping companies, the Chamber of Commerce, the lumpers' union, and last but not least, if I understand correctly, the members of the Harbour Trust themselves are not in favour of this Bill. When we have that fact before us we are justified in asking the Government where they got their mandate from. I can see from what has fallen from the Minister and from Mr. Davis why the Bill has been brought in. It has been brought in by the Government to raise money. Mr. Davis says the Bill has been brought in as a species of socialism. If that is so it makes my objection all the stronger. My idea of this Trust is that it is a species of public utility; it is established there for the convenience of the public and the convenience of those at whose service the Trust are, and like every species of public utility should not be worked for profit. When once these utilities are, as this one is, paying working expenses, sinking fund and depreciation, any money over and above that taken from the pockets of the importers and exporters, as in this case, should be returned to the pockets of those people. We can understand that the Government are going beyond that and intend to make money, but I submit that their actions in connection with this and the nationalisation of the tramways are diametrically opposed. In taking over the tramways we were told that they were doing so, not to make a profit, but to save that profit from being taken out of the pockets of the people. The fares were to be reduced and the money returned to the public. Surely that idea is not in keeping with the idea in this Bill! That is one objection I have to the Bill.

The Colonial Secretary: Will you explain how it takes money out of the pockets of the people?

Hon. D. G. GAWLER: Mr. Patrick gave an instance of a farmer having to pay £3 on a harvester over and above the cost of handling the machine.

The Colonial Secretary: There is no power given in the Bill to increase charges.

Hon. D. G. GAWLER: I do not know that any power is given to alter that state of things. I point out that the Trust last year over and above working expenses and a fixed sum for depreciation, paid £30,000 into the consolidated revenue. Surely that comes out of the pockets of the people whose goods they handle. That should not be so: that money should be retuned to these people. Instead of making this a public utility run for the benefit of the public using it, the Government are making it equivalent to a Customs house. The concern is being made a means for raising revenue from the people. That is one of my main objections to the measure. Another objection is to Clause 3. The principle of that clause is whittling away the common law liability of wharfingers. Wharfingers who undertake the liability for goods are common carriers and their liability is practically unlimited. The only act they are not responsible for is an act of God or the King's enemies. The trust seek to limit their responsibility to almost nothing, whittling away their responsibility as public carriers. That is a dangerous principle to introduce and that is another objection I have to the Bill. A further objection I have is that it was said the Trust are incapable of carrying on this work, and figures from an official statement by the steamship owners were given. I will not read them all, but they are very instructive because they show the value of the work of the Trust. The first

lot of figures give instances of short receipts given by the Trust for cargo, subsequently proved to have been delivered. In five shipments only there is a difference of 2,217 packages; in other words, the cargo delivered to the Trust amounted to 87,513 packages and the receipts given amounted to only 85,296 packages, showing a shortage of 2,217 packages and these packages I believe were afterwards proved to have been delivered. That shows the value of the Trust's receipts. The second is where claused receipts were given by the Trust in respect to 5,019 packages, and claims were made by consignees in respect of only 442 packages; in other words, the Trust, through their receipts showed that 5,019 packages were in bad order and condition whereas it is shown that claims were made in respect of only 442 packages. A further illustration and to my mind one of the most damning of all relates to the great pride with which the Trust point to the few claims in respect to which damages have been paid. Instead of that redounding to their credit it is to their discredit. Mr. Stevens points out that in seven years the Fremantle Harbour Trust has handled goods to the value of £45,000,000, and during that time has paid claims for shortage, damage, breakage and pillage of £609 only—£87 per annum. The addition, however, of his figures make this £709—£101 per annum. This when worked out amounts to less than one-twentieth of a penny per cent. on the whole of the cargo handled, but the 3d. per ton added by the Harbour Trust in 1904 must have provided many thousands of pounds during that period. This is sufficient to show clearly to anyone having a practical acquaintance with the handling of goods in warehouses, on wharves, or on ships that the Harbour Trust have succeeded owing to their regulations, in taxing the merchants with a heavy levy and afterwards evading their just responsibility. It seems to me that is a complete answer to the suggestion that the present work of the Trust is satisfactory, and if they take over this work it will be more unsatisfactory than it has been in private hands. We have to remember that instead of 3d. a ton the companies are willing to do the work for far less, but we are asked to give to the Trust this power. The Government have to find £650,000 more this year than last year, and have to get it from somewhere and I believe this is a means for getting it.

The Colonial Secretary: How can they get it unless they give more satisfaction than private enterprise.

Hon. J. D. Connolly: They can fix any rates they like for stevedoring.

Hon. D. G. GAWLER: The Trust can do it by killing competition. Their services are to be requested, but Mr. Lynn clearly pointed out that that request will be one with a pistol at one's head. It seems to be obvious that if ships want to get facilities which must be provided by the Trust they will stand a better chance of getting them by asking the Trust to do their work for them. The Trust therefore will get all the business. They can then make their own charges and that is how they will get the money. I object to the provisions of the Bill on these grounds.

On motion by Hon. J. D. Connolly, debate adjourned.

BILL—DISTRICT FIRE BRIGADES.

Second Reading.

Debate resumed from the 29th October.

Hon. J. D. CONNOLLY (North-East): I had not intended speaking on the Bill to-night, but I will just say a few words. The Colonial Secretary, in introducing the measure, pointed out that the main reason for its introduction was to validate certain moneys which had wrongfully been claimed by a certain municipality as a contribution under the Fire Brigades Act. While I have no objection to validating this payment, I have a very serious objection to a much larger principle which is contained in the Bill, because the validating portion is only a very small portion at the end of the Bill. The upkeep of the fire brigades to-day is by contributions; three-eighths by the insurance companies, three-eighths

by the municipalities and road boards, and two eighths by the Government. When the Act of 1909 was passed, it was found that the costs fell heavily on the small local bodies. This Bill seeks to give power to the local bodies to strike a rate, without any limitation, in order to pay this contribution to the Fire Brigades Board. We have not even the ordinary safeguard which exists in the Municipal Act, where a maximum is fixed. It comes to this that, if the fire brigades make a certain estimate, and in doing so, fix a municipal quota at a certain amount, the local bodies have no option but to strike a rate sufficient to cover that. That is a direct invitation to the Fire Brigades Board to indulge in any extravagances that suits them, because the local bodies and the Government have to find so much of the money? I know there is a safeguard in the present Fire Brigades Act, and it is that estimates have to be submitted to the Colonial Secretary. The Colonial Secretary may return those estimates, but the framing of them is largely in the hands of the board, and once they are approved by the Colonial Secretary and sent to the Executive Council, the amounts have to be paid by the local bodies. The local bodies have very little voice in the matter, for the reason that the Fire Brigades Board consists of nine members, three sent by the municipalities, two by the Government, three by the insurance companies, and one by the volunteer fire brigades, so that, in any case, the local bodies have only three representatives out of nine. Therefore, any estimate may be framed by the board, and the local bodies will have very little control in regard to the amount. The Colonial Secretary, when speaking on the Bill, instanced how the estimates of the Fire Brigades Board had increased. I am quite certain they will go on increasing if the fire brigades are given a free hand to do exactly as they like in regard to expenditure. I have a lively recollection of cutting down the Fire Brigades Board expenditure, and the present Colonial Secretary has had a similar experience. It is not an easy matter to cut down the estimates considerably. The first estimates which were brought to me ran into £38,000 for the year. They were returned to the board, and returned a second time, and eventually I approved of them at about £24,000. Now they amount to £30,000. I think it would be a dangerous principle now to allow local bodies to have the right of taxing, and not only to have that right, but to be virtually forced by the Fire Brigades Board to tax without any limitation. This Bill gives the local bodies power to strike an unlimited amount as a fire brigade rate, and again, if the Fire Brigades Board prepares a high estimate, then the local bodies have no option but to strike a rate accordingly. I am well aware that it is necessary in the interests of fire brigade work in the State to have something like this amount per annum, but at the same time, a great deal of work that it is sought to do in one year might be distributed over a number of years; there is practically no check, and it will be an exceedingly heavy tax on the local bodies. I do not intend to support that portion of the Bill, but I have no objection to the validating portion.

Hon. D. G. GAWLER (Metropolitan-Suburban) : I propose to support the Bill, but I want to raise the point already referred to by previous speakers, as to the position of the Leederville council. I understand that the position of the Leederville council is that at the present time they are liable for having wrongfully struck this rate, and the ratepayer who has brought an action, which is now pending, is of course entitled to be protected in regard to any costs he may have incurred. The Leederville council is in an awkward position, because, unless the Bill is passed, it will have other ratepayers making similar claims. I would like to ask the Colonial Secretary to let us know whether the position of the Leederville council has been taken into consideration in the Bill. I do not see any proposed amendment, altering the restrospective nature of the Bill, in order to guard the Leederville council. Does the leader of the House propose to recognise the rights of the Leederville council?

The COLONIAL SECRETARY (in reply): It is my intention to have an

amendment drafted, providing that this Bill shall not apply to any action which is pending. I had made an arrangement with the Parliamentary Draftsman to frame an amendment, but I saw him today, and he stated that the action practically had come to an end.

Hon. M. L. Moss: It will if you postpone the Committee stage for three or four days.

The COLONIAL SECRETARY: They had simply to move for judgment for the full amount, with costs, and then if I postponed the consideration of the Bill in Committee for about one week, there would be no necessity for any proviso.

Hon. A. G. Jenkins: Some one might start a further action.

The COLONIAL SECRETARY: I do think then they would have the sympathy of the House. With regard to this measure, it has been rather severely criticised by hon. members. I certainly expected that the representatives of the district would have given me some support. The Government introduced the Bill because they were approached by the municipalities interested—Leederville, North Fremantle, and Guildford. These municipalities have been illegally levying rates, but the proceeds have been devoted to a legitimate purpose. They were required to contribute a certain amount towards the up-keep of the administration of the fire brigades. The position of the Leederville council is that they will have to find £500 unless this Bill is passed, and it seems to me that the councillors will be jointly and severally liable. They have diverted money to some purpose foreign to the existing legislation, but, as I have already stated, they have used the money for a perfectly lawful purpose, and unless this measure is passed, the members of the council will be obliged to disgorge the money.

Hon. M. L. Moss: They will not have to disgorge.

The COLONIAL SECRETARY: I am given to understand that they will have to disgorge, and that each councillor will be jointly and severally liable. The point raised by Mr. Connolly has some force in it, but it seems to me that there would be a great difficulty in drafting an amendment to meet it. If there had been some error in the signing of the rate book, it would have been a simple matter, but I think there would be a difficulty in drafting a Bill to legalise the rates which have been levied without the authority of Parliament. This Bill, I might point out, will be only of short duration. The Government have an amendment of the Fire Brigades Act on the stocks, and I am in hopes of bringing it down this session, or if not this session, certainly early next session.

Hon. M. L. Moss: Give us a little breathing time.

The COLONIAL SECRETARY: In the meantime I will do what I can as Colonial Secretary to protect the people as a whole.

Question put and passed.

Bill read a second time.

BILL—RIGHTS IN WATER AND IRRIGATION.

Second Reading.

Debate resumed from the 31st October.

Hon. V. HAMERSLEY (East): In approaching this question I realise the great importance of the subject, and I think, to a great extent, our thanks are due to the Government for realising that something in this direction will be of great benefit to this country, and they are to be congratulated, I think, upon bringing forward a measure which should have beneficial results. We admit that the question of the absence of water is one of the greatest drawbacks to the whole of Australia, and particularly to our Western portion. There are very few rivers and there are small streams, and it seems a great sin that, during the winter months, large bodies of water should run to waste into the sea. What amount of benefit could be derived from the better use of these waters, from the damming up of these streams, remains to be seen, and it is certainly commendable on the part of the Government to grapple with the question. I for one am quite prepared to encourage them as far as pos-

sible in conserving water, and in turning it to better account. The only question which occurs to my mind is whether we can do very much in that direction at the present time or even in the near future. It seems to me that this question of irrigation is entirely one for cheeap labour. I realise that to-day it is extremely hard to even attempt to carry out works of this nature with the demands that are likely to be made upon the public purse. Then, again, in going through this measure we find that there are certain rights they have been acquired by the community in days gone by, and it seems to me that for the sake of the small area which is suitable for irrigation, we are likely to penalise the whole of the community throughout the length and breadth of the State, and in localities and districts where it is impossible for us to ever dream of irrigation. Of course we know that wonderful works have been carried out, and great benefits have accrued in those countries where irrigation has been encouraged, but as a rule they have been able to draw upon immense supplies of water, or they have been able to conserve it in immense quantities, and to make the best use of it in the driest times of the year, whereas the only water we have in this State is the water that can be conserved during the winter months. We have no inland mountains that are snow-capped, which during the driest period of the year would give us the greatest supply of water for irrigation purposes. The only supplies that we can draw upon are those falling in the winter months which can be conserved, but as the driest months of the year come on this water which we might conserve would be reducing rather than increasing. The most successful countries in irrigation are those where the drier the time of the year, the greater is the increase of water from the melting snows on the inland mountains. That is undoubtedly our great lack in this State, so that when one comes to look into the question and to look through this measure one wonders why the Government have not placed before the House more figures with regard to the cost they are likely to incur in connection with these works, and some estimate of the results that are likely to be achieved. It appears to me that if we could construct large reservoirs to conserve the waters in the streams running from the hills between, say, the Serpentine river and the Frankland river, apart from the artesian supplies, that is about the only area in which this irrigation would be of any use, because I think further north towards Geraldton there are no streams of sufficient importance that may be made use of except in a small area around Gingin. That area between the Serpentine and the Frankland rivers is the whole extent of country that can be utilised. Further south than the Frankland river the whole of the streams are salt, and it is impossible for that water to be made use of for irrigation purposes. The only practicable plan would be that adopted on the Helena river, something similar to that at Mundaring. I believe the cost of the Mundaring Weir, apart from pumping stations, was something like £250,000. The water conserved would be about 4,000,000,000 gallons. The whole of that would not be sufficient to supply more than about 8,000 acres with 18 inches of water throughout the year, and it is generally recognised that anything less than that quantity of water per acre would be of little use. Most of the irrigation areas require something between 18 and 40 inches per acre, and when we take into consideration the capital cost of the work, the small quantity of water that would be available, and we find that at 3d. per thousand gallons, equivalent to 5s. 6d. per inch per acre, it would cost at least £5 10s. per acre to irrigate the land, I have considerable doubt whether the Government would find many persons willing to pay that rate per acre for water. That 3d. per thousand gallons would be apart from any cost the individuals would incur in reticulating the water over their land. It would be a fairly large rate to put on the land, and still work out the benefits expected to be derived from the scheme. It is rather a big problem that the Government have undertaken to enter upon, considering the small supplies we have. The irrigation of that 8,000 acres would require the use

of absolutely every drop of the water conserved, and that would be a very great risk in the event of a dry year following on one or two good seasons. There is no doubt that the reservoir would not fill every year. Then after the individuals had gone to a great deal of cost in preparing the land for irrigation they might find themselves cut off with a short supply. It is a very big problem, indeed, to embark on this scheme in the form in which the measure is placed before us, when, for the sake of the few thousand acres we might have under that one scheme and a few thousand acres more on two or three other schemes, we are to penalise the whole country in the direction which some of the clauses in the measure indicate. It would be far better to take one small portion of the State where we know that irrigation in a small way might be embarked upon, and deal with that small portion before bringing in a measure which is certainly going to cause a great deal of ill-feeling throughout the other portions of the State, where, as I said before, the water supplies are absolutely unsuitable. Yet powers would be given to the inspectors, who would probably become a nuisance to many individuals who certainly have rights and require the use of the areas they have purchased in days gone by. I have always hoped that something further might be done in prosecuting works of this nature along the Avon river and also at the head of the Swan, but whatever works may be carried out along the Avon River from Beverley to the head of the Swan, where eventually, I am perfectly satisfied, with a series of dams and weirs there will be a permanent stream throughout that country, I do not believe any of that water will be suitable for irrigation on a large scale. It is generally understood that the water is too mineralised, and all those who have anything to do with irrigation claim that we must have the very best water indeed. I daresay I will be called one of the ultra conservatives when I refer to the question of riparian rights, but undoubtedly this Bill is of a confiscatory nature, and some of its clauses will certainly require amendment or striking out. There are clauses in the Bill which should not find a place there. I have great respect for all those people who have paid the price, many of them after hard and severe lives, to acquire certain properties, rights, and privileges, and it is unreasonable that with a stroke of the pen these rights should be taken away. We have under the Public Works Act all the powers that are necessary to deal with all the irrigation in all the areas where irrigation is possible at the present time; and, knowing that, it is almost unnecessary that a Bill of this nature should be put on the statute-book. If we can alter the measure so as to do away with the penalties, and not to interfere with the rights that belong to individuals who have purchased them, or if they can be secured or compensated for anything taken away, as they should be, if it is to the interest of the community that certain rights should be taken away——

The Colonial Secretary: What are the rights?

Hon. V. HAMERSLEY: The rights are those which induced many of the people to acquire their property. What was it that induced them to leave the old country to acquire land here?

Hon. J. Cornell: Poverty very often.

Hon. V. HAMERSLEY: It may have been in many cases, but these people came out here and they ran the country at much more expense than is incurred to-day. They have paid the penalty of living in the greatest of hardships for many years to build up the country. I do not refer to the old settlers only, but to many people to-day who have given very high prices for particular spots and particular channels where perhaps there are a few acres of good land abutting on streams; and the big prices they have given have been wholly owing to the fact that they knew they were buying a stream, and that they had a title to it. These titles were given by the British Crown, they are in existence, and I think we should recognise them and not repudiate them in the manner in which we are asked to do. There is no difference between confiscating the rights

of these people who have these areas and putting in a clause to say that people who in years gone by bought the bonds of Western Australia should have these bonds repudiated by putting them through a fire. One man buys a piece of land with a watercourse going through it and gives a big price accordingly; another man does not put his money into the land, which he may use later on, but says he will purchase Government bonds. If we may confiscate the rights that the man has acquired in purchasing the land we may just as well confiscate all the bonds the other has purchased by saying that they will be considered burnt. It is the same thing absolutely. But this Bill goes further: it also takes over the rights that exist with regard to artesian bores. It seems very severe that where a man has shown to the rest of the community at his own expense and risk—there have been cases of failure and there have been successful cases—that there is artesian water existing, this measure proposed to acquire his rights in regard to his artesian bore. There seems to be no recognition of the rights of a man who has spent probably £2,000 in putting down a bore. The Government propose to take it over and give him probably three acres—I think that is the suggestion—that he can irrigate with the water gained at his own risk and at his own expense. He is not allowed to deepen the bore if the supply runs short without reference to some inspector who is appointed over his head; if he wants to clean out the bore he has to apply to the inspector; if he wants to do anything at all with the bore on his own land that he has taken all the risk with, he has to apply to the inspector for a permit, and then he is only to be allowed to irrigate three acres, and all the water he wants over and above that three acres he will be rated or charged for, when it has probably cost him £2,000, and in some instances more, to obtain that supply. It seems to me unreasonable. Probably the interest on the money expended in putting down the bore is up to £200 per annum. How on earth he can recoup that interest by irrigating three acres of land I fail to see. I consider that he is probably not getting a great return from his outlay by irrigating 20 acres. It may be all right for those who in the future may have to put down bores at their own expense, they will know at least what the provisions of this measure are, and they will be in the happy position of knowing the risks they take on under the measure before they start, but it seems particularly hard on those who have embarked money on these artesian bores in times gone by. I think it will have very much the same effect as the Government embarking on several other ventures. Whenever the Government step in to do these things a private individual loses all the ambition to embark in various businesses of this kind on his own account. It has a tendency to deter the pioneer. In the dry areas the individual to-day is different from the earlier settler. He does not attempt to embark on large projects with his own capital to find water supplies and so on, as he finds that sooner or later the Government come along and put all sorts of charges on him, and the settlers invariably now wait for the Government to do everything. So I will say those who in the future wish to put down artesian bores will probably be deterred to some extent, but they will know what is before them; but those who have put down artesian bores in the past and those who have embarked in a system of irrigation and planting, and have acquired schemes in several localities in the hills, will find that they have made a rod for their own back, as the Government will come along and make some terrific charges. That is what they have to fear. I hope that during the passage of this measure through the House the members of the Government will recognise that there are certain rights and privileges that can be dealt with through the present Public Works Act. We do not want any more powers. I think it is a mistake on the part of the Government to try to make the Bill apply all over the State. It would be wiser to straight away recognise that there is only one corner within the State where we can successfully carry on irrigation, and even there under present conditions I do not think it will pay to embark on

any big schemes. It is far better that the Government should confine their attention to one patch of 10,000 acres and not interfere with the rights of individuals right throughout the State. In many instances the water is unfit for irrigation purposes. There is no reason why we should arbitrarily take away the rights and privileges that people have and place over them inspectors and people who are likely to interfere with them. I shall give the measure favourable consideration in the hope that we can induce a little consideration from the Government who are certainly willing to do what they can to help one of the industries of the State.

On motion by Hon. H. P. Colebatch, debate adjourned.

House adjourned at 10 p.m.

Legislative Assembly,

Tuesday, 5th November, 1912.

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

PAPERS PRESENTED.

By the Honorary Minister: Regulations under the Criminal Code (Preventive Detention).

By the Premier: 1, Regulations under the Boat Licensing Act; 2, Return *re* karri country applied for during the past two years (ordered on motion by Mr. O'Loghlen).

QUESTION—STATE GOVERNOR.

Mr. DOOLEY asked the Premier: 1, Has he received any official intimation of the transfer of His Excellency Sir Gerald Strickland to New South Wales? 2, If so, in consideration of the view that effective economy could be achieved by combining the functions of His Majesty's representative in this State with those of the Chief Justice, does he intend to request the Imperial authorities to give effect to that view?

The PREMIER replied: 1, Yes. 2, Representations were previously made to the Imperial authorities by the late Hon. T. Price when Premier of South Australia. The reply received from the Right Honourable the Secretary of State for the Colonies, and a copy of which was transmitted to each of the other States, contained, *inter alia*, the following:—"The change which is suggested is a very far-reaching one—more so than, perhaps, appears at first sight; and it could not, I consider, be entertained in any case unless it is to be applied to all the Australian States, and not to one alone, and until public opinion in Australia is demonstrated to be overwhelmingly in its favour." Also:—"There is, no doubt, much to be said in favour of the Canadian system under which the Central Government appoints provincial governors, and if the people of Australia were to desire to adopt a similar system His Majesty's Government would in all probability be disposed to advise His Majesty that the necessary steps should be taken to carry out their wishes. So far, I understand, there has been no indication that the States, whose contention is that they remain sovereign States, would desire that their prerogatives should be diminished, and the evidence of such sovereignty is in part secured by making the appointment of governor in the same manner and on the same terms as prior to Federation." This Government believe that it is the wish of the people of Western Australia, and of Australia as a whole, that the position of State Governor should be open to citizens of the State, and, in order to obtain the concurrence of the other States, at the last Premiers' conference