all likely that the selector will be able to enclose the other sides of his land within the first six months; in most cases it will take him a much longer time to enclose his land; and, in fact, the law permits a selector to take six years before he is compelled to fence in the whole of his holding. Therefore the dividing fence already existing can be of no value to him until he has fenced in his own portion, and at the beginning of the settler's difficulties, when they are the greatest, when his funds are at the lowest, and when every encouragement should be given to fence and cultivate his land, why should he be called upon to pay down £25 in the first six months, for a subdivision fence that must be useless to him at that period? To force that condition upon him would be a hardship. If the payment were to be required within six months after he had enclosed his land, I think that would be within the realm of justice; but it would be too much to ask every selector who happened to select next to a property already fenced, to plank down £25 within the first six months, when he would want the money to develop his own land. The other point is in connection with such holdings as those of the Great Southern and the Midland Railway Companies. Suppose the Midland Company has 100,000 acres of land, and it sells out a portion to a settler; then the company may be called upon by the settler to pay half the value of his fencing on three sides adjoining the company's land, the fourth side being his frontage to the road, which he must fence. Would not that be a hardship to the company, merely because, technically, it held land alienated from the Crown? And what applies to that case would hold good with reference to the subdivision of large blocks. Suppose an owner subdivides a block of land into twenty allotments. The moment he sells one lot, the buyer may begin to fence it, and may call upon the owner of the large block to contribute towards the cost of fencing his allotment on three sides. I admit this is the law in force in other colonies, but that provision is found to be so thoroughly unworkable that every contract of sale contains a clause providing that the man who sells the land shall not be liable for any proportionate cost of fencing on the unsold boundary. Of course that case does not improve the case of the selector who is to be compelled, under this Bill, to pay down £25 within the first six months. I look upon the Bill, as a whole, as a good measure, but we must take care that the Bill does not press hardly on any person to whom it is intended to apply.

Motion put and passed.

Bill read a second time.

MR. PIESSE: I beg to propose that the Bill be referred to a select committee.

MR. LEFROY: The House is against it, I think.

MR. MORAN: I second the motion.

Motion put and negatived.

ADJOURNMENT.

The House adjourned at 8·52 o'clock p.m.

Legislative Assembly,

Thursday, 2nd August, 1894.

Presentation of the Address-in-Reply—Further legislation respecting Savings Bank—New Mail Contract—Erection of Government School at Gingin—Free Passes on Government Railways—Local investment of funds of Fire and Marine Insurance Companies—Yilgarn Railway Contract, and Bonus in connection therewith—Station Accommodation at the Midland Junction—Offers from private persons for the construction of Goldfields Railways—Further Correspondence respecting proposed abolition of the Aborigines Protection Board—Water Supply for Cossack—Return of Homestead Blocks—Return of new School Buildings and estimated cost thereof—Employers' Liability Bill: second reading—Adjournment.

THE SPEAKER took the chair at 4·30 p.m.

PRAYERS.

PRESENTATION OF THE ADDRESS-IN-REPLY.

At twenty minutes to five o'clock, p.m., Mr. Speaker, accompanied by members, proceeded to Government House to present the Address-in-Reply to the Speech

of His Excellency the Governor upon the opening of Parliament, and having returned—

MR. SPEAKER reported that he had, with members of the House, waited upon His Excellency the Governor, and had presented to him the Address of the Legislative Assembly, agreed to yesterday; and that His Excellency had been pleased to reply as follows:—

"MR. SPEAKER AND GENTLEMEN OF THE "LEGISLATIVE ASSEMBLY,—

"I thank you for your Address-in-Reply "to my opening Speech, and for the assur- "ance of your desire to deal with all "questions that come before you in such a "manner as to promote the advancement "and welfare of the Colony.

"Government House,
"Perth, 2nd August, 1894."

FURTHER LEGISLATION RESPECTING SAVINGS BANK.

MR. JAMES, in accordance with notice, asked the Premier whether the Government proposed to introduce, or would consider the advisability of introducing legislation to extend the usefulness of the Savings Bank—

1. By abolishing the maximum amount which may be paid into the bank.
2. By allowing withdrawals to be made by cheques, as in the case of ordinary banks.
3. And by establishing branch banks at every place where a post office is established.

THE PREMIER (Hon. Sir J. Forrest) replied that the Government did not propose to amend "The Post Office Savings Bank Consolidation Act, 1893," passed last session. Branch banks were always established at the principal post offices of the colony.

NEW OCEAN MAIL CONTRACT.

MR. LEAKE, in accordance with notice, asked the Premier if any, and what, arrangements had been made by the Government, in regard to a new Postal Contract, consequent upon the resolutions come to at the recent Postal Conference in New Zealand. If the Government were in possession of any report upon this subject, would the Premier lay the same on the table of the House?

THE PREMIER (Hon. Sir J. Forrest) replied that the recent conference had recommended the extension of the present mail contract with the P. & O. and Orient Companies for a period of one year, from 31st January, 1895, and the Government was prepared to concur in the recommendation. A report of the conference was now placed upon the table.

ERECTION OF GOVERNMENT SCHOOL AT GINGIN.

MR. LEFROY, in accordance with notice, asked the Director of Public Works—

1. If tenders had been called for the erection of the Government School at Gingin.
2. And if not, when tenders were to be invited for that purpose.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn) replied that—

1. Tenders had not yet been called.
2. Plans were under consideration, and probably would be ready for the purposes of inviting tenders within a month.

FREE PASSES UPON GOVERNMENT RAILWAYS.

MR. JAMES, in accordance with notice, asked the Commissioner of Railways whether any free passes were granted, and the person by whose authority free passes were granted; also, what were the conditions to be fulfilled to entitle a person to a free pass.

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) replied that free passes were granted on the authority of the Commissioner of Railways, and, in special cases, to distinguished visitors. Heads of the Traffic, Permanent Way, and Locomotive Branches issued, under regulations, free passes to their employés travelling on duty. Contractors engaged on railway construction, and their engineers, received passes as by custom. Secretaries, managers, and engineers of private lines received free passes in return for those issued by these companies.

LOCAL INVESTMENT OF FUNDS BY FIRE AND MARINE INSURANCE COMPANIES.

MR. JAMES, in accordance with notice, asked the Premier whether the Govern-

ment intended to introduce, during this session, legislation requiring Fire and Marine Insurance Companies carrying on business in this colony to deposit or invest money, as in the case of Life Assurance Companies.

THE PREMIER (Hon. Sir J. Forrest) replied that the Government had no intention at present to do so, but that the question would be considered.

YILGARN RAILWAY CONTRACT AND BONUS.

MR. JAMES, in accordance with notice, asked the Commissioner of Railways—

(*a.*) Why the Government did not take over the Yilgarn Railway in sections as completed.

(*b.*) Whether the line was yet completed by the contractor; and if so, when was it so completed.

(*c.*) Whether any bonus was paid to the contractor; and if so, for what reason it was so paid.

(*d.*) Whether the line was finished when the bonus was paid.

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) replied, as follows:—As regards the whole question generally, I may say that the action taken was generally in accordance with a resolution of Parliament passed last session. As regards the individual questions, the answers are as follows—

(a.) Because it was desired to materially hasten the opening of the railway as a whole for traffic to the goldfields, and it was found that this could best be attained by pushing on with all the essential works on the railway as a whole, rather than by completing each individual section. As a matter of fact, therefore, the Government has had no opportunity of taking over the line in sections, as originally contracted for, as none of the sections are as yet completed according to contract.

(*b.*) The line is not yet completed by contractor, but it is estimated that it will probably be completed in about three months.

(*c.*) No bonus has as yet been paid to contractor, but a bonus of £2,500 will be so paid shortly, being, in the opinion of the Government, quite equitably due, as the line was opened for traffic to Southern Cross some months sooner than the date agreed upon, thereby, in the opinion of the Government, quite counterbalancing its not being entirely completed by the time agreed upon; in fact, it is considered that the contractor carried out his agreement in the spirit of it, if not to the very letter of it.

(*d.*) As already stated, the line is not as yet finished according to contract, and neither has the bonus as yet been paid.

STATION ACCOMMODATION AT MIDLAND JUNCTION.

MR. LOTON, in accordance with notice, asked the Commissioner of Railways when the Government and the Midland Railway Company, or either of them, intended to provide the necessary and requisite station and other accommodation required at the Midland Junction.

THE COMMISSIONER OF RAILWAYS (Hon. H. W. Venn) replied, as follows:—It is admitted that the accommodation at the Midland Junction station is rather behind the times, but the Government has experienced some difficulty in arranging with the Midland Railway Company as to the exact site and character of the station required for the transfer of goods, &c. It is hoped, however, that it may soon be possible to come to an equitable arrangement in the matter; and, as soon as such can be come to, the necessary works will be put in hand forthwith. A large amount of work has been done by the Midland Railway Company in their own station yard, but it is impossible to utilise this for transfer of passengers and goods, as things stand at present, as it is quite remote from the existing Government line of railway, and also quite remote from the Canning Company's line of railway.

OFFERS FROM PERSONS TO CONSTRUCT GOLDFIELDS RAILWAYS.

MR. LEAKE, in accordance with notice, asked the Premier if it was his intention to lay upon the table of the House a list showing the names of various persons who have offered to construct, at their own expense, railways from Mullewa to Cue, and from Southern Cross to Coolgardie; and, if so, did he also intend to furnish all papers and correspondence upon the subjects.

THE PREMIER (Hon. Sir J. Forrest) replied that the Government would be pleased to lay the information asked for

upon the table, if the hon. member would make a motion to such effect.

FURTHER CORRESPONDENCE *RE* ABOLITION OF ABORIGINES PROTECTION BOARD.

The following Message was received from His Excellency the Governor—

"The Governor forwards, herewith, to "the Legislative Assembly a copy of "further correspondence on the subject "of the Aborigines Protection Board, "including a reply from the Secretary of "State to the Resolution agreed to by "the Parliament of Western Australia "during last session with regard to the "abolition of the Board.

"Government House, Perth, 2nd Au"gust, 1894."

In accordance with the foregoing Message, the following paper was laid upon the table of the House:—Further correspondence respecting Aborigines Protection Board.

WATER SUPPLY FOR COSSACK.

MR. H. W. SHOLL, in accordance with notice, asked the Director of Public Works if it was the intention of the Government to provide Cossack with a water supply.

THE DIRECTOR OF PUBLIC WORKS (Hon. H. W. Venn) replied that the question of a water supply to Cossack was under consideration, and estimates would be made, although the Government could not at present make any promise for carrying out the work.

RETURN OF HOMESTEAD BLOCKS ISSUED AND APPLIED FOR

MR. THROSSELL, in accordance with notice, moved—

1. For a return of all homestead blocks granted up to date, such return to show in what area and district situated.
2. For a return of all applications refused, and reasons for refusal.

Motion put and passed.

ERECTION OF NEW SCHOOLS AND ESTIMATED COST.

MR. RANDELL, in accordance with notice, moved, "That a return be laid on the table of the House, showing the number of schools now being erected (or for which tenders are invited), also of those intended to be built during 1894-5; such return to state—1st, the capacity of each school; 2nd, the districts in which such schools are to be placed; 3rd, the estimated cost of each." The hon. member said that such a return would be of considerable interest to members, and to the country generally. For some considerable time past the erection of school buildings had been desired in different parts of the colony; some of them had not yet been erected, but he believed that others had, although he did not know in what localities, except as regarded one or two. Such a return would also give some idea of the Government policy in providing for the educational needs of the country. Holding the opinion he did, that the providing of schools should not be left to private or denominational efforts, but that the educational system should be a public one, he wished to express his opinion that the new buildings should not be fancy ones, but be good and useful structures adapted to the absolute necessities of each locality. He objected to schools being built on a plan which involved a sum of perhaps £500 for ornamental buildings, where £250 might serve the actual requirements.

Motion agreed to.

EMPLOYERS' LIABILITY BILL.

SECOND READING.

THE ATTORNEY GENERAL (Hon. S. Burt): Sir, I have much pleasure in rising on this occasion to move the second reading of this Bill, which is known as the Employers' Liability Act. I hope it will be recognised that the Government are only too glad, when questions of this nature present themselves for solution, to take them up, and to endeavour to pass some measure through Parliament in relief of any class of the community who present a case which really needs some consideration at the hands of the Legislature. I think that since this Government have held office we have shown that we have had the interests of the working classes particularly always in mind. One of the first steps that this Government took, after entering into office, two or three years ago, was to place on the statute book a measure dealing with masters and servants—a measure that

had been rejected by the old Legislature, but which we succeeded in passing at once, on the assumption of the present form of Government. And on this occasion, again, it will be found that the views of the present Government are far more liberal than many people are prepared to give them credit for. Allusion was frequently made during the campaign in connection with the late elections to this House, with reference to an Employers' Liability Bill—a term which was only a catchword in the mouths of many people, who, I venture to think, knew nothing of what they were talking about. Many of these persons, when they catechised candidates as to whether they were in favour of an Employers' Liability Act, did not really know what an Employers' Liability Act meant; and perhaps some of the candidates themselves only understood it vaguely. At any rate, here, in the first week of the session, you have a Bill before you dealing with the subject, and it has been brought forward by the Government now simply for this reason: up to this time there has been no occasion really to enact a measure of this kind, because this colony is not favoured with many manufactories, and until lately there have been no mines in operation here, and there has been no particular occasion for workmen to bring and maintain actions against their employers, in connection with injuries sustained while at work, so few and far between were such injuries. But, now that mining is progressing so largely in the colony, and manufactories are springing up, no doubt workmen will soon find that they are not on the same footing here as they would be in England, or the other colonies, and other British possessions; that they are still subject to the old common law that existed in England up to the year 1880. The law at present with regard to injuries sustained by a workman is that he impliedly accepts and is willing to bear the brunt of the risks attached to any employment he is engaged in; and if he suffers an injury he has no remedy against his employer under the law. Consequently, if through some negligence or ignorance on the part of a foreman, superintendent, or any person in that position acting for a contractor or employer, he is injured, he is without a remedy. That is the present law of the colony. In England the same law existed until the year 1880, when the law was altered. The matter was brought to a head there through the action of *Merry* v. *Wilson*, which was decided in the House of Lords, when the old doctrine of the employé bearing all the risk of the employment he was engaged in was applied to the case of injuries caused by the fault or negligence of the foreman or superintendent of works. That was an extension of the law which provided that even if a workman sustained injury in consequence of some negligent order of a foreman, or other person acting in that capacity, he had no remedy, as the law assumed that he had accepted the risks attached to his employment. But a remedy was provided in such cases under the Employers' Liability Act of 1880. That Act removed the difficulty arising from the decision in *Merry* v. *Wilson*, and the effect of that Act is this: that a workman may bring his action now in five specified cases, which the House will find set out in Clause 3 of the Bill now before it; and the employer shall not be able to say, in answer to the plaintiff, that the workman occupied the position of a workman in his service, and must therefore be taken to have contracted to take the risk of his employment. In other words, the legal effect of this Bill will be that the plaintiff, because of his being a workman, has not impliedly contracted to bear the risks of the work he is engaged in. The Bill provides that, in the five specified cases enumerated, the workman shall be entitled to bring his action against his employer, and sue him for injuries sustained. This law has been adopted, I think, in most British possessions since its enactment in England in 1880; and I cannot find that there has been any radical alteration of its provisions anywhere. In some of the colonies they except the miner from the operation of the Act, but it will strike members, as it has struck the Government, that here the miner is just the class of workman we should protect; therefore, this Bill includes the miner within its operation. In some of the other colonies their Employers' Liability Acts do not include miners, because in their Mines Regulations Act there are other provisions of the same nature for the protection of those engaged in mining, and not because they think it is not necessary to provide

for the protection of that class of workmen. But, inasmuch as we have not yet had time to give our attention to a Mines Regulation Act, I propose to ask the House in the meantime to include the miner in the present Bill. It also extends protection to workmen on the railways, who are servants of the Commissioner, and these men will have a right of action and compensation in each case mentioned, for injuries sustained by reason of the negligence of any person in the same employment delegated with the authority of his employer—a remedy which they do not possess at the present time. A short time ago a case came to my own knowledge in which a miner in this colony was seriously injured by the fall of some machinery, or heavy iron, down the shaft of the mine where he was employed, which was occasioned distinctly by the negligence of the person in charge of that mine. Under the existing law in this colony, although the poor fellow had his head smashed in completely—fortunately he did not die—he had no legal remedy. I know that the company in that case treated this workman with great consideration, and assisted him to an extent perhaps greater than if he had a right of action against them; still, the fact remains that the man had no cause of action under our present law. Such a case will now find a remedy in our law courts if this Bill passes. With regard to the amount of compensation that is recoverable under the Bill, it will be seen from Clause 5 that it is limited to "such "sum as may be found equivalent to the "estimated earnings, during the three years "preceding the injury, of a person in the "same grade employed during those years "in the like employment." That is to say, if a navvy is injured, or a bricklayer, or a plasterer, he will be entitled to recover to the extent of the amount of the earnings, during the preceding three years, of a person employed in that capacity. That is the limit in England, and it is so in Victoria, and I believe the same estimate of damage has been accepted everywhere. We now propose to ask the House to accept it in Western Australia. It will be found in the Bill that these actions for injuries must be preceded by a notice in writing, to be given to the employer within six weeks of the injury having been sustained. I think that is only reasonable. If a man conceives himself injured, and entitled to compensation, he will surely know it in six weeks. Therefore we propose that no action shall be maintainable unless a written notice is given within that time. There is a proviso, however, which gives the Judge who tries the action power to decide that an omission to give notice within that period shall be no bar to the maintenance of the action if the Court should be of opinion that there was a reasonable excuse for it. But it is almost impossible to think of a case in which a person injured would be unable to give notice within six weeks that he meant to sue for it. The Bill is a very simple one. Actions for compensation under it may be brought in the Supreme Court or in the Local Court, the latter having jurisdiction up to £100, and it will perhaps be found that many cases will find their remedy in that Court; if not, the action may be brought in the higher Court. In England all these cases must be commenced in the Local Court, but these Courts there have a larger jurisdiction than they have here. It will be found that an artisan, or mechanic, or any man receiving a wage of 8s., 10s., or 12s. a day, will be able to recover compensation to the extent of from about £350 to £450; and, in a case like that, the action would be brought in the Supreme Court. But if the amount claimed should be under £100, he would find his remedy in the Local Court. The Bill is a very short one; it consists of only nine clauses, and I may say it is simply the English Act, which Act has also been adopted in Victoria. As I stated before, in my opening remarks, the English Act has not been materially altered, so far as I know, anywhere where it has been adopted. It is an exceedingly simple and workable Bill, and any workman can see his status under it at once; and I trust it will be received by the House, and become part of our statute book within a very short time. I now move the second reading of the Bill.

MR. JAMES: I think the thanks of the House are due to the Government for introducing this measure—not perhaps for introducing this particular measure, but for recognising the necessity of adopting legislation in this direction. I do not follow the Attorney General when he states there has been no call in the past

for the introduction of such an Act as this in Western Australia. The very case which the hon. gentleman himself mentioned shows that there has been need for such a measure as this. I hope the Government do not think that simply because there have not been hundreds of fatal accidents arising from culpable negligence on the part of employers and their servants, such an Act has not been required. My idea is that we should anticipate these things, and, if the object is good, legislate for it as early as possible, so as to meet cases that may arise. While thanking the Government for attempting to deal with this question of the liability of employers, I regret that when they did introduce a Bill they should have taken for their guide an Act which is fourteen years of age. I cannot believe the Attorney General to be serious when he tells us that the English Act, of which this is a copy, has not been altered elsewhere, when he must know that it has been altered in New Zealand, and when recently an amendment Act, almost the same as that in force in that colony, was passed by the House of Commons, and simply did not become law because it was rejected by the House of Lords on account of one section of the Act only. It is somewhat astonishing, therefore, to hear him stating that this Bill now before us is legislation up to date, and that the English Act has never been altered in any country where it has been adopted. I think, if we are to have legislation at all, it should be thoroughly up to date, and that we should not place on our statute book in 1894 an Act passed in England in 1880, and discredited to a great extent in the country where it was passed. The first Act, I believe, dealing with this question, was the English Act of 1874; and, of course, being the first Act of the kind it was not as complete and comprehensive as it should have been; and a great number of defects were found in it during the period that intervened between its passing and the introduction of the Act of 1880. And, since that Act was passed in 1880, instead of its having proved to be a good and satisfactory Act, there has hardly been one statute that has given rise to more litigation—except perhaps the Bills of Sale Act—and one upon which there have been so many decisions. I therefore think it is much to be regretted that the Government, in framing this Bill, did not adopt the latest legislation on the subject, incorporating in the Bill the most recent decisions of the English Courts, instead of a Bill which no doubt does credit to the scissors and paste in the Attorney General's office, but which certainly does not embody the most recent legislation on the question dealt with. Immediately the English Act of 1880 was passed—in fact, before it was passed—agitation arose to prevent workmen contracting themselves (as they were induced to do) outside the Act. Shortly after the passing of the original Act in 1874 a decision was laid down—a decision the soundness of which lawyers have seriously questioned—that a workman might legally contract himself out of the rights and privileges conferred upon him under the Act.

THE ATTORNEY GENERAL (Hon. S. Burt): Why shouldn't he?

MR. JAMES: I will show that presently. In the face of that decision great efforts were made to insert a clause in the Act of 1880 to prevent a man from contracting himself out of his rights, and to provide—as common sense suggests—that, if the Legislature passes an Act to give a remedy to workmen, the Legislature should prevent these men from contracting themselves out of that remedy. The effort to introduce that provision into the Act of 1880 failed, but since then agitation has been most consistent in favour of its adoption. The result was that quite recently the House of Commons—and I suppose it required some good sound argument to convince that assembly—carried an Act in which this very clause was included; and, when the Act went to the House of Lords, the objection raised there was not to the clause *in toto*, but they wanted to modify or qualify it in some way so that the provision preventing contracting out should not apply to large railway companies who had established insurance funds of their own, and made large donations towards those funds. The House of Lords wished to limit the operation of the Act in that way, and would have been prepared to accept the clause with that proviso. When we find the House of Commons adopting the clause and the House of Lords willing

to adopt it—with that proviso only in favour of large corporations who had established an accident assurance fund—I think it is a strong argument that should commend such a clause to our acceptance here. When we further find that New Zealand has accepted it in its entirety we have a further argument in its favour. I think the New Zealand Act is the best legislation of its kind upon this point. There were three great principles which were fought for in the House of Commons, and those three principles have not only been recognised by that assembly but two of them have also been recognised by the House of Lords, and they are now in force in New Zealand. One is the abolition of the old doctrine of common employment—one of those technical old doctrines which in these days are calculated to bring a blush of shame even into the face of a lawyer; the second was the clause against contracting out; and the other question involved was whether seamen should be excluded from the provisions of the Bill. No objection was taken in England to the abolition of the doctrine of common employment, or to the inclusion of seamen within the provisions of the Bill; the only objection arose, as I have already said, with reference to the contracting out clause. I do not see why we should not adopt all those principles here that have been accepted in England. The doctrine of common employment has neither sense nor justice to recommend it. It means this: if I am working as a labourer under a scaffold, and a careless hodman at the top, in the same employment, drops a brick on my head—

MR. SIMPSON: It wouldn't hurt it.

MR. JAMES: And causes me serious injury, I have no remedy at law; but if I was not employed at the time by the employer of that careless hodman, I should have a right of action. That is the doctrine of common employment, in a nutshell. Then we come to the question of contracting out, which is a most important question; and I contend stoutly that until a clause dealing with that question forms part of this Bill, there never will be contentment on the part of the public. That is proved by the experience of other countries. How can you say that a man is a free agent when such a doctrine prevails? How can a man be a free agent when, as is the case, if he goes to seek employment the first thing he is asked to do is to sign an agreement contracting himself out of the remedy which the Legislature has provided him. I think we ought to prevent men from doing themselves this injustice under duress. As to the question whether seamen should be included within the scope of the Bill, I need not labour that point. The contention is that any injury sustained by a seaman when a vessel is within territorial limits, that is, within three miles, should come within the provisions of the Act; and I fail to see why he should not. Another matter in which the New Zealand Act has set us a good example is with regard to the liability of the Government in the case of injury sustained by its workmen. Why should we make an exception in this Bill in favour of the Government any more than private employers? Why should we debar employés of the Government working under rules and by-laws approved by the Governor in Council from the benefits of the Act? Surely the Government, of all people, should set an example for the safety of its workmen, or else pay the penalty meted out to private employers. These are the main points to which I desire to draw the attention of the House at this stage. There are other questions of minor importance, as, for instance, the question of limited damages. The sum recoverable under the Bill is not in any case to exceed the average earnings (during the three years preceding the injury) of a person employed in the same grade, in the same employment. This shows how much consideration has been given by the Government to existing cases. It has been pointed out in several leading cases that this principle of deciding the amount of compensation recoverable is neither fair or just. Supposing an apprentice, in receipt of 5s. a week, loses both his legs, and is incapacitated for life, the Attorney General proposes to give him £36 by way of compensation, and not a penny more. I believe the provision made in the House of Commons Act was that in no case should the damages exceed £500; and why should not some such provision be made here? Surely we could trust our Judges to administer the law justly and fairly. Why should the

compensation recoverable by a man with perhaps a large family dependent upon him, and who is injured for life, be limited to the same amount as the sum recoverable by the man without any family? I see no reason for restricting the damages, as proposed by the Attorney General, to the amount of three years' earnings. An apprentice earning only a nominal wage might be maimed for life, and only be able to claim £5. Another point is this, though perhaps not an important one: in case the injury results in the death of the workman, his legal personal representatives are given the right of compensation, and remedies against the employer. But I would point out that in the eyes of the law those who are born illegitimately have no legal personal representatives. In the New Zealand Act they make provision for such cases; and why should we not do so here? Then as to the notice of intended action. The Attorney General says surely a man who sustained any injury could give notice in six weeks, if he proposed to bring an action against his employer. But that all depends upon the nature of the injury. Some men may be unconscious for more than six weeks, from the results of their injuries, and there may be other causes to prevent a notice being given within that time. I am aware that, under Clause 6, the Court has power to accept what it conceives to be a reasonable excuse in such cases. But in New Zealand, where they have the same clause, they have extended the time within which notice may be given. As a matter of fact, in a colony such as this, what do you want a notice for at all? There is no town here so large that an employer would not know that an accident had happened to one of his workmen. There have been dozens of cases of the greatest hardship in England, where persons who have not complied with the strict technicalities of the section, in respect of the notice, have been deprived of their remedies, although their employers must have known of the accident. There is another matter requiring attention: provision should be made to enable the Court which assesses the damages to say in what proportion the amount should be divided amongst the various representatives of a man whose injuries may have caused his death. There may be a wife left, and there may be children; and it is most important it should be left to the Court to say how the damages shall be apportioned. All these matters are provided for in the New Zealand Act, and, I believe, in the Bill that recently passed the House of Commons. Another very good clause in the New Zealand Act provides for the appointment of assessors, in certain cases, each party having the right to have one assessor, in cases tried before a limited jury. In none of the Courts in this colony can you have a jury except in the Supreme Court; and, as many actions under this Bill will be brought in the Local Court, I think it would be a very wise provision, and one that would give great satisfaction, to provide for the services of assessors. In my opinion, too—perhaps I entertain somewhat advanced opinions in these matters—an employer should be made liable for all damage to his servant, except where the injury occurred through the servant's own negligence. Such a provision as that would lead to the adoption of a system of compulsory insurance, which would be a great benefit both to the employer and the employé. I have now pointed out some of the defects and omissions of the Bill, and I shall do my best to remedy them, when in committee, and to bring the Bill as near as possible up to date. I do not think we want an Act that is 14 years behind the time we live in. I trust that the principles and details I have referred to, which the Bill, as it now stands, does not recognise, may be adopted, and that the Bill when it emerges from committee will be a measure that will cause general satisfaction and contentment, and provide those remedies which people have a right to ask for. With these remarks, I shall offer no objection to the second reading of the Bill.

MR. SOLOMON: It is not my intention to say much on the Bill at this stage, but I should like to congratulate the Government upon bringing it forward. It may, perhaps, be said that they have made a virtue of necessity. However much that may be so, still it is a matter for congratulation that they have met the wishes of the people in introducing such a measure for the protection of workmen. The Bill, we are told, is a copy of the English Act of 1880. But we know

that since then an effort has been made, and the measure passed the House of Commons, providing that no workman should be allowed to contract himself out of his rights. I think it stands to reason, if you have an Act of this description passed for the protection of workmen, they should not be allowed, under pressure from their employers, to contract themselves out of the protection granted to them by the Legislature. I have heard of a contractor in this colony who, before he employs anyone, makes him sign a paper, that in the event of any accident occurring to him whilst in the employer's service, he will not hold the employer liable. If we allow a thing of that kind to be done, it appears to me we simply nullify the good intentions of the Legislature, and we may as well not have such an Act as this on our statute book. I have risen to give my adhesion to the general principle of the Bill before the House, though I believe it is capable of considerable amendment, as pointed out by the hon. member for East Perth; and I hope that in committee the Bill will be amended in that direction.

MR. MORAN: I believe this Bill will give great satisfaction on the goldfields of the colony, though, as has been said, it will require to be amended when it is taken into committee. Still I think the Government are to be thanked for introducing the Bill. With regard to the statement of the Attorney General that he did not think there had been any absolute necessity for such a measure in this colony before, I must take exception to that statement. I suppose it will do no good now to say whether such a Bill has been wanted before or not, but I know as a fact that on a certain goldfield in this colony men have told me personally that they were obliged to work when they knew their lives were in danger. I intended to have asked the Government for the appointment of mining inspectors on our goldfields, and it seems to me it would be wise on the part of the Government to make such appointments, notwithstanding this Bill becoming law, and affording every protection to miners and others. There is one provision in the Bill which I think will work badly; I refer to the sub-section which provides that a workman shall not be entitled to compensation in any case where he knew that the machinery or plant was defective. I think it would be more just, and serve the ends of both miners and employers, if the Government appointed mining inspectors to look after the condition of the mines and their machinery. A man might privately report to an inspector any defect or danger he might be aware of, but would think twice before he went to his employer and made a complaint, which he would know was not likely to advance his interests. This is a minor matter, perhaps, but I know it would be welcomed on the goldfields; and when the Bill goes into committee I shall endeavour to carry out one of two small amendments which I consider are desirable and necessary in the interests of the mining community. The Attorney General says the Government are considering the necessity of bringing in a Mines Regulation Bill, and I hope to see such a measure introduced; but, pending the passing of such an Act, I think the present Bill, with a few amendments, will be found very useful.

MR. CLARKSON: If there are many employers in this colony like the employers mentioned by the hon. member for Yilgarn, who compelled their men to work although they knew they were working in danger of their lives, I certainly think it is most necessary that such a Bill as this should be introduced. But I hope, for the credit of our humanity, such is not the case. I thought the days of slavery were ended, but it appears that there is something very like it still going on, on our goldfields, if men are forced to work when they know their lives are in peril. I very much regret to hear that such a thing occurs in this colony; it is almost incredible.

MR. MORAN: It is perfectly true; I can give you the names if you like.

MR. CLARKSON: It appears to me that the great difficulty in working this Bill will be in fixing the liability upon the employer. Supposing I have a nigger in my service who gets up on the wrong side of a horse, and the horse throws him and breaks his leg, am I to be responsible for that?

MR. ILLINGWORTH: If I may be permitted to do so, I also should like to offer my congratulations to the Government upon the introduction of this Bill, though I would rather that, in connection with it,

we had the measure referred to by the Attorney General as having special application to mining and mining accidents. The value to the community of such a Bill as this, to my mind, is that it leads to a greater amount of care on the part of all persons who have to do with workmen. The fact that there is a liability, and that the law recognises that liability, must lead to the exercise of greater care and caution on the part of employers, while at the same time it must afford workmen a greater amount of security and protection. Prevention, we all know, is better than cure in all cases. I thoroughly approve of the suggestions made by the hon. member for East Perth for amending the Bill, and extending its provisions. I notice that, under Clause 4, the remedy which a workman seeks fails if he is unable to prove negligence on the part of his employer. I think that is one of the most difficult things for a workman to prove. A boiler bursts, and a workman is floated into another world, and how is he to prove negligence on the part of the employer, or defect in the boiler? When the wire of a cage breaks in a mine, and the occupant is precipitated into eternity, how is he to prove negligence? These kind of accidents can only be prevented by proper inspection. Hundreds of lives have been sacrificed in the other colonies through neglect of this kind, and the niggardliness of companies who, out of mere penuriousness, have neglected to have their machinery and gear properly looked after; and it was these kind of accidents which led to the appointment of inspectors, which we require here. Under Clause 6, as already pointed out, notice of intended action for damages must be given within six weeks of the injury sustained. I think that is not sufficient time to allow in all cases. A man may become unconscious for weeks after his accident, or so seriously injured that neither he nor his friends have time to think of legal actions. No doubt these and other defects may be remedied in committee. I think the Attorney General would do well to accept the suggestions of the hon. member for East Perth. I again congratulate the Government upon the introduction of the Bill, and I hope that the same kindness of feeling towards working men, which they say has prompted them to bring in this measure, will lead them to accept the valuable suggestions offered by the hon. member for East Perth, so that the Bill may be brought as much up to date as possible.

MR. LEAKE: I do not intend to attack the Bill, nor to attack the Attorney General, but to support the Bill as it stands before the House. It is a measure that I referred to in the course of my electioneering campaign, and it is one which I know is fully approved of by my constituents; and I am glad to think the Government have thought fit to bring it in, without its being suggested by any of the elected members. I am in accord with many of the remarks made by the hon. and learned member for East Perth, and particularly with regard to the doctrine of contracting out. I think it is useless to bring forward a measure like this, and yet leave it open for an employer to make his workmen sign an agreement to the effect that the provisions of the Bill shall not apply in their case. At the same time, while protecting the workman, I hope members will bear in mind that we ought not to unduly harass the position of the employer. It is very easy, in this democratic age, to make it pretty hot for the employer. I am not an employer of labour myself—I am sorry to say I cannot afford such a luxury—but I have some sympathy for those who do; and we must be careful that the doctrine which the learned member for East Perth referred to, namely, that of common employment, shall not be extended beyond reasonable and proper length. For instance, if a workman, either playfully or intentionally, drops a brick on the head of a fellow workman, I do not see why we should make the employer liable for that.

MR. JAMES: I never suggested such an absurd thing.

MR. LEAKE: I say we must be careful in applying these novel and startling doctrines, or they may lead us a little too far. The hon. member for Toodyay, too, seems to fail to grasp this doctrine of common employment. He suggested that he might be made liable if one of his stock horses threw a nigger off his back. I suppose it will not be seriously argued that because the nigger could not sue the horse he should be able to sue his employer, the owner of the horse. The suggestion with regard

to the inclusion of seamen in the Bill is open to this objection: it might lead to a conflict of laws. There is a statute known as the Merchant Shipping Act, which protects seamen; and, if we do anything in this Bill with regard to seamen, I take it, it could only be with regard to those employed on our coasting vessels. There is no reason why they should not be included. Something has been said about employers providing an accident assurance fund; I might point out that an insurance fund can be provided by workmen as well as employers. As to making provision in the case of illegitimate persons who may be injured, and who have no legal personal representatives, I do not, at present, see how you are going to deal with such cases. The point may, perhaps, be threshed out in committee. I cannot say that I agree with the suggestion as to the appointment of assessors, in the nature of jurymen, to sit with our magistrates. It would interfere with the existing law, and I think we should not interfere unnecessarily with the settled principles of another branch of law.

MR. SIMPSON: It is in the Goldfields Act, the same principle.

MR. LEAKE: I am very glad to hear it. I shall support the Bill, and I hope I may be able, by my criticism, to assist the Attorney General, when we go into committee, as to what further provisions may be necessary to introduce into the Bill to meet the object we all have in view. I am sure the Attorney General will listen to any reasonable suggestion made by members on this side of the House to make the Bill a comprehensive and a good Bill.

MR. SIMPSON: I congratulate the Government and the country on the introduction of this Bill. It has been pointed out already that there are several amendments desirable; and, as I assume the object of the Government is to pass a Bill that will be consonant with the feeling and requirements of the country, I have no doubt they will be prepared to adopt these amendments. I notice by the interpretation clause that the expression "workman" means any such person "other than a domestic or menial servant." I do not see why domestic servants should be left out. From the discussion that took place in New Zealand I gather that where an employer, out of compassion for a workman who has met with an accident, puts his hand in his pocket and relieves the sufferer, that is not to be construed as an admission of his liability to pay compensation under the Act. With regard to including seamen in the Bill—although there may be provision in the Merchant Shipping Act for their protection—I do not see that we can do any harm by including sailors in the present Bill. I trust the Bill, before it is passed, will be made a really useful Bill, and one that will give general satisfaction.

MR. WOOD: I must add my congratulations to the Government for their having brought forward this Employers' Liability Bill this session. It is a measure that I think is absolutely necessary in this colony, and I am sure it will do a great deal of good. At this stage it is not my intention to criticise the details of the Bill; I shall listen to any arguments that may be adduced on both sides, and give my earnest support towards the production of a measure that will be just both towards the employer and the employed. I quite agree with the hon. member for Albany that, in our eagerness to protect the workman (which we all desire to do), we should not press upon the employer with undue severity. From the remarks that have fallen from some members it would seem that it is the employé alone who is entitled to any consideration; but I think it is our duty also to see that the employer of labour is not unjustly treated.

MR. TRAYLEN: There is a phase of the question which no one has dealt with specifically, as yet. Every humane person will agree with the main principles of this measure, and the only thing left out, it appears to me, of real importance, is that it does not provide any kind of punishment for the negligent foreman or person in charge of the work. It may involve the employer in hundreds of pounds; but as for the really guilty person who occasions the accident, not a syllable is directed against him. Surely it should be found possible to provide something within the Act to mete out a proper measure of punishment towards the man who is really responsible for the accident. I think that not only should the employer have the sweet pleasure of dismissing that

foreman, but that the foreman himself should realise that he also has some responsibility, and, to that end, that he should be subjected to some pains and penalties, which I think should be expressed in this Act.

Motion put and passed.

Bill read a second time.

ADJOURNMENT.

The House adjourned at six minutes past 6 o'clock, p.m.

Legislative Assembly,

Monday, 6th August, 1894.

Bi-weekly Mail to Cue *via* Yalgoo, &c.—Detour of Mullewa-Cue Telegraph Line to Mount Magnet and Lake Austin—Correspondence *re* Mullewa-to-Cue and Southern Cross-to-Coolgardie Railways—Incursion of Rabbits at Eucla Border—Police Protection at Eucla—School and Money Order Office at Esperance Bay—Improvement of Recreation Ground at Albany—Bankers' Books Evidence Bill: in committee—Adjournment.

THE SPEAKER took the chair at 7·30 o'clock p.m.

PRAYERS.

BI-WEEKLY MAIL TO CUE *viâ* YALGOO, &c.

MR. ILLINGWORTH, in accordance with notice, asked the Premier—

1. Whether (in view of the fact that a line of coaches was now running to Cue *viâ* Yalgoo, Mount Magnet, and Lake Austin) it was the intention of the Government to arrange for a bi-weekly mail to Cue, *viâ* these places.

2. If not, would the Government arrange for the Mount Magnet and Lake Austin mails to be carried by the new line of coaches, and so prevent the unnecessary carriage and great delay caused by carrying the mail for these centres by the present route.

THE PREMIER (Hon. Sir J. Forrest) replied that arrangements had already been made, and the transmission of mails by these coaches would commence on the 17th inst.

DETOUR OF MULLEWA-CUE TELEGRAPH LINE.

MR. ILLINGWORTH, in accordance with notice, asked the Premier—

1. Whether he promised to arrange for a detour of the telegraph line (now in course of construction from Mullewa to Cue), so as to accommodate the residents of Mount Magnet and Lake Austin.

2. If not, was it the intention of the Government to give telegraph communication to these places? If so, when; and by what route?

THE PREMIER (Hon. Sir J. Forrest) replied—

1. I did not make such a promise. It was not possible to arrange the detour of the telegraph line, owing to the work being too far advanced.

2. The Government propose to erect a telegraph line from Cue to Mount Magnet, and the work will be put in hand as soon as possible.

CORRESPONDENCE *RE* GOLDFIELDS RAILWAYS.

MR. ILLINGWORTH, in accordance with notice, asked the Premier—

1. Whether it was his intention to lay upon the table of the House the correspondence between the Government and Mr. Lush, relative to the construction of a line of railway from Mullewa to the Murchison goldfields.

2. Had the Government received any offer or proposals from Messrs. Sylvester Browne and others, relative to the construction of a railway from Southern Cross to Coolgardie? If so, was it the intention of the Premier to lay such correspondence upon the table of the House?

THE PREMIER (Hon. Sir J. Forrest) replied—

1. The papers will be placed on the table of the House this evening.

2. The offer has been received, but has not yet been considered; when it has been considered, there will be no objection to place it on the table of the House.