Legislative Assembly,

Tuesday, 10th September, 1901.

Question without Notice, Remarks—Papers presented—Revenue and Expenditure, Statement by the Treasurer—Question: Fourth Judge, as to Appointing—Question: Machinery Inspection, to Legislate—Question: Government Offices Rented, Cost—Question: Alluvial Miners Imprisoned, to Compensate—Questions: Training School, Appointment of Superintendent; Completion and Cost—Question: Trucks Purchased from Northam M. & M. Co.—Workers' Compensation Bill, second reading concluded—Public Notaries Bill, second reading—Presbyterian Church of Australia Bill, second reading, in Committee, reported—Trade Unions Regulation Bill, in Committee (to new clauses), progress—Public Works Committee Bill, first reading—Returns and Papers ordered (5)—Return ordered (debated), Compiling and Printing of Departmental Reports, Cost—Motion: Old Age Pensions, to Establish (adjourned)—Adjournment.

THE SPEAKER took the Chair at 4·30 o'clock, p.m.

PRAYERS.

QUESTION WITHOUT NOTICE—REMARKS.

MR. F. C. MONGER having asked a question without notice in reference to the charges against Mr. John Davies:

THE PREMIER said: If members desire me to answer questions without notice, they ought to let me know, during the course of the day, the nature of the questions, and not put a query to which probably I am not listening, thinking it may be a formal notice.

THE SPEAKER: I do not know if members are aware that questions asked without notice do not appear on the record in the Minutes.

MR. MONGER: I now give notice that I will ask the question to-morrow.

PAPERS PRESENTED.

By the MINISTER FOR WORKS: Report of Joint Parliamentary Committee on erection of new Houses of Parliament.

By the COLONIAL TREASURER: 1, Return (moved for by Mr. J. L. Nanson), showing cost of Ministerial and Parliamentary Visits; 2, Return (moved for by Mr. A. E. Thomas) showing amount of duties collected under the Dividend Duty Act; 3, By-laws of the Municipality of East Fremantle; 4, Return (moved for by Mr. C. H. Rason) showing amount of revenue received from the Customs, Excise, Post and Telegraph Departments to 29th June, 1901; 5, Report of Committee of West Australian Museum and Art Gallery for 1900-1.

By the MINISTER FOR WORKS (for the Minister for Mines): Geological Survey, Progress Report for 1900.

By the PREMIER: 1, Papers (moved for by Mr. W. D. Johnson), particulars of residence areas granted to Mrs. Mecham, Kalgoorlie; 2, Report of Commissioner of Police for 1900-1.

Ordered to lie on the table.

REVENUE AND EXPENDITURE.

STATEMENT BY THE TREASURER.

THE COLONIAL TREASURER (Hon. F. Illingworth): I desire to give hon. members a little information regarding the revenue and expenditure of the State, and I believe this is the proper time for doing so. The revenue for July, as hon. members already know, was £223,337 4s. 7d. The revenue for August was £291,663 17s. 8d. Total for the two months, £515,001 2s. 3d. The expenditure for July was £213,307 0s. 11d.; that for August £276,650 12s. 9d. Total expenditure for the two months, £489,957 13s. 8d. Excess of revenue over expenditure, £25,043 8s. 7d. The debit balance on the 30th June was £74,839 0s. 3d. This being credited with the excess of revenue, £25,043 8s. 7d., the debit on the 31st July is reduced to £49,795 11s. 8d. Of this debit, £22,212 18s. is represented by expenses in connection with the Royal Celebration.

QUESTION—FOURTH JUDGE, AS TO APPOINTING.

MR. F. CONNOR asked the Premier: Whether it was the intention of the Government to make provision on the Estimates for the salary of a fourth Judge.

THE PREMIER replied: The Government propose at once to introduce a Bill providing for the appointment and salary of a fourth Judge.

QUESTION—MACHINERY INSPECTION, TO LEGISLATE.

MR. J. RESIDE asked the Minister for Mines: Whether he intended to introduce legislation for the better inspection of machinery, also for making it compul-

sory for all persons in charge of mill, factory, and other machinery to hold certificates granted by a Government Board. If so, when?

THE PREMIER (for the Minister for Mines) replied: Legislation would shortly be introduced for the better inspection of machinery, and defining what machinery should be in charge of certificated men.

QUESTION—GOVERNMENT OFFICES RENTED, COST.

MR. M. H. JACOBY asked the Minister for Works: What was the total amount of rent now paid annually by the Government for office accommodation in Perth?

THE MINISTER FOR WORKS replied: £1,804 16s. 2d.

QUESTION — ALLUVIAL MINERS IMPRISONED, TO COMPENSATE.

MR. J. M. HOPKINS asked the Attorney General: Whether it was the intention of the Government to inquire into the imprisonment of certain alluvial miners, with a view to awarding some reasonable compensation to such (if any) that were wrongly convicted in connection with the Ivanhoe Venture trouble?

THE PREMIER replied: It was not usual to give compensation in such cases.

QUESTION — TRAINING SCHOOL, APPOINTMENT OF SUPERINTENDENT.

DR. O'CONNOR asked the Colonial Treasurer: 1, Whether it was a fact that the superintendent of the Training School had been appointed, and when? 2, Whether he was chosen from the officials already engaged in the Education Department? 3, If not, whether there was no one in the whole of that department qualified to fill the position? 4, Whether this appointment was in accordance with the Public Service Act?

THE COLONIAL TREASURER replied: 1, Yes; 5th October, 1900. 2, No. 3, Applications were received from persons inside as well as outside the service. 4, The Public Service Act was not in existence at the time Mr. Andrews was appointed. The appointment was made on the 5th of October, 1900, and the Public Service Act was not assented to until 5th December, 1900.

QUESTION—TRAINING SCHOOL, COMPLETION AND COST.

DR. O'CONNOR asked the Minister for Works: 1, When the Training School at Claremont would be finished? 2, What would be the total cost of the building?

THE MINISTER FOR WORKS replied: 1, It is expected to be finished in December this year. 2, About £14,000 to £14,500. The exact total cost cannot be stated until contract is completed and final certificate adjusted.

QUESTION—TRUCKS PURCHASED FROM NORTHAM M. & M. COMPANY.

MR. J. RESIDE (for Mr. A. E. Thomas) asked the Commissioner of Railways: 1, Whether any water trucks were purchased from the Northam Mining and Milling Co. (Seabrook)? 2, If so, who valued the trucks? 3, What was the valuation? 4, What was the price actually paid?

THE MINISTER FOR WORKS (for the Commissioner of Railways) replied: 1, Yes, 40. 2, District Loco. Inspector, Northam. 3, £80 each. 4, £90.

WORKERS' COMPENSATION BILL.

SECOND READING.

Debate on the motion by Hon. W. H. James, resumed from previous evening.

MR. W. F. SAYER (Claremont): When the measure on which this Bill is founded was before the Imperial Parliament, its provisions were described by the Home Secretary, Sir Mathew White Ridley, who introduced the Bill, as novel and startling. The principle of the Bill is to make the risk of compensation for accidents in industries a charge on the trade, regardless of all questions of the legal or moral responsibility of the employer, and regardless of all questions as to negligence or competence of the workman. Under this Bill, if a workman be injured in the course of his employment, he is no longer to be asked how the injury was incurred: an injured workman is in every case to be a subject for compensation. The Imperial legislation was tentative and experimental in its operation, and was strictly limited in its application; but the Bill we are now asked to consider comes to us through New Zealand, and those members who are acquainted with the English Act and have looked through the

provisions of this Bill will see that this measure applies to every industry, however humble, and even to the casual workman engaged for a day. The principle is entirely a new one. It introduces a liability which is not founded on any breach of duty, either at common law of statutory. The employer is henceforth, as I understand the principle of the Bill, to be an insurer against accidents which occur in the course of the execution of his work; and he has to pay compensation for all accidents, whether due to a want of care on his part or to a want of care on the part of the worker. It provides not only for compensation to those who are injured through no fault of their own, but also to those who are injured through accident caused perhaps by their own neglect. It provides compensation to those who have indeed contributed to the accident from which they suffer. As I say, it provides the compensation regardless of any fault on the part either of the employer or the worker; and I wish to emphasise the fact that this element of the Bill will not be open to amendment or modification in Committee. As pointed out in the Imperial Parliament when the corresponding measure was introduced there, if you omit this provision or principle, you strike at the very first principle of the Bill. At the same time, we must realise that the liability of the employer, at common law and by statute, still continues; so that whenever an accident occurs, the first question which a lawyer who may have to advise in the matter asks is whether there is any liability at common law or by statute, whether the employer is under any legal or moral liability; and if it turn out that the employer is under no liability either legal or moral--because, in my experience, a moral liability is usually deemed quite sufficient by a solicitor—the jury does not usually discriminate very nicely between a legal and a moral liability. If the solicitor find the employer is under no legal liability, then this Bill is to be fallen back on to compensate the worker, when no legal or even moral liability exists.

HON. W. H. JAMES: What is the "moral liability" you talk about?

MR. SAYER: A moral liability may be where the workman is injured through the neglect of his fellow-workman. I may say here that I think the principle of common employment has seen its last days, and I do not object to abolish the principle of common employment as a defence to an action where a workman is injured. Therefore the obligation is a moral one; but for neglect on the part of the employer for defective machinery, the obligation is a legal one. The principle of this Bill is to make every trade and undertaking responsible for the risks which it creates; and the Bill gives to the worker a right to compensation for all those accidents which not only may occur in the course of the employment, but irrespective of the worker's neglect or of his incompetence. That principle is to make the risk of compensation for all accidents essentially a charge on the trade in which the accidents occur. In the words of Mr. Joseph Chamberlain, it makes the risk as much a part of the cost of producing an article as insurance against fire, or even the very cost of the materials used in the factory.

MR. MOORHEAD: Has it not proved a success in England?

MR. SAYER: In England the Act has been tried tentatively; and, as I shall prove presently, it has been said, only last year, that the time is not ripe for extending its operation. The only exception is in the case of the worker who is injured by his own wilful misconduct, whatever it may be. We find those words in the Bill, and they can only be taken to apply to acts intended to bring about the injury which he suffers. That is deemed, in England, to be the only construction to be put on the words: acts intended to bring about the result. I wish to point out that we may, by amendment in Committee, limit the application of the measure to certain industries, as has been done in England and elsewhere; making the Bill a tentative one, and limiting it to certain industries. But it is impossible to widen the exception as to liability without destroying the principle of the Bill. It must be accepted as covering the risk of the employment in every industry to which it is applied, or it cannot be accepted at all, because to limit the risk would be to strike at the very first principle of the measure. Sir Mathew Ridley, who introduced the Bill in England, pointed this out, and said:—

The absolute certainty is that under any scheme of compensation, there must be insur-

ance. We believe that the obligation which will be thrown upon the employers under this Bill will be adequately and effectively met by insurance societies. It is most difficult to estimate what will be the cost of insurance, or the amount of liability upon the owners; and I shall no doubt be told that the burden which will be imposed upon the industries to which this Bill applies will be prohibitive.

I admit at once that in the limited industries to which the Act applies in England, the insurance question has not created any great difficulties. It does not, however, follow that we shall meet with the same success in the matter of insurance here. This point was evidently present in the mind of the draftsman of the Bill, because he has inserted a clause dealing with the question of insurance. We find in Clause 20 a provision that every policy of insurance issued after the coming into operation of the Bill shall contain such provisions as may be prescribed by the Governor by regulation. The draftsman of the Bill was keenly alive to the essential condition of the insurance provision; and although the House may pass this clause, Parliament cannot make insurance companies accept a risk. Parliament cannot interfere with insurance or regulate the premiums of an insurance company. I question whether insurance companies will leave their regulations to be settled from time to time by the Governor-in-Council: they will require to settle their own contracts and conditions, and not leave them to be settled even by the Governor of the day. Apart therefore from all the other provisions of the Bill, which I hope to call attention to shortly, I say you cannot proceed safely with the Bill until you have ascertained that the risk can be successfully insured against and on what terms. I say that it is essential to satisfy the minds of the public on that point before the Bill can be considered. The measure as introduced into the Imperial Parliament was a tentative one; the need of limiting its operations to certain well defined industries was manifest and insisted upon; but in this Bill we are asked to rush in where the Imperial Parliament even now, to-day, fears to tread, and to apply what Sir Mathew Ridley called "a novel and startling experiment" to every industry throughout the State, and leave the question of insurance to take care of itself. I prefer myself to rely on the words of Mr. Chamberlain on that point, and he has pointed out in no uncertain language:

To attempt to give the principle of the Bill a universal application to every trade and industry would work a grave injustice.

I prefer to take the language of Mr. Chamberlain on the subject rather than of the member for East Perth (Hon. W. H. James), however I may respect that gentleman. I am not surprised that New Zealand has gone the length of giving universal application to the measure, because there is no limit to the length to which New Zealand will go in Bills relating to industrial legislation. There seems to me to be a power behind the Ministers of New Zealand which forces the hands of the Government even against their own better judgment, for I have found amendments accepted, and tacitly accepted, without protest in the House of Representatives only to be thrown out by the Council, and it has occurred to me that those responsible for the measures there, and I have in mind particularly the Industrial Conciliation Act of last year, had scarcely the courage of their convictions in the House of Representatives. There seems to be something behind them. However I am not conversant with the state of social affairs in New Zealand, but I must confess it did occur to me, and it does occur to me, that there is a power behind the Ministry in matters of this kind. We have had a word of warning from Mr. Wise, of New South Wales, that the example of New Zealand should not be pressed too far in matters of industrial legislation; and I trust this State will see the wisdom of getting into line with the other States of the Commonwealth in industrial legislation, otherwise the industries of this State may find themselves handicapped out of the market. Mr. Chamberlain, in explaining that the principle of the Bill was to treat the employer as the most convenient channel through which compensation could be passed to the worker, insists that the small employer who is carrying out works in workshops, as distinguished from the large factories, should be excluded from the operation of the Bill. Mr. Chamberlain said:—

When you are dealing with an employer who is practically in no better position than

his workpeople, who has as little capital as his workpeople, there is no reason why the incidence of the misfortune of the inevitable accident should fall upon him. In the case of the small farmer or the holder of a small workshop, it is a fact that their pecuniary position is very little removed from the labourers whom they employ, and under these circumstances it is not right to impose on them this liability.

These are the words of Mr. Chamberlain, and the Imperial measure was therefore limited to railways, to mines, and to public works.

HON. W. H. JAMES: Factories.

MR. SAYER: To engine works, such as railways and docks and works of that kind, also factories within the meaning of the Factories Act in England, and last year at the instance of a private member the measure was extended in a strictly limited form to agriculture.

HON. W. H. JAMES: In what way?

MR. SAYER: It was limited in this way, that it should only apply to the agricultural labourer who was in the habitual employment of the farmer, and to no casual labourer. At the instance of a private member it was so extended last year to the farmers. To those who were most enthusiastically in favour of the measure I confess the principle was received with great favour in the House. Only last year Sir Mathew Ridley, the author of the Bill, said:—

When introducing the Bill he had explained that it involved monstrous consequences, and the Government thought it would be safer if they applied it only to those industries in which the greatest number of accidents occurred, and where there was greater possibility of effecting insurance which would necessarily fall on the employers. The time was not ripe for any extending Bill.

Those were the words of Sir Mathew Ridley in 1900, "The time was not yet ripe for any extending Bill." In the Bill before the House there is absolutely no limitation, except in the case of wilful misconduct, to which I have referred. The Bill applies to every industry throughout the State, and every worker, however casual be his employment. As I say, it applies to the small farmer, whose only capital may be an advance from the Agricultural Bank, who works perhaps with the assistance of a son or two, or his family, and he is now to be held responsible for an accident occurring to a temporary hand whom the farmer may take on at the time of ploughing or harvesting, and even the consequences to that temporary hand may be occasioned by his own neglect. I wish to refer to another speaker in the House of Commons in England, who advances the opinion of others. I refer to Mr. Broadhurst, who is a Labour member, at any rate he is one of the greatest champions of Labour in the House. He dealt with the subject last session, and I will quote his words, and I think I can commend them to the House. I do not think there is any member who thinks stronger than Mr. Broadhurst in regard to the working man. Mr. Broadhurst said, only last year:—

He recognised the danger of imposing upon a man who is himself only a labourer in degree the fearful responsibility which might be imposed upon him, by extending the Bill to agricultural labourers without limitation to the habitually employed farm labourers. Unless so limited, there would be a grave injustice on the smaller class of agricultural employers, who are in many cases no better off in a financial point of view than the labourers they employ, and that injustice would outdo any benefit the Bill would do to the labourer. If a claim for compensation were brought against a small farmer who occasionally engaged a labourer, it would result in ruin to the unfortunate man, and there would be a public outcry against the measure. If this is to be a beneficial measure there must be limitation.

Those are Mr. Broadhurst's very words, and what he has uttered as applicable to the farmer is equally applicable to the small employee in the workshop, the numerous men engaged in contract work who may occasionally engage a temporary hand or two. But we are asked to give universal application to the Bill. It was asked in the House of Commons and by those who were the strongest supporters of the Bill:—

What is the good of telling the small holder who occasionally employs a man to do a job that he can insure against liability?

The idea is altogether impracticable. The President of the Board of Trade said:—

Even with all the facilities of insurance in England, it was not possible to make the Bill apply generally. To throw upon our labourers a liability of this kind in respect of casual engagements would be a great injustice. The result would be to cast responsibility upon a large number of very small people who might have to compensate men no worse off than themselves, which would be a great injustice.

These words apply with much greater force in this State, where the position of labour is so much better than it is at home. If the words may be used effectively in England, they have much greater force here. We have numerous employers of casual labour who are no better off than the labourers they employ, and to cast on them the burden of compensating an injured employee or worker, or of compensating the wife and family in case that employee or worker should unfortunately die as the result of an accident, is to cast a hardship, and a great hardship, on the smaller class of employers. Because, perchance, it might happen that both the employer and the workman were injured in the same accident, and then we should find that the family of the employee must be compensated by the family of the employer, the latter being in the same state of indigence as the former. If we are to proceed with this measure, we must do so tentatively, as has been done in England, and as South Australia is proceeding with it. Whatever the result of the experiment in England during the last three or four years may be, we must remember that the result affords no argument in favour of the immediate adoption of the Bill here, because the example of England and its experience during the last few years do not serve as a guide unless the conditions prevailing there prevail here. To my mind, the conditions are not the same: indeed, I think the contrary is the fact. Therefore unless the conditions here are the same as those at home—that is to say, unless the cost of labour be the same here, and the facility of insurance be the same, and the risk be the same—proceedings here must be as tentative as they were originally at home, and as they are now in South Australia. In the sister State they are not adopting the argument that because the Act has been in force for three years in England, it is not experimental so far as South Australia is concerned. They are proceeding with the utmost caution. We are told that in England the time is not yet ripe to extend the application of the Act, or, in other words, that the experimental stage is not yet past. So far as I am aware, the principle of this measure has not been introduced in any Australian State except South Australia. I have been at some pains to find out, and as far as my search has gone, the experiment has not been tried in any Australian State except South Australia, where a tentative measure was introduced last year. That tentative Act of last session is strictly limited in its application, and certainly has no application to agriculture or to workshops.

Hon. W. H. James: It applies to agriculture in certain cases where machinery is employed.

Mr. SAYER: I looked through the Bill and came to the conclusion that it did not so apply.

Hon. W. H. James: I am speaking from memory.

Mr. SAYER: With great respect, I think the hon. member is wrong. The Act of South Australia, I believe it will be found, is limited in precisely the same manner as the English Act of 1897. Therefore we, being called on to deal with this legislation, must deal with it as tentatively as it was dealt with in England and in South Australia. We should begin by trying the experiment with the railways and the public works. This view was urged in New Zealand, I think, and wisely. It was stated in New Zealand, and I would again commend these words to the House:—

> If there is any reason why such experiments as we are being asked to try in connection with labour legislation should be carried on, the Government, who are the largest employers of labour, and who have the whole of the finances of the colony at their back, should be the ones who should make the trial, and then, having tried and ascertained that it is a success, the Government working outwards on socialistic lines should apply the legislation to other industries.

The Premier: Who said that?

Mr. SAYER: That was said by a member in New Zealand: I have taken it from the New Zealand *Hansard*. It was said in reference to the Compensation Act of last session. It seems to me, therefore, that if we enact a measure of this kind we must proceed as tentatively as was the case in England and in South Australia, and that we should limit the application of the measure to the railways and public works. We then would have the Government behind the measure, and the Government would try the experiment.

HON. W. H. JAMES: The Government would try it now: the Government are liable under this Bill.

MR. SAYER: The Government are liable under this Bill, unquestionably, as any other employer is liable; but the Bill is an experiment if ever there was one, and I think the Government should try it in the first instance.

MR. J. M. HOPKINS: The Act is four years old in England.

MR. SAYER: To my mind the Government would not be justified in trying this experiment at present. I do not think the Government will be justified in making the experiment until the country is fully alive to the liabilities which the Bill will cast on employers, and until the question is settled whether the liabilities sought to be imposed on the employer can be satisfactorily met by insurance. To my mind, it is quite certain that no one State of the Commonwealth should be in advance of the others in regard to industrial legislation of this kind.

HON. W. H. JAMES: Who is to start, then?

MR. SAYER: It seems to me to be a fit subject for Federal legislation—[A MEMBER: Hear, hear]—at least until the States are in line. Until, as I say, the States are in line and hold common views on the subject, no one State should take the lead, for I think obvious reasons. Take, for instance, New Zealand: what would be thought of a measure of this kind being introduced and put in force in the South Island of New Zealand and not in the North Island? It would be impossible. And since we have entered the Federation and are to have intercolonial free-trade, it is out of the question to throw on the agriculture of Western Australia a burden which has not to be borne by the agriculture of South Australia. The relation to my mind—I may be wrong—of South Australia to Western Australia under federation is very similar to the relation of the North Island to the South Island of New Zealand. To apply legislation of this kind to the North and not to the South Island would be an impossibility; and I maintain that to put this burden on the agriculture of Western Australia and not on the agriculture of South Australia is altogether impracticable and unjust.

HON. W. H. JAMES: The burden is not on the agricultural industry at all.

MR. SAYER: The Bill applies distinctly to agriculture.

HON. W. H. JAMES: I say it does not.

MR. SAYER: The Bill says:—

> This Act shall only apply to employment on, in, or about any industrial, commercial, or manufacturing work.

HON. W. H. JAMES: Not agriculture, you see.

MR. SAYER: I certainly should have thought that agriculture was an industrial work.

HON. W. H. JAMES: They refused to include agriculture in England.

MR. SAYER: The only reason why a Bill was required in England to extend the principle to agriculture was that there it was strictly limited to certain occupations. It applied to no industrial work other than factories within the meaning of the Factories Act. It was strictly limited. But here this Bill is absolutely general, and applies to all industries, unless agriculture should not be called an industry. But I say it must be called one. I say emphatically that, without any question whatever, this Bill as drafted applies to agriculture. Leaving agriculture out for the moment, however, are we to impose this burden on the manufactures of Western Australia, while the manufactures of Victoria and the other States are free?

MR. J. M. HOPKINS: Two wrongs don't make a right.

MR. SAYER: The Imperial Act, no doubt, is a bold and generous attempt to deal with a great social problem. Its principle perhaps is one of the most far-reaching which has ever been introduced into legislation. To my mind, therefore, if the principle is to be followed in this State at all, it must be followed in all the other States as well. It is premature to try it unless there is a common assent on the part of the States in the matter. This State cannot afford to handicap its agriculture as against that of South Australia, or to handicap its manufactures as against those of Victoria. From Mr. Justice Backhouse's report we learn that the industrial legislation of New Zealand has had the effect of increasing the price throughout New Zealand of the articles affected by the legislation. I consider, therefore, that

with intercolonial free-trade it is essential that uniformity of industrial legislation be pursued, so that the burden may be equally felt by all the States. Otherwise, it would be impossible for this State to maintain the unequal struggle. We must await the legislation of the States as a whole on the subject. The more I read this Bill, the more I am satisfied that that is the position: we should wait for the legislation of the States as a whole. The subject should be left for Federal legislation. Although by this Bill a liability is put on the employer for accidents which no human care can avert and against which no vigilance can guard, nevertheless it may be a most excellent thing that there should be universal compensation for all risks. I think perhaps it may prove one of the glories of the twentieth century to introduce the principle of universal compensation for accidents; but we must first of all be satisfied that the principle can be worked out. That is the first thing we have to consider. The problem is a far-reaching one, and I am glad it has been opened; but to my mind it is one that must be settled for Australia by Australia as a whole.

MR. F. W. MOORHEAD (North Murchison): As far as I have been able to follow the very able remarks of the hon. member who has just resumed his seat, it seems to me that his objection to the present measure is really reduced to the definition of the word "employer" and to Clause 4 of the Bill; that is if we exclude his concluding remarks with regard to intercolonial free-trade. The hon. member has practically adopted the principle underlying the Bill, which is simply that not the common-law doctrine, but the judicial doctrine imposed by the English bench and known as common employment, is swept away by this measure. Several attempts by enactments have been made in that direction; notably by the Employers' Liability Act in England and our Employers' Liability Act here, which extend the remedy of the employee against the employer, and by our Mines Regulation Act of 1895. I trust that another attempt is to be made by this measure, which I hope will be placed on the statute book. The doctrine of common employment is not a common-law doctrine: it was engrafted on our law by recent decisions of the bench in England. When I say "recent," I extend it back to some 60 years ago. It is not more than 60 years since the first decision was given on this matter, on which decision was subsequently raised that huge structure of injustice against the employee: I mean the doctrine of common employment. This doctrine affirmed that no employee had a remedy at law against his employer for any injury caused to him through the negligence of his employer's manager, agent, superintendent, or fellow-worker. The first blow at that doctrine was given by a decision in England which made the employer liable for neglect on the part of his manager or superintendent; but the decision did not go to the logical outcome that the employee had a right of action against his employer for injury caused through negligence on the part of the ordinary fellow-worker. It did take the first step in a right direction when it made the employer liable for the negligence of his manager, or agent, or superintendent. I hope we shall follow that out here. Our first step in this direction was when we copied the English Act on the subject. Our next step was when we passed the Mines Regulation Act in 1895, which gave to the employee a right of action against the employer for neglect by the mine manager, or for a breach of the statutory regulations made under that Act. Those statutory regulations are nothing more than the summing up of the common law. But the Mines Regulation Act of 1895 went farther, and stated that the occurrence of an accident in or on a mine is *prima facie* evidence of negligence by an employer. The meaning of that is, that under the Mines Regulation Act the employee is no longer asked to prove his case when he is injured through an accident occurring in the course of his employment: he has simply to state that he has met with an accident, and the owner has then to prove that it was not caused through neglect on the part of himself or his mine manager, or through any neglect of the statutory regulations made under the Act. The principle of the Bill we are considering is nothing more than the principle of the Mines Regulation Act, for that Act distinctly

states that the occurrence of an accident in or on a mine shall be *prima facie* evidence of neglect on the part of the owner or manager of that mine; therefore in this Bill the Government do not propose to introduce any new principle of law. I come now to the main point in the argument of the member for Claremont. What is proposed to be done by this Bill? It simply extends the principle which was first started when the employer was made liable for the neglect of his manager or agent. We now go farther, and say the employer shall be liable, as the member for Claremont admits it is only right and just he should be liable, for the neglect of a fellow-worker in the case of personal injury. It comes down simply to what is a necessary amendment of the existing Act. Legal members in this House, and other members who represent mining constituencies, can tell the House that day after day accidents are occurring in the mines of this State; accidents in which workmen are maimed and injured for life through no act or neglect on their own part. Take the case of a day shift going into a mine. The previous shift will have put in holes for blasting, and they are supposed to have exploded the blast in each hole. But the new men going in may, by the neglect of some one in the previous shift, have suddenly to face an explosion caused by some blast not having been exploded by the previous shift, and in this way some of the men in the new shift may be injured or killed. At the present time under the provisions of our Mines Regulations Act there is no liability attaching to the manager. Time after time, as legal members in this House will tell you, we are called on to advise these unfortunate men that they have got no remedy against their employer in a case where personal injury is caused by the neglect of a fellow-workman. Take the case of the donkey engine-driver at a mine. He is required to hold a certificate of competency, and being engaged on that certificate the manager is protected by having exercised due care in the selection of that driver. Then, owing to some act of neglect, perhaps through drinking over-night, the driver may suddenly remove his hand, and down goes the cage. We have had men killed owing to that cause, and no redress is available to the widows. It is such cases as this that the Act is aimed at; and if it meets these cases, I say justice will be done to a large section of the labouring community. The only practical objection urged by the member for Claremont is that the Bill will injure in the first place the small manufacturers, and in the second place he found fault with the definition of that which exonerates the employer, namely the wilful misconduct of the worker. The definition of "employer" can be amended. We find that the definition of "employer" includes "persons, firms, companies, and corporations employing workers, and the legal representatives of a deceased employer." As to the Bill being oppressive in the case of small manufacturers, we might define "employer" as a person employing a certain number of workers. All other industries could be excluded, and we could bring it down by inserting a definition of what is known as a "factory" in the English Factories Act. We have no such Act here, and consequently we have no such definition; but by the insertion of certain words in Committee, we may rectify that portion of the Bill. I come now to the question of what is "wilful misconduct" on the part of a fellow-worker. The member for Claremont argued that it is only by proving wilful misconduct on the part of the employee that the owner is exonerated. To some extent I agree with that; and in Committee we might insert the words "gross neglect."

MR. SAYER: That would be against the principle of the Bill.

MR. MOORHEAD: I do not care what it is against, so long as we make the principle just.

MR. SAYER: That introduces the element of litigation at once.

MR. MOORHEAD: But the element of litigation is limited to the Local Court, and I do not suppose that either I or the member for Claremont would be likely to be engaged there on such a case. I think, however, it is a wise provision to have such matters dealt with in the Local Court, for that provision will render the adjustment of cases easy and certain. So far as the general principles of the Bill go, we are practically in accord. The member for Claremont approves of sweeping away the common-law doctrine of

common employment. So do we. There is no bogey in the Bill. There is no introduction of wild principles. It has been tried in England, and there it has been extended to the agricultural industry, with the limitation that it shall apply only to the permanent hands. I have every confidence in commending the Bill to the House, and I say it will meet a grave injustice at present done under our legislation.

MR. R. HASTIE (Kanowna): I expected, after the speech of the member for Claremont, that the principle of the Bill would be very much criticised by members in this House; but I am pleased that there is evidently a desire to get the Bill into Committee, so that we may consider its various provisions. The member for East Perth and the member for North Murchison have well explained the present position of affairs; and I am certain we will do our best in Committee to shape the Bill so that it shall do away with the defects in the present system. As to the remarks of the member for Claremont, the latter part seemed to be an exhortation as to dangers ahead. He evidently tried to inspire among us serious fears, and was rather like the old woman we have often heard of, who tried to scare children by pointing out the "bogey man." The member for Claremont pointed out that the Bill introduced a new principle in law; and that it would ruin some of the small employers in this State. He said the measure was in the right direction; yet we should not take the responsibility of passing it, but throw that responsibility on the Federal Parliament. I feel sure, however, that the House will agree to follow the lead already taken first by England, then by New Zealand, then by South Australia. In each of those places this principle has been in operation, and in not one of those countries has there been any desire shown to go back from the principle. The same thing, I feel certain, will occur here, and I think it is our duty to pass a measure by which compensation for all accidents will be available. The member for East Perth, in explaining the Bill to the House, mentioned that it would be absolutely necessary there should be, at an early date, an insurance fund formed for carrying out the intention of the Bill. Most employers, especially in new countries like this, have not much capital; and this is the case not only in the mining industry, but also in such occupations as the building trade in towns, where those carrying on such occupations have not much money to spare. If there were a number of actions decided against these men, they would not be in a position to meet the costs which would be imposed upon them.

MR. W. J. GEORGE: They could become bankrupt.

MR. HASTIE: Not necessarily. Under this Bill, it would be within their power to insure their men by the insurance law. The point which was emphasised by the last speaker is particularly plain. According to the present law, an action for damages will lie for neglect by any person except a fellow-employee; that is, if two men are working at a job, and one of them does some harm by which the other is injured, the injured man cannot establish a claim against his employer in any way. Under this Bill, he will have to establish his claim against the business itself; and I believe it will be easy, in a comparatively short time, for the insurance principle to be adopted in this country, so that few will have to suffer from any accident whatever. If we do not adopt this plan, we shall have but one alternative. The doctrine of common employment is one that every legal gentleman in the House, and every legal authority outside the House, agree ought to be abolished. Not one of them will say it is satisfactory. We should, by some means or other, abolish the doctrine of common employment, and, if we do that, it will mean that every employer of labour is liable to be sued for a large amount, and the result will be that businesses of all kinds will only be carried on in the country by trusts, large companies, and combinations.

MR. GEORGE: That would be the worst thing that could ever happen for the working man.

MR. HASTIE: That would be the effect of establishing the doctrine of common employment, without doing it in such a way that the insurance will be easy. If the insurance is once made easy, men with little or no capital will be able to exactly calculate the risks of their business, and insure accordingly. There is nothing farther, at this stage, I would

like to say, only to express the hope that the House will pass the measure, and that we shall consider it in Committee, when I feel quite certain we shall agree upon the passing of a measure that will bring us into line with the other States of the Australian Commonwealth.

MR. W. J. GEORGE (Murray): During the late federation campaign, I, with a number of others in the minority, thought that federation would have very little compensation for us. Some of the blessings in disguise perhaps are that the legislation which will interfere with labour and trade will become universal throughout the States. If that condition is brought about, I do not think there is one employer in connection with any manufacturing trade, such as saw-milling or any business of the sort, who will object to any such legislation as that proposed by the member for East Perth, that a trade should bear the burden of any injury caused in the conduct of business. I would like to point out to members what is the condition of this country, as compared with some other countries. We all know that to obtain our work we have to enter into competition; and in doing so with any one of the other States where there is a similar law, if we have to provide for insurance, each competitor must provide for it, and the person who receives the product of work will have to pay for the insurance. There are several of the other States which are not under the operation of such a law as this; therefore, if this Bill passes, we shall come into competition with other States with an additional burden to bear, which competitors in other States have not had imposed upon them.

MR. JOHNSON: You are speaking from the point of view of your own industry.

MR. GEORGE: Never mind my industry. A lawyer generally speaks from the point of view of his profession, and I thought the hon. member would have something to say about labour.

MR. JOHNSON: How does the Bill apply to gold-mining?

MR. GEORGE: I think it does apply, and wherever gold-mining goes on in this country the better I am pleased. The only objection I have to gold-mining is that sometimes the gold miners, in the shape of the mining managers, do not appreciate my virtues at my own value. The passing of the Factories Act in Victoria has been the means of shifting some industries from Victoria into other States where the Factories Act does not apply. What does that mean? It means that Victoria has lost a certain portion of its population and capital. That may be a good thing in the interests of labour; and it may be a bad one. But, for my part, I would like to see the Acts made uniform; and so long as a law is uniform throughout the States, I shall not raise my finger against it. This Bill will make it easy to insure against any injury, and the insurance would be charged to the consumer, and we could all stand on the same footing. At the present time, our Commonwealth Parliament is discussing the question of a tariff to enable as much as possible to be manufactured in Australia, to keep out the products of countries which we think should be kept out, and to enable the labour in the Eastern States to have a fair show against other countries where the same conditions do not exist as in Australia.

MR. MOORHEAD: The State has to support the pauper.

MR. GEORGE: If you are going to put a burden on any particular industry, you may as well put it on the legal profession, or you may as well put the burden on the barber, in case he happens to cut you when shaving you; but let us be careful not to put a restriction on our shoulders so as to crush our industries, and prevent them from being developed in this State. It has been mentioned by the member for North Murchison (Mr. Moorhead) that we should put in the Bill the number of workers. I would like to know how you would get at the number of workers. If the principle is acknowledged and accepted, it matters not how many workers one has—whether it be two or five hundred. I think such a Bill as this should be left to the Federal Parliament, and I believe the Commonwealth Act enables that to be done.

HON. W. H. JAMES: If all the States agree, the measure can be referred to the Federal Parliament.

MR. GEORGE: Then the object is to get our State to pass the Bill, and endeavour to get the other States to

come into line; but while the other States are playing with the matter they will have an advantage.

MR. HASTIE: And the men will suffer in the meantime.

MR. GEORGE: I am not going to refer to the men suffering. My experience has been, in the works I have been connected with, that if a man cannot come on his employer for damages, the employees will subscribe, and see that the injured man is treated fairly. If you can show workmen that an injured man has a justifiable case, I do not think the man will ask in vain.

MR. TAYLOR: That is charity: we want to make it a case of right.

MR. GEORGE: It is not a question of charity. I do not like this question of pauperism or charity being raised. The Bill is fairly comprehensive. I think the only fault that can be found with the first schedule is that the framer did not go to the Book of Common Prayer and get all the relatives mentioned there, and add them to the schedule. I will ask members, from a common-sense point of view, if this matter is pressed to its logical conclusion, what does it mean? That when a man asks for employment, the question will be put to him, "Have you a father, a grandfather, or a stepmother?" and if he has these incumbrances, it will be too dangerous to employ him: only a bachelor, who has lost his immediate relatives, it would be safe to employ.

HON. W. H. JAMES: A bachelor has a father and mother.

MR. GEORGE: I said a bachelor who has lost his immediate relatives. As far as compensation is concerned, it should go to the wife, if the husband is injured, or to anyone proved to be actually dependent upon the person injured or killed. But it is carrying the Bill a bit too far when we find in the list the son, the daughter, the stepson, the granddaughter, the grandson, the stepfather, right down to the stepmother. Why, an employer would not know "where he are." When the Bill goes into Committee I shall move to extend the list, because I do not think it goes far enough. It should go a little farther and say that anyone with whom a man has shaken hands, or for whom a man has shouted a drink, should be entitled to claim compensation. That is as far as I think we ought to take it, but I would not like to go farther.

MR. HASTIE: Would you not allow it to apply to a mother-in-law?

MR. GEORGE: If everyone has as good a mother-in-law as I have, I would. One of the sub-clauses of Clause 4 refers to "mining, engineering, or other hazardous work." But the member for East Perth (Hon. W. H. James) seems to think that agricultural work should be left out.

HON. W. H. JAMES: It is the intention.

MR. GEORGE: There is a great deal of hazardous work in connection with farming. Only a few years ago a relative of mine fell off a mowing machine, and had three or four slices taken off his leg. I do not know whether the hon. member calls that "hazardous" or not, but it was decidedly unpleasant to my relative, and very costly to those connected with him. On the point of hazardous work, there is hardly any work you can carry out which does not involve some hazard. Even in pruning trees in an orchard a man may scratch his finger, and blood-poisoning may result. A man using artificial manures might have a sore on his hand, and some of the manure getting into the sore might bring about blood-poisoning.

HON. W. H. JAMES: Pruning trees would not be hazardous work.

MR. GEORGE: In certain cases employing a lawyer is hazardous work.

MR. DIAMOND: You can insure against that.

MR. GEORGE: I see a good many objections to the Bill. In my opinion we are getting hag-ridden with legislation. It appears to be almost a crime to be an employer. Most of those who bring forward legislation of this character are certainly never likely to understand either the position or the duties of an employer. Many of them have had very little employment themselves, for very obvious reasons, and do not seem to understand anything beyond what might be comprised within the four corners of a sheet of note-paper. It appears to be regarded by some hon. members, and among them the member for East Perth (Hon. W. H. James), as a crime almost punishable with death to employ a man at all. These hon. members appear to regard employers as nothing but blood-

suckers, who deprive hard-working men of the money which they have earned. These hon. members do not make any allowance for the fact that the employer is working with capital which he may have got together at great labour, and on experience which he may have gained at very great cost. No allowance is made for these things.

MR. J. M. HOPKINS: Or for bank overdrafts.

MR. GEORGE: The member for Boulder interjects, "bank overdrafts," and he throws into that interjection an amount of feeling which even I cannot put into it. He evidently speaks from experience.

MR. HOPKINS: The banks would not trust you.

MR. GEORGE: The House appears to be in danger of overlooking the fact that employer and employee have mutual interests, and that a man does not succeed in business if he forgets that fact for a single moment. Both in manufactories and large contracting businesses, unless a feeling of friendliness exists between the employer and employee the employer cannot make money out of his manufactory or out of his contract. Although I believe that if there could be devised a system by which a share of the profits—if there be any profits—might be distributed amongst the men engaged in the work which produced the profits, it would be a good thing; still I do not see how such a system can be adopted, unless provision be also made for the employees bearing their share when the employer makes a loss. I have known of large undertakings where many thousands of pounds have been lost through no fault of the employer or of the men: simply through an act of Providence plans have been utterly upset and great loss has resulted. Granted that an employer make a large profit one year, how is he to be guaranteed a profit next year? And if he shares his profits in the one year with the men, are those men going to assist him when he makes a loss in the next year? I think you would find that the employer would not get very much sympathy or aid from the men in the latter case, any more than you get very much sympathy from a lawyer if—by the act of Providence I suppose you must call it—he does not win the case. Whether he wins or not, he will lose no time in presenting you with a bill of costs, and in suing you for the amount of it if you do not pay.

MR. A. J. DIAMOND (South Fremantle): On general principles I support the second reading of this Bill, reserving to myself the right to propose what amendments I think necessary in Committee. I am sorry that I have to differ from the member for the Murray (Mr. George), most of whose arguments and illustrations have been unfortunate for himself as an opponent of the Bill, and fortunate for those who support it. I shall leave the question of the rights and wrongs of the working man to those who more immediately represent him, and shall ask the House to join me in supporting the Bill in the interests of large employers of labour, for this reason. Up to the present time the amount of compensation paid to workmen or their families in cases of disablement or death has been entirely dependent on the caprice of juries. A man may be disabled permanently or otherwise, or he may be killed, and then it depends entirely on the caprice of the jury whether he or his family, as the case may be, gets a verdict for £100 or £1,000, or perhaps £2,000 or £3,000. This very argument of the member for the Murray (Mr. George) should, in my opinion, induce him to support the Bill—that the employer of labour very often makes losses. If an employer of labour knows at the beginning of the year exactly how much this matter of compensation for accidents to workmen will cost him, that is if he knows exactly the amount he has to pay for insurance, he is in a far better position, I maintain, as a business man than he is at the present time, when the amount of his losses in this respect is subject to the caprice of juries. We all know what the caprices of juries are.

MR. HOPKINS: From experience?

MR. DIAMOND: I maintain that the Bill generally speaking is in the interests, not only of the worker, but also of the large employer of labour. It contains some clauses which will require a little alteration. A great deal of weight is to be attached to what the member for

Claremont (Mr. Sayer) said as to small employers being virtually on the same footing as their employees.

MR. TAYLOR: We ought to protect them, all the same.

MR. DIAMOND: Some alteration ought to be made in that respect, though what that alteration should be I am not prepared to say. I shall be very glad if the member for Mt. Margaret (Mr. Taylor) will point out to me what should be done. On general principles I support this Bill, as I consider that the passing of it will be beneficial to the interests of this great community. It has been urged on us by the member for Claremont that we ought to await the result of the experiments in England—I think the hon. member used words to that effect—but if we had waited for the results of experiments in England all these years, where would we be? South Australia gave the world the Ballot Act over 40 years ago; it gave the Torrens Real Property Act to the world over 40 years ago; and it has taken England the best part of a lifetime to make up her mind to adopt them. Therefore, it is no argument at all to say that we should await the result of experiments in England. In matters of legislation affecting our industrial and social life we must go ahead for ourselves, while at the same time we must not be too proud to take a line from England if we can get it. The fact of similar legislation to this now proposed having been in force in England for a number of years goes to show that we need not be at all timid in following in the footsteps of the English legislators. So far as New Zealand is concerned, the illustrations drawn from that colony are most unfortunate for the opponents of the Bill. The so-called extreme socialistic legislation of New Zealand, when inquired into, is found not to be so extreme as the opponents of the Bill wish us to believe. At any rate New Zealand stands in the happy position of being to-day one of the most prosperous communities in the whole world. The colony is certainly doing very well, and in its social legislation, while making many experiments, it certainly is not too proud to go back a step or two if it finds that it has advanced in the wrong direction. With these few remarks, I desire generally to support the Bill, reserving to myself the right to propose amendments in Committee.

HON. W. H. JAMES (in reply): I desire to thank hon. members for the sympathetic reception they have given to this Bill, and I desire to claim the whole-hearted support of the member for Claremont (Mr. Sayer). I have often been accused in this House of being one of those who always gird at the employer, and who are disposed to promote the interests of the employee in opposition to those of the employer. But I have never expressed myself in favour of principles which, if applied, would be so far-reaching as the principle the member for Claremont said he would support. That hon. member said he would support a Bill for the abolition of the doctrine of common employment. He said he would give his support to a measure which would cast on employers a burden one hundred fold heavier than that which this Bill proposes to throw on them. Ninety-nine per cent. of accidents are due either to defective plant or to negligence: accidents arising from latent defect represent the remaining one per cent. Therefore if the principle protecting employers which now exists were abolished, as the member for Claremont says he desires to see it abolished—and I am quite sure he meant it when he said it—the effect would be to cast on the employer the liability for ninety-nine per cent. of all the accidents that happen. If the hon. member is willing to agree to that, I am at a loss to know what becomes of the force of all the arguments he used in opposition to the present Bill. He maintained that the Bill went too far, and cast too heavy a burden on the employer. Yet he himself appears desirous to go even farther and to cast a still heavier burden on the employer—a burden heavier not only because it extends in most cases the area of compensation, but heavier because it sets no limit at all to the amount of damages. By the present Bill we limit the amount of compensation which can be recovered to £400. If we simply abolish the doctrine of common employment, as the hon. member desires we should, we shall be leaving the employer liable for damages in respect of almost ninety-nine per cent. of all accidents that take place, while at the same time leaving the amount of damages to be whatever

a jury may be inclined to think just. I do appeal to hon. members' sense of what is fair. Let them ask themselves whether the present Bill casts on the employer a burden anything like so onerous as would be cast on him if the suggestion of the member for Claremont were adopted. I have said, by way of interjection, that this Bill does not apply to agriculture; and I think the member for Claremont, in reading the New Zealand debates, might have noticed that when this clause was going through Committee an effort was made to introduce in Clause 4 the word "agricultural" before "industrial," making the clause read: "Any agricultural, commercial, or manufacturing work," and so on. The insertion of this word "agricultural" was opposed, and the Committee refused to put it in.

MR. SAYER: The word is quite unnecessary.

HON. W. H. JAMES: I want to point out that someone thought it was not unnecessary. Twelve members at all events, and some of them legal members, thought it was not unnecessary, and desired to put it in. The majority of the House, however, would not allow it, and it was not inserted. But if there be any doubt in the minds of hon. members as to the wording of the clause, we can make it perfectly clear. I say now it is not the intention of the Government to make the clause apply to agricultural labourers. We desire to get the Bill through the Upper House, and we therefore do not propose or ask that it should be extended so as to include agricultural labourers—not even to the extent to which legislation in the mother country includes them. Certain other matters referred to in the course of debate are more or less matters of detail, and I propose to deal with them when the Bill goes into Committee. I do commend to the attention of hon. members those observations of the member for Claremont (Mr. Sayer) in which he pointed out, and very correctly pointed out, that if the burden of this Act were cast upon the small employer who employs only a few people, a burden would be cast on a man who, financially speaking, is very little better off, if at all better off, than the man in whose favour the burden is imposed. It may therefore be necessary and desirable, and it may be just, that some words should be inserted in the definition of "worker" to prevent an injustice like that being created. But we must all realise, as the hon. member (Mr. Sayer) pointed out, that in some cases employers who employ only two or three men cannot be called capitalists.

MR. W. J. GEORGE: How many capitalists are there in W.A.?

HON. W. H. JAMES: Some make their money and leave us. In cases of the kind I have mentioned, I should like some protection to prevent an undue burden being cast on small employers.

MR. GEORGE: Put in the definition that "capitalist" means a man who does not owe anything.

HON. W. H. JAMES: I desire to draw attention to an important question as to the use of the expression "wilful injury." That is the expression used in the English Act, also in the New Zealand Act and the South Australian Act; and it is there made even stronger, for they say "serious and wilful"; but I think if an employee is guilty of gross negligence, if he wilfully or blindly runs into danger, some step should be taken to prevent him from availing himself of the benefits of this Act, to some extent. That, however, is a question which can be considered in Committee. I shall be glad to have such questions raised and discussed then.

Question put and passed.

Bill read a second time.

PUBLIC NOTARIES BILL.

SECOND READING.

HON. W. H. JAMES (Minister), in moving the second reading, said: This is a Bill of a technical nature. Up to the year 1897 the practice in this State was to make the appointment of public notaries by the Governor in Executive Council. Any practitioner who had been established in the State was, almost on application, appointed a public notary. Some doubt was created as to the authority of the Governor to appoint public notaries; and these doubts were of such a nature that a Bill on the lines of the present measure was introduced in this House in 1897. It did not pass: it was either rejected or it lapsed. But since then no person has been appointed a notary public in this State. It is desir-

able that this element of uncertainty should be removed, and that authority should be conferred upon some person or body to appoint notaries public. In the old country they are appointed by the Archbishop of Canterbury; and if any person now desiring to be appointed makes an application, he has to make it to the Archbishop of Canterbury for letters patent. That seems undesirable. It is necessary there should be in this State some person or body having authority to make these necessary appointments; and by the present Bill appointments are to be made by the Full Court, application being made in the first instance to the Barristers' Board, and a certificate being obtained, the applicant must afterwards publish notice of his intention to apply, and must apply to the Full Court which makes the appointment. The qualifications necessary are stated in Clause 5, which provides that the applicant must be a practitioner of the Court of seven years' standing, or must be a practitioner and must have practised as a public notary in some part of His Majesty's dominions. Persons who are called upon or appointed to exercise these functions are persons who should be of good character; for they have power by law to give a standing or status to every document which they certify as correct, and the certificate is looked upon throughout the mercantile world as a guarantee that that which the notary certifies as being correct is correct, or that which he certifies as having been done is done. It is very desirable that persons who hold this position and perform these functions should be persons of good character; therefore we should insist that those who have this power should be well known in the places where they exercise the power, and should be persons in connection with whose career due examination can be made. This Bill is almost the same as the prior measure which was introduced by the then Attorney General, Mr. Burt, K.C. I shall propose after the second reading, that the Bill shall be referred to a select committee, in order to see whether the method we suggest in the Bill is the best possible method in the circumstances. There is need for a Bill of this nature, and that some steps should be taken for removing the present difficulty which arises where we find that in this State there is no power to appoint new notaries.

MR. W. F. SAYER (Claremont): I have much pleasure in supporting the second reading of the Bill. There can be no doubt that the status of notaries in this State is uncertain; and it is very desirable that the position of notaries who are now in practice here should be put on a legal footing, and that appointments of this nature should in future be put on a similar footing.

Question put and passed.

Bill read a second time.

On farther motion by the Hon. W. H. JAMES, the Bill was referred to a select committee comprising Mr. Diamond, Mr. Moorhead, Mr. McDonald, and Mr. Sayer, with Hon. W. H. James as mover; to have power to call for persons and papers, and to sit during any adjournment of the House; the committee to report on 1st October.

At 6·30, the SPEAKER left the Chair.

At 7·30, Chair resumed.

PRESBYTERIAN CHURCH OF AUSTRALIA BILL.

SECOND READING.

HON. W. H. JAMES (Minister): I beg to move the second reading of this Bill, which, as members will see, contains only a few clauses and a schedule, setting out the arrangements come to when the Presbyterian Churches in the various States recently formed a union, and, instead of each State having a Presbyterian Church, there will now be one Presbyterian Church of Australia. A similar Bill to this has already passed the Parliaments of the various States. The measure relates entirely to the Presbyterian Church, and is more or less of an ecclesiastical nature.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses and schedule—agreed to.

Preamble:

HON. W. H. JAMES moved that, in line 5, the words "or may hereafter resolve" be struck out; also that, in line 8, the word "Church" be struck out, and "Presbyterian Church of Western Australia" be inserted in lieu.

Amendments put and passed, and the preamble, as amended, agreed to.

Title—agreed to.

Bill reported with amendments.

TRADE UNIONS REGULATION BILL.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Interpretation:

MR. HASTIE: How would a branch of a labour body under Federal control or under the control of a body outside Western Australia, be dealt with under this Bill?

HON. W. H. JAMES (in charge of the Bill): Bodies falling within the category which the hon. member had pointed out would not be excluded from the operation of the Bill. They would be distinct trade unions, and they could adapt their English or other rules to this measure. Unless the spirit of their rules were in contravention of the Bill, which was not likely, as the Bill was adopted from the English Act, they could register under it.

MR. HASTIE: Part of Clause 2, near the bottom of page 2, read:—

> Provided that this Act shall not affect (1) any agreement between partners as to their own business:

and included two farther provisions of a similar nature. It seemed rather strange to find such provisions in a Trade Unions Bill.

HON. W. H. JAMES: Those provisions were inserted to make it clear that the definition of a trade union did not cover transactions under any one of those three heads. The proviso was a necessary one. The clause read:—

> "Trade union" shall mean any combination, whether temporary or permanent, for regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers. . . .

Hon. members would see that a partnership agreement, or an agreement between employers, to a certain extent imposed conditions and regulations in regard to trade; and the word "trade" was so wide that unless those restrictive words were inserted the meaning of the clause would be far too wide.

Clause put and passed.

Clauses 3 to 5, inclusive—agreed to.

Clause 6—Certain Acts not to apply to trade unions:

MR. HASTIE: Was it the intention of the Bill to exclude from its operation such trade unions as had accident funds or sick funds?

HON. W. H. JAMES: A trade union could not register under the Life Assurance Act, or the Companies Act, or the Friendly Societies Act, nor under any Act now or hereafter passed to regulate industrial and friendly societies. Trade unions depended for their registration on this Bill, and they could not avoid the restrictions which this Bill would impose by registering under other Acts. Trade unions with benefit funds or sick funds would not be prevented from registering under this Bill, unless they came under Clause 7.

Clause put and passed.

Clause 7—agreed to.

Clause 8—Registry of trade unions:

MR. HASTIE: This clause enabled trade unions, and trade unions alone, to register; but in addition to trade unions there were such bodies as trades and labour councils and executives of unions. Would these be excluded from registering? He presumed not; but, according to the strict reading of the clause, they must be excluded.

HON. W. H. JAMES: Trades and labour councils and such associations could not register under this Bill. If registration was desired simply for the purpose of obtaining legal entity, or acquiring legal power, that purpose was not to be attained under the trades union measure. Such bodies could register under the Associations Incorporation Act of 1895. As a matter of fact, such bodies were not trade unions; and if they desired to clothe themselves with legal power, they had a right to do it—he was speaking from memory—under the Associations Incorporation Act of 1895.

MR. HASTIE: Then, such bodies as trades and labour councils were not to be regarded as trade unions within the meaning of this Bill. Such unions had not power to sue, nor were they suable, in the ordinary way. The hon. member in charge of the Bill had said that such bodies could register under a certain Act, but he had never yet heard of one of them registering under that Act. He considered that it would be well if this House made a provision by which every

association and every union might be legalised, so that it could hold people responsible for doing it any harm, and so that it could be held responsible for any harm it might do.

HON. W. H. JAMES: The question simply was whether an association was a trade union or not. If it was a trade union, then it was subject to this Bill. If it was not a trade union, what had we to do with it in a Bill dealing with trade unions?

MR. HASTIE: These bodies were practically trade unions.

HON. W. H. JAMES: Then they came within the meaning of the Bill. As he understood the operations of the trades and labour councils, or what were called industrial associations under the Conciliation Act, they would not be called trade unions under this Bill. Of course, he was only speaking off-handedly now. Such bodies had really no controlling power over the various trades.

HON. F. H. PIESSE: They represented combinations of trades.

HON. W. H. JAMES: Yes; but if they were not trade unions they would not be within this Bill.

MR. DIAMOND: Such associations could register in the same way as a cricket union.

THE COLONIAL TREASURER: One had been in the same difficulty as the member for Kanowna (Mr. Hastie). Say the governing bodies of these combined associations performed some act, and it were repudiated by the trade unions they represented. Then the question was, how were these governing bodies to be reached if they did a wrong, and how were they to be protected if any one did them a wrong? If it could be argued—he was not sure whether it could—that these governing bodies, being elected by the various registered trade unions represented in the association, could be held responsible because they were representatives of those unions, the point would be cleared up. The difficulty arose from the circumstance that the unions in a measure surrendered their powers for the time being to the governing bodies, with whom the responsibility thus rested. If these governing bodies could neither sue nor be sued, their registration became useless for the purposes of this Bill. He would like the hon. member in charge of the Bill to clear up the point.

HON. W. H. JAMES: This matter could not be made any clearer, he feared. If the governing bodies were trade unions they could register under the Bill: if they were not trade unions they could not register.

MR. DAGLISH: Then they would be illegal.

HON. W. H. JAMES: They would be no more illegal than any other bodies. If the governing bodies were not trade unions, this was not the time to make provision for their registration, any more than for the registration of companies, say. Provision for the registration of bodies such as these governing bodies was made by the Associations Incorporation Act of 1895, Section 2 of which provided that the word "association" should include certain bodies, and also "Any other association, institution, or body which the Attorney General certifies as being one to which the facilities given by this Act ought to be extended." That power in Section 2 was very wide, because the discretion of the Attorney General was not limited. He was entitled to certify whether any institution or association or body was one to which the privileges of the Act should extend; and certainly the Trades and Labour Council did appear to be a body such as should come under this Bill.

MR. JOHNSON: The Goldfields Trade and Labour Council did make application to be registered, but it was understood they could not be registered under that Act. They ought to be registered under this Bill.

HON. W. H. JAMES: The registration under this Bill was not a registration before the Registrar of Friendly Societies, but the registration was to be in the Supreme Court. If such a body as the Trades and Labour Council did not come within the definition of the Bill, then that body could apply to the Attorney General for a certificate, and it would be for him to say whether he would certify that this body should be registered under the Bill.

MR. DAGLISH: One failed to follow the reasoning of the Minister in charge of the Bill as to not including the Trades and Labour Council or other cognate body for registration under the Bill. The Trades Council had authority to register

under the Arbitration and Conciliation Act, and they had actually been registered; therefore, surely if the provisions of the one Act applied to them, the provisions of this Bill should also apply to them. It was desirable that anyone seeking for information as to the scope of legislation affecting trade unions should be able to find it within the covers of the one statute, and not have to seek for it in several statutes.

HON. W. H. JAMES: This Bill dealt entirely with trade unions.

MR. DAGLISH: It was to be hoped that the Minister would agree to include trades and labour councils within the scope of the measure.

HON. W. H. JAMES: That might be done under a new clause. It could not be done under this clause without altering the definition of a trade union.

THE COLONIAL TREASURER: Suppose there were ten trade unions registered under the Bill, and suppose they elected two men each to form an executive council for the whole ten unions, could the council so formed be registered under this Bill? Would such a body be able to sue and be sued?

HON. W. H. JAMES: No definition of such a body had yet been given. We must know what it was, before it could be defined.

THE COLONIAL TREASURER: Perhaps the labour council elected in that way would be practically the outcome of ten associated unions, and would be the executive committee to conduct affairs on behalf of the whole; therefore if the unions separately were to be registered under the Bill, and the executive council formed by the several unions was also to be registered as a trade union, what would be the position?

MR. HASTIE: Would it be permissible to insert a clause later in the Bill to meet the case?

THE CHAIRMAN: Yes.

HON. F. PIESSE: The definition of a trade union was given in the Bill, to mean "any combination, whether temporary or permanent, for regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business," and so on. This clearly meant any combination, and this view was clearly borne out in Clause 8, providing that any seven or more members might form a union; therefore the registration of such a combination as the Trades and Labour Council was provided for in the Bill.

MR. TAYLOR: Would the Minister in charge of the Bill, as a legal man, consider that the representatives of registered trade unions, no matter how many in number these representatives might be or how many in number their unions might be, would be held responsible under the Bill, or should the representatives elected by registered societies be registered secondly under the Bill?

HON. W. H. JAMES: Each body or each trade union might elect a number of members to form an executive council; but whether a body so elected could be registered under this Bill must depend on the powers and constitution of that body. A council elected by trade unions might be elected, for instance, to make biscuits.

MR. TAYLOR: They were not appointed to make biscuits, but they often had to find out how to feed their members.

HON. W. H. JAMES: It must depend on the regulations and the constitution of the particular body as to the scope of the work which the body was elected to perform; and, until that was known, it would be impossible to say whether such body could be registered under the Bill. *Prima facie*, he should say that such body would be legal under the Bill. If the members of the Trades and Labour Council were appointed by certain bodies acting legally, he would say the council would be a legal body under the Bill. The clause could be farther considered, with a view of meeting the point which had been suggested.

THE PREMIER: It was not easy to see the necessity for altering this clause. What was desired might be provided in a new clause, as had been suggested. The point appeared to be that in case of a number of trade unions desiring to form a council or executive body to act on their behalf, whether such body could be registered under the Bill as a trade union. The council elected in that way would represent all the unions which elected members to it, and the council would be elected apparently to control the business

of all those unions. Such a body would lay down the rules for the guidance of the unions generally.

SEVERAL LABOUR MEMBERS: No.

THE PREMIER: If that were not so, the council elected by those unions did not require to be registered as a union. If the council so elected desired to be registered under the Bill, they could assume to themselves the powers and duties which would bring them within the scope of the Bill. If they did not wish to come under the Bill, they need not assume those powers. It would be better for the member in charge of the Bill to try and unravel the matter outside the Chamber.

MR. HASTIE: It was desired to know whether the Trades and Labour Council could be registered or not under the Bill, either as a council or as a trade union. Such bodies held property, and they should be in a position to sue and be suable. If there was a doubt as to whether these bodies could register as a trade union, the best way would be to adopt the suggestion of the Minister in charge and consider the point afterwards.

Clause put and passed.

Clauses 9 to 13, inclusive — agreed to.

Clause 14—Trustees, etc., to account:

MR. R. HASTIE: The first portion of the clause said, "Which account the said trustees shall cause to be audited by some fit and proper person or persons by them to be appointed." The usual rule was for auditors to be elected by the members of a union. He moved that at the end of Sub-clause 1 the words "or to be appointed by the members of such trade union" be inserted.

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

Clauses 15 and 16—agreed to.

Clause 17—Regulations for register:

MR. HASTIE: In the last line of Sub-clause 2 was the phrase "contrary to public policy:" what was public policy?

HON. W. H. JAMES: It was difficult to define what was public policy. There were certain agreements founded on considerations that had been held to be improper considerations and were contrary to public policy. The words were to be found in the English Act and in the Acts of the various States.

MR. HASTIE: The Registrar had discretionary power, if there was anything contrary to public policy in the rules of a trade union, to refuse to register that union: it would be wise to leave the words out. What would be the consequence if the words were left out?

HON. W. H. JAMES: There was no ambiguity about the words. The Registrar could not register any trade union the rules of which were contrary to public policy. If the Registrar refused to register, the union had the same remedy against the officer as they would have if the Registrar refused to carry out any other provision in the Bill.

MR. TAYLOR: What was public policy?

HON. W. H. JAMES: Presently it would be asked what was "illegal."

MR. HASTIE: The words "contrary to public policy" must have some meaning.

HON. W. H. JAMES: It was a legal phrase. There were certain agreements that were held to be contrary to public policy. There was restraint of trade, for instance; but that was allowable under this Bill. There were other instances where certain acts were wrong because they were held to be contrary to public policy.

MR. HASTIE: The Minister might say what would be the consequence if the words were left out. Members had not been enlightened on that point. The Registrar need not register a trade union the rules of which were illegal. If the words "contrary to public policy" were left out, the Registrar had still a discretionary power, and he could refuse to register.

HON. W. H. JAMES: The Registrar had no discretionary power: he must refuse.

MR. TAYLOR moved that in Sub-clause 2, line 6, the words "or contrary to public policy" be struck out, and "according to this Act" inserted in lieu.

HON. W. H. JAMES: The words were necessary, and he would oppose the amendment. They were found necessary in the Acts passed by other States of Australia, in the old country, and in New Zealand. It was a matter of drafting.

THE COLONIAL TREASURER: This phrase was to be met with in various Acts of Parliament. It did not mean a question of party politics, although he

did not know exactly what the meaning of the words was.

MR. TAYLOR: It was necessary to have some one who did know.

THE COLONIAL TREASURER: The words, he believed, were necessary, and members might trust the draftsman. He hoped the member would withdraw the amendment.

MR. CONNOR: It would be well to give the legal gentleman who drafted the Bill and the experts who were criticising it an opportunity of farther discussing this clause; therefore he moved that progress be reported.

Motion put and negatived.

MR. TAYLOR asked leave to withdraw his amendment.

Amendment by leave withdrawn.

MR. DAGLISH moved that in line 3 of Sub-clause 6 the words "two pounds" be struck out and "ten shillings" inserted in lieu. A fee of £2 for registering a trade union was far too high. Trade unions in this State were not so large as the English trade unions; therefore, the fee should be made proportionately smaller. According to the Conciliation and Arbitration Act a trade union could consist of seven persons.

THE COLONIAL TREASURER: Make it £1.

MR. HASTIE: Even ten shillings was too much: he would rather see it made 2s. 6d. or 5s. Societies could register under the Conciliation and Arbitration Act free of charge. Trade unions should be encouraged to come in under the Bill, and the fee should be small to enable them to do so. We should not allow a matter of a few shillings to stand in the way. If he had an opportunity he would propose 2s. 6d. as the fee.

MR. TAYLOR: The cost of registering a trade union was a mere bagatelle; the bone of contention had always been the difficulty of obtaining registration. Unions found it almost impossible to register in less than a month or six weeks, though other people—he had it on good authority—could register in five minutes. The main thing wanted was facility of registration.

HON. W. H. JAMES: The Registrar in dealing with applications for registration had to go through all the rules before issuing the certificate. This involved a certain amount of work for which, though £2 might be too much, less than £1 would be too little.

THE COLONIAL TREASURER: The effect of reducing the fee would be that societies would have to get a solicitor to draft their rules, which work would cost them four or five guineas, whereas if a fair fee were paid to the Registrar the work could be done by him effectively. £1 would be a fair fee.

MR. DAGLISH: The principle that work of this class could not be properly done unless a sufficient fee were paid to the Registrar, was an objectionable one. Ten shillings was a reasonable fee, and would act as a bar to improper applications which it was the object of the clause to prevent. Small struggling societies should not be unnecessarily taxed.

MR. GORDON: It had never been understood by him that trade unions wanted benefits from the State. The fee of £2 proposed by the Bill would certainly not cover the cost of registration, and he failed to see why it should be reduced by one farthing.

MR. HASTIE: Some hon. members seemed to think that the labour unions consisted of rich people, but the fact was that few unions had any money to spare. It was a mistake to suppose that the work of going through the rules was heavy. The most the Registrar would have to do in many cases would be to look for typographical errors.

Amendment (to insert 10s. in lieu of £2) put and negatived.

MR. H. DAGLISH moved that the amount be £1.

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

Clause 18—Rules of registered trade unions:

MR. JOHNSON moved that in Subclause 3 the words "ten shillings" be struck out, and "two shillings and sixpence" inserted in lieu. Trade unions found it frequently necessary to alter their rules, under the Arbitration and Conciliation Act, for instance; and the fee proposed in the Bill was altogether too high.

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

Clause 19—Registered office of trade union:

MR. HASTIE: The clause required that a registered trade union should have an office to which all communications and notices could be addressed; and there was a penalty for nonregistration. He moved, as an amendment in line 3, that the word "such" be inserted between "any" and "trade," so as to read "any such trade union." If this word were not inserted, trade unions which were not registered and had not given notice of a registered office would be liable to this penalty.

HON. W. H. JAMES: There was no harm in inserting the word "such." He would accept the hon. member's improvement on his drafting, though it came to exactly the same thing.

MR. TAYLOR: Would the hon. member in charge of the Bill explain what was the object in providing under this clause that each member of the union might be fined, while the Bill registered only associations and not the individual members of associations?

HON. W. H. JAMES: The liability should really be on the officers of associations. It was rather hard that members of a trade union should have their funds depleted by paying penalties because an officer was not doing his work.

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

Clauses 20 to 23, inclusive—agreed to.

Clause 24—Change of name:

MR. HASTIE: This clause, providing that a change of name should be made only with the consent of two-thirds of the members of a union, would be quite unworkable. Members of unions were scattered generally over dozens and sometimes over hundreds of miles, and it was absolutely impossible to get a two-thirds vote. He would suggest that the clause provide that the name of a union should not be changed except by resolution passed at a meeting of members specially called for the purpose by advertisement.

HON. W. H. JAMES: It had always been his impression that unions were rather proud of their names, and that the great bulk of the unions had names with which they had been associated for a great number of years. If a change of name were to be made, it should be done by something more than a resolution passed even at a specially convened meeting. He took it that every member of a union had an interest in its name, and there were members to whom a change of their union's name would appear to a certain degree as a personal wrong. Possibly two-thirds was too large a proportion, but he did not believe in changing the name of a union by a resolution passed at a meeting which possibly a number of members might not be able to attend. The onus should be cast on those wishing to change the name of the union, so that the whole of its members might have a chance of saying "yes" or "no" to the proposal. Changes of name would very rarely be necessary. If two-thirds were thought to be too large a proportion, the number should not be less than an absolute majority of members.

MR. GORDON: It was not easy to see the object of the member for Kanowna (Mr. Hastie), in trying to shut out those members who were farthest away from the centre of a union, as those members would have no protection if the clause were altered as suggested. A majority of two-thirds was only a fair proportion to justify the change of name of an established trade union. This was a case in which centralisation would overrule those who were farthest from the centre.

MR. RESIDE: A ballot of the members could be taken, and a majority of two-thirds of the members voting should be required to decide the question.

MR. HASTIE: It was not a correct inference to say he was trying to deprive anyone from having his say on the question of changing the name of a union. He desired that a specially advertised meeting should be convened, by which means every member would have opportunity of attending or voting. Under the Conciliation and Arbitration Act in this State, certain important steps had to be taken before a union could be registered; and it would be very inconvenient to insist on so many as two-thirds of the total number in a union having to vote before the name could be changed. The suggestion for holding a ballot would meet the case. Under the clause as it stood, no society of any size outside the metropolitan district could possibly change its name.

THE PREMIER: Did the hon. member think that a trade union, once registered, would desire month by month to change its name?

LABOUR MEMBERS: No.

THE PREMIER: Consequently it was desirable to place certain restrictions on that operation. If a majority of two-thirds was thought to be too great a restriction on the changing of a name, then let it be an absolute majority. The Legislature of this State could not alter its Constitution, unless there were an absolute majority of members present when the question was put. Therefore, if an absolute majority of the members of a union must vote on the question of changing its name, that would be reasonable. He suggested that the clause should be amended accordingly.

MR. HASTIE: That would be an improvement of the clause, and there might be a majority of two-thirds of those voting in favour before the name should be changed.

MR. HOPKINS: The clause should be passed as it stood. He had heard of only one instance in this State of a trade union changing its name. That was the Amalgamated Miners' Association at Boulder; and having changed its name to that of "Amalgamated Workers' Association," the result had been that the miners came together and established another union. If a change of name were desired by the members of a union, every member would have the right to vote by post, if he could not attend the meeting.

MR. HASTIE adopted, in his amendment, the suggestion of the Premier, that the majority should be a majority of the total number of members.

Amendment (as altered by Mr. Hastie) put and passed.

MR. GORDON moved, as a farther amendment, that the following words be added: "Members shall be notified three months previously to any alteration."

MR. TAYLOR: To discuss this question as to the number of members required to sanction the change of name was really wasting the time of the Committee, when matters of more importance were being passed over. If members of a trade union desired to change the name, nearly every member would vote on the question. It was only on matters of small importance that members of a trade union were indifferent.

Farther amendment (Mr. Gordon's) put and negatived.

Clause, as amended, put and passed.

Clause 25: Amalgamation:

MR. HASTIE: The number of two-thirds, required by the clause to authorise the amalgamation of a trade union, was too large, and he moved as an amendment that the number be "a majority of the members."

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

Clauses 26 to 28, inclusive—agreed to.

Clause 29—Annual returns to be prepared as the Registrar may direct:

MR. R. HASTIE: This clause provided that reports should be sent in to the Registrar on or before the 1st March of each year: the 1st April would be more convenient. Every society did not end its year on the 31st December, as apparently the framer of the Bill thought. Probably a number of societies closed their year on the 1st March, and it was necessary to have a month to prepare and transmit the report. The object of the clause no doubt was to enable the Registrar to place the report before Parliament while in session.

THE COLONIAL TREASURER: The word "thirty" might be inserted before "first" in line five.

MR. J. M. HOPKINS moved that after "general," in line one, the word "audited" be inserted.

HON. W. H. JAMES: Auditors were provided by Clause 14, but there was no objection to this amendment.

Amendment put and passed.

Mr. R. HASTIE moved that the word "thirty" be inserted before the word "first," in line five.

MR. J. M. HOPKINS: Thirty days was not a sufficient time to send in a return from the northern portion of the State.

HON. W. H. JAMES: It was not necessary to make the time long. The 31st March would meet all cases.

MR. J. RESIDE: It would be advantageous if all unions closed their financial year on the 31st December.

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

Clauses 30 and 31—agreed to.

Clause 32—Proceedings in regard to offences and penalties:

Mr. H. DAGLISH: The penalty of £20 provided by the clause was too heavy: it should be reduced to £5. Pro-

ceedings might be taken for a technical offence, simply for spite.

HON. W. H. JAMES: It did not follow that the highest penalty would always be awarded. Throughout the Bill certain duties were cast on the officers, duties which they owed to the State, and there were also duties which the officers owed to the members of the association. For the purpose of securing the discharge of those duties it was well to have a margin sufficient to prevent persons being indifferent to the discharge of their duties. Certain clauses provided penalties for certain offences, but this was a general clause which imposed a heavy penalty in case any person was aggrieved.

MR. J. RESIDE: Heavy penalties were always imposed where members of unions were affected.

HON. W. H. JAMES: It did not follow that the highest penalty would be imposed.

MR. H. DAGLISH: All the serious offences were provided for.

HON. W. H. JAMES: It was necessary to have a penalty which would guarantee the provisions of the Bill being carried out for the protection of the public and the unions. No common informer could come in and make money out of this Bill; the only person who could lay a charge was the Registrar, also the person aggrieved, who must be a member of a union. If the maximum penalty was made £10, that might meet the case, but £5 seemed too low.

MR. W. B. GORDON: The aim of the Labour party seemed to be to cut down everything in reference to pounds, shillings, and pence, and to introduce verbiage into the Bill.

MR. J. M. HOPKINS moved that in line four the word "twenty" (pounds) be struck out, and "ten" inserted in lieu.

MR. W. B. GORDON said he would call for a division on the amendment.

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

Clause 33—Governor may make regulations:

MR. DAGLISH: There should be a consequential amendment in Sub-clause 2. He moved as an amendment that "twenty" (pounds) be struck out and "ten" be inserted in lieu.

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

Clause 34—Saving liability of His Majesty's Government:

MR. HASTIE: Did the clause mean that the Government would not be liable in respect of actions brought by trade unions registered in connection with any Government departments?

HON. W. H. JAMES: The clause was perfectly plain. It had been inserted out of abundant caution, and did not in any way affect the power of trade unions or cramp their action. A trade union under it would have the same power as any other corporation to sue the Government.

Clause put and passed.

Clause 35—agreed to.

HON. W. H. JAMES: Any member wishing to move the insertion of new clauses would have to do so later on. It was not fair to a member in charge of a Bill to move amendments without previously putting them on the Notice Paper. The practice was most inconvenient in the case of a measure like this, which had been in force in the old country and in the other Australian States, and might therefore be expected to commend itself to members of the House. If an entirely new Bill were brought down, the member in charge would be prepared for objections to every clause. Notice ought to be given.

MR. F. REID: The Bill had been rushed through with great rapidity, and there were several clauses he would like to see recommitted.

THE CHAIRMAN: It would be quite competent for the hon. member to raise that matter later. At present there was nothing before the Committee.

On motion by HON. W. H. JAMES, progress reported and leave given to sit again.

PUBLIC WORKS COMMITTEE BILL.

Introduced by the MINISTER FOR WORKS, and read a first time.

RETURN—POLICE DISTRICTS, STATISTICS.

On motion by MR. J. M. HOPKINS (Boulder), ordered:—That a return be laid upon the table, showing: 1, The population, as per census 1901, of each police district in Western Australia (ap-

proximately). 2, Area of each police district. 3, The number of police stationed in each district, showing number of officers, number of foot police, number of mounted police, and number of horses, and for what purposes used. 4, The ratio of police to population deemed by the Commissioner of Police to be adequate for public protection.

RETURN—MAGISTERIAL DISTRICTS, REVENUE.

On motion by Mr. J. M. HOPKINS (Boulder), ordered:—That a return be laid upon the table of the House, showing: 1, The population of each magisterial district in Western Australia as per census of 1901. 2, The basis on which magisterial districts are allocated. 3, The amounts of revenue derived by way of fines from police court proceedings in each magisterial district during the years 1898, 1899, and 1900. 4, The amount of revenue (by way of fines) derived from police court proceedings within the Boulder police district for the years 1898, 1899, 1900. 5, The population, as per census 1901, of the Boulder police district (approximately). 6, Number of hotels and other licensed houses in each magisterial district, showing revenue received annually from same. 7, Number of hotels and other licensed houses in the Boulder police district, showing revenue received annually from same.

PAPERS—FREIGHT DISCREPANCIES, GREAT SOUTHERN RAILWAY.

On motion by HON. F. H. PIESSE (Williams), ordered:—That there be laid upon the table of the House all correspondence in connection with the alleged discrepancies in freight on the Great Southern Railway, alluded to in the speech of the Hon. the Commissioner of Railways on the 27th August.

PAPERS—ALBANY STEVEDORING AND COALING ASSOCIATION, REGISTRATION.

On motion by Mr. G. TAYLOR (Mount Margaret), ordered:—That all papers in connection with the registration, under the Industrial Conciliation and Arbitration Act of 1900, of the Albany Stevedoring and Coaling Association be laid upon the table of the House.

RETURN—DIVIDEND DUTY, REVENUE RECEIVED, MENZIES, ETC.

On motion by DR. HICKS (Roebourne), ordered:—That there be laid upon the table of the House a return, showing the amount of duty, if any, accepted by the Treasury under the Dividend Duty Act from the Menzies waterworks district for the year ending 31st March, 1900; also, from the Ivanhoe Gold Corporation for the year ending 31st December, 1900.

RETURN—COMPILING AND PRINTING OF DEPARTMENTAL REPORTS, COST.

MR. C. H. RASON (Guildford) moved:

That it is desirable that in future the cost of compiling and printing of all departmental reports, and (where the cost exceeds £10) of all other printed papers presented to the House, be shown upon the first page of such documents.

He did not think it necessary to argue this motion at length. There appeared to be a desire on the part of various departments to magnify the importance of their functions and the work they did, by the issue of voluminous, elaborate, and costly reports, which in many cases were wholly unnecessary, and, he was afraid, in the majority of cases were not even read, and scarcely ever referred to. The Meteorological report afforded an instance of this. It was a work costing a considerable amount of money to compile and print, and yet of little practical value to the State, referring as it did to last year's weather. For the purposes of practical utility and as a matter of public interest, the report might just as well give details, illustrated of course by diagrams, of what we had to eat last year. He might direct the attention of departmental officers to a model report of this character published a very long time ago: "And the rain was upon the earth for forty days and forty nights." There was an ideal meteorological report, conveying in a few terse, appropriate words a record of events of far greater importance than any dealt with in the report he had mentioned. We had been told that it was necessary to economise. Here was an opportunity for economising to a very considerable extent.

THE COLONIAL TREASURER: The Government had no intention of objecting to the motion; but in defence of the department he happened to administer,

he might say that the Meteorological report objected to was produced not for the information of hon. members, but as part of a great scientific scheme. Reports of this nature were exchanged between scientific centres all over the world. They were prepared not simply for the information of hon. members or the public of Western Australia, but for the information of scientific men generally.

HON. F. H. PIESSE (Williams): While agreeing as to the desirableness of keeping down the cost of printing and that many of the reports were too voluminous, as the hon. member had said, yet the remarks made on the Meteorological report as being of little interest and causing excessive cost were not in accordance with facts. That report was exceedingly useful to persons in the country interested in land settlement, and to other persons desirous of coming here with a view to settlement, because it showed them the conditions of rainfall in various districts and localities, and in that way helped persons to judge as to the suitability for agricultural or pastoral purposes. The report was indeed most useful, and it showed careful preparation. In this comparatively new country it was desirable that an official record showing the rainfall should be available to persons interested in land settlement. There were other instances in which unnecessary expense in printing might well be curtailed; and if members were to search the various corners of this building they would find piles of printed matter which had hardly ever been looked at. In supporting the motion for lessening the expenditure in printing, we should be careful that documents of a useful character should not be interfered with.

MR. HASTIE (Kanowna): The mover had said the cost of each return printed in Victoria was shown on its face where the cost exceeded £10. He (Mr. Hastie) understood that the practice in the Victorian Printing Office was that every report had its cost stated on its face.

MR. DAGLISH: In New Zealand also.

MR. HASTIE: That was also the practice in New South Wales, and if it were adopted here it would tend to reduce the cost of printing. In Victoria an estimate was made of the cost of each return before printing, and at the end of each year the several estimates were compared with the amounts actually expended on the several printed returns. This system served also as a check on the Printing Office. He hoped the mover would consent to omit the words "ten pounds," so that the cost of each document might be shown on its face.

MR. J. GARDINER (Albany) supported the motion, because if the cost of each document were shown on its face, members of Parliament would be more careful about calling for returns in reference to some of their little "fads." The tendency in regard to departmental reports seemed to be that each head of a department vied with the others in presenting most elaborate reports. For practical purposes, however, all the information that was really serviceable to members of Parliament or the public could be put in much smaller space, so as to be handy. Nine-tenths of the members did not peruse the printed reports, and many members only glanced at them. He moved as an amendment:

That the words "where the cost exceeds ten pounds" be struck out.

Amendment put and passed, and the motion as amended agreed to.

MOTION—OLD AGE PENSIONS, TO ESTABLISH.

MR. H. DAGLISH (Subiaco) moved:

That, in the opinion of this House, it is desirable that the Government should introduce a measure to provide for the establishment of a system of Old Age Pensions in Western Australia.

I do not intend to enlarge on the necessity for this motion, because it is a necessity we all must admit. At present we have no provision made for those who have grown grey in this country in developing its resources; and if those persons have the misfortune to have been unable to provide the means of living when past work, they are in their latter days thrown into our poor depôts, herded often with persons who are not of the best character; or they live in undesirable conditions of squalor and dirt, not creditable to this country. Some time ago we understood that provision would be made by the Federal Parliament for a comprehensive scheme covering the whole of Australia. We find, however, that there is no probability or even possibility of this being undertaken at an early date

by the Federal Government; therefore, it behoves this State to take the matter into consideration, and see if some temporary provision at all events cannot be made. Victoria has already established a fund for this purpose; South Australia has done likewise; and I think that in this State, where we have the largest revenue in proportionate to population, it should be easily possible to follow in the footsteps of those other States. I do not think it is necessary to argue at great length as to the justifiableness of this expenditure. I know the Treasurer may see difficulties, as the Treasurer usually does when expenditure is proposed; but there are no difficulties in connection with this matter that are insurmountable. I know of no expenditure deserving of prior consideration to an expenditure for this purpose. I know of no more just demand than that every man and woman, past the days of their prime, should have reasonable provision made for their maintenance, without allowing them to feel the stigma of a grudging charity, without allowing them to live under undesirable conditions, and without putting them in barracks or connecting them in any way with persons whose associations are not agreeable or creditable. When a man or a woman has spent the good years of his or her life in developing the country, as an honest workman or workwoman, he or she should be entitled to have sufficient to live on for the remaining days of life, without appealing to charity. On that particular ground I base my motion, and hope it will find acceptance at the hands of hon. members.

MR. G. TAYLOR (Mount Margaret): I second the motion.

THE PREMIER (Hon. G. Leake): This motion aims at a very laudable principle; but it is one that involves the expenditure of a very large sum of money. I admit, at once, that the Government have not considered the question as a practical subject; and I am not in a position to give the House any definite information on the subject. I shall, consequently, ask the member not to force the motion through. If he does so, I shall certainly not oppose it, because, on principle, I am in favour of old age pensions. But it requires the careful consideration of a comprehensive scheme. I believe there is an old age pension scheme in Victoria, and the few criticisms I have seen on the system there are not absolutely favourable. In some instances it is reported that the system has been abused by those who have endeavoured to take advantage of it. We must expect such a state of things to exist in any State, but we must also remember that the power to legislate on this question of old age pensions is given to the Federal Government. I do not know that there is any particular advantage in enforcing the affirmation of the principle in the motion at present. Certainly we could not give effect to it this year, unless members are prepared to vote a very large sum of money. I shall not ask the House to do it until members have thoroughly well threshed the matter out. I would like to listen to an extended debate on the question. I admit, at once, that I am not too conversant with the subject. I have not studied it sufficiently in detail to offer, at present, any valuable suggestions to the House. I merely rise to express an opinion, generally, that the Government are in favour of the principle underlying the motion. No doubt the Treasurer will be disposed to speak to the subject, from a financial point of view, and I will ask members to listen to what the Treasurer has to say, and perhaps in the circumstances they will think it not desirable to do more than to discuss the question this evening. I say again, if the member desires to force the motion, I certainly shall not oppose it. It has been pointed out to me that the principle of pensions, as it applies in this State at the present time, is in favour of—I was going to say—the wealthy classes; but, unfortunately, we have not many here; at any rate, it applies to the more well-to-do: those who have been in receipt, not exactly of Government relief, but of Government salaries, for years past; and the system is continued in their favour. But other members, perhaps who are equally worthy from another standpoint, have to rely on the bounty of their friends.

MR. TAYLOR: Work harder, and receive less, and depend on the charity of their friends.

THE PREMIER: The hon. member will be able to expound all those principles in a moment, if he be disposed to do so,

and when he does express his opinion, he will find that I am in agreement with him. But there is a practical difficulty in the way of finding the money, and until after the Treasurer has made his Budget speech, I hope members will not force this motion on the House.

MR. A. J. DIAMOND (South Fremantle): While I am in full sympathy with the general object of the motion, I think, at the present juncture, it would be rather inopportune to endeavour to force this motion on the State, as a separate State. To those conversant with the current trend of Commonwealth politics, it is clear that this subject will shortly be made a question for the Commonwealth. It has been mentioned over and over again, in the Commonwealth Parliament, and a majority of members, I think of both Houses of the Federal Parliament, will be in favour of taking the question up in the Commonwealth. As Australia is federated, it would be unwise if each State had a separate and distinct old age pension scheme. One State might grant a pension of 10s. per week, and another State might legislate for a pension of 12s. 6d. per week. Then we might have the poor old people coming from one State to another, in order to benefit by the extra pension. If the mover of the motion will accept an amendment which I will submit, he will affirm the principle, and have the support of the Treasurer with him. I would suggest that the motion read:—

> That, in the opinion of this House, it is desirable that the Commonwealth Government should introduce a measure to provide for the establishment of old age pensions.

Therefore, I will move to insert the word "Commonwealth" before "Government," in the first line, and to strike out the last words of the motion "in Western Australia."

MR. DAGLISH: That does not say any time.

MR. DIAMOND: I will move the amendment, and I may say I believe a measure for a system of pensions will be introduced into the Commonwealth Parliament within a reasonable period of time.

THE COLONIAL TREASURER (Hon. F. Illingworth): I think the hon. member will do well to accept the amendment; still it will then be necessary to altogether reconstruct the motion, because the motion would have to be in the nature of a recommendation to the Federal Government; consequently, while I accept the object which the member for South Fremantle has in view, I cannot accept the motion as it would then stand. I want to suggest, first of all, that I cannot see any prospect whatever of finding the necessary money, if the motion be carried, at any rate this session. And that becomes a very practical difficulty. The hon. member must see there are many things to be done in the country, for which it is impossible to provide money, which perhaps would tend as fully to help the poor aged people in the State as adopting a system of pensions. I want again to suggest, for hon. members' consideration, that at the present time this State is not over-loaded with poor aged people, and I hope it will not become so. I hope the people of this country will do so well, by the hard work they have to do and by their frugal habits, that they will be able to provide for themselves in their old age, and not require the State to do so for them. I strongly hold to the conviction that if the question of old age pensions is considered at all, it should be by the Commonwealth Government, and it ought to be a comprehensive scheme. If we were to establish the principle here, we should get a drifting of a certain number of aged persons to the State, who would not otherwise come.

A MEMBER: They might all come.

THE COLONIAL TREASURER: Oh no. I also want to suggest that two countries, New Zealand and Victoria, which have adopted this principle, have not found it to be a success. The estimate which was formed by the State Treasurer of Victoria has been largely exceeded, more than trebled.

MR. HOPKINS: That is the fault of the Treasurer, not the system.

THE COLONIAL TREASURER: It is the fault of the system, and I will point out why, if the hon. member will wait. The estimate was formed upon the number of persons who were likely to come on the funds at the time; but there has been such a drifting of the aged persons from the adjoining States, that the amount was not sufficient when the demand came. We may have the

same thing here, although it is not so easy, I am aware, for persons to drift from Queensland or New South Wales into West Australia, as it is for them to drift into Victoria. But still, to a certain extent, there would be a shifting from other States to this one. This seems to me to be the primary reason why we should rather pause. I am just as much in favour as any member of making a provision for the aged, but I think it is a matter more for the Federal Government. We should then have to find our proportion of the money required. Still we should find it a material advantage, because we should have to provide only for our own aged poor, and not for the poor of the other States. If the Federal Government take this matter up, they will make provision for the aged poor in the whole of the Commonwealth, and, as a consequence, our State will provide its proportion of the money required for the purpose, and the payments we make to the Commonwealth are made according to our population. These two points seem to me to be paramount. I think the old age pension scheme a splendid idea, and one I am in perfect harmony with, and one that is in harmony with our better feelings, that the State should make provision for its aged poor, those who have spent their life toiling to uphold the State, so as to give an advantage to our younger people. It seems to me that a system which provides for the aged poor out of the general funds of the State is a very equitable one. The system now to a large extent prevailing, in which the cost of maintaining the poor falls on the most benevolent people, that is to say on those few people of the State who are most easily got at or appealed to, does not appear to be a very fair one. The funds required should be provided out of the general revenue of the State, so that all members of the community would contribute equitably. I am afraid that the operation of an old age pension scheme in one State, while it is not in force in another, will tend to unsatisfactory drifting of population. Again, there is no hiding from ourselves the fact that amongst the aged poor there is a large number of exceedingly improvident persons. I have it on good testimony that old age pensions in Victoria are doing a vast amount of harm. While they do a certain amount of good they nevertheless do serious harm to certain persons. It is stated that the old people are leaving the benevolent asylums for the purpose of obtaining these pensions.

MR. HOPKINS: Why should they not?

THE COLONIAL TREASURER: They spend the money in a most unsatisfactory manner. Without describing how they spend it, I may say that they spend it to their detriment——

MR. HOPKINS: It is not fair to say that of all them.

THE COLONIAL TREASURER: And return to the asylums in an inferior and more dilapidated condition. Of course, we must not condemn a whole class for the failings of a few; but hon. members will understand that there are some such persons as I have described. I repeat, we must not condemn the whole class because a few people in it make improper use of the pensions they get. Nevertheless, these are questions which have to be considered. We must consider how we are to protect the worthy and discourage the unworthy; and these are matters calling for considerable thought and much debate. There are not in this country many old people short of a living: at least, I hope not.

MR. HOPKINS: There are some.

THE COLONIAL TREASURER: As Treasurer, I can hold out no hope or expectation that I shall be able to provide the necessary funds; and that is a pretty stiff jump to get over. If the member for Subiaco (Mr. H. Daglish) really desires to do practical work, he will attain his aim better by allowing the present motion to lapse, and introducing later a motion such as the member for South Fremantle (Mr. Diamond) has indicated. We cannot adopt the present motion in its constructive form. The member for Subiaco may see his way to introduce later a motion which would bring some suggestive power to bear on the Federal Parliament; and I shall be glad to give such a motion my fullest support. I commend these suggestions to the hon. member. By adopting them he will do far more effective work for the old people of the Commonwealth than can possibly result from any separate provision made by our own State.

MR. J. M. HOPKINS (Boulder): The member for Subiaco (Mr. Daglish) suggests the adjournment of the debate, but I think it would be better to have the matter brought up in a different form at some later time in the present session. The motion, or rather the spirit of the motion, has my entire sympathy. It has been stated that the system of old age pensions in Victoria has not altogether been a success, that it has been more or less abused. If it has been a failure, the reason militating against its success probably is either loose drafting of the legislation controlling the system, or else——

THE COLONIAL TREASURER: I said drifting, not drafting. Drifting of population from one State to another.

MR. HOPKINS: The loose habits of the pensioners have also been mentioned as a probable reason for the failure of the scheme; but these loose habits certainly tend to benefit the Treasurer, because by reason of them he gets back the greater amount of the pensions in the shape of customs and excise duties. It has been said that the Federal Parliament would take the matter up. From certain observations which have fallen from the Federal Premier, Mr. Barton, I am perfectly convinced that he has no intention of dealing with this question for some considerable time to come; and for that reason in particular I am desirous of seeing the various States take some active interest in it. Their doing so will probably result in the Federal Government taking a definite stand on the question at an early date. Personally I do not approve of the suggestion that each State should institute a system of old age pensions on its individual "own." It is undesirable to have an old age pension scheme for one part of Australia, or for one section of the old people of Australia. We want an old age pension scheme for the whole of the old people of Australia. We want legislation to deal with the whole of Australia in this matter on one broad, common basis. This is a subject which might well be delegated to the Federal Parliament. As the Colonial Treasurer has said, let the amount required be made good to the Federal authorities by the various State Treasurers. The Colonial Treasurer's suggestion offers a very reasonable way out of the difficulty. We in West Australia have no direct taxation, and if the Commonwealth Parliament were prepared to deal with the question of old age pensions, we could easily by the imposition of direct taxation find the funds required to pay pensions to the aged poor of this State. My reason for favouring one general scheme of pensions is that its adoption would remove the greatest objection which can be urged against the institution of State schemes—that they tend to benefit the old man who is too lazy to go from his own State and look for work in another State, but simply says, "No; I will stop where I am and will qualify for a pension." State schemes undoubtedly tend to benefit the lazy old man, while disqualifying the energetic old fellow who goes to look for work in another State; and this is a good, solid reason for objecting to the introduction of State schemes. If a little farther consideration of the matter —hon. members will probably talk it over amongst themselves—should result in the formulization of some concrete proposition which may be laid before the House at a later period in this session, and if that concrete proposition be such as suggested by the Colonial Treasurer, I for my part shall be only too glad to support it. I think it is more right, more proper, and more just that the average old man—it does not matter how poor he is—should receive his pension, than that a public servant who may have drawn a fat salary all his life and who retires probably at 60, should draw for 20 or 30 years a fat pension which would cover the old age pensions of three or four hundred people. I trust, therefore, hon. members will be led to some definite conclusion on this matter at a later period.

On motion by MR. R. HASTIE, debate adjourned.

ADJOURNMENT.

The House adjourned at ten minutes past 10 o'clock, until the next day.