the Minister to the fact that in the hills, and possibly in close proximity to Mundaring Weir, there is excellent soil and the topography of the country is suitable to make—I would say—ideal botanical gardens. In addition, the climate is right, and it is not far from the metropolitan area. In my opinion, this could be a wonderful attraction to tourists, and would be of inestimable value to the State.

Mr. Lawrence: It would be a long way from the city .

Mr. OWEN: That is so. But so much of our soil is not suitable for the growing of a number of plants, and particularly those which require a more temperate climate. Although we grow some very fine roses in the metropolitan area, most of them are grown on heavier soils brought down from the foothills. From my experience of fruit growing, I know many varieties which do well in the hills, but which cannot be successfully grown in the metropolitan area; and that applies also to many other plants. I therefore suggest to the Minister that if any steps are to be taken to establish botanical gardens in this State, before the matter is finalised he should examine some of the Crown land in close proximity to Mundaring Weir, which I think would be ideally suited to the purpose.

Progress reported.

House adjourned at 10.52 p.m.

Legislative Council

Tuesday, 29th October, 1957.

CONTENTS.

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

QUESTIONS.

UNIFORM GENERAL BUILDING BY-LAWS.

Consideration of Disallowance Motions.

Hon. A. F. GRIFFITH (without notice) asked the Chief Secretary:

Will he give an undertaking that Items 15 and 16 on the notice paper dealing with disallowance of uniform general building by-laws made under the Municipal Corporations Act will be discussed in Parliament and finalised before the completion of the session which, I understand, it is anticipated will be about the end of November?

The CHIEF SECRETARY replied:

I could answer that by saying "yes", but I would like to mention that these items were left at the bottom of the notice paper because a committee appointed last June or July has been considering this matter—indeed it is meeting tonight—and it is hoped that it will finalise consideration of all points raised not only in Parliament but by local authorities outside Parliament. When the finding of that committee is known, an opportunity will be given to members to discuss the items referred to.

Hon. J. McI. THOMSON (without notice) asked the Chief Secretary:

Would he inform the House whether the answer he has given to Mr. Griffith in connection with this matter will also apply to Item No. 18 on the notice paper dealing with disallowance of similar regulations made under the Road Districts Act?

The CHIEF SECRETARY replied:

They will all be treated in the same favourable manner.

KALGOORLIE CENTRAL SCHOOL.

Conversion of Manual Training Room.

Hon. J. D. TEAHAN asked the Chief Secretary:

(1) Is it intended to convert the manual training room at the Kalgoorlie Central School into class rooms?

(2) If so, when is it expected that a start will be made on the necessary alterations?

The CHIEF SECRETARY replied:

(1) Yes.

(2) Estimates are being prepared and it is hoped that the work will be completed by February, 1958.

DRIVING LICENCES.

Reintroduction of Discarded Facilities.

Hon. L. C. DIVER asked the Chief Secretary:

As regards motor drivers' licences:—

(1) Will the Government give favourable consideration to the reintroduction of licensing facilities which existed in country districts prior to the year 1957?

(2) Will the Government give favourable consideration to the reintroduction of a driver's licence form made from material similar to that used prior to the year 1957?

(3) If the answers to Nos. (1) and (2) are in the affirmative, how soon will the changes be effected?

The CHIEF SECRETARY replied:

(1) Very careful consideration was given to this matter prior to the alteration being made. So far it appears that the new arrangement is superior to the old.

(2) The new form is designed so that it can be put through a cash register and posted in a window-fronted envelope to licence-holders.

(3) No change is contemplated.

SHARK BAY.

Provision of Doctor and Nurse.

Hon. L. A. LOGAN asked the Minister for Railways:

(1) Has the Government given consideration to subsidising a doctor for Shark Bay?

(2) What steps have been taken by the Government to provide the hospital with a double-certificated nurse?

The MINISTER replied:

(1) The population is insufficient to warrant establishing a doctor at Shark Bay.

(2) The hospital, now a nursing post, has been without staff for some time; and despite departmental offers to nurses to take over, no one has been interested enough to accept.

BILL—SHEARERS' ACCOMMODATION ACT AMENDMENT.

Second Reading.

THE MINISTER FOR RAILWAYS (Hon. H. C. Strickland—North) [4.40] in moving the second reading said: This Bill to amend the Shearers' Accommodation Act—known by shearers and pastoralists generally as the hut accommodation Act—is introduced as a result of a conference between the parties concerned: the Australian Workers' Union, the Pastoralists' Association and the Farmers' Union. These organisations met and arrived at complete agreement with the contents of the Bill. As a matter of fact, it is at their request that the Minister has brought the legislation before Parliament.

One of the purposes of the Bill is to better the present accommodation, and if agreed to it will apply where there are four or more shearers. The Act has applied to where there are eight shearers.

Hon. L. A. Logan: I think it is five.

The MINISTER FOR RAILWAYS: I understand it is eight. However, the purpose of this amendment is to make it four, according to the information given to me. I am sorry, Mr. President, if the information supplied to me is incorrect. It is generally agreed these days that hut accommodation has been improved tremendously throughout the pastoral areas. I am not as conversant with the agricultural areas, but on most sheep stations the pastoralists have gone to great pains to improve the accommodation for shearers and employees. Of course, there is a lot of inducement through taxation concessions for everybody to do so these days.

There is a further provision that where, after the coming into operation of this Act, new accommodation is being erected, the quarters of the cook and his offsiders will be separate from the shearers' quarters. That is understandable because the cook rises very early in the morning—4.30 a.m. or 5 a.m.—and commences to cut up a sheep in order to cook chops for breakfast; and when he is moving about he rouses the other fellows. On the other hand, having this accommodation separate will mean that the cook will get a good night's rest. With the shearers in the pastoral industry, it is usually "lights out" at 9 o'clock. That has been an unwritten law as long as I can remember.

Hon. A. R. Jones: Is it a separate building or a separate room?

The MINISTER FOR RAILWAYS: It is a separate building away from the other accommodation. I know that the hon. member does not think it is sufficient, but I am speaking of the pastoral areas. I am not sure about the agricultural areas. As I said earlier, the provisions in this Bill are the result of a conference and agreement between employers and employees' representatives.

There are some other amendments which refer to the improvement of laundry and ablution facilities. There is also a provision that a reasonable mattress will be supplied, and another in connection with refrigerators. Refrigerators are supplied by most employers these days, particularly ir the North-West. We find that with B.H.P. it is part and parcel of the accommodation at Yampi, and that is the position on every station in the North-West.

Hon. A. R. Jones: Are the refrigerators for the cooking quarters or for individual men?

The MINISTER FOR RAILWAYS: They are for the cookhouse in order to make the butter spreadable. It will not be poured on; it will be spread on. There is a great saving with a refrigerator, as country members know, because it preserves food which would otherwise deteriorate and be thrown away. The refrigerator these days is not a luxury; it is an essential.

There is another provision in regard to more space being provided in the rooms of shearers' quarters. Where there used to be three or upwards of three shearers in a room, provision is now made that the maximum will be two; and the air space, which is governed by the size of the room, will be enlarged.

They are the main provisions in the Bill. I would point out that if it is passed, it will not be proclaimed prior to the 1st July, 1958. The idea is to give farmers or pastoralists sufficient time to alter accommodation in order to comply with the Act. The provisions are reasonable to all concerned, and I move—

That the Bill be now read a second time.

On motion by Hon. A. R. Jones, debate adjourned.

BILL—GOVERNMENT RAILWAYS ACT AMENDMENT.

Second Reading.

THE MINISTER FOR RAILWAYS (Hon. H. C. Strickland—North) [4.48] in moving the second reading said: This Bill has been brought before Parliament to amend the Government Railways Act, 1904-1953, as a result of the experiences since 1948 of a three-man commission to administer and manage the Western Australian railways.

There is no need for me to remind the House of the various aspects that have developed recently in connection with the Railways Commission, nor reiterate what most members in this House have voiced in connection with the administration of the railways over the last eight or nine years. After recent experiences, the Government has decided that the railways can be better managed under one head or one authority. Therefore the Bill proposes to amend the Act in several directions and to delete all reference to administration by a commissioner and two assistants.

The tenure of office for a future commissioner will be seven years, which is different from the existing position whereby the commissioner holds office until he reaches 65 years of age. The reason for amending the legislation is the experience of the three-man commission, the members of which were appointed to serve until they reached the age of 65. One of the original commissioners passed away in 1953 and the vacancy was filled in 1954 after the legislation had been amended in 1953. The 1953 amendments provided that all future appointments would, in the case of the commissioner, be for a term of seven years, as is provided in the Bill before us; and for the assistant commissioners, a term of five years.

It is now proposed to carry on with a single commissioner whose appointment will be for a term of seven years or until he reaches the age of 65 years if that occurs during his occupancy of the position. Under the Act the commissioner will be required to retire at the age of 65. The Act is to be amended to delete the provision for assistant commissioners. An amendment is also proposed to provide for a deputy to act in lieu of the commissioner when he is absent.

The existing Act provides for deputies to act in the absence of the commissioner or the assistant commissioners. At present there is only one commissioner and the Act does not make provision for the filling of the vacancies which exist in connection with the two assistant commissioners. This is a flaw which has been in the Act since it was passed in 1948, but has really been made apparent only within the last six months.

The Bill also seeks to make provision for an acting commissioner. This is necessary because, although there is provision for a deputy, no one can deputise in the event of the office becoming vacant. So the Bill aims to provide for an acting commissioner who can be appointed for a term not exceeding six months. The object, of course, is apparent. The office could become vacant for various reasons, including death; and if there is no provision for the appointment of an acting commissioner, then there is no commissioner at all.

Hon. G. C. MacKinnon: Could that be renewed for a further six months if necessary?

The MINISTER FOR RAILWAYS: I do not think so; but it is a point I have not looked into. I should think not, however, because the aim of the legislation is the appointment of a commissioner; and six months is considered to be a fair and reasonable period in the event of the commissioner resigning quickly or, unfortunately, dying. In that event the position must be advertised for a reasonable period to enable the Government which is in office at the time to select the man it considers to be the most suitable applicant for the position. So the six-month period is purposely inserted with the object of allowing time in which to advertise the position and obtain a suitable man; and also with this thought: that we cannot have an acting commissioner indefinitely. I believe this is a good provision to have in the Act.

Another amendment is designed to reduce from 40 days to 21 days the period which is required for the tabling of reasons in the event of the commissioner

being dismissed. We believe that 40 days is too long a period. We are having experience of this period now; but as there is still a commissioner, the railways—or the commission—are functioning all right. But in the event of a commissioner being suspended by the Governor-in-Council, he must at present remain suspended for a period of 40 days—

Hon. G. Bennetts: And 40 nights.

The MINISTER FOR RAILWAYS: —to enable any member to take the matter up and for Parliament to restore him to his office, notwithstanding the Executive Council's decision in the matter. At present the Act provides that in the event of Parliament deciding by a motion in each House that the suspension shall not proceed but that the commissioner shall be restored to his office, then he must be restored to this office forthwith. So 40 days is considered to be far too long. The Government is of the opinion that 21 days is quite long enough for any Parliament to make up its mind whether it will act in connection with the suspension of a commissioner.

I might add that it is not anticipated that commissioners of railways will be suspended in the future, or that this provision will be required to be used frequently. I am sure that the circumstances that have arisen in the Railways Commission in the last few months have been such as are most unlikely to occur again in the history of the Western Australian Government Railways. However, it is necessary to have this provision in the legislation.

In my opinion the mere limitation of the appointment of the commissioner to a seven-year term will have a good effect on future appointments as compared with what is provided for in the existing Act. I believe that, apart from Supreme Court judges, Arbitration Court judges and others in positions which require the utmost impartiality, the appointment of an administrative head of any department should be for a term; and in this case the Government thinks likewise. As a matter of fact, Parliament also thought the same in 1953 and endorsed a period of seven years.

There is another provision in the Bill which clarifies the existing position. It provides that where a commissioner is under suspension his salary shall cease from the date of his suspension. The Government believes that under the existing Act the salary has to be paid until the 40 days for which the papers must be laid on the Table of the House have elapsed. However, the Government believes that if an officer deserves suspension, he surely does not deserve to be paid at the same time.

Hon. G. Bennetts: He would get the back pay if he won an appeal.

The MINISTER FOR RAILWAYS: The Bill aims to clarify the position and amend the Act so that there will be no doubt as to what shall be done.

There is also another amendment in the Bill which will amend Section 42 of the Act. That section deals with penalties for grave offences, and mainly covers the stealing of goods from the railways. The Crown Law Department interpretation of this section is that it covers only those goods which are the property of the commissioner, or the Minister, and not goods which are the property of clients of the Railway Department.

To make the position quite clear, it is proposed to amend the section to provide that any person in possession of goods which are in the care of the commissioner, or the Minister, is guilty of an offence. That will cover the situation of goods in transit; luggage; or any goods which are taken from railway property, and which belong to private persons.

There is also a saving clause in the Bill; this is a new and necessary provision to cover the position of one of the assistant commissioners. Crown Law Department officers say that the Act as it stands contains certain provisions, and we intend to alter some of them. The alterations could have an effect upon the court proceedings involving one of the assistant commissioners, and it is necessary to have the saving clause inserted to cover the situation.

Included in the Bill is a validating clause which covers actions of the commission since it became, firstly, a two-man commission; and, now, a one-man commission in charge of the railways. At present there is no legal commission, and the actions of the commission since one assistant commissioner resigned will need to be validated. For that particular reason I am anxious that the legislation shall not be unduly delayed. I am hoping that it will be dealt with expeditiously in this Chamber so that the commission can be established as a commission, and its actions legalised.

As was mentioned in another place, there is one other good reason why the Bill should be passed as quickly as possible. I refer to the number of files which are finding their way on to the Minister's table, and which should never be there at all. The statement made in another place is quite correct. A number of files are reaching the Minister's table these days, on which decisions must be made. Those decisions should be made by the commissioner; but under the Act we have no legal commission. As a result—

Hon. Sir Charles Latham: And the Minister is not in charge.

The MINISTER FOR RAILWAYS: —the commissioner—and rightly so—sends the files to the Minister for decision.

That brings a number of problems in front of the Minister; but most of them have been successfully resolved. They are the only points I wish to raise at this stage; but I will be pleased to hear any criticisms, comments or advice that can be offered by members when speaking to this measure. I move—

That the Bill be now read a second time.

On motion by Hon. C. H. Simpson, debate adjourned.

BILL—COMPANIES ACT AMENDMENT.

In Committee.

Hon. W. R. Hall in the Chair; Hon. W. F. Willesee in charge of the Bill.

Clause 1—agreed to.

Clause 2—Section 28 amended:

Hon. H. K. WATSON: I ask the Committee to vote against this clause for the reason that ever since the Act has been in operation it has provided for the fixing of the necessary fees by the Act. The amendment in the Bill means that the fixing of fees for certificates, and for all other matters, will be dealt with by regulation. I think that is quite wrong, and that a fee of five guineas, which is what the Act provides at the moment, for the issuing of a certificate of incorporation, is quite adequate.

Hon. W. F. WILLESEE: This amendment has been put forward by the Government because of a more or less direct request by the officers in charge of the Companies Act. Their view is that the present method is a cumbersome one, and that if an amendment were required the department would have to wait until such time as that amendment could be debated by Parliament. Alteration by regulation is provided for in the Business Names Act, and also in regard to Titles Office fees and Supreme Court charges.

Where schedules are required to be amended at any time, the amendments sought are referred for consideration in the first instance to the head of the department, then to the Crown Law Department for legal consideration, then to the Treasury, and finally to Executive Council, before being gazetted. Under the circumstances I feel that the amendment in the Bill is reasonable, and that the position is well protected. So I ask the Committee to support the clause.

Hon. H. K. WATSON: On matters such as this the views of other than the departmental officers should be considered. We agreed to the fixing of fees by the Act under the Bills of Sale Act the other evening; and so I ask members to vote against this clause.

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

Ayes	10
Noes	13
Majority against	3

Ayes.

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. J. D. Teahan *(Teller.)*

Noes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. H. L. Roche
Hon. L. C. Diver	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. A. R. Jones	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	*(Teller.)*

Pairs.

Ayes.	Noes.
Hon. R. F. Hutchison	Hon. A. F. Griffith
Hon. J. J. Garrigan	Hon. J. Murray

Clause thus negatived.

Clause 3—Section 71 amended:

Hon. H. K. WATSON: I move an amendment—

That all words after the word "by" in line 8, page 2, down to and including the word "published" in line 10 be struck out and the following inserted in lieu:—

substituting for the words "intervals of one week between such publications within seven days of the date of passing such resolution" in lines four, five and six of paragraph (a) of subsection (3) the words "an interval of not less than seven nor more than fourteen days, the first of such publications to be made within seven days of the date of passing such resolution."

The object of this clause is to rectify an ambiguity in Section 71 of the Act. In my opinion, the clause does not completely remove the ambiguity. Every member will agree that my amendment is preferable to the phraseology contained in the clause. The wording of the amendment has been copied from the Associations Incorporation Act Amendment Bill which was passed by this Parliament some weeks ago.

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

Clause 4—agreed to.

Clause 5—Section 271 amended:

Hon. H. K. WATSON: I move an amendment—

That paragraph (e) in lines 1 to 10, page 3, be struck out.

The proposal contained in this clause is firstly, to increase the amount of salaries and wages which are to be treated as preferential in the event of the winding up of a company. Paragraph (e) introduces a new principle into the Act by

providing that holiday pay up to a maximum of £150 shall also be treated as a preferential claim in a winding up. As I said during the second reading, holiday pay is entirely different from salaries or wages. The former is not earned until the year's service has been given. The decisions of the Arbitration Court have made that point clear.

Hon. W. F. WILLESEE: I have given considerable thought to the amendment. It does seem to me that the limit of £150, to rank as preferential treatment in a winding up, is out of proportion, when compared with the maximum amount of wages and salaries which are to be treated as preferential. In my view, there should be a limit, say up to two years, of holiday pay being able to rank as preferential.

It sometimes happens in small companies that the key personnel have to waive their annual holidays because they are indispensable. If the companies were to be wound up in 12 months' time the workers should not be penalised in respect of holiday pay for those 12 months. The Committee may agree to a compromise on this clause; and before moving an amendment on the amendment, I would like to hear the views of Mr. Watson.

Hon. H. K. WATSON: Whether the holiday pay to be treated as preferential is limited to one or two years is not important. What I have intimated, that holiday pay is in a different category from that of wages and salaries, is important. If a maximum of £150 is to be treated as preferential in respect of holiday pay, then where 10 employees are involved, an amount of £1,500 could be treated as a preferential claim; that is, apart from wages and salaries owing.

Hon. H. L. Roche: That would reduce the assets for distribution by a considerable amount.

Hon. H. K. WATSON: It could well do that. I have seen small businesses which were battling being caused financial embarrassment by other companies going out of existence. Often the proprietors of those small businesses are not so well off as the employees in the companies being wound up.

Hon. H. L. Roche: Those proprietors work longer hours than the employees.

Hon. H. K. WATSON: A friend of mine conducted a foundry and he used to work from 7 a.m. to well into the night, longer than his employees. He in turn went out of business because a company to which he had advanced credit had gone bankrupt. There were substantial preferential claims and nothing was left for the other creditors.

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

Clauses 6 and 7—agreed to.

Clause 8—Section 345 amended:

Hon. H. K. WATSON: I ask the Committee to vote against this clause for the same reason that I gave in respect of Clause 2. In this case the amount involved is trifling, but the same principle is at stake. The principle of prescribing the fees in the Act should be preserved.

Hon. W. F. WILLESEE: This clause deals with a small amount of 1s. for search fees in respect of foreign companies.

Hon. H. K. Watson: Then increase it to 2s. in the Act.

Hon. W. F. WILLESEE: As a matter of custom 2s. is now paid, but even at that amount this service is not payable. It is not a question of my nominating a figure in the Bill. It is proposed to prescribe the fees in a group and to gazette them accordingly. For that reason I ask the Committee to agree to the clause.

Hon. H. K. WATSON: Section 345 of the Act provides for the payment of 1s. for the search of documents. This principle has been in existence since 1893. The whole principle of a company filing its balance sheets and returns is that they shall be readily accessible to the general public who may inspect them on payment of a nominal fee. That fee has been 1s. for many years. If it were suggested to increase it up to as much as 5s. I do not know that I would raise any serious objection. But I consider that it should be increased by an amending Bill and not prescribed. If it has been 1s. for 50 years, I imagine that whatever figure we fixed now would last for another 50 years.

Hon. W. F. WILLESEE: I feel there would be no point in dealing with the matter in the way suggested by Mr. Watson. For a start I do not know what the Minister in charge of the Act has in mind. If the fees were to be altered they would be altered through the length and breadth of the Act, and there would be a considerable number of items of increase and not just one for Parliament to deliberate on. I feel the issue is the same as when we started. Either the Committee must accept the right of the fees to be prescribed by regulation or reject it. I ask the Committee to support the clause.

Hon. R. C. MATTISKE: One of the basic principles of the Companies Act is that all documents shall be readily available to any shareholder of a company. For that reason I am sure Parliament initially approved the making available of all documents upon payment of a very nominal fee. I agree that it matters not whether that fee be 1s. or 5s., so long as the documents are still readily available.

However, as the fee is purely nominal and is not designed to cover the cost of administering that section of the department, I feel no useful purpose would be

served by altering it, let alone placing power in the hands of anyone outside of Parliament to make an alteration.

Clause put and negatived.

Clauses 9 to 11—agreed to.

Clause 12—Section 370A inserted:

Hon. H. K. WATSON: I move an amendment—

That after the word "debenture" in line 35, page 7, the words "or note" be inserted.

This is purely a draft amendment. Registered unsecured notes are these days a prevalent and convenient means of raising money. But a note as neither a share nor a debenture, and cerainly not a unit trust. So, to make the definition complete, the word "note" should be inserted.

Hon. W. F. WILLESEE: I have no objection.

Amendment put and passed.

Hon. H. K. WATSON: I move an amendment—

That the letter "(a)" in line 2, page 8, be struck out and the letter "(b)" inserted in lieu.

This is another drafting amendment.

Hon. W. F. WILLESEE: There is no objection to the amendment. I think it is an error that rose in another place.

Amendment put and passed.

Hon. H. K. WATSON: I move an amendment—

That the letter "(a)" in line 6, page 8, be struck out and the letter "(b)" inserted in lieu.

This is a similar amendment to the previous one.

Amendment put and passed.

Hon. H. K. WATSON: I move an amendment—

That proposed new Subsection (9) in lines 19 to 27, page 15, be struck out.

There are two objections to the requirement of this proposed sub-section. One is the very considerable amount of clerical work that would be required in lodging the information; and the second is that the document is open to inspection by any member of the public, and that would provide a first-class mailing list for any go-getting company promoter or anyone who was minded to make a financial attack upon an unsuspecting public, because the persons who are subscribers to these unit trusts are in the main small investors. If their names were lodged at the Companies Office that would provide a ready-made mailing list which could be used for improper purposes.

Hon. W. F. WILLESEE: There is considerable merit in what the hon. member has said. If this is left in the Bill, it should not be made possible for anybody to get the information except by application direct to the registrar and at his discretion. It is necessary to have some right for a person to obtain the information because of the provisions of subparagraph (iv) (I) which refers to persons intending in their own right to call a meeting. How could one-tenth in number be named without there being some central place at which to obtain the information? While agreeing that the provision needs tightening up, I feel that it should be left in the Bill.

Hon. H. K. WATSON: I suggest that as a matter of mechanics the most suitable method of achieving the hon. member's desire would be to have the provision deleted and for him on recommittal to insert a new subsection along the lines he has indicated.

Hon. W. F. WILLESEE: That sounds reasonable to me.

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

Clause 13—Section 406 amended:

Hon. H. K. WATSON: I move an amendment—

That after the word "pounds" in line 13, page 22, the following be inserted to stand as paragraph (b):—

by inserting after Subsection (1) the following subsection:—

(2) An appeal to the court shall lie against any decision made by the registrar under Subsection (1) of this section.

This is the clause which provides that the registrar may, where a liquidator or auditor has fallen down in his duty, suspend him or impose a penalty of up to £100, or do both of those things, or cancel his registration; and if his registration were cancelled or suspended he could not carry on duty as a company auditor or liquidator. The powers are drastic, and I think the registrar would be happy to feel that if an injustice had been done it could be corrected. The amendment would give a right of appeal to the court.

Hon. W. F. Willesee: I agree with the principle of the amendment, but I think the position is covered by Section 400.

Hon. H. K. WATSON: While there is no appeal expressly provided in Section 406, Section 400 does seem of a general nature. I therefore ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon. R. C. MATTISKE: I am wondering whether Section 400 does cover the position, and I think we should make sure of that.

Hon. W. F. WILLESEE: I think Section 400 is all-embracing, as it commences—"If any person is aggrieved by any Act . . ."; and that would include an auditor. I understand that the position of Section 400 in the Act does not affect its application and that seems reasonable to me.

Hon. H. K. WATSON: I agree that the wording in Subsection (2) of Section 400 "any application under this section shall be dealt with by way of rehearing and the Court shall not be limited to the facts which were before the Registrar", is the normal provision when there is an appeal to a court from a non-judicial body or executive officer. An appeal from a court's decision is to a higher court.

Clause put and passed.

Clause 14—Section 409 amended:

Hon. H. K. WATSON: In the wording of Section 409 Parliament emphasised that the fees could be reduced by regulation but could not be increased, except by Act of Parliament; and in view of the earlier decision of the Committee, I will oppose this Clause.

Hon. W. F. WILLESEE: The Committee has given a decision on this principle within the last half hour and I ask it to support the Bill as printed.

Clause put and negatived.

Clause 15—Amendment of various sections as to penalties:

Hon. H. K. WATSON: This clause seeks to double the existing penalties in the Act, and I would point out that many of them are daily penalties. I feel that the penalties set out in the 1943 Act were sufficient. We should not be asked to alter them in this way; and it is usual, when amending penalties, to connect each clause with the relevant section in which the penalty concerned is mentioned. I ask the Committee to vote against this clause.

Hon. W. F. WILLESEE: The clause is considered necessary to bring the penalties into line with present money values. The existing penalties were fixed on a prewar basis, and they have operated more as a deterrent than anything else. With approximately 2,300 Western Australian companies registered in this State there have only been six or eight prosecutions each year; and generally they were concerned with the annual reports, which are a machinery matter. The penalties in the Act were based on the South Australian legislation, and the only small amendment to a penalty was in 1947; so it is felt that the figures should be increased to bring us into line with the other States and into relation with present money values.

Hon. R. C. MATTISKE: I hope the Committee will not agree to the clause. No doubt the question of penalties was thoroughly dealt with when the Act was overhauled in 1943, and at that time practising accountants felt that the scale of penalties was severe. Severe penalties are required in relation to certain sections, but in other instances the existing penalties are very heavy. This matter was reviewed in 1943, and the penalties then provided were ample for existing conditions. It would be most unreasonable to double practically all of them.

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

Ayes	11
Noes	13
Majority against	2

Ayes.

Hon. G. Bennetts	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. Sir Chas. Latham
Hon. F. R. H. Lavery	*(Teller.)*

Noes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. H. L. Roche
Hon. L. C. Diver	Hon. C. H. Simpson
Hon. A. F. Griffith	Hon. H. K. Watson
Hon. J. G. Hislop	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. A. R. Jones
Hon. G. MacKinnon	*(Teller.)*

Pair.

Aye.	No.
Hon. J. J. Garrigan	Hon. J. Murray

Clause thus negatived.

New clause.

Hon. H. K. WATSON: I move—

That after the word "fee" in line 6, page 2, the following new clause be inserted—

3. Section sixty of the principal Act is amended—

(a) by substituting for the words "amount applied in redeeming the shares" in subsection (4) the words "nominal amount of the shares redeemed."

(b) by repealing subsection (5) and substituting therefor the following subsection:—

(5) the premium, if any, payable on redemption, must have been provided for out of the profits of the company's share premium account before the shares are redeemed.

(c) by substituting for the words "date on or before which those shares are, or are liable, to be redeemed" in paragraph (a) of subsection (6) the words "earliest date on which the company has power to redeem the shares."

(d) by repealing subsection (9) and substituting therefor the following subsections:—

(9) the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares or in writing off any discount in respect of any shares issued to members of the company at a discount pursuant to the provisions of this Act.

(10) the redemption of preference shares under this section by a company shall not be taken as reducing the amount of the company's authorised share capital.

Section 60 of the principal Act is most ambiguous and requires tidying up. It was taken in its entirety from Section 46 of the United Kingdom Companies Act of 1929, and the draftsman did not realise that the section he was copying was also ambiguous. In 1948 the United Kingdom's Act almost entirely redrafted Section 46 of the Companies Act of 1929 because it was difficult to understand, and at least one section was unintelligible. That has been fully explained by Palmer's "Company Law." My amendment will bring Section 60 of our Companies Act into line with the comparable provisions in the United Kingdom Companies Act of 1948 which sought to correct the ambiguities and weaknesses in the 1929 Act.

The Act provides that a company may have redeemable preference shares, but before they are redeemed there must be accumulated profit in the company equivalent to the amount of the shares to be redeemed, and that accumulation must be transferred to a capital redemption reserve fund. At the moment the Act provides that the capital redemption reserve fund may be applied in fully paid up bonus shares.

My amendment provides that in addition to fully paying up bonus shares the redemption fund may also be used for writing off discounts on shares issued at a discount. At the moment the capital redemption fund can be used to pay up a bonus share. That is, it can be used to issue a share at a discount of 20s. in the £, because that is virtually what a bonus share is—a share issued at a discount of 20s. in the £. My amendment will permit the capital redemption fund to be used not only for looking after shares issued at a discount of 20s. in the £, but also for the writing off of shares issued at a discount of up to 20s. in the £—say a discount of 10s. The purpose of the new clause is to remove ambiguities in Section 60 as it stands at present.

Point of Order.

Hon. J. G. Hislop: On a point of order, Mr. Chairman, I would like your ruling on this amendment. I do not in any way wish to spoil Mr. Watson's chances; but I do not want him to go to all the trouble of explaining his amendment and getting it through this House if it is to be rejected, on a technicality, in another place. From time to time it has been ruled in this Chamber that no new clause can be introduced which does not deal with the subject matter of the Bill. Mr. Watson's amendment seeks to amend Section 60 of the Act.

Hon. H. K. Watson: My new clause seeks to amend Section 60 of the principal Act. If you refer to page 23 of the Bill, Mr. Chairman, you will see that it also seeks to amend Section 60. It may be that we have deleted Clause 15 of the Bill, but that is part of the machinery of Parliament. As introduced, the Bill sought to amend Section 60. One of the acts that this Bill seeks to penalise under Section 60 is an act that is not at all clear.

Section 60 says in effect, "You are liable to a penalty of £50 if you do not indicate on your balance sheets the date on or before which redeemable preference shares are to be redeemed." That was copied from the 1929 English Act. This has been explained by Palmer, as I have already said. When a company issues redeemable preference shares what it ought to state is the date on or after which they may be redeemed—not the date before. I seek to let the public know the action for which they are being penalised to the extent of £50. Had this Bill become law without the amendment, the penalty would have been £100. For those reasons I submit my amendment is in order.

The Chairman: I rule that the proposed new clause is in order.

Sitting suspended from 6.15 to 7.30 p.m.

Committee Resumed.

Hon. W. F. WILLESEE: This proposed new clause is taken substantially from an English Act. I would like to draw the hon. member's attention to what could be an anomaly. When the point is reached that a capital redemption reserve fund has been established, the ordinary shareholders of a company have, in fact, created a reserve from profits to which they are entitled. When a bonus issue is made to these shareholders, they are getting that entitlement by way of bonus in a free issue of shares.

I do not see in this clause a provision for protection of a member, who, whilst morally entitled to his issue of bonus shares, may not be in a position financially to take up the shares being issued at a discount. If a man had 500-odd shares, he would have to find £250 as against £250 bonus increment. Therefore he would be in danger of losing his right, which is his right by virtue of the redemption account, to normally claim any bonus shares.

In a private company, I see no alternative but that one of the shareholders would lose his right if he could not have some provision where he could exercise his right to take up the issue in bonus shares if he could not finance the discount shares. In the case of a public company it would not be so bad except that a subsequent clause gives only 14 days in which to take up the issue; and if a man were financially hard-pressed at the time, he would have to sell that right.

I do not know what the position is in that regard. As I see it, he has a full entitlement, built up over many years as an ordinary shareholder; and it could happen that he would lose his right if bonus shares were issued at a discount. I suggest to the hon. member that he might give consideration to a member who could not take up his shares at discount taking them up under a bonus provision.

Hon. H. K. WATSON: The point raised by Mr. Willesee is not without interest. However, there is some misapprehension on his part when he mentions that the shareholder must take up his shares within 14 days. That is not so. The 14 days merely relates to the action of the company in using the accumulated profits to write off the discount on the shares. It is purely an internal book operation of the company writing off its shares. The shareholder could be given any length of time to make up his mind.

On the general issue of a person not being able to take up his entitlement, I suggest that the dangers are more apparent than real; because we invariably find that when shares are issued as bonus shares, they are issued pro rata to the then existing members. However, in this case, shares are not issued at a discount.

Take the last issue of Coles: The shares were issued at par, which virtually represented a gift to the recipients of an amount equal to the shares, because the market price was more than double the par value. When shares are issued at par, at discount, or in any special way which presents a benefit or bonus to the shareholder, the invariable rule is that they are issued to shareholders pro rata.

The last issue of Coles was issued at par and there was no right on the shareholder to sell his rights. He had to take up the shares. It was virtually a mechanical operation. A shareholder would pay his 5s. and sell the share next day for 10s. or 15s., or whatever the market price may be.

In practice there is not much possibility of the shareholder losing the benefit of his discount. I suggest the position would be much the same with private companies. If it were an attractive issue, then it would be issued to the shareholders; and it would be issued on a similar basis, so that it would not be impossible for them to get the benefit of the discount. They would be taking a share and holding it or selling it at an amount which would not only reimburse them for their temporary outlay, but would return them a profit. The Bill will be recommitted, and if the hon. member accepts this amendment, I will undertake to have a further look at it in the meantime to see if there is anything in the point he has raised.

Hon. W. F. WILLESEE: That is quite acceptable to me. I would like the hon. member to look at this angle of a private company. If a member lost his rights he could not sell them unless he sold within the confines of the private company. Would there be danger of affecting voting rights? The position could be that if a man was forced to relinquish his right of these shares in a private company he might alter the voting rights as previously constituted.

New clause put and passed.

Hon. H. K. WATSON: I move—

That after new Clause 3, the following be inserted to stand as Clause 4:—

Section sixty-one of the principal Act is amended by adding at the end thereof a new subsection as follows:—

(4) Notwithstanding anything contained in this section, the sanction by the Court to the issue by a company of its shares at a discount shall not be necessary in cases where, in pursuance of section sixty of this Act, the whole of the discount allowed on the issue of the shares is, within fourteen days after the date on which the shares are issued, written off against any capital redemption reserve fund.

This amendment is consequential.

New clause put and passed.

New Clause:

Hon. H. K. WATSON: I move—

That after the word "published" in line 10, page 2, Clause 3 the following be inserted to stand as Clause 4:—

The principal Act is amended by inserting after section seventy-nine the following section:—

79A. (1) A company, the share capital of which is not divided into different classes of shares, may, by special resolution, abrogate or repeal any conditions of

its memorandum with respect to the voting rights or the dividend rights of its members thereby leaving such matters or conditions to be governed by its articles.

(2) For the purposes of this section "special resolution" means a resolution which has been agreed to by all the members of a company.

Mostly the reference to a company's voting and dividend rights is contained in the articles of association, but in rare cases it is also contained in the memorandum of association. The Act at present provides that the memorandum cannot be altered except as provided for in the Act. This means that even if all the members of the company want to alter the memorandum, it cannot be done. The object of the amendment is to permit the memorandum to be so altered if all the members agree. The weakness in our Act is expressly removed in the United Kingdom Companies Act.

Hon. W. F. WILLESEE: The new clause is taken from Section 23 of the English Companies Act. I feel that Section 23 would meet the situation better than the proposed new clause which is limited to altering in the memorandum the provisions concerning the voting and dividend rights of a company which has one class of shares. The more general provisions of Section 23 of the English Act would allow of alterations to be made where they were shown to be necessary in the company's memorandum. The section in the English Act provides for an approach by a dissatisfied shareholder to the court, for cancellation of the alteration and for various other safeguards.

The second part of the proposed clause could create difficulty for large companies. This does not say that the resolution has been agreed to at a meeting. I assume that if the company had 4,000 shareholders, the consent of each would have to be obtained. I suggest that the hon. member give consideration to withdrawing the proposed clause with a view to inserting one more appropriately worded on Section 23 of the English Act.

Hon. H. K. WATSON: The operation of Section 23 of the English Act is somewhat wider than would be the operation of this clause. If the memorandum contains provisions relating to voting rights and dividends it may well be that a majority of the shareholders could deprive the minority of rights that they had under the memorandum. It was to prevent the minority suffering any injustice that I suggested the special resolution should be agreed to by all members of the company. There would then be no reason why the Act should prevent a company doing what it wanted to do.

The English Act provides that the memorandum may be altered by 75 per cent. of those voting at a meeting. Then it goes on to provide that any dissenter or minority may apply to the court to have the resolution nullified. Mr. Willesee and I seem to be ad idem on the principle involved; it is only a question of giving effect to it. I am prepared to reconsider the clause with a view to submitting a provision more in line with Section 23 of the United Kingdom Act. I ask leave to withdraw the proposed clause with a view to inserting another more in line with what was suggested by Mr. Willesee.

New clause, by leave, withdrawn.

Title—agreed to.

Bill reported with amendments.

BILL—ACTS AMENDMENT (SUPERANNUATION AND PENSIONS).

Received from the Assembly and read a first time.

BILL—BETTING CONTROL ACT CONTINUANCE.

Assembly's Message.

Message from the Assembly received and read notifying that it had agreed to the amendment made by the Council.

BILL—JURIES.

Assembly's Message.

Message from the Assembly notifying that it had agreed to amendments Nos. 1, 3, 5, 8, 10 to 14, 17, 22 to 26 and 31 to 35 made by the Council; had disagreed to Nos. 2, 4, 6, 7, 15, 16, 18, 19, 20, 21, 27, 28, 29, 30 and 36; and had agreed to No. 9 subject to a further amendment, now considered.

In Committee.

Hon. W. R. Hall in the Chair; Hon. E. M. Heenan in charge of the Bill.

The CHAIRMAN: The Assembly's reason for disagreeing to certain of the amendments made by the Council are as follows:—

Nos. 2, 4, 6, 7, 15, 16, 18, 19, 20, 21, 27. These are drafting amendments and do not improve the drafting of the Bill.

Nos. 28, 29, 30. These amendments could prejudice the fair trial of an accused by not sufficient restriction on publicity.

The first amendment to be considered is No. 2.

No. 2.

Clause 4, page 5, line 26—Delete the words "Except where this Act provides otherwise."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

The Committee will recall that when this amendment, and the ones immediately following it, were being discussed, I pointed out that they were drafting amendments; and that, although Mr. Griffith thought he was improving on the drafting and was doing away with redundancies, it is always dangerous for a layman to interfere with the drafting of a technical Bill such as this. That may not always be the case; but in the majority of cases it is dangerous for us to set ourselves up to correct the drafting of a specialist.

Apparently the Minister in another place, and his advisers, think the same way. These drafting amendments do not affect the purpose of the Bill. They are an attempt by Mr. Griffith—and I am sure a genuine one on his part—to improve the drafting. But the people who should be in a position to know better do not agree with him, so I hope the Committee will not insist on this amendment or the ones following it.

Hon. A. F. GRIFFITH: As Mr. Heenan knows, all members of Parliament, with few exceptions, are laymen. But he would ask us to accept the principle that because the drafting officer at the Supreme Court prepares any Bill and submits it to this Chamber, we should accept it.

Hon. E. M. Heenan: I said a technical Bill such as this.

Hon. A. F. GRIFFITH: I want to assure the hon. member once again that these amendment have not come out of my mind; they have come out of the minds of legal men with whom I have had many hours of conversation on this particular measure. The representatives of the Law Society have informed me that the Bill will be improved if these amendments are accepted. Because the Committee has debated these amendments before, and agreed to them, I hope it will insist on them.

Hon. E. M. HEENAN: I am sorry that the Committee finds itself in this position. I think members should be guided by the officers of the Crown Law Department. I am a member of the Law Society and I get its circulars, although I do not attend its meetings as often as I would like to do. But I have heard nothing official, and I do not know anything of the society's views on this measure. Members may have spoken to Mr. Griffith individually, but I feel sure the Law Society, as such, has not expressed any views about the drafting; its members would be reluctant to do so.

These are not second thoughts on my part. I expressed them at the time and apparently the Minister in another place referred the amendments to the Crown Law authorities. He has been advised that they do not improve the drafting and has recommended that we do not insist on them. The Assembly has agreed to a number of other amendments which do affect the Bill in vital ways.

Hon. A. F. GRIFFITH: If I conveyed to Mr. Heenan the impression that the opinions I expressed came from the Law Society as a body, I regret it. What I thought I conveyed was that individual members of the legal fraternity to whom I had spoken had given me advice on this matter. As regards the attitude of the Minister for Justice, we all know that he made some very uncomplimentary remarks about the debates that took place in this Chamber upon this matter.

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

Ayes	10
Noes	14
Majority against	4

Ayes.

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. J. D. Teahan
	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. H. L. Roche
Hon. J. G. Hislop	Hon. C. H. Simpson
Hon. A. R. Jones	Hon. J. M. Thomson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. F. Griffith
	(Teller.)

Pairs.

Ayes.	Noes.
Hon. R. F. Hutchison	Hon. L. C. Diver
Hon. J. J. Garrigan	Hon. J. Murray

Question thus negatived; the Council's amendment insisted on.

No. 4.

Clause 5, page 6—Delete all words after the word "pardon" firstly occurring in line 19 down to and including the word "misdemeanour" in line 21.

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

The reasons are the same as those I gave in the previous instance.

Hon. A. F. GRIFFITH: For the same reasons that I have given, I ask members not to agree to this motion. As I said during the Committee stage of this measure, this provision could apply to a person who received a pardon as a result of an incurable sickness.

Question put and negatived; the Council's amendment insisted on.

No. 6.

Clause 6, page 7, line 29—Insert after the word "Act" the words "and persons to whom the Sheriff has issued a certificate of permanent exemption pursuant to subsection (10) of section fourteen of this Act."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

This is purely a drafting amendment.

Question put and negatived; the Council's amendment insisted on.

No. 7.

Clause 6, page 8—Delete Subclause (3).

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

Members will recall that there was some argument over this provision; namely, that a proclamation made under this Act has effect according to its tenor—The Crown Law authorities think that this term should appear in the Bill.

Hon. A. F. GRIFFITH: When this matter was being discussed I asked Mr. Heenan to give an explanation of what is meant by the expression "a proclamation made under this section has effect according to its tenor. He referred us to his notes which indicated "See the draftsman." Later on he gave a definition from a legal dictionary. The information that I have received is that it would be extremely strange if a proclamation did not have effect according to its tenor. I therefore ask the Committee to insist on the amendment.

Hon. E. M. HEENAN: The hon. member was hardly fair when he said that I did not give him a definition or description. I do not claim to know everything, and I cannot give all the detail when a question is asked. I referred to a legal dictionary and I gave the Committee the benefit of the definition of "tenor." The Crown Law authorities have some knowledge of these matters, and they think that the term should be retained in the Bill. We should place reliance on the Crown Law authorities in a matter such as this.

The CHIEF SECRETARY: The point that strikes me is that some members are prepared to accept the opinion of some legal practitioners whom they do not even know, rather than to accept the opinion of the highly paid Crown Law officers. Mr. Heenan told us that the matter had been referred to the Law Society. Mr. Griffith said that he saw some members of Law Society, but not the responsible body itself. Members seem to be rather credulous in that respect, because Mr. Griffith did not even mention the names of the solicitors that he saw. They may be very junior members of the Law Society. We do not know. The hon. member did not tell us their names. I am not dealing with the merits or demerits of this measure in raising that point; I am only referring to the drafting of the Bill.

Hon. G. C. MacKINNON: We have been informed that this Bill has been referred to the Crown Law Department with the amendments made by the Council. I have no doubt that the Bill was sent back to the same person who drafted it. In that regard it is to be expected that each person has a preference for certain phraseology; and irrespective of the number of times a Bill is returned to him an individual will show a preference for his own words. In a Bill which I have selected at random, the draftsman has used the term "passage" in referring to one single word. He might happen to like the use of that word, yet it is the first time that we have seen it used in that sense. We have been very familiar with the term "after the word" being used in Bills. Up to date the draftsmen have referred to a passage as being a section of a clause. The point raised by the Chief Secretary, therefore, does not carry much weight.

Hon. A. F. GRIFFITH: If the Chief Secretary thinks that I shall supply a list of the lawyers with whom I have been discussing this matter, he is very much mistaken. I am just as much entitled to consult professional men on this or any other measure. If these amendments now under discussion are so important to the Government, would the mover of the measure not have been equipped with the reasons for the amendments? Should not the Crown Law Department submit concrete reasons why this or any other amendment should not be insisted on? The mover says that the Government, through its Parliamentary Draftsman, thinks the amendment should not be insisted on. That is all the explanation that has been given.

Hon. E. M. Heenan: What reason did you give?

Hon. A. F. GRIFFITH: I gave the reason that in respect of the term "a proclamation made under this section has effect according to its tenor," it would be a very strange proclamation if it did not have effect according to its tenor. Therefore it is unnecessary verbiage in the Bill and unnecessary verbiage should not be encouraged.

Hon. E. M. HEENAN: The hon. member has given one reason, but the Crown Law Department disagrees with him. There is no weighty reason for disagreeing with the amendment contained in the Bill.

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

Ayes	10
Noes	14
Majority against	4

Ayes.

Hon. G. Bennetts	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. F. R. H. Lavery

(Teller.)

Noes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. H. L. Roche
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. F. D. Willmott
Hon. G. MacKinnon	Hon. A. R. Jones
	(Teller.)

Pairs.

Ayes.	Noes.
Hon. R. F. Hutchison	Hon. L. C. Diver
Hon. J. J. Garrigan	Hon. J. Murray

Question thus negatived; the Council's amendment insisted on.

No. 15.

Clause 14, page 13, lines 9 and 10—delete the words "and a certificate so issued has effect according to its tenor."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

Hon. A. F. GRIFFITH: I would like to point out that when originally dealing with the Bill, the Committee saw fit to make some other amendments in this clause which the drafting officer accepted. So there must be some value in some of the things we have done. I think that we have done the right thing in deleting these words.

Hon. E. M. HEENAN: I admit that certain amendments made apparently did have some merit and were contributions which have been accepted. But this amendment is almost on all fours with the previous one which the Committee insisted on. It has no relevance with the other amendments in Subclause (10).

Question put and negatived; the Council's amendment insisted on.

No. 16.

Clause 16, page 15—Delete Subclause (5).

Hon. E. M. HEENAN: I move—

That the amendment be not ininsisted on.

Hon. A. F. GRIFFITH: This is not a question of ineffective drafting. It does not apply for the reason that we have cut out other clauses in the Bill which this affects, and therefore Subclause (5) does not mean anything.

Question put and negatived; the Council's amendment insisted on.

No. 18.

Clause 27, page 20, line 25—Delete the word "criminal."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

Hon. L. A. LOGAN: The Committee took out the word "criminal" because it was desired that the same privilege should apply to a civil court. Apparently another place forgot that this Bill provides for women to be on juries; and while they are given the right to obtain a doctor's certificate as a ground of exemption from service in a criminal court, that does not apply to a civil court. That is why I asked for this word to be deleted.

I cannot understand the reason sent back by the Assembly that this is a drafting amendment. It has nothing to do with drafting. It involves a principle. If another place cannot give us a better reason than that, then we must insist on our amendment in order that the matter can be given further consideration.

Question put and negatived; the Council's amendment insisted on.

No. 19.

Clause 38, page 28—Delete Subclause (3).

Hon. E. M. HEENAN I move—

That the amendment be not insisted on.

We had a good deal of debate over this amendment, which relates to the challenge being made before a juror takes his seat. For reasons that I gave to the best of my ability, I thought—and still think—that it was unnecessary, and it will be an improvement to the Jury Act if the subclause were to remain. So I hope the Committee will not insist on the amendment. At one stage it did not agree to it; but Mr. Griffith, on the recommittal of the Bill, changed the minds of members. It would now be consistent for the Committee to revert to the original decision.

Hon. A. F. GRIFFITH: The Committee will observe that the reason for disagreement with this amendment is that it is a drafting amendment. Anybody with any knowledge of the Bill will know that that is not so. It is not a drafting amendment in that sense of the word. It has a direct effect on the operations of the Jury Act pertaining to the method that is to be employed by defending counsel when it comes to the question of challenging a juror.

I do not propose to weary the Committee by going through the whole matter again, because we debated it fully previously. But the information I have received from these unknown persons—and I hope this will not upset the Chief Secretary too much—is that this is vitally important to a lawyer defending an accused person. The basis now is purely and simply that the juror can be challenged right up to the time he commences to take the oath; and if this amendment is not insisted on, defending counsel will have to challenge a juror as he comes up from the place where he is seated in the court to take his place in the jurors' box.

I have been to the Supreme Court again to have a look at the situation; and what I observed was that the dock in the Criminal Court is in a position where the defending counsel, who sits on the left-hand side of the court, has the dock between himself and the jurors who are sitting in their seats waiting to be called. Is that correct?

Hon. E. M. Heenan: I will give an answer.

Hon. A. F. GRIFFITH: So in the first instance the basis that there is plenty of time for counsel to observe the man coming forward is not factual. Sometimes he cannot see him until he gets abreast of the counsel's line of vision, and that is the point when he commences to see the man. In that case the man is side on and proceeding towards the jury box to take his seat. There is a distinct disadvantage in that. Then the juror steps into the box and it is only at that point that he turns slighly to a situation where he is more or less facing the judge and counsel can also see him full face.

It was said counsel have ample opportunity to look over the jury; but, from my observation, many jurors stand in the passages outside the court, or outside the building and it is only when they are called about 10 minutes before the judge enters that counsel can look them over. Without this amendment a juryman could only be challenged up till when he placed his foot in the jury box.

Hon. E. M. HEENAN: It seems useless to repeat the arguments adduced before, but I wish to correct some misconceptions on the part of Mr. Griffith. He said defending counsel told him the amendment is vitally important; but that should not influence us, as the interests of both defending and prosecuting counsel are pronounced and it is their duty to defend or prosecute, as the case may be, by any means legally in their power. We should not favour either side. I have had large experience of defending counsel on the Goldfields, and in the court referred to by Mr. Griffith, and I have never known it to be necessary to wait till the juryman was seated before challenging him. Counsel have the jury list for days ahead—

Hon. A. F. Griffith: For four days.

Hon. E. M. HEENAN: In the past it was seven days and under the Bill it will be four days. Counsel have the names, addresses and occupations of jurymen and use all legitimate means of ascertaining what their outlook is likely to be. It is unnecessary to challenge a juror after he has been seated and make him look a fool before those assembled in court. The amendment was recommended by the late Chief Justice, Sir John Northmore, and the present Chief Justice. Certain counsel who specialise in defending would like more advantages than they now have, but we must not consider only their point of view.

The CHIEF SECRETARY: On entering this Chamber many years ago I was advised by a wise old head as follows:—"When you speak in this Chamber and quote anyone you must be prepared to name your authority." That was the old order. Is the new order in this Chamber to be that members are to quote authorities without naming them and expect the Chamber to accept that?

The CHAIRMAN: The Chief Secretary must keep to the subject matter before the Chair.

The CHIEF SECRETARY: The subject matter is the quoting of authorities and the drafting of the Bill and that is what I am dealing with. Mr. Griffith has quoted several authorities as to why the wording he favours should be retained and says he was told certain things by someone in the Law Society. I repeat that one should never quote authorities here unless one is prepared to name them. That order prevailed for many years and, if Mr. Griffith's method is to be the new order, I think it is a bad one. Unless told who the authority is, the Committee should take no notice of it.

Hon. J. G. HISLOP: Am I right in believing the amendment has been introduced (a) because the present method delays the court; and (b) because if a man is challenged after he sits down in the jury box he is made to look a fool?

Hon. A. F. Griffith: Yes, he has to shuffle out again.

Hon. J. G. HISLOP: Those are the only two points I have heard so far as determining the introduction of this provision. Am I to be completely assured that the new method will not take away even 1 per cent. of a man's right to defend himself? If it would we should not agree to the provision.

Hon. A. F. GRIFFITH: I do not think we should pay much attention to the suggestion made by the Chief Secretary. He was not here when the debate took place and does not know what occurred then.

Hon. F. R. H. Lavery: He knows what has occurred tonight and that is no different from what occurred then.

Hon. A. F. GRIFFITH: The Chief Secretary did not deal with the amendment but with some red herring—

The Chief Secretary: One you introduced and which I was trying to catch.

Hon. A. F. GRIFFITH: He wanted me to say who had given me advice on this matter and said that, if I would not name them, the Committee should take no notice of my remarks. Let us work on that basis and forget the advice given to me and see whether there is any value in the provision. I do not think Mr. Heenan can give Dr. Hislop the assurance he has asked for—

Hon. E. M. Heenan: Let him decide that for himself.

Hon. A. F. GRIFFITH: The Government has not taken the advice of the Chief Justice in other regards. The justices

recommended that the ages for jury service should be between 30 and 60 or 65 years, as such people would have more mature minds.

Hon. E. M. Heenan: Where is your reference to that?

Hon. A. F. GRIFFITH: The Crown Law Department file that was in the possession of the select committee stated that the experience of their Honours was that, during the war, jurors between 30 years of age and 60 or 65 years of age were more mature, and they recommended that range rather than from 21 to 65 years, but the Government did not take that advice.

The Minister for Railways: But members of this Parliament make the laws.

Hon. A. F. GRIFFITH: I know Mr. Heenan has had wide experience, but the jury list comes out four days before the trial and is made available to the Crown Prosecutor and the defending counsel. The Crown Prosecutor, with the aid of the police, investigates the list, and the police tell him those in regard to whom he should exercise the right of stand-by and challenge. Defence counsel confers with his client, who advises him, to the best of his ability, as to the people who might prejudice his trial. He has six peremptory challenges only. Perhaps he has used five and still has on his list two or more names that he thinks might prejudice the trial.

So he has to keep one up his sleeve in case the 12th man is one of those three. If he is not allowed to remove one juror when he knows whom the 12th man is likely to be, then I suggest it is prejudicial to fair trial; but he could do anything without challenge by cause to get rid of the 12th juror who might be prejudiced so far as the accused is concerned. At this stage the defending counsel can challenge the man who is in the box and somebody else can be called.

Section 45 provides that in a civil trial if a party desires to challenge the array, he must do so before the juror is sworn. In a simple civil defence that is permitted; but we are to refuse that right to a man who is on trial for his life, because we want to save the time of the court and save the juror the embarrassment of having to shuffle out. We should use our own commonsense in things of this nature; we do not want any advice from outside on such matters.

Hon. A. R. JONES: I am bewildered by the Chief Secretary's outburst. He suggests that the amendments do not improve the drafting of the Bill. That is nonsense, as Mr. Griffith explained. I am not concerned about the source of information, or the recommendation of Chief Justices, past and present. Mr. Heenan is a kindly man and his main concern naturally is that the man would be made to look a fool when challenged after taking his seat. But we must consider the person who is on trial for his life. We should insist on our amendment.

Hon. E. M. HEENAN: I am impressed by Mr. Jones's contribution. If he or anyone else feels that the rights of a person fighting for his liberty or reputation are going to be endangered by this amendment I can understand their reluctance to take away the accused's rights no matter how infinitesimal they might be. I have never shared that opinion. I have seen it happen on occasion, and it has struck me as unnecessary and indicating a lack of preparedness, or a want of efficiency on someone's part; it is an unnecessary embarrassment to the juror. It rarely happens. In my opinion, there is no necessity for it to happen, and that opinion is shared by the Crown Law Department and higher authorities. In answer to Dr. Hislop I would say that I do not think that anything tangible would be taken away from anyone.

Question put and negatived; the Council's amendment insisted on.

No. 20.

Clause 38, page 28, line 14—Delete the words "for cause."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

Question put and negatived; Council's amendment insisted on.

No. 21.

Clause 41, page 29, line 7—Delete the words "of all."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

I have already said that the words "of all" make it abundantly clear.

Hon. A. F. GRIFFITH: We start with a jury of 12, of whom 10 establish a verdict, while the other two do not. How can the votes of 10 be the votes of 12? It is impossible. The main thing is that although 10 can produce a verdict, it could be a sufficient verdict but not the verdict of all.

Question put and negatived; the Council's amendment insisted on.

No. 27.

Clause 50, page 31, line 36—Insert after the word "four" the word "jurors."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

Hon. A. F. GRIFFITH: I am not adamant about this.

The Minister for Railways: Keep going; you are having a field day.

Hon. A. F. GRIFFITH: The Minister appears to be having his lunch! I thought the amendment was necessary; but if Mr. Heenan says it is not, I will not insist on it.

Question put and passed; the Council's amendment not insisted on.

No. 28.

Clause 57, page 35—Delete all words from and including the word "is" in line 18 down to and including the word "trial" in line 31 and substitute the following:—"takes or causes to be taken or publishes or causes to be published any photograph or likeness or other pictorial representation of any person summoned to attend or empanelled as a juror for any trial whether civil or criminal."

Hon. E. M. HEENAN: I move—

That the amendment be not insisted on.

Hon. H. L. ROCHE: I hope the Committee will insist on these amendments because this, and Nos. 29 and 30, are relative to the one subject—namely, restriction on the Press. Whilst some intimation should be conveyed to the Press at large that we are not prepared to allow abuses to develop, I think the majority of us are convinced—and I trust will remain so—that it would not be wise at this stage to specifically legislate to restrict the Press. I would like to make this explanation. In another place the Minister referred to these amendments as having been drafted in collaboration with the Press.

The CHAIRMAN: Under Standing Orders, the hon. member must not make reference to another place during this debate.

Hon. H. L. ROCHE: I would like to say this: I understand a statement has been made that these amendments were drafted in collaboration with the Press. That is without any foundation in fact whatsoever; and if the people making it would cast their minds back, they would realise that this amendment was proposed by the Leader of the Country Party; and when it was not successful, he handed it to me to move here without collaboration with anyone.

Hon. C. H. SIMPSON: I hope the amendment will be insisted upon. I think the hon. member is quite right in saying that the decisions arrived at here are open and do not involve the Press. There are several angles to this. Some people in regard to the Press reaction are prone to think only of the metropolitan Press. However, we have to consider small country newspapers. Reporters are sent along to get reports of proceedings of trials and the buyers of these papers expect news of the proceedings.

It could be that a small paper would be under the expense of reporting a trial for two or three days up to the point where the magistrate or judge might decide to commit the accused for trial; and the expense and work would have been undertaken for nothing. It can work in another way. In the news of public proceedings there could be points in favour of the accused known to those who read that news, and they might be fully prepared to go forward with something which might be to the advantage of the person being tried. From all angles I think we are justified in putting this amendment into the Bill. It can help the accused person rather than prejudice him.

Hon. A. F. GRIFFITH: In this Chamber we have a Standing Order which prevents us from making any mention of any debate which takes place in another place.

Hon. L. A. Logan: We are dealing with a message at the moment.

Hon. A. F. GRIFFITH: That is the point I am coming to.

The CHAIRMAN: It is Standing Order No. 392.

Hon. L. A. Logan: It does not cover this one.

Hon. A. F. GRIFFITH: If Standing Order No. 392 covers the situation, it means we cannot give proper consideration to a message from another place.

The CHAIRMAN: I think members can discuss it without mentioning another place. There is no necessity to mention the debate; refer to the message.

The Chief Secretary: You could not mention what was said in another place.

Hon. E. M. Heenan: Confine yourself to the merit or demerit of the case.

The Chief Secretary: Standing Order No. 392 is definite.

Hon. A. F. GRIFFITH: I can understand the Chief Secretary's disinclination to let me make any mention of what was said. Has he read the Press or Hansard lately?

The Chief Secretary: Save me from that!

The CHAIRMAN: I did not object to the hon. member previously when he mentioned something. So far as Mr. Griffith is concerned, there is no need for him to refer to Standing Order No. 392.

Hon. A. F. GRIFFITH: I feel very annoyed about this particular matter and I think that some of the comments made in the Press concerning me are plainly and simply a typical example of character assassination. I read in the Press where the Minister for Justice accused me of turning a somersault in connection with this particular clause. That is a very unfair accusation to make.

The Chief Secretary: Did you?

Hon. A. F. GRIFFITH: Had the Chief Secretary been here he would know that I did not. I do not say that with any malice

in my mind. The position is this: The Minister for Justice accused me—that was how it was reported—of acting in collusion with the Press to prepare the amendments that were placed in this Bill. If the Minister for Justice had known anything whatsoever about the Bill he would have known that I did not prepare these amendments in the first place and that he had no right to make that accusation under the protection of Parliament.

So far as I am concerned, I have turned no somersault on this matter. I have made no deal with the Press, and I have not been in collusion with the Press on this or any other matter; and so long as I remain a member of Parliament it will never be my intention to. I take the strongest exception to the remarks that can be made in another House concerning a member who has no right to defend himself in any shape or form. It is, I repeat, purely an example of character assassination on the part of the Minister.

This is the situation regarding this amendment. The Minister for Justice said that he knew the attitude of the chairman of the select committee. Did he know the attitude of Sir Charles Latham? Did he know the attitude of Mr. Teahan? They were also members of the select committee who agreed unanimously to the report. Did the Minister choose to make reference to these two hon. members? No! For political spleen he likes to mention my name and my name only.

The CHAIRMAN: The hon. member had better speak to the subject matter before the Chair.

Hon. A. F. GRIFFITH: The subject matter before the Chair is whether this amendment should be agreed to.

The CHAIRMAN: I think the hon. member is off the beat.

Hon. A. F. GRIFFITH: The situation as the committee knows it was this: The select committee prepared a report and decided that it would perhaps be highly desirable to prohibit the Press from publishing evidence of a preliminary trial. I said in the second reading speech on this Bill that the committee's intention was that it be included in order to give the Government an opportunity to look at the matter, in view of certain things that did happen, particularly overseas. The select committee thought there might be some merit in examining the situation. The Government grasped this and said, "Here is a chance to embarrass somebody; we will write this into the Bill and let them struggle." The words "highly desirable" have got me into some trouble.

The Chief Secretary: You are suffering from a delusion when you think the Government wants to have a go at you.

Hon. A. F. GRIFFITH: That would be this week's funny story if I believed it! I was surprised at the Minister for Justice saying the things he did. Now that this Bill has reached the stage where we are considering it as a message from the Legislative Assembly, I would remind the Committee that certain Labour Party members constantly voted against it when it was introduced in 1953, 1954 and 1955.

Of course, it is an unwise person who cannot change his mind; and I do not think it is beyond explanation in this particular case that I should say to the Government, "Don't be too hasty on this. It has caused a lot of public criticism and a lot of public statements. Therefore, don't rush into this amendment; take advantage of what is being done overseas with the appointment of Lord Tucker as chairman of a committee to inquire into the very same circumstances. If you are still satisfied to do what is proposed in this Bill, come back to Parliament and have another look at it."

The reply is that I drafted the amendments in collusion with the Press. I repeat that nothing is further from the truth. In the first place, Mr. Roche moved the amendments proposed to be inserted. It is said that I drafted them and gave them to him, but that is not the case. The amendment was originally introduced in another place by the Leader of the Country Party and I had nothing to do with it. I hope the tenor of the debate in another place will not be such that it makes accusations of that nature against members when they are untrue. I hope this amendment will be insisted upon. If I were to say what comes into my mind in regard to this Jury Bill, and what has been said to me at various times, I would be compromising somebody. To say that I feel displeased with a Minister who will make accusations of this nature against a private member is an understatement.

Hon. E. M. HEENAN: I draw attention to the care exercised in taking away the slightest element of privilege that an accused person might have in that manner of challenging a jury. Dr. Hislop insisted on being given a complete assurance that nothing would be taken away. The majority of members insisted that the old system remain because they desired to give every accused person a fair go. With those thoughts in mind, members should hear what the select committee had to say about the matter of Press publicity—

> It appears that in some cases the Press acts in a manner prejudicial to a fair trial by highlighting the evidence to build up a "good seller."

Members will regard that statement with the utmost gravity. The report continues—

> This applies particularly to preliminary trials, the Press publicity of which is read by the public as a whole,

many of whom are potential jurors, and may result in some influence on the juror before he goes into court.

It would perhaps be desirable to prohibit the Press from publishing the evidence of a preliminary trial where the accused is committed for trial. The Press could attend and listen but not publish any of the evidence where a man is committed for trial.

Those are not the words of the Chief Justice or me, or the conclusions of the Crown Law officers, but the considered words of Arthur Griffith, Chairman, J. D. Teahan, member, and C. G. Latham, member, of the select committee. I put it to the Committee that the Government, having a report like that before it, would be lacking in responsibility if it did not include in the Bill something to deal with the situation.

Hon. H. K. Watson: What about the other equally important recommendations?

Hon. E. M. HEENAN: That does not alter the argument. Two wrongs do not make a right. If there is any truth or substance in the statement by the select committee that the Press acts in a manner prejudicial to a fair trial, then it will affect a man's liberty and everything that is dear to him; and surely the Government had to do something about it.

Finally, I have the Press cutting here. Mr. Griffith said the Minister stated that he had drafted the amendments in collusion with the Press. The Minister did not say that at all. How, by any stretch of imagination, Mr. Griffith could interpret the Minister's reference to him in that way, I do not know.

Hon. H. L. Roche: What did the Minister say?

Hon. E. M. HEENAN: This is the report of "The West Australian" of Wednesday, the 23rd October—

> The Legislative Assembly last night refused to agree to Legislative Council amendments removing the Press gag from the Juries Bill. Unless a compromise is reached between the two Houses the Bill could be lost.
>
> During the debate Justice Minister Nulsen said that Arthur Griffith (Lib.), who was Chairman of the Select Committee that inquired into the Juries Act had turned a somersault.

I do not think that that could be interpreted as "character assassination"—

> Nulsen claimed that the Council amendment removing the Press gag had been drafted with the co-operation of the Press.

He makes no reference to Mr. Griffith; it is an entirely separate paragraph. If anyone's name should have been highlighted, it is that of another estimable member. I think Mr. Griffith was a bit sensitive and hardly entitled to be as upset as he was.

Hon. A. F. GRIFFITH: I want Mr. Heenan to listen to this—

> Now he seems to have been in collusion with the Press and they have drafted amendments that will be of no value. I say definitely that these amendments have been drafted in co-operation with the Press and they are of no material value.

I do not want Mr. Heenan to take my word for this but to read it in the current Hansard or to get it from the place where I got it. That is what the Minister for Justice said. His remark was, "They have prepared amendments." Does that mean the Press and Bill Bowyang, or the Press and Arthur Griffith? We know what it means.

As to the suggestion that Governments accept all select committee and Royal Commission reports, I refer to the report of the Royal Commission on local government. That Royal Commission opposed adult franchise, but in the Bill before Parliament we find a provision for adult franchise in its greatest form. I want to read this from the select committee's report—

> Your Committee suggests that Section 5 of the Act be revised to establish that every person between the ages of 21 and 60 years who is of good character, who resides within Western Australia and who is enrolled on the rolls of electors entitled to vote at the election for members of the Legislative Assembly (subject to exemptions provided for in the appropriate section of the Act) shall be liable and eligible to serve as a juror.

The Bill provides for the ages 21 to 65.

Hon. E. M. Heenan: Get back to this "manner prejudicial to a fair trial."

Hon. A. F. GRIFFITH: I will get back to what I want to.

The Chief Secretary: This is a Committee stage when we are considering a particular item.

Hon. A. F. GRIFFITH: This is refuting what Mr. Heenan suggested came out of the select committee's report. I know the Chief Secretary does not like this because it refutes what he said.

Point of Order.

The Chief Secretary: I never object to any latitude being granted, but I think there is a limit beyond which members should not go. We have had a lot of second reading speeches.

The Chairman: Order! After all I am the one who considers whether the hon. member who is speaking is dealing with the subject matter; and both members

who have been dealing with the Bill have been allowed to get off the beam to some extent and have both quoted from the select committee's report. So long as they tie up their remarks with the matter before the Chair I am quite happy about the position.

The Chief Secretary: Still on a point of order, I was merely giving my opinion. Others can have a different opinion, but I say there have been second reading speeches here tonight.

The Chairman: Order! The Chief Secretary is not on the subject matter of the Bill although he might be on a point of order.

The Chief Secretary: I am still on a point of order and I rose because the hon. member said he would deal with what he liked in his speech.

Hon. J. M. A. Cunningham: The Chairman will see that he does not.

The Chief Secretary: I am asking that the Chairman shall do that. I do not want to block anyone, but I want members to be reasonable. When a member says he will get up and say what he likes on a particular matter, it is time he was pulled up.

Hon. H. K. Watson: I did not hear him say that.

The Chairman: There have been lots of worse things said than that.

Debate Resumed.

Hon. A. F. GRIFFITH: Of course, the Chief Secretary can rise on a point of order, and then make a second reading speech on the Bill. He has had lots of experience and he knows that a member can only say what he likes so long as it is within the Standing Orders. But this is a question of credibility. Mr. Heenan says that because of the words contained in the select committee's report the Government was bound to take notice of the report.

I want to point out that if the Government was bound to take notice of that paragraph, it was bound to take notice of other paragraphs! The first one was in connection with the age of 21 to 60. The report states—

> The judges suggested in view of their experience that the age be altered to provide for service of jurors from 30 to 65 years.

Point of Order.

The Chief Secretary: On a point of order, Mr. Chairman, I want to know what this has to do with the Legislative Assembly's amendments.

The Chairman: I must ask the hon. member to stick to the subject matter of the Bill. I think he is drifting away from it.

Hon. A. F. Griffith: I contend that I am sticking to the subject matter.

The Chairman: Clause 57 does not deal with ages of jurors.

Hon. A. F. Griffith: No, but as Mr. Heenan has told us, it deals with—

The Chairman: Printers, publishers and so forth. I must ask the hon. member to keep to that.

Debate Resumed.

Hon. A. F. GRIFFITH: He says that it was put in as the result of the committee's recommendations, and I say that his interpretation of the committee's recommendations was one which suited the Government. I have invited my colleagues on the select committee to refute what I said. We made a recommendation that the Government should have a look at the situation which was prevailing.

The Chief Secretary: It has done that.

Hon. A. F. GRIFFITH: Yes, and taken no notice of other things. As the Minister said, it has taken out of the select committee's report what pleased it. The only reason I am becoming agitated about this is, as Mr. Heenan will find, that the Minister made an accusation against me that I was in collusion with the Press. There was not a fabric of truth in that assertion, and the Minister has no right to make the statement. I hope the Minister for Justice, when dealing with our amendments, will not resort to the type of thing that he did on this occasion.

Hon. Sir Charles Latham: Let this Chamber deal with him if he does.

Hon. A. F. GRIFFITH: I would like to see the whole clause struck out so that the investigations which are going on overseas can be examined.

Hon. E. M. HEENAN: If the committee had any justification for saying that the Press acts in a manner prejudicial to a fair trial—

Hon. A. F. Griffith: I know the committee said that.

Hon. E. M. HEENAN: That is a most serious state of affairs, and I do not think that we should wait until some report is received from overseas before anything is done about it. If that is a fact, and the Press, maybe tomorrow or maybe next week, acts in a manner which will prejudice the fair trial of any citizen in Western Australia, by highlighting proceedings in the lower court—and that is not my opinion, but the opinion of the select committee—we should not wait until next month or next year before we do something about it.

Hon. Sir CHARLES LATHAM: I support Mr. Griffith. This question does not affect the Jury Act; it affects something more than that—the Criminal Code. Therefore a special Bill should be introduced to deal with it. Had we known of the statement made by the Minister for Justice in another place we could have

dealt with it. He had no right to reflect on a member's character, or suggest things that are not true. I very much regret that we did not take action at the time; but it is too late now.

The CHIEF SECRETARY: There is a little secret I want to tell members. Only today I was speaking to the Minister for Justice on this particular phase, and he said that he could not understand the row that people up here were making about it. He said that he had included it in the Bill only because the select committee had recommended it. Now because the Minister for Justice did something that was suggested by the select committee, he is being pulled to pieces over it.

Hon. A. F. GRIFFITH: I do not want to delay this, but I cannot let the Chief Secretary get away with that.

The Chief Secretary: I am only telling you the truth.

Hon. A. F. GRIFFITH: I know what I said about the Bill, and I object to the Minister for Justice accusing me falsely and basely of going into collusion with the Press to prepare the amendments.

The Chief Secretary: That is an argument between you and him.

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

Ayes	10
Noes	14
Majority against	4

Ayes.

Hon. G. Bennetts	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. F. R. H. Lavery *(Teller.)*

Noes.

Hon. N. E. Baxter	Hon. G. MacKinnon
Hon. J. Cunningham	Hon. H. L. Roche
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. A. R. Jones	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. R. C. Mattiske *(Teller.)*

Pairs.

Ayes.	Noes.
Hon. R. F. Hutchison	Hon. L. C. Diver
Hon. J. J. Garrigan	Hon. J. Murray

Question thus negatived; the Council's amendment insisted on.

No. 29.

Clause 57, page 35—To delete all words from and including the word "or" in line 34 down to and including the word "notwithstanding" in lines 5 and 6 on page 36.

Hon. E. M. HEENAN: This amendment is bound up with the previous one; and in view of the fact that a vote has been taken on it, I do not see any virtue in moving in the matter.

The CHAIRMAN: The question is that the amendment be not insisted on.

Question put and negatived; the Council's amendment insisted on.

No. 30.

Clause 57, page 36—To insert a new subclause to stand as Subclause (2) as follows:—

> (2) If the court at which any person charged with any crime in respect of which the penalty of death may be inflicted and at which such person may be or is committed for criminal trial at any time before the rising of that court states that in the opinion of the court in the interests of justice it is undesirable that any report of or relating to the evidence or any of the evidence given at the proceedings before that court should be published then thereafter no person shall print, publish, exhibit, sell, circulate, distribute or in any other manner make public such report or any part thereof or attempt so to do.

Hon. E. M. HEENAN: This amendment also is bound up with the previous two, and in view of the recent division, I do not see any virtue in moving in the matter.

The CHAIRMAN: The question is that the amendment be not insisted on.

Question put and negatived; the Council's amendment insisted on.

No. 36.

Second Schedule, page 39, line 4—Delete the words "Commonwealth Public Service—officers of."

The CHAIRMAN: The Assembly's reason for disagreeing is—

> It is necessary to include this group of persons to conform with Commonwealth law.

Hon. E. M. HEENAN: I hope the Committee will not insist on this amendment and the reason given in the Assembly's message is plain enough. We cannot override the Commonwealth Law. I move—

> That the amendment be not insisted on.

Hon. A. F. GRIFFITH: At the time I moved to delete the reference "Commonwealth Public Servants—officers of", I thought the Commonwealth Government would prevent such officers from serving. I am not insisting on the amendment.

Question put and passed; the Council's amendment not insisted on.

No. 9.

Clause 14, page 12—Delete all words after the word "notice" in line 1 down to and including the word "inspected" in line 4 and substitute the following:—"to be served on the person informing such person that their name has been recorded on the draft jury roll."

The CHAIRMAN: The Assembly agrees to the Council's amendment subject to the Council's making a further amendment as follows:—

Delete from the amendment all words after the word "delete" and insert in lieu the following:—

"subsection (6) and insert a new subsection (6) in lieu as follows:—

(6) The Sheriff shall cause a notice

(a) informing the person to whom it is addressed that his name has been recorded on the draft jury rolls;

(b) stating the procedure by which an exemption may be obtained;

to be served on every person whose name has been recorded on the draft jury rolls by posting it as a letter addressed to the person at his place of abode as shown on the said rolls."

Hon. E. M. HEENAN: I move—

That the Assembly's amendment be agreed to.

Members will recall that the amendment was moved by Mr. Logan. I agreed with it because I thought it was worth while. The further amendment of the Assembly adopts the suggestion of Mr. Logan, but improves the draftsmanship.

Hon. L. A. LOGAN: I suggest that no one can make any sense of the Assembly's amendment. Let us examine the wording of it. That does not seem to me to be plain English, and I am certain that Mr. Heenan has not read it. In framing the amendment it is evident that the Assembly did not take notice of Section 31 of the Interpretation Act which defines "the service of notice." My amendment covered the whole position in one line; yet the Assembly's amendment takes up two paragraphs to convey what I intended. In my view the Council's amendment should be insisted on.

Hon. E. M. HEENAN: Mr. Logan has referred scathingly to the drafting of the Assembly's amendment and says that it does not make sense. I do not claim to be an eminent English scholar, but I cannot find anything wrong with the phraseology. The wording seems to be perfectly clear and unambiguous. I cannot agree that it is poor drafting or bad English.

Hon. G. C. MacKinnon: In what way is it better than the wording of Mr. Logan's amendment?

Hon. E. M. HEENAN: Mr. Logan alleged poor draftsmanship, but his contention in that regard is groundless. If one were to say that Mr. Logan's amendment was better or more lucid, it would be a legitimate argument; but no one could say that the draftsmanship of the Assembly's amendment could be criticised.

Hon. A. F. GRIFFITH: I cannot see anything wrong in the phraseology used by Mr. Logan in his amendment, and I cannot understand why the Assembly should alter the phraseology. Both amendments seem to be clear.

Hon. E. M. Heenan: I must agree that Mr. Logan's idea is good.

Hon. A. F. GRIFFITH: In that event, the Council's amendment should be insisted on.

Hon. L. A. LOGAN: We should examine the Assembly's amendment and read the wording without taking into account paragraph (b). If that is done it does not make sense.

Hon. A. F. GRIFFITH: The position could be overcome by leaving out paragraphs (a) and (b) and then by saying at the end of that amendment "for the purposes of paragraphs (a) and (b) as hereunder."

Question put and a division taken with the following result.

Ayes	10
Noes	14
Majority against	4

Ayes.

Hon. G. Bennetts	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. G. Fraser	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. F. R. H. Lavery *(Teller.)*

Noes.

Hon. N. E. Baxter	Hon. G. MacKinnon
Hon. J. Cunningham	Hon. H. L. Roche
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. A. R. Jones	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. R. C. Mattiske *(Teller)*

Pairs.

Ayes.	Noes.
Hon. R. F. Hutchison	Hon. L. C. Diver
Hon. J. J. Garrigan	Hon. J. Murray

Question thus negatived; the Assembly's amendment to the Council's amendment not agreed to, and the Council's amendment insisted on.

Resolutions reported and the report adopted

A committee consisting of Hon. A. F. Griffith, Hon. L. A. Logan, and Hon E. M. Heenan drew up reasons for not agreeing to the Assembly's amendment to the Council's amendment No. 9.

Reasons adopted and a message accordingly returned to the Assembly.

Sitting suspended from 10.23 to 10.45 p.m.

RESOLUTION—STATE FORESTS.

To Revoke Dedication.

Message from the Assembly received and read requesting concurrence in the following resolution:—

> That the proposal for the partial revocation of State Forests Nos. 4, 7, 14, 22, 33, 37, 38, 49 and 51 laid on the Table of the Legislative Assembly by command of His Excellency the Governor on the 23rd day of October, 1957, be carried out.

BILL—FREMANTLE HARBOUR TRUST ACT AMENDMENT.

In Committee.

Hon. W. R. Hall in the Chair; the Minister for Supply and Shipping in charge of the Bill.

Clause 1—agreed to.

Clause 2—Commencement:

The MINISTER FOR SUPPLY AND SHIPPING: Before the second reading was moved I promised to supply information as to the number of ships and the amount of work done by these men—with particular reference to State and overseas ships—and how that work was apportioned. Mr. Roche was particulary interested in the figures. The analysis that has been prepared of the man-days worked, and the distribution over the various classes of shipping at Fremantle and on the slipway is from the 27th March, 1950 until the 30th June, 1957. These figures have been taken from the roster kept at Fremantle by Government officers, not by the unions. There is a Government officer employed by the Public Works Department for the purpose. The roster committee has submitted the figures over a seven-year period and they are as follows:—

Owner.	No. of Man Days Employed.
Petterson & Co., who work essentially overseas ships	49,781
Adelaide Steamship Co., for work mainly on tug boats	4,196
Triplet & Co.—essentially privately owned ships	7,582
Various owners and small contractors	5,128
	66,687

Those figures are for privately-owned vessels ranging from small craft to overseas vessels—

Owner.	No. of Man Days Employed.
State shipping Service—on its own work	24,315
Public Works Department	6,002
Fremantle Harbour Trust	1,148
Commonwealth Lighthouse service, on its own work	1,552
Total over seven year period	99,704

Of that total, 66,687 man-days were employed by the big shipping people and the various small owners, and 33,017—roughly one-third of the total—were employed on Government-owned vessels. Apart from that 37,715 man-days were worked on the slipway and this work is distributed over a number of vessels. For instance, over the seven-year period and on an average of 36 ships a year there were six State ships, five tugs—twice yearly—which were privately owned; five whalers which were privately owned, three State dredges, two corvettes—twice yearly—belonging to the Navy, two Fremantle Harbour Trust floating cranes, and one lightship, twice yearly.

So the distribution of the work is spread from overseas vessels, intrastate and interstate vessels, to vessels working in the harbour, as well as Navy vessels and those belonging to the Adelaide Steamship Co. That distribution of work shows that the pool of labour at Fremantle is used by all classes of shipping. Not every ship that comes into Fremantle uses that labour—they would not have occasion to do so unless something went wrong. So the labour is absolutely essential.

Mr. Roche was interested as to where the bulk of the payment would be. During the debate it was suggested that the State Shipping Service would be the greatest benefactor; but of course it would not be. Let us say that the State Shipping Service is the biggest customer; but the figures show that over the seven years overseas and privately-owned vessels used the labour more than the State vessels, the Commonwealth-owned vessels, the Harbour Trust and Public Works vessels put together.

How the service charge which is suggested in the Bill would be levied is a matter for the Harbour Trust to decide if the Bill becomes law. Clause 6 clearly states that the Harbour Trust would have authority to levy the rate of charge in whichever way it deemed fit by regulation. I was asked what that charge might be. I understand from one set of figures supplied by the union that the charge could be somewhere in the vicinity—based on the time lost by men attending the pick-up place over the year—of £6,000; perhaps a little over.

Taking the seven-year period, with figures which are not accurate in regard to unemployment, the Department of Labour has been rather on the conservative side and estimates that it could not be more than £4,000. Therefore, it would be somewhere between £12,000 and £6,000. If that be the case, it will be necessary for the Harbour Trust to decide to levy a service charge at a rate of something like ¼d. per ton. That would meet commitments for £12,000.

If, on the other hand, the lower figure of £6,000 is taken, the charge would be in the vicinity of ½d. per ton. On some

ships that would not work out at a very high rate, but it would be higher on others. The State Shipping Service would have to pay on that basis in regard to approximately 152,000 tons per year, because the ships go in and out of the harbour several times.

If the State Shipping Service paid on the basis of ¼d. per ton, it would require to pay £158 per year. That is an inflated figure. The Department of Labour took an outside figure, so that we would not put up a case to members which was found to be underestimated.

As I said before, it is up to the Harbour Trust to make the service charge, and it could be made under more than one heading. It could charge on the tonnage entering the port, or it could charge on the basis of the number of ships entering the port. It could average the charge on so much per ship. If the average tonnage going into the harbour was 9,000 tons gross, the Harbour Trust would need to charge something like £9 per vessel to meet a £12,000 commitment, or £4 10s. per vessel to meet a £6,000 commitment.

The charge would be somewhere between those figures. Nobody can assess it accurately because the unemployment figures rise and fall, depending on the volume of work available. For that reason there would be variations; but it seems certain that there would be a minimum of £6,000 and a maximum of £12,000.

Hon. J. M. A. Cunningham: The 99,000 man-hours: How do they pan out?

The MINISTER FOR SUPPLY AND SHIPPING: In regard to earnings?

Hon. J. M. A. Cunningham: Earnings or weekly work.

The MINISTER FOR SUPPLY AND SHIPPING: The total over seven years is 137,419 man-hours. That figure takes in work on ships and on the slipway. We would have to divide that figure by seven years and then by the week or the day. The average earnings of these men have been slightly above the basic wage.

Hon. J. M. A. Cunningham: They would have to work overtime at penalty rates at times.

The MINISTER FOR SUPPLY AND SHIPPING: Yes, on special occasions. That happens when there are accidents and ships urgently require attention. I pointed out before that it costs a lot of money when a ship is idle. It costs £600 a day to keep the "Koolinda" afloat, even if it does not move a mile. This is caused by maintenance, wear and tear, wages of the crew, keep of the crew, and fuel for auxiliary machinery while idle.

That gives some idea of what it would cost if the 30,000 and 40,000-ton ships were idle, because the "Koolinda" is just over 3,500 tons. Shipping companies prefer to have the men on call at all times and the men will answer the call at all times. This is a pool of labour which the shipowners are pleased to have in the port of Fremantle.

I am more convinced than ever after studying these further figures that a justifiable basis for a levy is to impose it on all tonnage using the port, as is done in regard to ships which enter Gage Roads or the harbour area. They pay tonnage dues to meet the cost of navigation and so on which they may never use.

It has been said that the labour of these men may never be used. That is true. However, there are ships that come in and out of the port during daylight hours. They do not use the lights, but they have to pay just the same. It all comes under the general cost of shipping; and, throughout the world, it is spread on the same basis. Whatever basis is used by the Harbour Trust, I believe that it should be an equitable levy on a general basis.

The dockers are used as much by private ship agencies as by any Government agency; and they are used as much on foreign ships as on Australian ships. There are no more United Kingdom and foreign ships using the port of Fremantle and inner harbour than there are Australian ships. That means that overseas vessels will not be contributing any more.

The cargo received at Fremantle is definitely divided between overseas and Australian ships. Of all cargo exported to overseas ports, nearly 50 per cent. is wheat. The type of ship which carries wheat invariably needs fitting out and uses a greater number of these men.

I appreciate your tolerance, Mr. Chairman, in allowing me to make this statement. I did so because I know members were interested to have some authentic figures presented to them.

Hon. J. G. HISLOP: Mr. Chairman, I take it you will allow one or two minor questions to be asked in regard to the Minister's figures, which were of great interest. I am at a loss to know how the figure of £6,000 or £12,000 was arrived at, because if we take the figure of 137,000 man-hours in seven years, that is 20,000 man-days per year. I take it that one man working continuously throughout the year would work roughly 300 man-days.

Hon. C. H. Simpson: About 250.

Hon. J. G. HISLOP: That would be four men to 1,000. That would give a pool of 80; whereas it is claimed there are 128 on the roster. That looks as though 48 men will not be working and will have to be paid wages. That is on the figures given to us. Over the seven years there must be a progressive increase; and if we gave a reasonable increase to the figure and made it 25,000 man-hours for this year, there would only be a pool of 100 men who were working regularly. We would then have 28 men on the roster not working

during the year. That would mean, if they each worked, roughly 7,000 man-days, which would have to be paid for; so the estimate of £6,000 looks very small.

On the estimate given to us it appears as though the charge per ship will be £1 per 1,000 tons and the charge to the State Government will be about £2,000 per annum. All told, the Government uses about 33⅓ per cent. of it, and I think the figure would work out to considerably more. I think it was said that the union's schedule gave the number on the roster as 128.

The MINISTER FOR SUPPLY AND SHIPPING: I point out—

The CHAIRMAN: This is Clause 2, the commencement. I thought it might be better for the Minister to speak on Clause 3 or some other clause, but if he desires to speak on the commencement he is entitled to do so and may proceed.

The MINISTER FOR SUPPLY AND SHIPPING: Thank you the figures I have given are taken from the roster and are authentic. The assessment of £6.000 Dr. Hislop said, is low. I said the figure was between £6,000 and £12,000 based on the tonnage that entered Fremantle last year —1956-57—which was for the inner harbour 8,112,129 tons; outer harbour 2,577,124 tons; making a total of 10,685,313 tons. To reach a figure of £12,000, according to my information, the charge would need to be one farthing, or as Dr. Hislop said, in the vicinity of £1 per 1,000 tons.

It is true there are 120 odd on the roster. When the legislation is passed the roster committee will fix a quota and all sorts of provisions will have to be complied with. Absenteeism will not be tolerated. If the roster is excessive, the roster committee will reduce the number of men.

At the second reading stage, authentic figures for the past 12 months taken from the official figures, showed that there were not a great number of men who would be receiving the attendance money. If the attendance money was based on the same amount as the waterside workers received, it would have amounted to £6,000 over the past 12 months. The figures I have been reading tonight are taken over 7¼ years. There is no doubt whatever that £12,000 would be an excessive amount just as £6,000 could be a light amount.

Clause put and passed.

Clause 3—Section 31A added:

The MINISTER FOR SUPPLY AND SHIPPING: I move an amendment—

> That after the word "harbour" in line 36, page 2, the following words be inserted:—
>
> for which purpose the slipways at the western end of the Fremantle inner harbour, known respectively as the South Slipway and the Rous Head Slipway shall be deemed to be included within the boundaries of the harbour.

These two sites were excised some years ago from the Harbour Trust area and vested in the Public Works Department. The men work on these sites and the amendment is to make certain that they will be included.

Hon. C. H. SIMPSON: I understand that the Fremantle Harbour Trust has jurisdiction over Cockburn Sound, but it is not included in the area specified by the definition.

The MINISTER FOR SUPPLY AND SHIPPING: The outer harbour comprises, I think, the area from Rockingham to Gage Roads, and the inner harbour from Gage Roads to about the traffic bridge. I do not think there is any need for the Cockburn Sound area to be included.

Amendment put and passed.

Hon. C. H. SIMPSON: I move an amendment—

> That after the word "charge" in line 5, page 3, the following words be inserted:—
>
> assessed at such rate per man hour worked as the commissioners estimate to be necessary and to be paid by persons actually employing casual workers as defined in Section thirty-one A of this Act.

This amendment really touches the root of the problem we have to deal with. Tonight the Minister has been good enough to give us some information and figures, but as it is about three weeks since we discussed the Bill, they are a little confusing. I have here a copy of a document, prepared by Mr. Troy, which I think puts the matter clearly. When the implications of this statement are understood it will be easier to follow some of the figures given by the Minister, and incidentally to see what is intended by the charge, which is probably adopted by the waterside workers from the attendance money provision now administered by the Stevedoring Industry Commission. The following in the statement which I refer:—

ATTENDANCE MONEY—POSSIBLE ANNUAL COST.

Assume that the Bill to amend the Harbour Trust Act becomes an Act; and

Assume that the Court of Arbitration awarded "Attendance Money" at the same rate as that at present being paid to waterside workers viz. 24s.; and

Assume that there are 250 days per annum for which attendance is required (i.e. 364 — 104 Saturdays and Sundays and 10 Public Holidays); and

Assume that the lost time factor as determined by the Court of Arbitration at the Award hearing, i.e. 16% equals

the number of occasions upon which workers attend at the engagement centre and are not engaged; and

Assume a constant number of workers registered in the industry as at the present time, i.e., 128 and an average of "absences" of 10 as at present, thus giving an average daily attendance of 108;

Then on the premises of the foregoing assumptions the following would be the Annual Cost:—

$$\frac{£24 \times 250 \times 108 \times 16}{20 \qquad 100} = £5,184 \text{ per}$$

annum actual payments. Add, say, £1,000 per annum Administration Cost (which we think very liberal). Estimated Total Cost—£6,184.

Assume that the scheme is funded out of harbour (tonnage) dues (only of vessels which at present pay dues) which at present are 1/12 pence per ton per hour; and

Assume last year's tonnage using the inner harbour (8,112,189) as a constant figure; and

Assume the same average time in port, i.e., 100.4 hours per ship the additional harbour due payable would be:—

$$\frac{6,184 \times 240}{8,112,189 \times 100.4} = \frac{1,484,160}{84,463,775.6}$$

= .000164 pence per ton hour.

Other charges which start in a small way sky-rocket to a fairly substantial figure; and so we cannot take the starting figure in this case and say that that will be the one which will apply for all time. It might go beyond the £12,000 suggested by the Minister. If it follows the course of the payment assessed to pay for the waterside workers' attendance money, it certainly will increase, because that started at 4½d., went down to 2d., and is now 2s., with the prospect of a further rise.

We will agree for the moment that the charge is small; but why should not the charge be confined to those who actually use the service? Mr. Logan told us that 1,100 ships entered the port and 100 received service. That does not appear to agree with what the Minister told us. The Minister also said that the State ships entered a number of times. That would mean that there could be a service charge for each time they entered the port; but that question does not matter very much. Under the proposal in the Bill a great number of ships will of necessity be bearing a charge whereas they receive no service. We think that is a wrong principle.

It would be a talking point against Fremantle harbour, which now has a reputation of being the dearest port in Australia; and I know that the trust is anxious to cut down charges in order to refute that report. The Public Works Department, the Fremantle Harbour Trust and the State ships use this service, and whilst it is claimed that some overseas ships, wheat ships and others, make use of it, no doubt they would be prepared to pay for the service received.

But I think there would be distinct objection to paying a charge for something they did not receive. On the figure that has been mentioned, a vessel of 10,000 tons would incur a service charge of between £6 and £7. That is not very much, but if the rate rose it would be one more added item and one more pinprick against those people which, I think, they would very much resent. The object of the amendment is to confine the charge to those who actually receive the service.

The MINISTER FOR SUPPLY AND SHIPPING: I explained, when speaking to Clause 2, that all classes of shipping call upon this labour at some time or other; and it is thought fair and equitable to make a charge on all those using the port. It is true that some vessels would never use it. But, as I explained before, this is one of those charges, like many others, that are left open, and for which perhaps they might never get a service. The hon. member said that the rate might possibly increase. There is no possibility about these things; it is a probability. Every charge that I know of has been increased at some time or other since I have been here; and they will be increased no doubt.

But as the charges increase, so do shipping freights and fares increase. It does not make the slightest difference what happens about rising costs; they are simply passed on and distributed over the whole community. The shipping people increased their freights throughout the world when ships had to go round the Cape because the Suez Canal was closed. It was done to such an extent that only recently they said they were able to reduce the freight on wheat by 3s. or 4s. a bushel. The shipping companies spread their charges over all their customers. I hope that the amendment will not be agreed to.

The Bill proposes to enable the Fremantle Harbour Trust to apply the service charge, as it is termed, in any manner the trust thinks fit. The Harbour Trust could say that it would be levied only on those who used the service.

Hon. H. L. Roche: Then why not put that in the Bill?

The MINISTER FOR SUPPLY AND SHIPPING: We think it is more equitable to spread it over all the shipping that uses Fremantle harbour.

Hon. H. L. Roche: It sounds a bit like a double-headed penny to me.

The MINISTER FOR SUPPLY AND SHIPPING: There is nothing double-headed about it. If the hon. member will support me, we can write into the Bill that the service charge will be spread over all the tonnage that uses the port. I think that is a fair and reasonable proposition. The authority which is required to administer this proposition should be given some latitude. The hon. member said that if a general charge were made it could deter shipping from using the port. I cannot see that. I have not a very wide experience in shipping, but with my limited experience I consider that an enormous amount would have to be involved before any shipping would be driven away from the port of Fremantle—not an infinitesimal amount proposed to be charged as a levy in connection with the fund.

Amendment put and a division called for.

The CHAIRMAN: Before tellers are appointed, I give my vote with the noes.

Division taken with the following result:—

Ayes	14
Noes	11
Majority for	3

Ayes.

Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. H. L. Roche
Hon. L. C. Diver	Hon. C. H. Simpson
Hon. A. F. Griffith	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. G. MacKinnon *(Teller.)*

Noes.

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. W. F. Willesee
Hon. W. R. Hall	Hon. F. J. S. Wise
Hon. E. M. Heenan	Hon. J. D. Teahan
Hon. G. E. Jeffery	*(Teller.)*

Pairs.

Ayes.	Noes.
Hon. Sir Chas. Latham	Hon. R. F. Hutchison
Hon. J. Murray	Hon. J. J. Garrigan

Amendment thus passed.

The CHIEF SECRETARY: The amendment having been carried, as there was no deletion of words, the subclause is incorrectly worded.

Hon. C. H. SIMPSON: I move an amendment—

> That the words "assessed at such rate as they estimate to be necessary" in lines 5 and 6, page 3, be struck out.

Amendment put and passed.

Hon. H. K. WATSON: I have two amendments to this clause on the notice paper and if you will permit me, Mr. Chairman, I will discuss the whole question in order to give some sense to the first amendment which I propose to move. We have been told that the whole purpose of the Bill is to provide the machinery so that the court will have the power to grant appearance money. If that is so, it seems to me that Subclause (5) is unnecessary. If the court has the power, I suggest that this provision is in the wrong Bill and should be in a Bill to amend the Industrial Arbitration Act. I think it would be wrong to amend the Industrial Arbitration Act by a clause in this Bill, and that is my reason for deleting Clause 5. I move an amendment—

> That the words "mentioned in Subsection (5) of this section," in lines 9 and 10, page 3, be struck out and the words "duly made and effective under the Industrial Arbitration Act, 1912-1952" inserted in lieu.

The MINISTER FOR SUPPLY AND SHIPPING: I hope the Committee will not agree to this amendment because it would render the Bill inoperative and would take us back to the position which exists now. The Arbitration Court has no authority at the moment to say who will administer this attendance money fund. The reason for the Bill is to give the Fremantle Harbour Trust the authority to make charges and make payments in accordance with the findings of the Arbitration Court, if it sees fit. The Arbitration Court cannot grant attendance money without having somebody to administer the fund to make the charges in order to pay the attendance money.

Hon. H. K. Watson: The Bill sets up the fund.

The MINISTER FOR SUPPLY AND SHIPPING: It sets up the authority, too. The hon. member needs to leave things as they are now because the portion he wants to delete is the crux of the Bill. If this amendment is carried and Clause 5 is deleted, the Bill wil be rendered absolutely inoperative and worthless.

Hon. H. K. WATSON: I rise to point out that the fund is established and the power to make the collections is established under Subclause (3). There is nothing in Clause 5, so far as I can see, but the making and amending of industrial awards.

Hon. L. A. Logan: Who gets this authority to amend?

Hon. H. K. WATSON: The Arbitration Court. If the Arbitration Court is given power to say there shall be appearance money, that power should be in the Industrial Arbitration Act. This is a Bill which provides how appearance money will be collected and by whom, but the actual award and amendment of the award should be provided for under the Industrial Arbitration Act.

The CHIEF SECRETARY: I hope the Committee will not be swayed by Mr. Watson. The information given by the Minister for Railways has been supplied by the Government experts who handle the whole of the industrial matters for the Government. Their considered opinion is that if this clause is taken out of the Bill, it might as well be torn up. I do not mind telling members that, because some

may want to seize on the opportunity of getting rid of this Bill. I will read the comment given by the men who are dealing with industrial matters from one year to another. It is as follows:—

> This is an attempt to remove Subclause (5) on page 3, which is the whole crux of the Bill, namely, to give the court authority to provide for attendance money. If that is deleted, we are back to exactly the same position as when we started, in that the court would not have the authority to deal with the matter.

That statement has not come from Mr. Strickland or from myself but from the men who handle industrial matters every day of the year on behalf of the Government. I would say that members want to be careful as to how they handle this clause. I do not think that the Committee should make any alterations which would leave the Bill, if passed, ineffective and incapable of being put into operation. The safest course is not to agree to the amendment but to take the advice of those who are handling industrial matters all the time.

Midnight.

Hon. L. C. DIVER: In due course I hope to destroy the Bill, but I do not want to take an opportunity such as this to do it. I agree with Mr. Watson that this paragraph should go into the Arbitration Act and while the Minister read what the experts had to say, I think these words are inserted in the wrong place. I support the amendment.

The MINISTER FOR SUPPLY AND SHIPPING: This is to be a new section to give the Harbour Trust authority to make and amend an award and to register an industrial agreement, etc. This is the crux of the Bill. Without it, the Fremantle Harbour Trust will have no authority to prescribe and make payments in accordance with any industrial order of the Arbitration Court.

Hon. H. K. Watson: Did I understand you to say that the Bill authorises the Fremantle Harbour Trust to make or amend an award?

The MINISTER FOR SUPPLY AND SHIPPING: I refer the hon. member to Subclause (5). What I said was wrong. It is the Court of Arbitration that has this authority. This authorises the Fremantle Harbour Trust to make a levy and to make payments in relation to casual workers. The only authority, in relation to labour, that the Fremantle Harbour Trust has, is given by Section 31 of the Act. This new Section 31A will give the Harbour Trust authority to control the fund. The hon. member says it is not going to give the trust that authority and he is opposed to the principle. Why not let it go into the Bill? If he is opposed to the payment of attendance money, what is wrong with this going into the Act?

Hon. H. K. Watson: You are on the wrong track.

The CHIEF SECRETARY: No. We have had expert and legal advice on this point and if this provision is taken out of the Bill, any authority for the Harbour Trust to make charges or payments will be absolutely taken away.

Hon. H. K. WATSON: We have the extraordinary spectacle of the two Ministers singing different tunes. The Minister for Railways has told us that the Court of Arbitration has power to award the payment of attendance money, but up to date there has been no one to whom it could say, "Collect the money," and the Bill has been brought in for the purpose of giving the Harbour Trust power to accept the direction of the court to collect the money and pay it to the men. Subclause (5) has no bearing on that at all.

An entirely different complexion is placed on the matter by the Chief Secretary. The Bill was given a second reading on the basis that the court had the power to award this appearance money, but the Chief Secretary now tells us that the court has not the power but that it is necessary for Subclause (5) to be included in order to give the court this power. If the Arbitration Court is to be given the power, and it has not the power already, then the Industrial Arbitration Act should be amended for that purpose. The Bill is no place for such an amendment.

The MINISTER FOR SUPPLY AND SHIPPING: I must insist that the advice I have is correct and that this clause will establish the authority to administer the fund. Take it out and there can be no fund.

Hon. L. A. LOGAN: It seems as though the nigger in the woodplie has been revealed. We agreed to the Bill, on the second reading, because of the statement made in this Chamber that the Arbitration Court had already granted the principle of attendance money to the ship painters and dockers. I am perfectly certain of that. Now the Minister, with a document from the industrial arbitration experts who deal with the Government business, tells us that this is included to enable the Arbitration Court to grant attendance money. The Bill was introduced on wrong premises in the first instance.

We are now informed that the Arbitration Court has not the power to give attendance money and that as a result it is necessary to include this provision in the Industrial Arbitration Act. This is not the place to amend the Industrial Arbitration Act. The amendment should be made by way of the Industrial Arbitration Act itself and not by a backdoor method such as this.

The MINISTER FOR SUPPLY AND SHIPPING: It has been stressed that two Arbitration Courts have agreed in principle

that these men should receive attendance money and have pointed out that there is no one who must pay the attendance money and no machinery for it. If the Bill is passed, application will still have to be made to the court. The Bill would establish the authority for the Fremantle Harbour Trust to make payments in accordance with the court's award, if it made the award. I have at no time tried to mislead the Chamber in this regard.

Hon. F. R. H. LAVERY: When dealing with the interim award the president of the Arbitration Court said—

> I have no doubt, therefore, that this court would have jurisdiction to grant the claim in one of two forms.

That is a point I wish to establish; that he used those words.

The CHIEF SECRETARY: That is so, and the court also said that until Parliament took action it could not award attendance money. The Bill is to make it possible for such payment to be granted. All the Bill seeks is to allow the court to set up the machinery and decide whether the award should be made, and I do not see how any member can refuse to support the measure.

Hon. N. E. BAXTER: It appears to me that the Government is trying here to do what should have been done in two separate Bills. I contend that the power sought for the Arbitration Court should be given to it under its own Act.

Hon. F. R. H. LAVERY: I will read the interim judgment given by the Arbitration Court at the time.

Hon. J. G. Hislop: Why read it again? We have all heard it.

Hon. F. R. H. LAVERY: I propose to read it, so that members may be under no misapprehension. The president said—

> As originally filed the reference related to the wages and working conditions of both permanent and casual employees in this industry, but at the hearing, the reference was amended to delete the claims relating to the permanent employees.

They number about 18 in this industry.

> The union claimed that the award when issued should provide for annual leave and public holidays, sick leave and long service leave for casual employees, and further claimed that registered casual workers who attend the recognised pickup centre and thus made themselves available for employment, if not engaged for work on the day of such attendance, should be paid an amount equal to four hours pay at ordinary rates for such attendance.
>
> Registered waterside workers enjoy similar privileges under the provisions of the Stevedoring Industry Commission Act (Commonwealth) and the claims in this case were drafted on the model of similar claims which the High Court of Australia recently decided a Conciliation Commissioner would have jurisidiction to grant under the Commonwealth Conciliation and Arbitration Act if he thought it just and expedient to do.
>
> I have no doubt therefore that this court would have jurisdiction to grant the claims in one or two forms in one of which the liability would be thrown on the employer by whom a worker was last engaged preceding the holiday, sickness or attendance in question, and in the other such liability would be borne by the next succeeding employer. It is obvious that either form would have an entirely arbitrary and often unjust result as between different employers and as the court has no jurisdiction to introduce an equitable and practical scheme these claims must in my opinion be refused. It seems to me, however, that some such scheme is eminently desirable. The decasualisation of work on the waterfront has to a large extent been achieved in recent years both in Great Britain and, so far as waterside workers are concerned, in Australia; the same considerations that led the British Parliament to decasualise dockers' employment and also led the Commonwealth Parliament to set up the decasualisation of the labour of waterside workers, apply to the casual workers in this industry. The industry requires a pool of labour which cannot be entirely utilised every day and although the roster system of engagement instituted by this court, and certain allowances made in the prescribed margins to some extent lessen the evils of the casual labour inseparable from the industry, some of the evils resulting from irregularity of employment inevitably remain.
>
> Any practical scheme must, however, depend on action by Parliament and it is for this reason that the court has taken the somewhat unusual course of issuing this interim decision, so that Parliament may have the opportunity of considering in this present session should it deem it advisable to do so, whether legislative action should be taken in relation to all or any of the claims I have mentioned.
>
> Consideration might also be given as to whether certain other matters which have hitherto been regulated by awards of the court or agreement between the parties would not be more appropriately administered by a statutory authority. I refer to the method of the engagement and transfer of labour and the roster system and possibly also the place and time of payment of wages.

I should, I think, say in conclusion that if Parliament does take some action in this matter any privileges granted will almost necessarily have some effect on the margins prescribed by the court, and a provision for liberty to apply to these provisions will therefore be reserved in any award which we issue.

The court has not yet had the opportunity fully to consider the other matters in dispute between the parties and we will therefore consider the matter further before issuing the minutes of the award.

The minutes were issued at a later date and were castigated by Mr. Christian at that time. But in this instance he agreed with the president. The court, in its wisdom says that it has jurisdiction to give an order so far as attendance money is concerned; but it has no statutory authority to say who shall pay, and therefore it asks Parliament to provide that authority. This has been plain all the way through.

Hon. J. G. Hislop: Then you agree with it.

Hon. F. R. H. LAVERY: Unless Parliament agrees to this Bill there will be no attendance money.

Amendment put and a division called for.

The CHAIRMAN: Before the tellers tell, I give my vote with the noes.

Division taken with the following result:—

Ayes	14
Noes	11
Majority for	3

Ayes.

Hon. N. E. Baxter	Hon. G. MacKinnon
Hon. J. Cunningham	Hon. R. C. Mattiske
Hon. L. C. Diver	Hon. H. L. Roche
Hon. A. F. Griffith	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. C. H. Simpson *(Teller.)*

Noes.

Hon. G. Bennetts	Hon. H. C. Strickland
Hon. G. Fraser	Hon. J. D. Teahan
Hon. W. R. Hall	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. E. M. Davies
Hon. F. R. H. Lavery *(Teller.)*	

Pairs.

Ayes.	Noes.
Hon. Sir Chas. Latham	Hon. R. F. Hutchison
Hon. J. Murray	Hon. J. J. Garrigan

Amendment thus passed.

Hon. H. K. WATSON: I move an amendment—

That Subclause (5), lines 13 to 23, page 3, be struck out.

The CHIEF SECRETARY: In view of the previous vote, it would be useless to oppose this at any length. It has been said that these amendments were introduced in the wrong Bill; so I assume that if we brought down a Bill to amend the Industrial Arbitration Act, and included these amendments, we would receive support.

Hon. H. K. WATSON: I suggest that the interrogation of the Chief Secretary is completely out of order.

The MINISTER FOR SUPPLY AND SHIPPING: Mr. Watson and Mr. Baxter said that these amendments were in the wrong Bill. Do they mean that they would be prepared to support the amendments if they were included in a Bill to amend the Industrial Arbitration Court Act?

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

Clause 4—Section 41 amended:

Hon. C. H. SIMPSON: I move an amendment—

That after the word "by" in line 25, page 3, the letter "(a)" be inserted.

This is a consequential amendment; and together with the others I have on the notice paper, it will divide the clause into three parts.

The MINISTER FOR SUPPLY AND SHIPPING: I do not agree with the amendment, but there is no point in opposing it, because it is consequential.

Amendment put and passed.

Hon. C. H. SIMPSON: I move an amendment—

That after the word "service" in line 26, page 3, the following be inserted to sand as paragraph (b):—

(b) adding a proviso as follows:—
Provided that service charges prescribed under Section thirty-one A of this Act shall be levied on and payable by only those persons who actually employ casual workers as defined by and provided under that section.

Contributions shall be made as directed from time to time by such employers of casual workers after the employment of such workers.

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

Clause 5—agreed to.

Clause 6—Section 65 amended:

Hon. C. H. SIMPSON: I move an amendment—

That all words from and including the word "and" in line 6 down to and including the word "classes" in line 11, page 5, be struck out.

The MINISTER FOR SUPPLY AND SHIPPING: This amendment is also consequential and there is no point in opposing it.

Amendment put and passed.

Hon. H. K. WATSON: I move an amendment—

That the figure "(5)" in line 19, page 5, be struck out and the figure "(4)" inserted in lieu.

This is a consequential amendment.

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

Title—agreed to.

Bill reported with amendments.

House adjourned at 12.41 a.m.

Legislative Assembly

Tuesday, 29th October, 1957.

CONTENTS.

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

QUESTIONS.

EDUCATION.

(a) Raising of School Leaving Age and Accommodation.

Mr. ROSS HUTCHISON asked the Minister for Education:

(1) How many additional pupils is it estimated will have to be accommodated over each of the next five years, if the school leaving age is raised to—

(a) fifteen years;

(b) sixteen years?

(2) If it is proposed to raise the school leaving age, is it intended to provide as prerequisites—

(a) additional accommodation in the academic, technical and domestic science spheres;

(b) expanded and new courses to cater for a wider variety of educational requirements in the new intake;

(c) reduced classes to ensure the greatest resultant value and obviation of disciplinary troubles;

(d) greatly increased and improved equipment?

(3) If not, what will be the prerequisites, if any, of the proposition to raise the school leaving age?

The MINISTER replied:

(1) If the school leaving age were raised by half-yearly intervals commencing on the 1st July, 1958, the increases would be:—

(a) to fifteen years: 1958, —; 1959, 1,380; 1960, 2,030; 1961, 2,160; 1962, 800.

(b) to sixteen years: 1958, —; 1959, 1,380; 1960, 2,030; 1961, 4,295; 1962, 5,240.

(2) (a) Yes.

(b) A committee of educationists and laymen is being set up to advise on the content of secondary education at all levels.

(c) Irrespective of the raising of the school leaving age it is the policy of the department to reduce over-large classes to within desirable limits whenever possible.

(d) The equipment at present supplied to schools, particularly to the new high schools and new centres, is considered quite adequate. Any expansion of the present issue must be determined by the finance available.

(3) Answered by No. (2).

(b) Scientific and Engineering Training, Lack of Students.

Mr. ROSS HUTCHINSON asked the Minister for Education:

(1) Is any concern being felt in the University of Western Australia, and/or in the Education Department with regard to