ceiving the report of the committee, rather than when he had only the bare official file to guide him. As to the hon. member's remarks regarding the secretary, it was impossible to reorganise the office from this end. He again assured the Committee that any recommendations for reorganization by the Agent General would receive the immediate attention of the Government. Mr. James, before he left, expressed a very strong opinion on this subject.

MR. LYNCH: As to giving information to provincial residents in the old country, he had it on authority which he had no reason to doubt, that Western Australia had been backward in the past. Queensland was the only colony sufficiently known at the post offices in remote places.

THE CHAIRMAN: The discussion must be confined to the item "Secretary."

MR. LYNCH: Was not the Secretary the vehicle for desseminating information as to our mines and lands?

THE CHAIRMAN: That matter had been discussed on the preceding item.

Items (2)—Inspecting Engineer £733, Assistant Inspecting Engineer £367:

MR. N. J. MOORE: Why this increase of £650? What economy had been effected? The increase seemed large in view of the few public works now being constructed.

MR. LYNCH: For an inspecting engineer £900 was none too much. While it was our duty to assess the value of the work done by this officer, it was for the Government to see that the State got fair value for its money. From knowledge he had lately obtained he believed the officer set down for this high and important position was certainly not the person suited to it. The officer was the late Engineer-in-Chief, Mr. Palmer, who might have been eminently fitted to fill the post he had been entrusted with in this State and also in India; but his duties as an inspecting engineer would be largely confined to inspection of machinery, and he was altogether misplaced in London. Was it the intention of the Government to retain him in the position?

THE TREASURER: The late Engineer-in-Chief was eminently suited to the position.

HON. F. H. PIESSE agreed that Mr. Palmer was eminently suited to the position.

THE TREASURER: A considerable amount of indenting was going on, and it was necessary there should be provision made for efficient inspection. A few pounds saved in regard to inspection might mean a great loss in regard to the material supplied, and it would be a mistake to cheesepare in regard to such an item.

MR. N. J. MOORE: How was the work paid for previously?

THE TREASURER: By commissions. The money voted this year represented a saving on the amount paid in past years.

Other items agreed to, and the vote passed.

On motion by the TREASURER, progress reported and leave given to sit again.

ADJOURNMENT.

The House adjourned at 22 minutes past 11 o'clock, until the next afternoon.

Legislative Council,

Wednesday, 30th November, 1904.

The PRESIDENT took the Chair at 4·30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the MINISTER FOR LANDS: 1, Public accounts for the financial year ended 30th June, 1904. 2, Department of Agriculture—Annual report for the financial year ending 30th June, 1904. 3, Report

of the Acclimatisation Committee, 1902-3 and 1903-4.

QUESTION—KOOKYNIE LOCKOUT PROSECUTION.

COUNSEL'S FEE, ETC.

HON. M. L. MOSS asked the Minister for Lands: 1, What is the amount paid by or charged against the Government for Mr. N. K. Ewing's journey to and services at Kookynie, in connection with the recent police court prosecution there against a mining company for being concerned in a lockout? 2, Is this Mr. Ewing the same gentleman as the legal practitioner who defended the men for alleged striking in connection with the recent timber mills dispute? 3, Why was not a Kookynie or other legal practitioner residing near the locality retained to prosecute in the lockout case? 4, If it were necessary to send a legal practitioner from Perth, why was not one of the qualified officers of the Crown Law Department requested to undertake the prosecution? 5, What are the reasons which induced the Government to retain the services of Mr. Ewing to conduct the prosecution in question?

THE MINISTER FOR LANDS replied: 1, £100, to include all fees on appeal. 2, Yes. 3, Because it was deemed advisable to retain counsel of experience in practice under the Act. 4, The law officers of the Crown were otherwise engaged, and it was realised that an important principle was involved on which the complaint would serve as a test case, and as Mr. Ewing had made a special study of the Acts of this and other States and the decisions thereunder, it was deemed desirable that he should be retained to conduct the case. 5, See answer to Question 4.

MOTION TO DISAPPROVE.

HON. M. L. MOSS: I beg to move:

That in the opinion of this House the action of the Government in retaining a legal practitioner residing in Perth to prosecute in the recent lockout case at Kookynie was not warranted in the circumstances.

Members may think that I was somewhat precipitate in giving notice of motion before I got answers to my questions, but a rumour was abroad to the effect that £100 had been paid for this gentleman's services, and the answers to the questions have amply justified the rumour and my giving notice of the motion. I have no hesitation in saying that a greater abuse of the power of any Government has never been brought to light than the answers to these questions indicate. Firstly, I want to know why it is that practitioners of the Supreme Court residing in that district were not retained for the purpose of doing this particular piece of business. I think every hon. member will admit, and it has been pointed out by one respected member of this Chamber, that the circumstances of Kookynie and surroundings are sufficiently uninviting, that if the Government have any patronage to bestow in this direction it should be bestowed on gentlemen in the locality. I shall deal later with some of the reasons given in these answers; and I think I shall be able to show that there are absolutely no grounds for what the Government have done. The next thing I want to know is what right the Government have to interfere in these matters. Did they interfere in a similar matter when the men employed in connection with the timber mills went out on strike? Certainly not. We find, as these questions indicate, that the gentleman whom the Government retain to prosecute in respect to the lockout is the one who was engaged by the men to take their part in connection with the strike at the timber mills. It is a remarkable circumstance that this gentleman is solicitor to a very large number, in fact I believe to the majority, of the labour unions in this State. We also know from the debate that took place on the second reading of Truck Act Amendment Bill introduced by Sir E. H. Wittenoom, that the gentleman in question is the practitioner who, if he did not stir up the men to institute that litigation, was responsible for all the legal work in connection with it. Does this not justify me in asking this question: "Do the Government represent the people in this State?" Or am I justified in asking this question: "Are the Government representing the labour unions throughout the State?" We find that when the men are accused of striking, the Government stand off, and that their claims are advocated by the same gentleman to whom the Government now pay a positively enormous fee to conduct a simple prosecution in a police court. The

Government have no right whatever to interfere in a matter of this kind. They should hold themselves aloof from these industrial disputes, and not take steps, certainly not to the extent of paying £100, to send a legal gentleman from Perth to represent these men. I do not enter into the question of whether this company deserved to be prosecuted; but I defy any member or the Government to contradict this statement that the labour unions throughout the State have a considerable amount of accumulated money. We know they are well equipped with their presidents, treasurers, and committees and that they are, on the score of funds, very amply provided for by their own people. In fact, from the experience I have had in the last few months in this country, I think they are capable of organising themselves very well in looking after their affairs. Why should the taxpayers' money be expended to the amount of £100 to fight a case of this kind? It clearly indicates that the Government are taking up the attitude of strong partisans in a matter of this kind. Do the Government imagine that this House is composed of a number of children, or do the Government think that reasonable beings are sitting on these benches, when we are told that the reason why a Kookynie or other legal practitioner residing in the locality was not engaged in the work was that they desired to retain counsel of experience in the practice of the Act? This Act was passed in 1901-2. The prosecution was under Section 98 of the Act, which provides that any person taking part or being concerned in any matter in the nature of a strike or lockout shall be guilty of an offence. On the 14th April of this year there was a case of Buchanan *v.* the Registrar of Friendly Societies, in which the Full Court delivered judgment through Mr. Justice McMillan, and a strike was defined by his Honour thus:—

> A strike may be defined as a refusal by workers to continue to work for their employer unless he will give them more wages or better conditions of labour. A lockout is the converse of a strike. This is a refusal by an employer to allow his workmen to work unless they will accept his rate of wages or the conditions of labour he imposes. In neither case is the employment finally determined; the intention of the workmen in the one case, and of the employer in the other, being that the employment shall be continued if a satisfactory settlement of the matter in dispute can be arrived at. A strike or lockout, as the case may be, is used as a weapon to bring about an arrangement satisfactory to the party using it.

There is a clear definition of what a strike means under the Act, also a clear definition of what a lockout is. It needed no gentleman to be retained as counsel who had experience in the Act. There was a simple definition of a strike or lockout. I hardly think we wanted a legal definition of it. It was given back in April. The Crown law officers were fully cognisant of it. I asked why a Crown law officer was not sent. The answer given is that the Crown law officers were otherwise engaged. I am sorry to say that I do not believe it, and I have grounds for making the assertion; but I am going to accept it for the moment, and I tell the Minister that the person instituting a prosecution has the right to say when the prosecution should be heard, so that it was in the hands of the Crown law officers to fix the date for the prosecution to be heard in order that one of the officers of the department could conduct it. Therefore, if it were necessary to send a person from Perth, there were experienced gentlemen in the Crown Law Department capable of undertaking the prosecution, and, I think members of this Chamber will agree with me; quite as intelligent as the gentleman who was the representative of the labour unions from the legal point of view. There were practitioners at Menzies and Kalgoorlie. I am thoroughly justified as a member of this House and as a representative of the public in bringing forward what I consider a gross abuse of the position and powers which the Governm nt have exercised and are exercising at the present time. This is an overwhelmingly large fee for the services rendered in conducting a prosecution in the police court. Five or six guineas at the outside is a fair thing for a man resident in the locality.

THE MINISTER: There was the question of appeal.

HON. M. L. MOSS: This may be an ingenious answer to the question, but it is a clumsy one from my point of view. The £100 was to include all fees on appeal; but how were the Government, when they engaged Mr. Ewing, to know

there would be an appeal? They paid him £100 to appear in the police court; and let me tell the Minister that there cannot be an appeal at all on a question of fact. It is the mere arguing of a question of law, and I judge the fee would certainly not have come to 20 guineas if the best counsel in Perth were retained to argue it. It is a scandal and disgrace that 100 sovereigns of the public money should be expended for a purpose of this kind, and expended, I have no hesitation in saying, in connection with a matter that would be just as well, and, with all due respect to the opinion of the Minister for Labour or whoever is responsible for this, just as competently undertaken by a large number of legal practitioners who are carrying on their practice and have reputations on these goldfields. I do not know what my friends from the goldfields say with regard to this. Surely the claims of the legal practitioners in those districts are entitled to some consideration, and if the Government have this patronage to dispense, why is it necessary to send a practitioner away from Perth, when a simple matter of this kind could be as simply, conveniently, and competently dealt with by persons resident in the locality? But it is the waste of public money which I complain of. With regard to Government work, I seek none of it myself. Ever since I have been a member of Parliament I have studiously set my face against Government work coming to my office, and whilst I remain a member of Parliament I refuse to accept any briefs or retainer from the Government at all; consequently, as far as I am concerned, no member can stand up and say I do this because either myself or my firm are not receiving patronage at the hands of the Government. I would not have moved regarding this matter but for a boast having been made in Perth that £100 had been paid for this service. At first I refused to believe it. I asked Mr. Ewing what fees he did receive, and he declined to tell me. I thought it time then, when a scandal like this took place, to probe the thing and ascertain what had been obtained; and I have no hesitation in blaming the Government for taking the action they have in this matter, apart from the fact that they had no right to interfere in an industrial dispute of this kind, which does them a considerable amount of discredit, when we find that in a dispute of a similar character on the other side regarding the men on the timber mills the Government did not interfere. The Government came to the rescue of these unions with 100 sovereigns for employing someone. The Minister for Labour holds himself out as having done something wonderful, saying "We have prosecuted this company in this case and shown the companies that they cannot do what they like." The duty of the Government is not to protect the interests of the men or the companies, but to take up a neutral attitude in these industrial matters, and certainly not spend public money on doing that for which I think the funds of the unions are the proper and legitimate funds to be drawn upon. I should like to know whether the Government on their own motion selected this gentleman, or whether the unions in the locality were instrumental in suggesting to the Minister that it would be a good thing to get Mr. Ewing to do this work. To my mind it is a most idle excuse to say that this gentleman possesses exceptional experience under this Act. It does not want a person of any experience to prosecute in a matter of this kind; but where is the experience? The statute has been in force 12 months or two years at the outside, and probably there have been one or two prosecutions at the outside under Section 98. The excuse that this gentleman has either appeared for a union or against a company in proceedings like this is, I think, a paltry one, which in no way justifies the action of the Government in this matter. I have nothing farther to add, and in moving the motion standing in my name I trust the good sense of the House will mark the disapproval that members must feel. I think if they look at this thing fairly the motion will be carried, and will at any rate prevent in the future a recurrence of what is as bad a thing as anything which has been brought to light for some time.

THE MINISTER FOR LANDS: I move the adjournment of the debate until Tuesday.

HON. W. KINGSMILL (Metropolitan-Suburban): I second the original motion.

[Motion for adjournment not pressed.]

HON. C. E. DEMPSTER (East): I think Mr. Moss deserves credit for the way in which he brought this matter forward, for in my opinion it is a most undesirable state of affairs that the Government should take action in a dispute of this kind and pay the costs of prosecution, when we know that they would not have come forward had it emanated from the employers. There is a wish to recognise that this is an undesirable state of affairs, and I repeat that the hon. member deserves great credit for bringing the matter forward. With these observations I support the motion.

HON. R. D. McKENZIE (North-East): As a goldfields member, I desire to support the motion brought forward by Mr. Moss. I am surprised indeed to learn that the Labour Government have lowered themselves to adopt such tactics as have evidently been adopted in this case. On the goldfields there is no one against whom more bitter feeling is shown than the merchant or tradesman who goes out of the district to get work done or to buy stores or anything of that kind; and I think in this instance there are many gentlemen who practise law on the goldfields who could have performed the duty which Mr. Ewing was paid such an enormous fee to go from Perth to do. I also agree with Mr. Moss that it is not part of the Government's duty to interfere in industrial matters such as have been mentioned. I do not wish to say much on the subject, but just to enter my emphatic protest against the manner in which the Government have dealt with this matter.

On motion by the MINISTER, debate adjourned until the next Tuesday.

LOCAL COURTS BILL.

SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew): In moving the second reading of the Bill, I shall be surprised if this very useful measure which I now submit to the consideration of hon. members does not meet with the approval of the House. This is a measure demanded by the growth of the State, and a measure which, so far as I can see, has been framed with one idea—to provide for dispensing justice as cheaply as possible. The late Colonial Secretary is responsible for by far the greater portion of the Bill, and the present Government have seen very little reason to make any important amendments to the measure. The Bill is based on the present law in England as set forth in the County Courts Act, which has been followed in Australia. Our Small Debts Ordinance Act of 1863 was taken from the only Act in force at that time, and it was not till 1888 that the County Courts Act passed the Imperial Parliament. It is not embodied in our principal Act which, as I said before, was passed in 1863; and strange to say we have been slow in adopting what the wisdom of the British Legislature considered essential, and what seems so especially suitable to our present circumstances. This is rather a bulky measure, and I do not think it necessary to weary members by dealing with the many clauses, which will leave the law very much in the same position as before; but I wish, as far as my ability will enable me to explain a Bill of this description, to try and explain the different clauses affecting legislation, or which I may consider require some explanation from me. Clauses 8 to 12 deal with persons who shall have power to hear cases in Local Courts. It is proposed that except under special circumstances only magistrates shall have the authority to sit. At present magistrates may sit alone or in conjunction with justices of the peace, and in the case of a difference of opinion that of the majority prevails. This system does not obtain in any other State of Australia; and it is not considered advisable that it should continue here, but that the deciding of such cases should rest with a stipendiary officer who is responsible through the Government to Parliament, and who, even though he be not a lawyer, is possessed of some magisterial training. No doubt many justices will be only too glad to get rid of this responsibility. However, cases may arise in which it may not be desirable to insist on a resident magistrate presiding. The magistrate may be ill or may be absent, and it may be necessary for someone to take his place. In that event a justice of the peace may, at the request of the ill or absent magistrate, sit in the magistrate's place and exercise his powers; but when that is done the magistrate must immediately report the matter to

the Minister, and must show some justification for appointing a substitute. Clauses 16 to 21 deal with bailiffs, and so far as I can perceive need little explanation. They appear to be in conformity with the existing law. Clauses 22 to 27 appear to break a little new ground; and the reasons for that are apparent. Clause 24 enables a magistrate to inquire into any charge of extortion or misconduct against any officer of the Local Court, and also empowers the Minister in his discretion to direct that the officer shall be dealt with under any Act for the regulation of the public service. This will not, I understand, relieve the offender from a criminal prosecution if such be deemed necessary; in fact, it is intended to apply to cases which merit only slight punishment. Clause 29 restricts appearance in court either to the party himself or to a legal practitioner; but by special leave of the magistrate an agent may appear for a party, and may receive such reward for appearing as the magistrate may allow him. I understand this is not an innovation. It has been the practice in this State for some years.

HON. M. L. MOSS: Except as to the last paragraph.

THE MINISTER: The magistrate decides what reward the agent shall receive. As to the extent of jurisdiction, it is proposed to follow the present law. The maximum which may be sued for in the Local Court is £100. In New South Wales the maximum is £200, in Victoria £500, in South Australia £490, in Queensland £200, and in Tasmania £300. But in these countries the courts are presided over by legal pactitioners. Here, without exception, every magistrate is a layman, and has had no legal training; so it would never do to place too much responsibility on a magistrate. Clause 35 empowers the Governor, by proclamation, to grant any court extended jurisdiction to the amount of £250. Clause 34 is a new departure. Under the present law, if I owe a man £100 but have a counterclaim against him for a sum exceeding my debt to him, he can sue me in the Local Court and can get speedy judgment and execution against me, while I am left to the more tardy process of moving the Supreme Court, because my counterclaim exceeds £100. This is manifestly unfair, and the Bill seeks to alter it. Nevertheless, no relief can be given to the plaintiff in excess of the amount for which the court has jurisdiction. If the counterclaim is for £150, it will stand, I presume, as £100.

HON. C. E. DEMPSTER: Why not increase the jurisdiction?

THE MINISTER: We cannot very well place any additional responsibility on the magistrate, except in special cases when the jurisdiction may be extended. The court at any time has power to refer a case to the Supreme Court to be dealt with. Clause 37 abolishes Local Court districts, and gives a Local Court jurisdiction not merely as at present over one district, but over the whole State. This is intended and is needed to meet local conditions. As an instance, there is a large sawmill eight miles from Collie. Just outside Collie is the boundary of the magisterial district; and Local Court litigants at the mill have to go to Bunbury to get redress, because they happen to be in the Bunbury magisterial district. The Bill will enable a Local Court sitting in any locality of the State to meet the convenience of the people. Clause 40 is very important, and is, I think, based on common sense. It authorises a Local Court to try cases entirely outside of its district, provided that both parties agree that the court shall do so, and sign a memorandum to that effect.

HON. M. L. MOSS: That has been the law for years, since 1894.

THE MINISTER: In Clause 46 we have provided for default summonses on a more modern footing. The plaintiff will be able to obtain summary judgment in default of defence; and following the Victorian Act, he can apply to the magistrate in chambers for summary judgment when notice of defence is given, unless the defendant can satisfy the magistrate that he has some *bona fide* ground of defence. Clause 49 is the existing law here, in Victoria, and in New South Wales. It is only right that power to amend the defence should be given, either with the consent of the other side or after proper notice to the clerk of the court. By Clause 50, in the interest of the defendant we have enabled the defendant to pay money into court with or without a denial of liability, and have provided that where a sum less than that

demanded is paid into court, it shall remain there till the case is disposed of, unless accepted by the plaintiff in satisfaction. Hitherto, if a man paid money into court, there was no possibility of his getting it back. It was handed over to the plaintiff. Clause 58 is in line with the New Zealand Act. It may be inconvenient for a youth between the ages of 18 and 21 to get parents or guardians to sue in his name. Boys of that age are now unable to sue in person in Local Courts, except for wages; but this clause will enable them to sue or be sued in their own names. Clause 66 is very necessary for the saving of legal expenses. Any party to an action can call on the other party to admit any fact or document which is not really in dispute, but which, unless admitted, may put the opposite party to some expense in proving. If the clause is passed, one party can call on the other to admit or to deny a certain statement. This will save expense to litigants, and is, I believe, the present practice in the Supreme Court. Clause 70 also seeks to save expense by enabling the evidence of a person who is absent from the State, or is ill, or is over 100 miles from the place of hearing, to be taken in court or in chambers, or before a justice of the peace. Doubtless many may think that a startling innovation; but the experience of the Crown Law Department shows it to be necessary. Provision is made for the cross-examination of a person giving evidence in this manner. This provision is taken from the law of Queensland and New South Wales. Clause 77 is new. It gives power to the clerk of court, by consent of the parties and with leave from the magistrate, to settle the terms on which an admitted claim shall be paid, and also the terms in any disputed claim which does not exceed £5. By Clause 84 the costs will be fixed in future by regulation; not as at present by law. The costs of Local Court proceedings are very high; and the Government intend to reduce them considerably. They are far in excess of the costs levied in the other States.

DR. HACKETT: On what precedent is that clause founded?

THE MINISTER: I cannot say.

HON. M. L. MOSS: It is not new. It has been the law since 1863.

THE MINISTER: Clauses 100 to 107 give jurisdiction for the recovery of possession of land in all cases where the rent does not exceed £100 per annum. Now an action lies only when the relation of landlord and tenant exists, and where the right of re-entry is claimed for non-payment of rent; and it is necessary that six months' rent be due. This has been found to make it almost impossible, without bringing a Supreme Court action, to eject a man allowed to become a tenant of a house. The Bill proposes that the lessor may recover when rent is in arrear for 10 days in the case of a weekly tenant, for 21 days in the case of a monthly tenant, and for 42 days in the case of a quarterly tenant. This is taken from the New Zealand Act. Clause 104, following the Victorian law, enables the owner of land, the value of which does not exceed £100, to dispossess anyone who occupies it without right, title, or interest. Clauses 108 to 114 deal with appeals. In certain instances a dissatisfied party may appeal to the Supreme Court. The Circuit Courts Act empowers the Governor to declare that Circuit Courts may be held in certain places, but provides that these courts shall be held quarterly. In some cases there is no need for their sitting quarterly; so the Government ask Parliament to amend that Act so that the Governor may decree that the court shall sit when necessary—not automatically, once a quarter. Clauses 121 to 126, containing general provisions for the enforcement of judgments and for executions, have been recast and modified, and provide means of levying an execution on land without the need for an action in the Supreme Court. Clause 121, providing against the non-payment of judgment debts, is adopted from the Queensland Act of 1891. Most of the clauses following are the existing law. I beg to move the second reading of the Bill, and hope it will prove acceptable to members of this House. Any amendments which may be suggested will have careful consideration.

HON. C. A. PIESSE (South-East): This Bill seems to cover a lot of ground which ought to be covered by a measure of this nature; and the only trouble I can see is the limit of jurisdiction. This, I take it, members will look carefully into, and I trust they will consent to

increase the amount to at least £250. I cannot understand why, if a magistrate is competent to give a right judgment up to £100, he is not equally competent to give a right judgment up to £250. It seems to me to require the same amount of common sense and the same knowledge of law in the one case as in the other; therefore I trust that people living in distant parts of the country will not be placed at a disadvantage as compared with people in Perth in bringing cases before the Local Court, and members will know that a litigant is sometimes obliged to reduce the amount of his claim in order to bring it before the Local Court in preference to coming to Perth. This practice should not exist, and it is the duty of this House to see that it is continued no longer; and believing that a magistrate who is capable of judging on a case up to £100 should be equally capable of judging on a case up to £250, I do trust that in Committee a change will be made by increasing the amount of jurisdiction to at least £250.

HON. J. W. HACKETT: On your argument, why not to £1,000?

HON. C. A. PIESSE: Yes; £1,000 if you like. There is a feeling abroad now that we should decentralise as much as possible, and I think this should apply also to the administration of law, by giving extended jurisdiction to Local Courts in distant places; and I would extend it even to £1,000. Why should not the best solicitors be obtainable to conduct a case in a Local Court at a long distance from Perth, or why should not solicitors be obtainable who are capable of properly conducting cases up to the amount of £250? Why is it not possible for solicitors to place a case before a magistrate in such a way as to obtain a right decision? Unless extended jurisdiction is given to Local Courts held in places distant from the capital, some localities will appear to be more favoured more than others in the administration of law; and, as I have said, I think the jurisdiction should be extended up to £250.

HON. J. W. HACKETT: Why make any limit?

HON. C. A. PIESSE: I have not stated any limit, though I admit that practically there should be a limit, because any claim above £250 requires more responsibility and greater care in dealing with large amounts.

HON. J. W. HACKETT: Very few magistrates in this State have had a legal training.

HON. C. A. PIESSE: Then why put a man in the position of a magistrate who has not had the necessary training? I could mention one instance of a man who came off a ship, and after being in the State six months was made a magistrate. It is said of course that many of the magistrates in distant parts of the State have to fill the two positions of medical officer and resident magistrate; but I think we have no right to take these men away from their proper calling as doctors, and put them on the bench as magistrates. It is a standing disgrace that the system was ever started, and still more that it is being continued. This Bill will meet many wants that are felt at present, and I trust it will pass the House with some slight amendments. If amendments are suggested, no doubt the Government will try to meet the wishes of members. I have pleasure in supporting the second reading.

HON. M. L. MOSS (West): In supporting the second reading of this Bill, I think that on the whole members will agree that it provides a much-needed consolidation of the various statutes dealing with the jurisdiction of superior courts in this State; and, as pointed out, it does in some instances bring up to date and confer powers which are needed by resident magistrates of Local Courts which they have not at the present time. There are certain principles in the Bill which would be very dangerous if adopted. The first of these is in Clause 29, which contains an unheard of principle in any of the Australian States, and heard of only in the case of New Zealand, where it has been tried in an experimental way. This principle enables persons to appear as advocates without any legal training or other proper qualification, and enables them to claim remuneration for services rendered as advocates. I have protested before against the principle, particularly in dealing with the Arbitration Bill a short time ago; and I again protest against this unheard of principle being incorporated in the present measure. I want the Minister to point out to me in what Australian State or what portion of

the British Empire other than New Zealand legislation of this kind is in operation. When this Bill was first introduced in another place, it did not contain the particular principle to which I am objecting, and I understand it was introduced as an amendment by a member of another place, no doubt with the best of motives; but I am personally not prepared to concede the principle.

HON. J. A. THOMSON: Quite naturally so.

HON. M. L. MOSS: Yes; naturally so. It is of the highest importance that where there are qualified men who have passed examinations which give some guarantee to the public that they are able to do that which they undertake to do, we should not lightly introduce a principle of this novel kind. For one reason, I have some regard for the magistrates in the country that they shall not be bothered or annoyed by advocates appearing before them with no legal training; budding forth as advocates in Local Courts, and wasting the public time. I must also seriously and strenuously oppose the principle in Clause 35 (discretionary power to extend jurisdiction). I am thoroughly in accord with the remarks of Mr. Piesse as to the necessity of decentralisation in this State and applying it as much as possible, and I have on a number of occasions said it is improper that the whole legal business of this State in cases involving over £100 should be confined to the Perth centre. There is no reason why this should be so; and I agree that we should, as far as possible, carry the administration of law to the people in distant parts of the State, in order that they may have the benefit of law brought to their doors. As to the judicial bench being able to cope with the increased work which a decentralised system would throw on the Judges, it appears to me that the Judges have been called on to go out of Perth on very few occasions, and I think it is proper that Circuit Courts should be established, particularly where there is a railway service. The expense of appointing one more Judge is a small matter, as compared with the large expense entailed on litigants in having to bring cases to Perth for trial. The way to grapple with the difficulty is not that which is provided in Clause 35, which enables the Governor in Executive Council to confer extended jurisdiction up to £250 in particular cases, at discretion. I want members to understand that a comparison with what takes place in other States in Australia will not enable members to come to a right conclusion as to what the jurisdiction of Local Courts should be in this State, because the conditions are not similar. In New South Wales, for instance, there is an intermediate court for small debt cases up to £20 or £30 jurisdiction. Above it comes the District Courts, with jurisdiction up to £250; and these are presided over by a legal practitioner, who holds the position under the same conditions as a Commissioner of the Supreme Court when appointed for special purposes; and the proceedings in those District Courts are exactly the same as in the Supreme Court. There is a similar practice in Victoria, where there is jurisdiction up to £500 in County Courts. Every County Court Judge in that State has held a high position at the bar, and is a trained professional man fitted to be trusted with jurisdiction up to £500; also many of these learned gentlemen have acted on the Supreme Court bench from time to time. Mr. Piesse seems to think that it will be safe to give jurisdiction to a resident magistrate in this State up to £500 or even £1,000; but I can assure the hon. member that great injustice is likely to be done by such system of extended jurisdiction. Standing in my place in this House, the last thing I should attempt to do is to belittle the stipendiary magistracy of this State; but when I see the Government propose to give a £200 jurisdiction, I have no hesitation in saying they are going too far. In special cases if the parties choose, according to Section 240, and this provision has existed since 1894 in this State, there is the right to have such a case heard. But no instance has occurred in Perth or Fremantle where that consent jurisdiction has been carried out. The greatest injustice will be done if we give jurisdiction up to £200. A study of the law requires a considerable amount of close application for many years, and the ability to judge evidence and to understand the principles of evidence are important matters. A great injustice may be done by the best men if they depart from established

principles. I can assure members this is not the way to deal with the matter in the best interests of the country. The late Mr. Leake when Attorney General said that when vacancies occurred in the stipendiary magistracy he intended to appoint professional men, for it was not in the interests of the country to appoint laymen. But I say that young professional men not experienced should not be placed on the bench to decide cases involving £100. Probably the average salary given to a stipendiary magistrate in this State was £400. I doubt if we could get good men of experience and learning to undertake such positions, especially when they have to live in outlying portions of the State. There is only one way of dealing with the question of the £100 jurisdiction. The Act of 1863 which is now in force was copied from the County Court legislation of England, and when that law was first passed I think the jurisdiction was over amounts of £20. It was only a £20 jurisdiction in New Zealand until about 1870, when the jurisdiction was increased to what it is in this State to-day, £100. In New Zealand at present, although similar powers to those proposed exist, they have a District Courts Act, and it is only to persons exercising jurisdiction under the District Courts Act that the extended jurisdiction of £200 is allowed. To trust incompetent men with the duties of stipendiary magistrates in this State with a jurisdiction of £200 is not right. Members of the Executive Council have to decide as to the competency of the magistrate to whom this jurisdiction shall be given. I do not want to deal with the present Government, but Governments in the future who may not have the opportunity of having a legal man in the Cabinet, and who may not have the services of so able a gentleman as the Acting Attorney General, may probably confer the £200 jurisdiction on incompetent men. This House and another place should insist on the Government establishing Circuit Courts, not to have an Act merely on the statute book and the holding of the courts a dead letter. A Judge should travel practically to all important places in the State and decide all cases where the amount involved exceeds £100. Courts for the trial of criminal cases, instead of continuing the present quarter sessions, should be held at Kalgoorlie, Albany, Bunbury, and Geraldton.

THE MINISTER FOR LANDS: A Circuit Court is held at Kalgoorlie.

HON. M. L. MOSS: There is no reason why the Supreme Court should not sit also at Menzies, at Coolgardie, at Bunbury, at Albany, and at some place in the Eastern districts, also at Geraldton and Cue, and at Fremantle. Throughout Australia, except in Western Australia, the Judges have performed this duty for 50 years. The Judges here will do the work if there is a mandate from the Legislature that these courts should be held in the provinces. I hold there is no reason why a Judge should not travel to Fremantle and try cases there instead of cases being brought to Perth, and there is greater reason for cases being tried at Albany, at Bunbury, at Geraldton, and Cue. In some cases in which I have been concerned the amount of witnesses' expenses has exceeded the amount of the law costs and the amount in dispute. Jurisdiction under the Bill is to be conferred on magistrates at the will of the Ministry. I do not know how the Government will exercise that power, but if this jurisdiction of £200 is allowed, that will not relieve litigants from being put to great expense. If the Government intend to make the Circuit Courts anything more than a dead letter in the State, it is their duty to see that the Act is carried out, and it is clear if the Supreme Court bench are unable at the present time to conduct the work under the Arbitration Act, to do the work in Perth, and carry on the Circuit Courts, Parliament should be asked for another £2,000—it costs that for a Judge and his associate. I am sure Parliament would not be so niggardly as to deny funds for the proper administration of justice in this country. That is far more important, in my opinion, than the administration of a Government department. If we have courts sitting in the country we know that whenever a man's right is violated there is a court to go to, and that court should sit as near to the locality as possible where the dispute takes place. The High Court of England travels all over the country. Why should not

Judges travel to places connected with the railway system, so as to hear cases where the disputes have occurred? I wish to deal with another matter of principle. The power to hold examinations *de bene esse* is a very good one. Proceedings have been instituted where witnesses have been in other States or in such places in the country where a subpœna will not reach them in time, and at present there is no power to take evidence on commission before the trial of the action. I see by a sidenote that this provision also appears in the New South Wales and Queensland Acts, and a similar provision has been in existence in New Zealand since 1873. I had an opportunity when in New Zealand of practising under a similar section, and I am sure it will be highly beneficial to people who resort to these courts to have such a provision. In New Zealand the only trouble found was this, and I hope the remarks will reach some of the magistrates in the country, for it will be beneficial to them when applications are made: defendants frequently sought to have witnesses examined at one end of the country, say for instance at Wyndham, when there might not be a witness there. Before the clause goes through Committee I propose consulting the New Zealand legislation on this matter, and I believe there is a provision that if the magistrate is of opinion that an application is not made *bona fide* he can refuse that application. There is a group of sections dealing with the recovery of tenements. This has been a blot in the past in the Local Courts Act. It is only in the case of the recovery of a tenement where the rent does not exceed £50 a year that the Local Court can eject a person. By the Bill it is proposed to increase that amount to £100, and to give the right to magistrates where a man has failed to pay his rent or if unable, to allow the landlord re-entry. Farther still, where a person holds on without any right, title, or interest the owner can re-enter. Take the case of a man who has lent money on mortgage. The mortgagee has been obliged to sell under the power of sale, and the mortgagor says he will not go out. At present it is an expensive action in the Supreme Court to eject a man, and may take four or five months before the owner gets possession. The Bill provides that if anyone holds possession without any right, title, or interest, the person purchasing can be put into possession at once. This is a very good clause indeed, and has been wanted for a long time past. I am glad to see it incorporated in the measure. I think I may take some credit to myself for having suggested to the Parliamentary Draftsman the insertion of such a provision. I am going to point out to the House a matter I do not feel strongly on, but some members may think it important, so that it should be pointed out. At present there is an unlimited right of appeal from magistrates, no matter how small the amount. If a magistrate has given a wrong decision on a matter of law there is an absolute right of appeal. Clause 108 and the succeeding clauses to a very large extent cut down the privilege —the right of appeal that people have at the present time. Clause 108 gives no right of appeal at all unless the amount claimed exceeds £20; then it only gives the right of appeal provided the appellant finds security to the extent of £30, or gives a bond for that amount. So far as the principle is concerned, members will see that as great a principle may exist in a case over £20 as in a case for 1s. If the amount claimed be £20 or under, there should be the right of appeal with the consent of the magistrate. Ninety-five per cent. of the cases which go to the Local Court are cases where the amount in dispute is £20 or under. I freely admit, anyone consulting the Western Australian law reports will find a great number of trumpery appeals to the Supreme Court. In dealing with a matter of this kind a similar principle might be embodied as that contained in the Victorian County Courts Act. Appeals, I believe, are decided by one Judge. The Minister, in moving the second reading of this Bill, said the Government intended to cheapen the cost of appeal. There is nothing of that kind in the Bill, but the Bill takes away certain rights of appeal.

HON. J. W. HACKETT: Is there not something in paragraph (*e*)?

HON. M. L. MOSS: I have overlooked that. The right of appeal from the Local Court is regulated by the Supreme Court rules, which have the force of law. In New Zealand in all

appeals from resident magistrates the court exercises similar jurisdiction to that contained in this Bill, and the appeal is conducted by one Judge. It seems to me, having some knowledge of the class of cases that come before the court, I think I should be exaggerating if I said that 90 per cent. of the cases are under £20. I think the cheapening of the cost of appeal would be effective if one Judge was allowed to decide matters in chambers. The Parliamentary Draftsman would not attempt any departure of that kind, because it does not appear in any legislation in any other State; but unless the method proposed is carried out, it is no use the Minister saying we are going to cheapen cases of appeal, because an appeal to the Full Court is going to be just as expensive as any other appeal. On the whole, I am prepared to give fair support to this Bill. The power given to attach lands without putting litigants to the expense and delay of going to the Supreme Court is a good principle repeated from Queensland, where I understand, having discussed the matter with legal practitioners, it is working with no hitch at all. It will save expense to the public and will make these courts more beneficial. On the whole I think the measure a good one and, subject to making amendments in Committee, I beg to support the second reading.

Question put and passed.

Bill read a second time.

BILL, FIRST READING.

FACTORIES ACT AMENDMENT, received from the Legislative Assembly.

PRIVATE BILL — KALGOORLIE TRAMWAYS RACECOURSE EXTENSION.

EXPLANATION.

HON. R. D. McKENZIE (North-East) moved that the order be postponed. Through want of knowledge, the member who introduced the Bill in the Lower House had made no arrangement for any member to take charge of it in this House, and only at the last moment had asked him (Hon. R. D. McKenzie) to take charge of it. It was necessary for him to communicate with Kalgoorlie before taking charge of the Bill.

Order postponed.

MOTION—PAYMENT TO MEMBERS OF COUNCIL, TO REDUCE.

Debate resumed from the 1st November, on the motion to reduce payment to members of Council by £100.

HON. J. W. HACKETT (South-West): I thought an amendment was to be moved, of which I heard something; but it has apparently died out now, and I understand that the whole question of payment of members will not now be raised. At one time I noticed an intention to introduce the whole subject into debate on this question; but now I understand the only point at issue is whether we consent to a reduction of £100 in our salaries; and I have to apologise to my friend for keeping him on tenterhooks from day to day, when no doubt he was so eager and impatient to hand over to the Treasury £100 of his salary. I have reason to think that this debate will be a very short one. While I was casting about in my mind for reasons which should be of the same calibre and convincing importance as those adduced by Mr. Sommers, I was fortunate enough to come across some remarks in *Hansard* of the year 1900, in which year, curiously enough, this very question of a reduction in the honorarium to be paid to members of the Legislative Council from £200 to £100 was discussed; and I found the matter put so excellently by a speaker on that occasion, who by a strange coincidence happened to bear the same name as my friend opposite, the Hon. C. Sommers (North-East), that I do not think I can do better than confine my remarks to the very excellent and very short, pithy speech of that hon. member. He said:—

> As one member who has been recently elected, I was returned pledged to support payment of members.

The hon. member spoke as to the views of his constituents; and he then mentioned a few matters upon which I should like perhaps to dwell. He said:—

> For myself I do not represent much property.

My hon. friend's namesake does not wish that to be given much publicity.

HON. C. SOMMERS: It is quite true.

HON. J. W. HACKETT: The gentleman who now represents the North-East Province, and who bears the same name, has very much improved since then, I

have much reason to believe; and he has my warm congratulations.

HON. C. SOMMERS: Not at all.

HON. J. W. HACKETT: The hon. gentleman proceeded: —

> And there are others equally unfortunate who do not represent property.

I do not know the member of this House on whom that is a libellous reflection. Perhaps the hon. member had somebody in his mind's eye. All on this side of the House have what is called an overdraft in the bank. The hon. member proceeded:—

> The Colonial Secretary says that we shall have an honorarium of £100 a year, and a free pass. .

The hon. member was warming up in real and warm indignation against the proposal of the Colonial Secretary. The proposal was very much like that made by Mr. Sommers' namesake sitting opposite to me now. The hon. gentleman proceeded:—

> A great many of us, although we have a free pass, very seldom use it. It is no great interest to us personally. It is very little use to me. I want to point out that at all recent elections people have manifested themselves in favour of payment of members, and candidates have pledged themselves to the principle.

The hon. member was evidently a strong supporter of the principle in the abstract. It was the £200 my hon. friend opposite now wishes to make £100. That hon. member proceeded:—

> If payment of members is desired by the people; why should we take on ourselves to say that the Bill will be thrown out?

We accepted our £200 a year very gladly and thankfully. I speak for myself. The hon. member continued:—

> All admit that payment is required. Therefore the next question we have to consider is why there should be any distinction between members of another place and members of this House.

This was the pith of the reply of my friend to which I desire to draw the close attention of this House. He went into arguments:—

> It is said that we do not give as much time to the consideration of matters as members in another place do; but one would think that it was proposed to pay £2,000 a year to members in another place, and not a paltry £200.

I hope my friend is listening to the reply made by his namesake to his arguments a few weeks ago. My friend's namesake proceeded:—

> The Premier, in introducing the Bill, called the payment an honorarium; and he was quite right, as no member can say that £200 is sufficient payment for services which he renders to the country.

This is where this Mr. Sommers broke out. My friend of four years ago continued:—

> Why, £200 to a country member will hardly pay his hotel bill.

I am sure we all agree with my friend of four years ago on this point. He went on:

> I am sorry to see that the amount proposed is not more than £200. As to making the Bill retrospective, I agree to that.

In fact the hon. member of four years ago went, to use a general expression, the whole hog over the matter. He wanted not only to get £200 but more than £200, and was prepared to make the Bill retrospective. He said:—

> If the principle is right, the payment should be made to apply to the beginning of the present session.

Then he used words which I shall adopt:

> I shall not take up the time of the House farther. . . . . I shall support the principle, and I shall support any amendment to increase the sum to be paid to members of this House to the same amount as that to be paid to members of another place.

Could the matter be put more clearly, more convincingly, and more pithily than in these few remarks? I beg to second my hon. friend opposite.

HON. C. SOMMERS (in reply): Apparently the remarks of that namesake of mine seem to have convinced the House that there is nothing to speak about. I was always under the impression that he was a poor man who could not alter his opinion after becoming convinced he was wrong, and I have heard Dr. Hackett say it. As we get older we get more sense, and I hope that is the result in my case. Four years ago I was a young member of the House; and it did seem to me that the circumstance warranted payment of £200 a year and that it was little enough. In my opening remarks in moving this motion, I referred to the fact and did not disguise it in any way, that when speaking in 1900 on this matter I was of opinion that £200 was little enough, and that more should be paid. I have now come to the conclusion that I was wrong.

HON. J. W. HACKETT: You can give back £100 every year.

HON. C. SOMMERS: Of course I can. You quoted that I said then that I was possessed of very little of this world's goods. I am so still, which puts that course out of question. I used my free pass very little. I said so at the time, and I do not make use of it to-day. I knew it was stated outside the House that a member's free pass was used for business purposes, and that it was worth £100 a year; but so far as I was concerned it was not; nor do I make use of it now. Matters have changed considerably. I think, if as a matter of comparison it is a fair thing to pay members of another place £200 a year, the amount of attendance given here to the work of the country is only a fourth of the time that is taken up there.

HON. M. L. MOSS: Look at the abstract motions discussed there.

HON. C. SOMMERS: Perhaps if they were reduced, members of another place would get through the work a little quicker. I am sorry that this countermove has not been brought about for the abolition of payment altogether. I was not referring to members of another House at all. I was just saying I thought it would strengthen the hands of the Assembly if payment of members were reduced. I could not "go the whole hog," and I do not feel that I should be consistent in doing so, after certain quotations from a speech made by me. If payment of members in this House were reduced to £100, it would do a great deal more good. I hope the House will support me by carrying this motion.

MEMBERS: Withdraw!

HON. C. SOMMERS: I will not withdraw.

HON. W. PATRICK (Central): I did not intend to say anything on this subject, because I think that the speech by Mr. Sommers four years ago, quoted by Dr. Hackett, is about the best argument dealing with the matter. I think it would be worth while just to look into what has been done and what is the practice in reference to this matter in other parts of the world. Suppose we take, first of all, Australasia. It is quite true that in Queensland, New South Wales, and Victoria, there is no payment of members of the Upper House; but in Queensland and New South Wales members of the Upper House are nominees of the Crown, and in the State of Victoria, although they are not nominated by the Crown, each member must be a man of means, because one of the conditions of his candidature is that he shall be possessed of property worth at least £100 per annum. So in reference to those three States we cannot use the argument in favour of the motion by Mr. Sommers. In South Australia, which is a much poorer community than Western Australia, both Houses are paid alike. In New Zealand the members of the Upper House are paid £200 and those of the other House £300, but in New Zealand also the members of the Upper House are nominees of the Crown, some of them for life; those appointed, I think, before 1891. Since that time, members have been appointed for seven years, but they can be reappointed. In the small State of Tasmania both Houses are paid alike, and in nearly every free country in Europe, such as Denmark, France, and Sweden, both Houses are paid alike, and both have the same privileges. Throughout the whole of the United States of America, in every State both Houses are paid alike. What has apparently been the proper thing in all these countries, especially in such a great community as the United States of America, which we may term the model democratic country, ought to be good enough as an example to a small State such as Western Australia. Small in population and on the threshold of our civilisation, we may be quite content to copy such great countries as those in a matter of this kind. It seems to me the chief argument introduced by Mr. Sommers in favour of the motion is that the members in this House do not occupy so much time in their duties as members in the other place. I judge he assumes, in making this statement, that a member's duties are confined to the time he appears in this Chamber. Surely Mr. Sommers does not contend that the members of this House give less consideration to the measures which come before them than do the members of another place. Possibly they may not talk so long, for the

reason that the bulk of us are older men, and are not so much enamoured of the sound of our own voices as are younger men; but at any rate we have the same duties to perform. Except in reference to money matters we have the same responsibility and the same privileges as those in another place; and seeing that the duties to be performed are paid for in both Houses at the same rate in other portions of the world, we should be content to follow their example. I think the hon. member mentioned that there is a danger of the creation of agitators or professional politicians. If by "professional politicians" he means political adventurers, I think we may safely say there are none to be found in this Chamber. If by professional politicians he means gentlemen who have made a special study of constitutional law, of constitutional history, of matters that appertain to the science of Government, he should welcome men of that calibre to this Chamber. I am one of the youngest members of this Chamber as regards the time I have been here, and this question of payment came up in Cue and one or two other places in the great province I have the honour to represent. In every case in which I was asked whether I would agree to an increase in the payment of members, I answered that I believed in neither an increase nor a decrease, so far as I personally was concerned, during the time I should have the honour of representing them in this Chamber, and I intend to adhere to that.

HON. C. SOMMERS: With the leave of the House I will withdraw the motion.

HON. R. F. SHOLL (North): I object to the withdrawal of the motion, because I wish to move an amendment. I cannot understand the hon. member who tabled this motion now wishing to withdraw it.

MEMBER: He cannot get any support.

HON. R. F. SHOLL: He could not have seriously considered the matter. I have read what the hon. member said some four years ago in introducing the subject. He believed in payment of members on principle, and he not only believed in payment of members, but considered it necessary to make it retrospective. He stated that it was only an honorarium. I think the hon. member was playing with words in talking about payment of members at £200 a year.

THE PRESIDENT: The hon. member was absent from the Chamber. The debate he is referring to has already been brought before the attention of the House by a previous speaker.

HON. R. F. SHOLL: I do not think I am out of order.

THE PRESIDENT: I only drew attention to the subject you are reiterating.

HON. R. F. SHOLL: Do you rule I am out of order in reiterating?

THE PRESIDENT: No. I only drew your attention to the fact that it was during your absence from the Chamber this matter was dealt with.

HON. R. F. SHOLL: I am much obliged to you for drawing my attention to the fact, but still I am quite in order in referring to the matter again. The hon. member has alluded to the question of honorarim to members of this House. The motion of the hon. member would have been more acceptable to the House if he had moved the abolition of payment altogether.

HON. C. SOMMERS: You move it, and I will follow.

HON. R. F. SHOLL: It is not paying a compliment to the House to bring forward a motion which would go to show that we consider our intelligence and usefulness to this State so small or insignificant that we should accept a less sum than members of the Lower House. The hon. member voted for payment of members, and proposed payment of members four years ago. He received something like £900 from the Treasury chest, so he is quite willing to accept less pay now than then.

HON. C. A. PIESSE: That is not fair.

HON. R. F. SHOLL: I do not know whether it is fair or not, but it is a fact. The hon. member may have altered his views since then, but it would have come with a better grace if he had stated then that members of this House would be sufficiently paid if they received £100 per annum. I am opposed, on principle, to payment of members at all to this House, and I move an amendment—

To strike out all the words after "desirable" and insert the following in lieu, "to abolish the payment of members of the Legislative Council."

The motion will then read:—

That in the opinion of this House, it is desirable to abolish the payment of members of the Legislative Council.

HON. C. SOMMERS: I second the amendment.

HON. M. L. MOSS (West): I only want to give expression to one or two views I hold with regard to this question; more with the object of showing my constituents my views on the matter. I do not want to be misunderstood, in case the matter is decided without division. I came to Parliament pledged to support payment of members. I served in Parliament for some years when there was no payment, and rendered my assistance to the country. I advocated payment of members, and did my best to urge upon the Government the necessity of bringing in a Bill providing for it; and when that Bill came in I opposed the measure being made retrospective, as the records of *Hansard* will show. Payment of members is theoretically correct, but I regret to say that in practice it is working out very badly, because in our midst there is growing up a large number of professional politicians. Still, the policy of parliamentary government in Australia is such that we cannot listen to a proposal for the abolition of this principle of payment. The great Australian Parliament pays members of both Houses a uniform amount. It has been pointed out by Mr. Patrick that except in those parts of Australia where Upper House representatives are nominees of the Crown there is payment. Canada has payment of members to both Houses, I believe; at any rate, the Lower House. There is a great agitation in England to bring about payment of members, and payment of members in a modified form exists there by subscriptions by constituencies for the purpose of electing individuals whom they desired to see returned. Even with the opportunity before one of getting a certain amount of credit outside this chamber for supporting the abolition of payment of members of the Upper House when one knows it is not going to be carried, I do not propose to stand here and support such a view. I think on the whole that, while there are undoubtedly grounds for objecting to payment of members, and as a matter of fact the practice does not work out as well as the theory of the principle would lead one to expect, it is desirable there should be payment of members. I believe it is impossible to hope for such a reactionary measure as one for the abolition of the system to be carried through any Parliament. I stated four years ago that if there was to be payment of members, it ought to be adequate, and it should be the same for both Houses of Parliament. Our President is paid the same as the Speaker, and the officers of Parliament are paid at the same rate in each House. There is no reason except on the score that members of this House are lacking in intelligence and are not performing the same service to the country as the other place, why payment to them should be inferior to that of members of the Lower House. It does not follow because of the amount of talk in the other place that the best service is being got out of members of that body for the development and government of this country. We have only to look at the Notice Paper of the other place to see it is crowded with abstract motions, and when we look at our Notice Paper and find the small amount of business coming forward, I think we have legitimate cause of complaint. The Minister should take note of this—other members have drawn attention to it—that if legislation is coming to this House with a lot of new principles embodied in it, and we are flooded with that legislation presently, the Government must not desire us to pass it without due consideration. We are not prepared to pass it with rapidity at the end of the session. It does not follow that because we are not dealing with a lot of abstract motions we are giving to the country services of any less value than those rendered in the other place. I am not prepared to say at the present time there should not be payment of members. In fact, I think it would be reactionary to take up the position that this payment should be abolished. I acquit my old friend Mr. Sholl of acting the hypocrite in this matter. I know he thoroughly means all he says in this respect.

HON. W. MALEY: He is not the only one.

HON. M. L. MOSS: I have known him for too many years not to know that he has moved the motion from highly conscientious motives; but it is useless for

any member of this House to get up and support that simply because they know that the thing will not go through. I am convinced that the bulk of the members of this body are satisfied that payment of members is a necessity, that the mature opinion of this country is strongly in favour of it, and this House should not in any way put up a barrier which will prevent poor men from coming to represent any province in this Legislative Council. We are told we are useless, that we are not required, and the next thing we shall be told is that we desire to abolish payment of members to make this Chamber more exclusive than it is at the present time. Whilst it is desirable that we should retain this Chamber intact, and it ought to be a check against hasty legislation of another place, I think we should be giving the death-blow to the Chamber if we attempted to deal with this question in the manner suggested by the amendment.

THE MINISTER: I must oppose both the motion and the amendment. I took a leading part in connection with the introduction of payment of members. I think Mr. Maley proposed and I seconded the motion in this Chamber affirming the desirability of such payment.

HON. W. MALEY: And there is no reason to change yet.

THE MINISTER: That motion was carried through this Chamber without any opposition whatever, and I have since seen no reason to change my views. I should rather like to know from the proposer of the motion and the proposer of the amendment what has occurred since 1900 to justify such a motion or amendment. Has the character of members of this Chamber in any way depreciated since 1900? Have we not come here just as intelligent, just as capable, and with just as much integrity? I do not think the introduction of payment of members has made any difference except in the direction of giving men a wider choice. Some may say they should not have this wider choice, and I have heard some members say so privately; but I have met few who have had the courage to say so publicly. Mr. Sommers says he objects to a living wage. I consider his remarks a reflection on members of this House. Is any member of this House sustaining himself with the payment received as a member? If he is, I should like to know who it is. I found the amount I received as a private member scarcely sufficed to pay my private expenses. Members of this Chamber represent I think on an average about six Assembly districts. They have to keep in touch with those districts, and they have equally with members of the Legislative Assembly to attend to the wants of their constituents. Take the cost of an election. There is an election about every six years in the case of members of the Council, and every three years in that of members of the Legislative Assembly; but members will have an idea of the respective cost of elections when we see that the Electoral Act provides that the cost of election for a member of the Assembly shall not exceed £100, whereas in regard to the Legislative Council the amount is increased to £500.

MEMBER: They do not spend it.

THE MINISTER: I believe many of them spend every penny of it. I think the reference to a living wage was totally out of place, and a most unfortunate remark. The impression will be created that this is an attempt to import party politics into this House. Since I have been in this Chamber there has been no such attempt, and since I have been a member of the present Government I have received more consideration from members of this Chamber than I dare say any Minister who has preceded me. I take this opportunity of saying my shortcomings have been overlooked, and I have received every reasonable assistance from members of this Chamber. A reference to a living wage or to free boarding-houses should not be made in this Chamber, which is supposed to be altogether free from party bias of any kind. I support payment of members on the broad principle that electors should be given a free choice to select whomsoever they please to represent them. There is another argument in favour of payment of members which I referred to in my own district, that being that it enables country districts to have members living in those districts to represent them in Parliament. That provision is not being availed of to any extent in regard to this Chamber, but members will find as regards another place that although four years ago a very large

number of the members of that Chamber who represented country districts resided in Perth, to-day the great majority of the members live or reside in the places which they represent. It may be said that the choice should not be given to these people to select men whom they consider fit to represent them; but I do not think an argument of that description would be assented to by any member of this House. Let the electors have a free choice. Let them select a disreputable person, if they like. If they do, that person will be a fit representative for them; but give them a free choice to select whom they please. I consider that if the House adopts either the motion or the amendment it will stultify itself. It will be undoing what it did about four years ago, and the impression will be that there is some reason for it. Has the introduction of payment of members altered the character of this Chamber? Are not the members of this Chamber working for the best interests of this State? To adopt either the motion or the amendment would be a retrograde step, and I sincerely hope neither will be carried.

HON. E. M. CLARKE (South-West): I admire the pluck of my friend Mr. Sholl in bringing forward the amendment, but I am not going to argue against gentlemen who advocate payment of members. I thoroughly approve of payment of members in another place, but so far as my own feelings are concerned I wish this amendment to be adopted. I regret very much, however, that I can see no possibility of the amendment being carried. At the same time, I am entirely in sympathy with the mover of the amendment, and I intend to vote with him. I am sure that no one can accuse me of any ulterior motives. I will simply say there is a tendency to cut down expenses. I for my part am willing to forego my honorarium. Far from this £200 being sufficient to recompense an hon. member, I say emphatically it is not; and for many reasons some gentlemen in this room, if they would admit it, would be glad to be able to say that they received no payment for their services. I shall say no more on the subject, but I intend to vote for the amendment. I admire the pluck displayed by Mr. Sholl.

HON. R. LAURIE (West): Like my colleague for the West Province, I shall not give a silent vote on this question. I think it ill became Mr. Sommers to second the amendment proposed by Mr. Sholl. Had he not seconded it I question whether anyone else would have done so. I, like Mr. Moss, gave on the hustings a clear pledge to support payment of members; and I think when we make a pledge such as that, there is but one course open to us if we afterwards find that we have made a mistake. Let us go back to the people who sent us here, and say that, after considering the matter for three or four years, we have altered our views. If a pledge is made it should be kept; and if we cannot keep it our bounden duty is to place the matter before our constituents, and if they are not satisfied with our change of view there is another course open to us. Personally, I do not approve of the motion, and much less do I approve of the amendment. I am satisfied that Australia generally, from one end to the other, believes in payment of members. The law has now been for years on the statute book of every State; and payment of members gives an opportunity of entering either Chamber to men who could not otherwise afford to serve the country. I think it only right that any man, at the desire of a constituency, should have the right of sitting in either Assembly or Council. I shall vote against the motion, which I am sorry was not allowed to be withdrawn; and I shall vote against the amendment, because I think it quite inopportune, in view of passing events, that we in this House should express ourselves in favour of the abolition of payment of members.

On motion by HON. E. MCLARTY, debate adjourned.

ADJOURNMENT.

The House adjourned at 6·30 o'clock, until the next day.