The CHIEF SECRETARY: In this case we will give Parliament special power to make the Standing Orders.

Hon. J. Nicholson: This may come under Standing Order 311.

The CHIEF SECRETARY: If there is no machinery at present, we can bring it into being.

Hon. G. W. MILES: I should like to see the whole proviso struck out. It is not right that members of Parliament should be engaged to do work for the Government.

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

Ayes	4
Noes	16
Majority against	12

AYES.

Hon. J. Cornell	Hon. A. Thomson
Hon. G. W. Miles	Hon. C. G. Elliott (*Teller.*)

NOES.

Hon. L. Craig	Hon. J. Nicholson
Hon. J. M. Drew	Hon. H. S. W. Parker
Hon. E. H. Gray	Hon. H. V. Piesse
Hon. E. H. H. Hall	Hon. H. Seddon
Hon. W. H. Kitson	Hon. H. Tuckey
Hon. W. J. Mann	Hon. C. H. Wittenoom
Hon. R. G. Moore	Hon. H. J. Yelland
Hon. T. Moore	Hon. G. Fraser (*Teller.*)

Amendment thus negatived.

Hon. R. G. MOORE: I desire to move that paragraph (iii) be struck out.

Hon. J. CORNELL: The Committee have resolved that certain words of that paragraph remain, and the hon. member cannot now move that they be struck out. The hon. member can move that amendment on recommittal to-morrow.

The CHAIRMAN: Yes. The hon. member is too late.

The CHIEF SECRETARY: I move an amendment—

That the following proviso be added to proposed new Section 34:—"Provided also that paragraph (d) of this section shall not apply to any payment for work performed by any member in respect whereof exemption from disqualification is granted to such member by the provisions of subparagraph (e) of paragraph (iv) of the proviso to Subsection 1 of Section 32 of this Act."

It is necessary to insert this proviso in order to get over the provision in paragraph (d).

Amendment put and passed.

Hon. J. CORNELL: It is no use beating the air, but I do intend to express myself on the third reading of the Bill.

Clause, as amended, agreed to.

Title—agreed to.

Bill reported with amendments.

House adjourned at 11.25 p.m.

Legislative Assembly,

Tuesday, 26th November, 1935.

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

ASSENT TO BILLS.

Message from the Lieutenant-Governor received and read notifying assent to the undermentioned Bills:—

1, Mortgagees' Rights Restriction Act Continuance.

2, Financial Emergency Tax.

3, Wiluna Water Board Further Loan Guarantee.

4. Financial Emergency Act Amendment.

5. Workers' Homes Act Amendment (No. 2).

6. Pearling Act Amendment.

QUESTION—WHEAT, COMMONWEALTH AID TO DISTRESSED FARMERS.

Mr. HAWKE asked the Minister for Lands:—1, What was the rate of sustenance allowed to married and single men respectively out of the money made available by the Commonwealth Government for farmers in adverse financial circumstances? 2, Did Holmes and Holmes, Ltd., of Perpetual Trustee Buildings, St. George's Terrace, make application for assistance from this fund? 3, Did the Agricultural Bank refuse this application? 4, Did Holmes and Holmes, Ltd., appeal to the Minister from the decision of the Agricultural Bank? 5, Did he alter the decision of the Bank? 6, Is the Hon. J. J. Holmes, M.L.C., a shareholder and director of Holmes and Holmes, Ltd.?

The MINISTER FOR LANDS replied: 1, Married men 30s. per week; single men 20s. per week. 2, Yes. 3, Yes. 4, The company communicated with the Minister on the subject. 5, No. 6, The department has not this information. The hon. member can obtain information by searching the records at the Supreme Court.

QUESTION—FREMANTLE HARBOUR TRUST.

Mr. NORTH asked the Minister for Agriculture: 1, What is the total amount spent since 1917-18 by the Fremantle Harbour Trust from—(a) Consolidated Revenue; (b) Loan? 2, Since 1917-18 what amount has the Fremantle Harbour Trust paid in interest and sinking funds on money advanced from Loan?

The MINISTER FOR AGRICULTURE replied: 1, (a) Nil. The Trust does not operate upon Consolidated Revenue Fund. It defrays operating expenditure from its collections, and pays the balance to Consolidated Revenue Rund. (b) £1,321,869. 2, (a) Interest £1,656,559. (b) Sinking fund £277,769.

BILLS (2)—THIRD READING.

1, Industrial Arbitration Act Amendment (No. 2).

2, Public Service Appeal Board Act Amendment.

Transmitted to the Council.

BILL—SUPREME COURT.

On motion by the Minister for Justice, Bill recommitted for the purpose of further considering Clause 62.

Recommitted.

Mr. Sleeman in the Chair; the Minister for Justice in charge of the Bill.

Clause 62—Decision in case of difference of opinion:

The MINISTER FOR JUSTICE: I move an amendment—

That Subclause 2 be struck out with a view to inserting other words.

Amendment put and passed.

The MINISTER FOR JUSTICE: I move and amendment—

That the following new subclause be inserted:—

(2) Subject as hereinafter provided, if an appeal is heard before a Full Court constituted by two judges and they differ in opinion, either party to the appeal may within one month after the delivery of the judgments of the said two judges serve upon the Registrar and also upon the other party to the appeal notice in writing that he requires the appeal to be reheard before a Full Court consisting of not less than three judges, and thereafter the appeal shall be reheard accordingly.

Provided that (i) if neither party to the appeal gives notice as aforesaid within the said period of one month, then the appeal shall not be reheard and the judgment or order against which the appeal was taken shall remain unaltered; and (ii) Where the appeal has been taken against the judgment or order of a court other than the Supreme Court, and the two judges hearing the appeal differ in opinion as aforesaid, they may, of their own motion, direct that the appeal shall be reheard before a Full Court consisting of not less than three judges, and thereafter the appeal shall be reheard accordingly.

Hon. C. G. LATHAM: I have not yet had an opportunity to study the proposed new sub-clause. To me as a layman it seems as if we were giving the right to two appeals, one from the magistrate to the judge, and one from the judge to the Full Court. I think the present practice has been in operation for four or five years, *since the death of the late Chief Justice*, and that it has worked satisfactorily. I am not concerned about the appeals themselves, but about the cost that will have to be incurred. Who will pay this extra cost? The method seems to be cumbersome. Could not consideration of the proposed new

sub-clause be postponed for the time being?

The MINISTER FOR JUSTICE: Yes. I move—

That progress be reported and leave given to sit again at a later stage.

Motion put and passed.

BILL—LIMITATION.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

BILL—TRAFFIC ACT AMENDMENT.

Council's Message.

Message from the Council notifying that it had agreed to the further amendment made by the Assembly to Amendment No. 5 made by the Council, and insisting on its amendments Nos. 2 and 3, to which the Assembly had disagreed, now considered.

In Committee.

Mr. Sleeman in the Chair; the Minister for Police in charge of the Bill.

No. 2, Clause 4—Delete paragraph (b).

The MINISTER FOR POLICE: I move—

That the Committee continue to disagree to Amendment No. 2 insisted on by the Council.

The amendments that the Council have disagreed to are considered of considerable importance. Clause 4 amends Subsection 2 of Section 6 of the principal Act which refers to passenger-vehicle and carriers' licenses. It has nothing whatever to do with private cars. Subsection 2 reads—

A carrier's license is required for every vehicle regularly used for the carriage of goods for hire or reward, and a passenger vehicle license is also required for such vehicle if it is used for the carriage of passengers for hire or reward except with the permission of the local authority on some special occasion to be stated.

Paragraph (b) proposes to strike out the words "for hire or reward" in respect of the passenger-vehicle license. Since the matter was before the Committee on the previous occasion, I have gone into it further, and it seems to me that we are asking the Police Department to administer the existing Act under circumstances they find impossible. The proposed amendment refers only to passenger vehicle licenses required for vehicles—for which a carrier's license is required—regularly used for the carriage of goods for hire or reward, if such vehicles are used for the carriage of passengers, except with the permission of the local authorities on special occasions. In the Legislative Council this matter gave rise to considerable argument. If the vehicle were licensed for the purpose of carrying goods and passengers as well, it would mean in addition to taking out three licenses—the vehicle license, the carrier's license, which costs £2, and a passenger vehicle license costing another £2—the owner would have to take out an insurance policy by which each passenger would be covered for £100. Such policy could not be less than for £1,000, and the minimum premium would be £3 7s., or if more than 10 passengers were to be carried, the premium would represent an amount up to £12. Since we insist that the owner of a vehicle intended to carry passengers as well as goods must take out the additional license, we have deliberately insisted upon the insurance policy as well. In those circumstances, should an accident occur the passengers would have some redress. If the truck were merely licensed for the carriage of goods, the passengers would have no redress at all, and that should not be permitted.

Mr. Doney: Could both licenses be taken out for the one vehicle?

The MINISTER FOR POLICE: It is possible to take out two licenses for the one vehicle, if it is considered suitable by the local authorities. We expect the authorities, the Police Department or the local authority, to enforce the law, and it has been discovered impossible to do so. The other aspect I desire to stress is emphasised by the Commissioner of Police, who considers these amendments vital. In reply to questions by me, he stressed the danger to which passengers are subjected if carried promiscuously on vehicles licensed for the carriage of goods only. I asked him to submit his reasons for insisting upon the amendments being adhered to, and in the course of his report he stated—

With reference to your request for reasons actuating my request for legislative authority to deal with the carrying of passengers on motor trucks, I have to state that over a period of several years my predecessors and myself have made strong representations to have the Traffic Act amended to enable this matter to be regulated. It will be remembered that there have been a number of serious accidents

through this practice involving loss of life, and in this connection I would mention the one on Kalamunda Hill in 1920—when a picnic cricket party of 30 people on a Ford truck was involved. The wagon was considerably overloaded and got out of control, with the result that six persons were killed in the accident. Then in 1932 another picnic party which was returning from the Gosnells district met with an accident, with the result that a number of the passengers were spilled on to the road and two killed. There were 25 persons on the truck. A little while later, a truck loaned by the Perth City Council to a number of its employees for a Sunday picnic got out of control on the return journey from the hills, with the result that several were injured. In consequence of this, the Council refused to allow its employees the use of such trucks again. I am attaching several reports by my officers in regard to the use of these trucks and would point out the difficulty that is experienced in obtaining any evidence to prove that such trucks are hired for the purpose, although it stands to reason that no truck owner who is making his living by hire work, would undertake to convey a party of up to 30 or more persons on his truck to a football or cricket match, with the truck remaining idle during the match, without being recompensed.

It is obvious that these truck drivers are plying for hire or reward. Nevertheless it is impossible for the police to get any evidence upon which to work. They cannot prove definitely that any such truck was used for hire or reward although it is apparent that they have been so used. We cannot expect the Police Department or the local authorities to administer the law in such circumstances. Hence the insistence upon these amendments. The Commissioner of Police further stated—

> In the metropolitan area where ample facilities are available for the conveying of persons to and from sports gatherings and picnics, to the beaches or to hill resorts, there is not the least necessity for trucks fitted up with cases for seats, or planks on cases, to be utilised. The danger which arises from such practice is too great and should be stopped before another accident of the Kalamunda type occurs. I realise that in the country districts there are not the same means available for members of sporting clubs to visit other localities, and yet, on the other hand, some provision should be made to see that every safeguard is taken to protect the lives of those travelling. The latest incident occurred last week-end, when a young girl had her foot so badly smashed that it had to be amputated.

Mr. Connell, the ex-Commissioner of Police, in his report also speaks in the same strain. I remember he was continually asking for an amendment to enable him to control this matter, and emphasising the danger to the public of travelling uninsured in these trucks. A further report I have points out that 12 of these vehicles passed over the Causeway on a certain Sunday. The police officer who put in the report said there was no possible hope of getting a conviction against more than one of them, although it was quite obvious they were all plying for hire. Every report I have emphasises that sort of thing. In another report it is disclosed that the writer was unsuccessful in obtaining information that would serve to convict the drivers of the trucks, who said that they were not charging fares, but one driver was prosecuted and fined in the traffic court for not having good brakes on his vehicle. His brakes were out of order, so we can understand the danger there was with a truck full of passengers.

Hon. P. D. Ferguson: You do not mean to say they were using a goods vehicle with defective brakes?

The MINISTER FOR POLICE: He was fined for that. It could not be proved that he was carrying passengers for hire or reward, but he was convicted for having faulty brakes.

Hon. P. D. Ferguson: That is always very dangerous with trucks.

The MINISTER FOR POLICE: Yes, and it is ten times more important when there are passengers carried on the vehicle. I will not detain the Committee by referring to further reports; they are all in the same strain. Having set down clearly in the Traffic Act that a goods license is not to cover the carrying of passengers, we are aware that it is being done but cannot be proven, and so the least we can do is to give the officials who are administering the law the machinery to enable them to enforce that law. I move—

> That the Assembly continue to disagree with the Council's amendment.

Question put and passed.

No. 2. Delete paragraph (e).

The MINISTER FOR POLICE: I move—

> That the Assembly continue to disagree with the Council's amendment.

Question put and passed.

Resolutions reported and the report adopted.

Request for Conference.

The MINISTER FOR POLICE: I move—

That the Council be requested to grant a conference on their insisted-upon amendments, and that the managers for the Assembly be the Leader of the Opposition, the member for Roebourne, and the mover.

Question put and passed, and a message accordingly transmitted to the Council.

BILL—LEGAL PRACTITIONERS ACT AMENDMENT.

In Committee.

Resumed from the 20th November. Mr. Withers in the Chair; the Minister for Justice in charge of the Bill.

Clause 3—Amendment of Section 6 of the principal Act (partly considered).

The CHAIRMAN: When the Committee adjourned, Mr. Sleeman had moved the following amendment:—That after the word "certificate," in line 2 of subparagraph (iii) of paragraph (a), the words "as a solicitor or solicitor and barrister combined" be inserted.

Mr. SLEEMAN: I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. WATTS: I move an amendment—

That subparagraph (iii) of paragraph (a) be deleted.

I am sorry this amendment was not placed on the Notice Paper. The paragraph provides that the board shall be empowered, in its discretion, to refuse to issue a certificate to any practitioner who has become bankrupt and not received a discharge in bankruptcy, or who has taken any relief under the law relating to insolvent debtors. This matter was fully discussed on the second reading, and I agree with the principal reasons advanced against the paragraph, namely, that a person becomes bankrupt, not because of fraud or theft, but frequently as the result of misfortune beyond his control. I do not know why we should adopt the practice of allowing the board to strike off a practitioner from the roll in the circumstances mentioned. So far as I know, there is no precedent for it, particularly not for the second part of the provision, which deals with a solicitor or barrister who has taken any relief under the law relating to insolvent debtors. I regard it as wholly undesirable that legal practitioners should be struck off the roll in such circumstances, and so I move that subparagraph (iii) be deleted.

The MINISTER FOR JUSTICE: The hon. member said there was no precedent for this provision, but really it is the law of England. It is not absolutely mandatory that the board shall refuse to issue a certificate to any practitioner who has become bankrupt and not received a discharge in bankruptcy, and if the board were unjustly to use that power, no doubt their decision would soon be upset on appeal to the Supreme Court, whose decision, of course, would be fully warranted. When the board comes to any such decision, there is always the right of appeal to the Full Court. It may be argued that there would be some expense involved in that connection, and no doubt that is true. But we should be especially careful about permitting bankrupts to deal with trust funds, for if there were to be any defalcation, in all probability it would be made by one who was himself in financial difficulties, perhaps not through his own fault. But where a solicitor has got into financial difficulties by, say, taking up a farming proposition, that would not be allowed to affect his profession of solicitor or barrister. The trustees would know, of course, that his financial difficulties were not due to the practice of his profession, and I do not think they would attempt to refuse to renew his certificate of practice. And if they did, it would not be long before the Full Court would upset such a decision. But a solicitor who would foolishly get into financial trouble is not the kind of person we wish to see in charge of trust funds. Anyone controlling money for other people should be a man of the highest integrity. It is not to be expectd that a man who foolishly spent his own money would be able to conserve the financial interests of others, yet it does sometimes happen that such a man is permitted to have possession of money belonging to others. What is required is a guarantee that solicitors in charge of trust funds shall not be guilty of improper conduct. The trustees of the fund have no power to object to certain people being in charge of those funds, no matter what the financial difficulties of those people may be. It is only reasonable that exception might be taken to certain people, particularly when we are trying to ensure that they

carry on in a proper way. As the Full Court will give the ultimate decision, we can leave the matter with confidence to the court. If a person became bankrupt in circumstances that made it undesirable for him to practise, the people who guaranteed him should have a right to say whether he was a person who should have funds entrusted to him. If he made a mistake with trust funds, somebody would suffer, and the fund under this measure would also suffer. If a considerable amount were involved, a levy might be necessary in addition to the amounts paid for the practising certificates. Therefore the trustees should be able to ensure that a man is one in whom they have confidence before they attempt to assure him. An assurance company would not give a guarantee for someone who had been guilty of embezzlement or wrong practice. I cannot believe that the trustees would act harshly toward people who might get into financial difficulties in certain circumstances, but if the trustees thought it undesirable to guarantee a man, they should have the right to say so. While we do not wish to deprive a man of his livelihood, there is need to protect the public and the practitioners from a line of conduct detrimental to the profession. The trustees should have power to act regarding people who might fall easily to temptation. When an assurance policy has been taken out to prevent wrong practice, the trustees should have means at their disposal to ensure that trust funds are properly handled.

Mr. Raphael: It would be one means of making them disgorge some of the profits they make.

The MINISTER FOR JUSTICE: The money would be taken out of their profits to guarantee that clients received a fair deal. No question of dishonesty is involved in this, and I do not want to enter upon that aspect at this stage.

Hon. N. KEENAN: The certificate is a practising certificate, and that has nothing to do with the right to handle trust funds. It is the annual practising certificate which the solicitor must obtain to be able to practise at all. He would have to produce it in court, if necessary, in order to be heard. The effect of the provision is entirely to alter the law hitherto in force, not only here but in other parts of Australia. It is true, as the Minister said, that the law in England is that a solicitor who has been guilty of an act of bankruptcy, or taken advantage of the insolvency laws, is liable to be struck off the roll. To that extent we are justified in this enactment, but to that extent only. Many men engaged in the practise of law might be made bankrupt at any moment because they have indulged in the luxury of farms or other investments which have proved to be bad, and they would be at the mercy of anyone who chose to exercise spite by making them bankrupt.

The Minister for Justice: Such a man would not have an opportunity to get his money back.

Hon. N. KEENAN: The Minister spoke of practitioners who misappropriated trust funds. There is no alteration of the law in that respect. Any practitioner who has misapplied trust funds has been struck off the roll. I know of no instance to the contrary.

The Minister for Justice: The trustees would have to reimburse the loss.

Hon. N. KEENAN: That would not affect the striking of a solicitor off the roll.

The Minister for Justice: But the practitioners have to find the money.

Hon. N. KEENAN: The Minister really asks why the trustees should be put in a position of having to pay in respect of a man who is bankrupt. He might be bankrupt without any moral delinquency; he might not have taken a single penny of trust funds. But the Minister says, "Run him up." The provision will give extraordinary power to make a man liable to be deprived of his livelihood without any moral guilt on his part. The Minister thinks there will be an appeal from the decision of the board to some court. There is no such appeal. The only appeal provided by the Act relates to the refusal of the board to grant a certificate to an applicant for admission. I do not know that there is any justification for making our law stringent to a degree that possibly would inflict very great injury on many innocent persons, simply because that law exists elsewhere. It does not exist elsewhere in Australia. True, it does exist in England, but the conditions there are so entirely different that it is impossible to draw any fair comparison. I have no hesitation in supporting the amendment.

Mr. SLEEMAN: I support the striking out of the paragraph. The Minister argued that because the provision appears in the English Act, we should adopt it. With that argument I do not agree.

Mr. Marshall: The more reason why it should be struck out.

Mr. SLEEMAN: If the Minister offered us the English Act holus-bolus in place of our law, I might agree. Let me draw some comparisons with the English Act, as I did when my Bill was before the House some years ago. The son of a rich man can go to England, eat a few dinners, be called to the Bar there, and then come here and practise, whereas the son of a poor man must be articled, pass his examinations, be approved by the Barristers' Board, and prove to the board that he has not earned money while articled. Other obstacles are also put in his way. Parliament, however, would not agree to my proposals. The Minister should not pick out bits that suit him, and reject bits that suit us. With regard to bankrupt lawyers the Bill requires a fund to be established and kept separate. A solicitor might easily become bankrupt without having touched a farthing of trust funds. Such a man should not be struck off the roll on account of, in effect, this depression. Yesterday I interviewed, three solicitors who have practised here for years. I asked them how the Barristers' Board functioned and when members were elected. I was informed that practically only Messrs. Walker and Goodman attended meetings of the board, that King's Counsel very rarely attended those meetings. As to election of members, these three solicitors had never had a vote. To refuse a lawyer the right to earn his living simply because he has unfortunately become bankrupt is most unjust.

Mr. MARSHALL: I do not agree that the members of the Barristers' Board are self-appointed. It is always the willing horse that is worked most. From what the previous speaker said, it appears that solicitors are not greatly concerned for their own welfare.

Mr. Moloney: They can look after themselves.

Mr. MARSHALL: I agree with that interjection. The Minister should be careful lest he does the very thing he desires to avoid. The board would have discretion to refuse a practising certificate to a bankrupt solicitor; they would not be compelled to refuse him the certificate. A lawyer would be afraid to go bankrupt if this provision were enacted. A solicitor holding trust funds and threatened with bankruptcy by his handling of his own funds might be tempted to tamper with the trust funds rather than declare himself bankrupt.

The Minister for Justice: One would sooner go bankrupt than be caught and go to gaol.

Mr. MARSHALL: Bankruptcy is not dishonesty. The most honest person in the world might become bankrupt. But a lawyer would be especially afraid of bankruptcy lest the board refuse him a certificate enabling him to continue to earn his livelihood. This provision might, so to speak, coerce him into doing something dishonest. Thus tampering with trust funds might result from, rather than be prevented by, this provision.

Mr. McDONALD: I do not agree with members supporting the amendment. Personally I support the clause as drawn. Whether a solicitor is refused or granted a certificate after becoming bankrupt rests with the trustees of the fund. The whole Act is a matter of discretion. Initially the Barristers' Board exercise their discretion as to admitting a man to practice. A responsible tribunal is created, and must be granted a certain discretion. The board consists of three practitioners, who may say to themselves, "We ourselves may be in the same position some day." This provision is not to be found in Australian Acts; but it has appeared for many years in the English Solicitors Act, and has been re-enacted as lately as 1932.

Mr. Sleeman: Do you agree with everything in the English Act?

Mr. McDONALD: I have not studied everything in that Act. The provision is meant to apply to such cases as this. A lawyer goes bankrupt, and at the examination before the registrar it is shown that his bankruptcy is the result of excessive gambling, though, certainly, with his own funds, or with funds that should have gone to his creditors. In those circumstances it would be unfair to the rest of the legal practitioners that they should contribute to a fund to make good the losses of a man who has shown that he cannot take care of his own funds, let alone trust funds. Such a man should not be held up to the public as fit to receive possibly large trust funds. Some

doubt exists whether an appeal lies from a refusal of the board to renew a practising certificate. If it does not lie, Clause 53 should be amended in that respect. The clause will not be retrospective at all.

Mr. WATTS: As regards the supposititious case put up by the previous speaker, the fund would make good not the claims of general creditors but trust funds improperly absorbed. I see no precedent for the provision in Australia. Under the existing law the position is well in hand. If there is defalcation or unprofessional conduct, the board under their present authority have power to deal with the case. The intention here apparently is to give the Barristers' Board further and greater authority to deal with cases. They already have power to deal with wrongdoers. The suggestion here appears to be to empower the board to deal with practitioners who have committed no moral or legal wrong. To go beyond the present law in that respect is undesirable.

The MINISTER FOR JUSTICE: The member for Fremantle mentioned that the Barristers' Board do not meet often, but only just occasionally. One of the purposes of the Bill is to make the board a live body. It does not say much for the legal profession generally that they allow the board to remain practically dormant. In that respect the members of the profession do not come out with credit.

Mr. McDonald: The Barristers' Board function pretty well; they are fairly active.

The MINISTER FOR JUSTICE: I agree with the member for Fremantle to this extent, that the members of the board do not take their responsibility in such a way as to constitute themselves a body that is alive to look after practitioners for the benefit of the public. The Barristers' Board are given certain statutory powers to look after the interests of the profession and particularly to see that the members of it carry out their duty to the public. Any body given such power by Act of Parliament should take an active and lively interest in its work. I am not here to criticise the board, but I do say that they have not been as energetic as they might have been. People have communicated with the Minister for Justice because they have not been able to get satisfaction from the board. We are now providing something to which the legal practitioners have, in their own interests, as well as in the interests of the public, agreed to. It is something that is eminently desirable, and the result of the discussion that has taken place in Parliament has created an atmosphere amongst the members of the profession which will be in the interests of the profession. Personally this does not make any difference to me, but it is a desirable thing to have in respect of people who are in charge of trust funds. The member for Fremantle, with his experience of industrial unionism, is aware that executives are elected to safeguard the interests of members of unions, and if those executives were not doing their duty, he would be the first to make a row.

Mr. SLEEMAN: When introducing the Bill the Minister referred to the wonderful record the legal profession had in this country. Therefore I cannot understand the great necessity for introducing a Bill with a clause such as the one under discussion. I agree it is necessary to have a fund from which a client who has suffered at the hands of a defaulting solicitor shall be assisted, but I cannot agree to the disqualification of a man who, because of unfortunate circumstances, is threatened with the deprivation of his profession. The paragraph under discussion empowers the board to refuse a certificate to any practitioner who has become bankrupt and not received a discharge in bankruptcy, or who has taken any relief under the law relating to insolvent debtors. This is going to rule him out and prevent him from earning a living.

Mr. F. C. L. SMITH: I do not know very much about the Legal Practitioners Act, but it is apparently undesirable to bring down a Bill for the purpose of establishing a fund for the protection of clients because of solicitors having become bankrupt, or having taken relief under the law relating to insolvent debtors. We have heard of a man who may become so involved that he requires to have some relief under the law relating to insolvent debtors, because of his gambling propensities. Personally I think that draws rather a fine distinction, because after all a man might invest his own money in a direction that would involve a particular kind of gambling in connection with which certain people might consider it difficult to calculate the probabilities, whilst others might consider that other forms of gambling were quite as risky. The position appears to be that a man may become bankrupt as a result of speculation with his own funds, and therefore is the right person to be en-

trusted with other people's funds for investment purposes. Whilst I do not think it is desirable that because he is bankrupt a man should be deprived of the right of practising his profession, nevertheless I am of the opinion that the work of a solicitor is not entirely connected with the handling of trust funds, and it certainly seems to me that a bankrupt solicitor, who has given proof of his incapacity to deal with his own funds, should not be given the right to handle the investment of other people's funds.

Mr. SLEEMAN: There is a good deal of merit in the remarks of the previous speaker, but I am at a loss to know how we can meet the position because in this country practitioners are both solicitors and barristers, and if we take away the living from one we must take it from both.

Mr. MOLONEY: This is one of the few occasions on which I find myself agreeing with the member for Nedlands. Good reasons should be given for the adoption of an innovation which is entirely new to this State. The present law gives ample scope to the Barristers' Board provided that its members are sufficiently active. The proposal seems to resemble a dragnet. We are told that the board will exercise their discretion. Numbers of people may become bankrupt through no fault of their own. Others, of course, arrive at that position through drink and gambling.

The Premier: There are other ways of becoming bankrupt than through drink and gambling.

Mr. MOLONEY: Some people wake up to the fact that all their money has been dissipated, and they then endeavour to secure release from their debts through the bankruptcy court.

Mr. Seward: Give us an example.

Mr. MOLONEY: A man may be a builder as well as a solicitor, and through embarking upon some building transaction may lose his all. Others may lose their money in mining ventures. What is to be the limit of the discretion exercised by the board? Possibly a solicitor may in court expound views that are not popular with members of the board, and they may look unfavourably upon him. Unless there are some special circumstances, I do not think the law should be made more rigid than it is.

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

Ayes	19
Noes	22
Majority against	3

AYES.

Mr. Boyle	Mr. North
Mr. Brockman	Mr. Raphael
Mr. Cunningham	Mr. Sampson
Mr. Fox	Mr. Sleeman
Mr. Hawke	Mr. J. H. Smith
Mr. Hegney	Mr. Thorn
Mr. Johnson	Mr. Tonkin
Mr. Keenan	Mr. Watts
Mr. Marshall	Mr. Doney
Mr. Moloney	(*Teller.*)

NOES.

Mr. Clothier	Mr. Munsie
Mr. Collier	Mr. Nulsen
Mr. Coverley	Mr. Redoreda
Mr. Cross	Mr. Seward
Mr. Ferguson	Mr. F. C. L. Smith
Mr. Kennedy	Mr. Troy
Mr. Lambert	Mr. Wansbrough
Mr. Latham	Mr. Warner
Mr. McDonald	Mr. Willcock
Mr. McLarty	Mr. Wise
Mr. Millington	Mr. Wilson
	(*Teller.*)

Amendment thus negatived.

Mr. SLEEMAN: I move an amendment—

That in paragraph (a), subparagraph (iii) the following proviso be added:—"Provided that this subparagraph shall not apply to any bankruptcy caused or relief taken consequent upon any debt or liability incurred prior to the passing of this Act."

This amendment would provide that people were not penalised for any debts previously contracted. It is not right that a solicitor should be debarred from earning his living because of something that had happened a year or two before.

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

Ayes	17
Noes	21
Majority against	4

AYES.

Mr. Brockman	Mr. North
Mr. Cunningham	Mr. Raphael
Mr. Fox	Mr. Sleeman
Mr. Hawke	Mr. J. H. Smith
Mr. Johnson	Mr. Thorn
Mr. Keenan	Mr. Tonkin
Mr. McDonald	Mr. Watts
Mr. Marshall	Mr. Sampson
Mr. Moloney	(*Teller.*)

Noes.	
Mr. Clothier	Mr. Rodoreda
Mr. Collier	Mr. Seward
Mr. Cross	Mr. F. C. L. Smith
Mr. Ferguson	Mr. Troy
Mr. Kenneally	Mr. Wansbrough
Mr. Lambert	Mr. Warner
Mr. Latham	Mr. Willcock
Mr. McLarty	Mr. Wilson
Mr. Millington	Mr. Wise
Mr. Munsie	Mr. Doney
Mr. Nulsen	(*Tell.*)

Amendment thus negatived.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. McDONALD: I move an amendment—

That at the end of subparagraph (iii) the following proviso be added:—"Provided that a practitioner who has been refused a certificate shall be entitled to appeal against such refusal to the Full Court of Western Australia."

The subparagraph empowers the board to refuse to renew the practice certificate to a practitioner who has taken advantage of the bankruptcy laws. Section 53 of the principal Act provides that a practitioner who has been refused a certificate by the Barristers' Board may appeal against that refusal to the Full Court, but there is no provision I can see that will enable an appeal to be lodged by a practitioner who has been admitted but is subsequently refused renewal of his practice certificate. As that refusal could possibly be due to the fact that the practitioner had taken advantage of the bankruptcy laws, the proviso will enable him to appeal against the refusal.

The MINISTER FOR JUSTICE: The amendment carries out the spirit of the Act that provides for an appeal to the Full Court from decisions of the Barristers' Board. I do not object to the amendment although I understood there was provision in the Act that would enable the appeal to be lodged.

Amendment put and passed.

Mr. SLEEMAN: I move an amendment—

That at the end of subparagraph (ga) of paragraph (b), the following proviso be added:—"Provided that such contribution shall be assessed on a pro rata basis calculated upon the turn-over of the trust funds passing annually through the practitioner's accounts."

It is unfair that the solicitor who handles little or no trust funds shall pay the same amount as the legal firm that may handle £200,000 of trust funds in one year.

The MINISTER FOR JUSTICE: This phase was considered by those with whom negotiations were conducted in regard to the compilation of the Bill, and when it was being drafted. It was considered impracticable to make any such provision. It is difficult to know just how much trust money a solicitor would be regarded as handling in the course of a year. One solicitor might have £1,000 in his possession for the full year and another might have £500 for six months. One solicitor might have trust funds to invest, and another might have money that he had to recover for a client and hold for a period. One lawyer might have £100,000 of trust money in his keeping for two or three days, and another might have £100,000 in his possession in the aggregate for various periods spread over the 12 months. How would the contribution be assessed on a pro rata basis in those respective instances? It is not that we do not desire to insert some such provision in the Bill, but those who have an intimate knowledge of the manner in which solicitors conduct their business consider it impracticable to provide for the assessment on a sliding-scale basis. The provision in the Bill conforms to the legislation in existence elsewhere. After all, the premium will not be such that it will make a very great difference, even to the practitioner who is not handling a large volume of trust funds.

Mr. WATTS: I support the amendment, because I do not think the Minister would find it so difficult to administer as he suggests. The practice certificate is issued annually and expires on the 31st July of each year. Most solicitors balance their accounts as at the 30th June. It does not matter whether the solicitor handles £1,000 for six months or £500 for a year, or handles money in other circumstances indicated by the Minister. What matters, from the standpoint of the amendment, is the total amount of trust funds handled by a solicitor during a year. All trust accounts are on the same basis. The money remains in the solicitor's possession sometimes for long periods, sometimes for short periods. Therefore it is largely a question of the amount handled during the year. That being so, it should not be impossible to provide that every practitioner should make up his accounts and forward his figures, verified by statutory declaration, to the board on, say, the 15th July of each year. By that time, the board would have been able to calculate the amount to be raised during the year, and so could determine the amount

payable by individual practitioners. If the amendment be agreed to, I propose to move a further amendment giving effect to that suggestion. The consideration is not so much the difficulty in arriving at the amount of trust money handled during the year, but whether the existing provision is reasonable. If one solicitor is handling £100,000 of trust funds during the year and another handles £100 only, the former is a greater risk to the fund than the latter, and therefore the former should subscribe more than the latter. I support the amendment and hope the Minister will consider the matter a little further.

Mr. McDONALD: At first I was rather impressed with the idea that a sliding scale should be provided regarding contributions, and went so far as to endeavour to draft an amendment along those lines. After consideration, I arrived at the same conclusion as the Minister has indicated was reached by the Barristers' Board and the Council of the Law Society, to the effect that a sliding scale is not practicable: nor, on examination, does the provision in the Bill appear to be as unfair or inequitable as might be thought at first sight. It is expected that in the absence of any special levy the contribution will be £8 per year per practitioner. Part of that contribution, £4, will be devoted to the support of the Chair of Law at the University for the purpose of providing free education to candidates for the law. It would be difficult to make a sliding scale. That £4 which will go to the Chair of Law, instead of contributions under this measure, will be rather hard on the youngsters who, after all, include all the youngsters who have been admitted recently and who will be admitted in the future. But they will have received free education in the law at the University, and it is not too much to ask them afterwards to pay £4 per annum towards the maintenance of the Chair of Law by means of which they have entered the profession. I do not think the old practitioners should contribute, bearing in mind that they had to educate themselves at a good deal of expense. So I do not think there could be any fair objection to a flat rate of £4 per head per annum, on top of the contributions for the Chair of Law. That would leave £4 per annum towards the guarantee fund. Although many lawyers are not doing very well just now, it seems hardly worth while to have a sliding scale within that £4, and so have all the additional administrative work that would be entailed in the carrying out of a sliding scale instead of a flat rate. There is also the aspect that the turnover of trust funds does not necessarily indicate the earnings of the practitioner. Some practitioners have comparatively small trust funds, but considerable business in, say, the Criminal Court. Although one man's trust fund turnover might be only half that of another practitioner, the income of the first might be twice as much as that of the second man, who has the large trust funds. Then the older practitioners say that those with big trust funds should not be called upon to pay anything extra, because for the most part they are members of firms consisting of three or four partners, and it is unlikely that there will be any loss of funds through those firms, while if there should be any loss, it would be made up out of the pockets of the partners, without calling for any contribution from the guarantee fund, which will be mainly to enable the younger and smaller practitioners to hold the full confidence of the public. I do not think it practicable to set up a sliding scale, so I prefer a flat rate.

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

Ayes	.. .. ..	21
Noes	.. .. ..	19
Majority for	..	2

AYES.

Mr. Boyle	Mr. North
Mr. Brockman	Mr. Sampson
Mr. Ferguson	Mr. Sleeman
Mr. Fox	Mr. J. H. Smith
Mr. Hawke	Mr. J. M. Smith
Mr. Johnson	Mr. Thorn
Mr. Keenan	Mr. Tonkin
Mr. Latham	Mr. Watts
Mr. McLarty	Mr. Welsh
Mr. Marshall	Mr. Doney
Mr. Moloney	*(Teller.)*

NOES.

Mr. Cross	Mr. Redcreda
Mr. Cunningham	Mr. Seward
Mr. Kenneally	Mr. F. C. L. Smith
Mr. Lambert	Mr. Troy
Mr. McDonald	Mr. Wansbrough
Mr. Millington	Mr. Warner
Mr. Munsie	Mr. Willcock
Mr. Needham	Mr. Wise
Mr. Nulsen	Mr. Wilson
Mr. Raphael	*(Teller.)*

Amendment thus passed.

Mr. WATTS: While speaking on the last amendment I said I thought provision

should be made for putting that proposal into operation. I move an amendment—

That a further proviso be added as follows:—"Provided further that for the purpose of enabling such assessments to be made every practitioner shall on or before the 15th day of July in every year notify the board in writing verified by a statutory declaration of the total amount of trust moneys dealt with by him for the year ended the previous 30th day of June.

I explained this more fully during the discussion on the last preceding amendment.

Amendment put and passed.

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

Ayes	.. .. ..	23
Noes	.. .. ..	18
Majority for	..	5

Ayes		Noes	
Mr. Coverley	Mr. Needham	Mr. Boyle	Mr. Seward
Mr. Cross	Mr. Nulsen	Mr. Brockman	Mr. Sleeman
Mr. Cunningham	Mr. Raphael	Mr. Ferguson	Mr. J. H. Smith
Mr. Hawke	Mr. Rodoreda	Mr. Fox	Mr. J. M. Smith
Mr. Jonnson	Mr. F. C. L. Smith	Mr. Keenan	Mr. Thorn
Mr. Kenneally	Mr. Thorn	Mr. Latham	Mr. Warner
Mr. Lambert	Mr. Troy	Mr. Marshall	Mr. Watts
Mr. McDonald	Mr. Wansbrough	Mr. North	Mr. Welsh
Mr. McLarty	Mr. Willcock	Mr. Sampson	Mr. Doney
Mr. Millington	Mr. Wise		
Mr. Moloney	Mr. Wilson		
Mr. Munsie			
	(*Teller.*)		(*Teller.*)

Clause, as amended, thus agreed to.

Clause 4—Amendment of Section 15 of the principal Act:

Mr. SLEEMAN: I move an amendment—

That after "person" in line 4 the words "to practise as a solicitor or as a solicitor and barrister combined" be inserted.

This clause provides that the board may refuse a certificate under paragraph (b) of this section to any person who is an undischarged bankrupt or who has taken any relief under the law relating to insolvent debtors. A similar amendment was inserted in Clause 3. Under the amendment, if it be carried, if a young fellow be declared a bankrupt, the board may give him permission to practise as a barrister, but not as a solicitor holding trust funds. On the second reading I related an instance in which a solicitor who had been practising in this State for many years told me that if this provision had been in existence when he was called to the Bar, he might never have got there owing to the fact that he was indebted to the extent of something like £190 when called to the Bar. Such a man could have been declared bankrupt and prevented from entering the profession. If a man intends to practise as a barrister only, he should be allowed to do so. The Minister has quoted the English law. Under that a man is not required to be articled. All he has to do is to eat a few dinners and pass his examinations, and he may then be called to the Bar in this State. The provision relates to a young fellow who is trying to enter the profession and who, through no fault of his own, might be declared bankrupt and refused admission, this after having completed his scholastic career at the University and served his articles.

The MINISTER FOR JUSTICE: I doubt whether the amendment is in order. It will entirely change the purpose of and procedure under the Act, though the Bill deals with the establishment of a guarantee fund only.

Mr. Sleeman: This is English law.

The MINISTER FOR JUSTICE: I suppose the Chairman is aware of that. Under the Act no provision is made for a division of solicitors from barristers, and yet the amendment would have that effect. To achieve the hon. member's desire the Act should be amended. Any amendment of the kind should be moved with a full sense of its importance. I oppose the amendment.

Mr. MOLONEY: I support the amendment. There is nothing in the statute to prevent a barrister from practising. The member for Fremantle has pointed out that one member of a firm might accept a brief as solicitor, another as barrister and another as junior counsel, so that three fees would be paid for the one service. Ordinarily a barrister would receive the brief and give his opinion, but a firm acting both as barrister and solicitor would give the same opinion. If a barrister were operating in that capacity only, he would not be handling trust funds. I consider the amendment just and equitable.

Mr. SLEEMAN: According to the Minister the virtue of a previous amendment lay in the fact that it was English law.

The Minister for Justice: What was that?

Mr. SLEEMAN: The Minister should know. The board might refuse a certificate to practise as a solicitor, but might grant a certificate to practise as a barrister, in which capacity he would not be handling trust funds. The amendment is taken from the English Act, and two or three years ago I tried to get it adopted here. Why deny to a young fellow the right to earn a livelihood as a barrister?

Mr. WATTS: I am not keen on the amendment. It might serve the purpose indicated by the member for Fremantle, but of that I am doubtful.

Mr. FOX: I support the amendment. The object of the Bill is to prevent certain solicitors from handling trust funds. In Victoria one has to consult a solicitor first of all, and he hands the brief to a barrister. That is what would happen if the amendment were passed.

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

Ayes	14
Noes	27
Majority against	13

AYES.

Mr. Brockman	Mr. Sleeman
Mr. Fox	Mr. J. H. Smith
Mr. Keenan	Mr. J. M. Smith
Mr. Latham	Mr. Thorn
Mr. Marshall	Mr. Tonkin
Mr. Moloney	Mr. Welsh
Mr. North	Mr. Lambert
	(*Teller.*)

NOES.

Mr. Boyle	Mr. Raphael
Mr. Coverley	Mr. Rodoreda
Mr. Cross	Mr. Sampson
Mr. Cunningham	Mr. Seward
Mr. Ferguson	Mr. F. C. L. Smith
Mr. Hawke	Mr. Troy
Mr. Johnson	Mr. Wansbrough
Mr. Kenneally	Mr. Warner
Mr. McDonald	Mr. Watts
Mr. McLarty	Mr. Willcock
Mr. Millington	Mr. Wilson
Mr. Munsie	Mr. Wise
Mr. Needham	Mr. Doney
Mr. Nulsen	(*Teller.*)

Amendment thus negatived.

Mr. SLEEMAN: I move an amendment—

That the following proviso be added to the proposed paragraph:—"Provided that the power vested in the board by this section shall not be exercised in respect to any bankruptcy caused or relief taken consequent upon any debt or liability incurred prior to the passing of this Act."

The amendment is similar to that moved in connection with Clause 3. A young fellow should not be refused admittance to practice because of debts incurred while attending the University.

The MINISTER FOR JUSTICE: The Committee dealt with this principle prior to the tea adjournment, and decided against it.

Mr. McDONALD: The Committee have decided against a similar amendment affecting the renewal of a certificate to practise. We are now dealing with the case of a candidate for admission, provided that the debt was incurred prior to the passing of the measure. I support the member for Fremantle. If his amendment is not carried, the Bill will have a retrospective effect. The result might be that men who had incurred debts during the recent bad years would find themselves prevented from entering an avocation which they might otherwise have entered. There should not be discretionary power in regard to retrospective legislation.

The MINISTER FOR JUSTICE: I am surprised at the attitude of the member for West Perth. The Committee deemed it inadvisable that a bankrupt should hold funds in trust for other people. What difference does it make when the bankruptcy occurred? A bankrupt can apply for a certificate of discharge, and if he gets it he is no longer a bankrupt but can take his place in the life of the community just as if he had never gone bankrupt. Every legal man occupies a position of trust, and has money recovered for clients in this possession, possibly for a long time. He can excuse himself for delay in settlement in so many ways that speculation with or wrongful use of funds held on behalf of others is easy. The members of the legal profession who are contributing to a fund to safeguard the interests of clients should not be asked to contribute on account of undesirable members of the profession. The main business of a legal practitioner is to deal with money on behalf of clients. There must be a probability of misappropriation or embezzlement of trust funds, or there would be no occasion for the Bill. There should be discretion as to admitting or excluding bankrupts. The amendment is ridiculous. The Committee should adhere to the principle already affirmed.

Mr. MOLONEY: I again support the member for Fremantle. The Minister's atti-

tude surprises me. The member for West Perth is merely asserting his independence; "So far and no farther in iniquity" he declares. This is a retrospective proposal. What would the Minister have to say about a retrospective cut in wages, for example? Yet here the hon. gentleman seeks to protect guileless members of the legal profession against the incursion of a young fellow from the University. The clause does not apply to any hard-boiled lawyer; the board are to be empowered to refuse admission to a young fellow from the University.

The Minister for Justice: Subject to appeal.

Mr. MOLONEY: Why is it that it is only now we see fit to provide legislation to prevent the advent of young fellows into this profession? I am pleased to see that the legal fraternity are not backing up the Minister. We are holding the sword of Damocles over the heads of these people, no matter how great their probity may be. It is not right to put up such hurdles. The profession is an onerous one, and there are conditions laid down that preclude these people from earning money in other avenues. The proposal is not right, and I am going to vote against it.

Hon. N. KEENAN: The member for Subiaco properly reminded the Committee that this proposed addition will be used not against those who are practising at present but against those who are going to apply to be called to the bar. Under Section 15 of the Act, no person, however qualified in other respects, shall be admitted unless and until he has satisfied the Barristers' Board and obtained from them a certificate that in the opinion of the board he is a person of good fame and character, and fit and proper to be admitted. Is that authority not enough? It has also been properly pointed out to the Committee that an offence for which a person is not to be allowed to present himself may have been committed years before. There is no necessity for what is proposed in the Bill because the words I have quoted from the Act are sufficiently wide. I can see no justification whatever for making the amendment the Bill contains, and so I shall support the proposal to strike it out. Then I shall vote against the clause.

Mr. WATTS: The existing law being as it is, as explained by the member for Nedlands, there is certainly no need for what is now proposed as a safeguard. I propose to vote for the amendment, because, without it, the clause would be particularly unpleasant, from my point of view.

The MINISTER FOR JUSTICE: From what we have heard, it seems that the board are going to be a silly lot of old people who do not know what they are doing, and will set themselves out to do as much harm as possible. If discretionary power is given to the board to do a certain thing, we are not justified in assuming that that power is going to be used in a harmful or malicious way, in a way that is likely to do irreparable injury. They will do nothing of the kind.

Hon. N. Keenan: Then you are giving the board unnecessary powers in the hope that they will not use them?

The MINISTER FOR JUSTICE: It may be desirable for the board to use those powers. The hon. member has cast a reflection on the Barristers' Board who have asked for certain powers to safeguard their position as trustees. They have asked for a reasonable safeguard to be exercised in a discretionary way; yet members have expressed the opinion that malicious and foolish things are likely to be done. The board is composed of men of high character, and yet we are to say to them collectively that they are going to exercise discretionary power in an unwarranted and unjust manner. The thing is ridiculous.

Mr. Marshall: You do not know what they will do. We are entitled to our opinion, just as much as you are.

The MINISTER FOR JUSTICE: I am saying what I think they will do.

Mr. Marshall: That is better.

Mr. Moloney: Why tie them down?

The MINISTER FOR JUSTICE: We are not tying them down.

Mr. Marshall: No; you are tying them up.

The MINISTER FOR JUSTICE: We are not tying them at all; we are giving an honourable committee of men the right to use their discretion.

Hon. N. Keenan: What are their present powers?

The MINISTER FOR JUSTICE: The hon. member refuses to allow people elected to these responsible position to be given discretionary powers. All laws are passed with the idea that the people on whom the responsibility is cast to carry them out will do so in an honourable way. That applies to Ministers and other people. We do not do things that are dishonourable and unjust, and it is absurd to suggest that members of

the Barristers' Board would do such things. I am willing to trust the board with the necessary discretionary power.

Mr. MARSHALL: Supporters of the amendment have no desire to disparage the board, but we know from experience that those in whom we have placed confidence as members of boards have failed us in the past. We have not far to go from this Chamber to find such an instance. People have not done their job as Parliament expected them to do it. If we do not give this discretionary power to the board it cannot be abused. At the stage referred to in this clause no individual will be handling any trust funds. When young men are called to the Bar they come up for review at the end of 12 months. The board can then exercise their discretion concerning them. According to the Minister young men can be condemned before they are admitted to the profession.

The Minister for Justice: Not at all.

Mr. MARSHALL: It would not be a wealthy man's son who was bankrupt at the time he applied for admission. If a working man's son passed his examinations and then became an articled clerk, he could be prevented from earning his living until he had completed his articles. Meanwhile he may have borrowed money from a friend. Before he applied for admission the friend might have turned nasty and forced him through the Bankruptcy Court. The young man could not then apply for admission.

The Minister for Justice: Do you think the board would stand for a thing like that?

Mr. MARSHALL: I am stating what the possibilities are.

The Minister for Justice: Give us some of the probabilities.

Mr. MARSHALL: If anyone suffers under this Bill it will be the working man's son. The wealthy man's child will be all right, but my child may suffer.

Mr. Seward: Experience shows that you are wrong.

Mr. MARSHALL: I can see whose child will be the chief one to suffer. There should be no interference with the progress of the working man's son prior to his admission to the profession.

The Minister for Justice: Any refusal would be subject to the right of appeal.

Mr. MARSHALL: The Minister and I do not agree. I know who the sufferer will be. Under the clause the board may prevent the son of a working man from being admitted to the Bar.

Hon. N. KEENAN: The Minister has attempted to fasten upon me the allegation that I have expressed distrust of the Barristers' Board.

The Minister for Justice: In your reference to their discretion.

Hon. N. KEENAN: Not at all. I pointed out that the Barristers' Board already possesses ample powers to prevent from being called to the legal profession any man who does not comply with the requirements set down in the statute, that he is, in their opinion, and in every respect, a person of good fame and character.

Mr. Rodoreda: You want to lessen the board's powers.

Hon. N. KEENAN: There is no necessity for the clause.

The Minister for Justice: You have no confidence in the board.

Hon. N. KEENAN: Seeing that the board already possess all the powers requisite, is it necessary to give them further powers?

Mr. Rodoreda: Then lessen them.

Hon. N. KEENAN: The proposal will rather increase them. I cannot understand how it can be regarded as distrusting the board for anyone to say they have all the necessary powers. There is no sense in that argument. The only way in which the powers of the board could be restricted would be by accepting the amendment of the member for Fremantle.

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

Ayes	23
Noes	20
Majority for	3

AYES.

Mr. Boyle	Mr. North
Mr. Brockman	Mr. Sampson
Mr. Ferguson	Mr. Sleeman
Mr. Fox	Mr. J. H. Smith
Mr. Hegney	Mr. J. M. Smith
Mr. Johnson	Mr. Thorn
Mr. Keenan	Mr. Tonkin
Mr. Lambert	Mr. Warner
Mr. Latham	Mr. Watts
Mr. McDonald	Mr. Welsh
Mr. Marshall	Mr. Doney
Mr. Moloney	(*Teller.*)

NOES.

Mr. Collier	Mr. Nulsen
Mr. Coverley	Mr. Raphael
Mr. Cross	Mr. Rodoreda
Mr. Cunningham	Mr. Seward
Mr. Hawke	Mr. F. C. L. Smith
Mr. Kenneally	Mr. Troy
Mr. McLarty	Mr. Wansbrough
Mr. Millington	Mr. Willcock
Mr. Munsie	Mr. Wise
Mr. Needham	Mr. Wilson
	(*Teller.*)

Amendment thus passed.

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

Ayes	24
Noes	19
Majority for	5

AYES.

Mr. Collier	Mr. Munsie
Mr. Coverley	Mr. Needham
Mr. Cross	Mr. Nulsen
Mr. Cunningham	Mr. Raphael
Mr. Hawke	Mr. Rodoreda
Mr. Heguey	Mr. F. C. L. Smith
Mr. Johnson	Mr. Tonkin
Mr. Kenneally	Mr. Troy
Mr. McDonald	Mr. Wansbrough
Mr. McLarty	Mr. Willcock
Mr. Millington	Mr. Wise
Mr. Moloney	Mr. Wilson
	(*Teller.*)

NOES.

Mr. Boyle	Mr. Seward
Mr. Brockman	Mr. Sleeman
Mr. Ferguson	Mr. J. H. Smith
Mr. Fox	Mr. J. M. Smith
Mr. Keenan	Mr. Thorn
Mr. Lambert	Mr. Warner
Mr. Latham	Mr. Watts
Mr. Marshall	Mr. Welsh
Mr. North	Mr. Doney
Mr. Sampson	(*Teller.*)

Clause, as amended, thus agreed to.

Clause 5—New Sections:

The CHAIRMAN: I will put each of the proposed new sections separately.

Proposed new Sections 28A to 28H—agreed to.

Proposed new Section 28J—Contributions to be made:

Mr. WATTS: I move an amendment—

That in line 10 of proposed Subsection 1 "three pounds" be struck out and the words "one pound" inserted in lieu.

The Committee having agreed to a pro rata contribution, the amendment should be made.

The MINISTER FOR JUSTICE: I have no objection to the amendment, which, in view of the Committee's early decision regarding pro rata contributions, becomes necessary.

Amendment put and passed, the proposed new section, as amended, agreed to.

Proposed new Sections 28K to 28V—agreed to.

Proposed new Section 28W—Trustees may appoint auditor:

Mr. WATTS: I move an amendment—

That in line 2 of proposed Subsection 1, after "Part" the following words be inserted:—"and upon reasonable suspicion of fraud or theft by any practitioner."

The introductory words of the proposed new subsection, namely, "for the purpose of safeguarding the fund established under this Part" hardly go far enough. It would be reasonable to limit the discretion of the trustees to instances where they have some reasonable suspicion that there has been wrong-doing. I do not seek to limit the powers of the trustees too much, but I do not think it should be a matter of merely when they think fit to have an audit that one should be conducted. These powers should not be exercised unless there were reasonable grounds for suspicion or trouble.

The MINISTER FOR JUSTICE: I oppose the amendment. The board should not be required to have any reasonable suspicion of fraud, misappropriation or embezzlement. What is sought is to assure that solicitors abide by the provisions of the Act and keep separate trust accounts. That is one of the obligations passed upon them by this legislation. It is not a matter of suspicion or fraud but of seeing that the provisions are carried out regarding the keeping of separate trust accounts. It is a question of policing the Act. If it were a matter involving reasonable suspicion of fraud or theft, the aggrieved individual would approach the police with a view to action being taken against the solicitor.

Amendment put and negatived.

The proposed new section put and passed.

Proposed new Sections 28X and 28Y—agreed to.

Clause 5, as previously amended, agreed to.

Clause 6—agreed to.

New clause:

Mr. SLEEMAN: I move—

That the following new clause be added to stand as Clause 3:—

3. Section fifteen of the principal Act is hereby amended by the addition of the following new paragraph:—

(f) The Board shall not refuse a certificate under paragraph (b) of this section to any person merely upon the grounds that during the period of his service as an articled clerk he has received remuneration from the practitioner to whom he has been articled, nor upon the grounds that he has held any office or engaged in any other employment outside the usual hours of business of the practitioner to whom he has been articled.

and by the addition of the following proviso:—

Provided, however, that no person admitted to practise as a practitioner either before or after the passing of this Act shall make, charge, or receive any fees as counsel in any suit, cause, or action in which either himself, his employee, or partner has acted as solicitor.

Western Australia is the only country where young men are denied the right to earn something while serving articles. Under a law such as ours the present Governor General of the Commonwealth, Sir Isaac Isaacs, might never have reached the Bar. I have heard him say that he had to struggle very hard for an existence while studying for the law. In Queensland a carpenter worked at his bench in order to provide himself with necessaries while he was going through his law studies. Eventually he was called to the Bar, and was later elevated to the judicial bench. I hope this amendment will be agreed to. For many years I have been trying to get it inserted in the Act. Some time ago I did succeed in getting it inserted in a Bill, but unfortunately at the close of the session that Bill was slaughtered in another place.

The CHAIRMAN: I must rule that the proposed new clause is out of order, being beyond the scope of the Bill. There is no provision made in the Bill for articled clerks. Moreover the provisions contained in the proviso are outside the scope of the Bill and therefore out of order.

Mr. SLEEMAN: I do not like to move to disagree with your ruling, Mr. Chairman, but in my opinion it is certainly wrong. The Bill amends Section 15, which deals with admission to the Bar. And so, too, does my proposed new clause.

The CHAIRMAN: There is nothing in the Bill which proposes to amend the whole of Section 15.

Mr. SLEEMAN: No, but Section 15 deals with admission to the Bar, and my new clause proposes to amend Section 15.

The CHAIRMAN: Well, the hon. member must move to disagree with my ruling.

Mr. SLEEMAN: No, I will not do that.

Mr. MARSHALL: I will move to disagree with your ruling. If we are to accept such rulings I do not know where we shall land. The very Title of the Bill shows that the Chairman's ruling is wrong, for the Title provides for the amendment of, inter alia, Section 15.

The CHAIRMAN: The hon. member must submit his reasons for moving to disagree with my ruling. He can then make a speech to the Speaker.

Dissent from Chairman's Ruling.

Mr. Marshall: Very well. I move—

That the Committee dissent from the Chairman's ruling.

[*The Speaker resumed the Chair.*]

The Chairman reported the dissent.

Mr. Marshall: If the Chairman's ruling is to be upheld, it will mean that no matter what clause a Bill may include, it will be contrary to the Chairman's ruling to move any further amendments or any new clause, though it may be well within the order of leave. For instance, the Title of this Bill covers an amendment of Section 15 of the Act, which provides the qualifications of a practioner before he can be admitted. The member for Fremantle has moved a new clause which deals with qualifications for admission, and this proposed new clause shows a distinct relationship to the provisions of Section 15 of the principal Act. If, then, the ruling of the Chairman is not an interference with the rights of members, it is difficult to say what it is. I do not think the position needs any elaboration from me.

Mr. McDonald: Obviously the proposed new clause has no relation to Section 15. The first part of that clause deals with the remuneration of articled clerks. That is dealt with in Section 13 of the Act, which has no relation to Section 15. The second part of the proposed new clause deals with costs, which are covered by Section 34 of the Act. So neither the remuneration for the employment of articled clerks nor the question of costs comes within the scope of Section 15 of the Act.

Mr. Sleeman: I hesitated about questioning the ruling of the Chair, but since we have now got into a discussion I submit that the proposed new clause is quite in order. Clause 4 of the Bill provides that the board may refuse a certificate to any person who is an undischarged bankrupt or who has taken any relief under the law relating to insolvent debtors. That relates to articled clerks. So the Bill itself deals with articled clerks and says the board may refuse certificates. Then I come in with a new clause which says the board shall not refuse certificates upon the ground that during the period of his service as an articled clerk a person has received remuneration from the practitioner to whom he is articled, nor upon the ground that he has held any office or engaged in any other employment outside the usual hours of business of the practitioner to whom he has been articled. Section 15 of the Act deals with admission to the Bar, and what the board shall do or shall not do. I am seeking to insert that the board shall not do a certain thing which for many years has been done, to the detriment of indigent boys.

Mr. Speaker: The Chairman of Committees has ruled that the amendment is out of order because it is not within the scope of the Bill. The only amendment to Section 15 to be found in the Bill is that appearing in Clause 4. It provides that the board may refuse a certificate under paragraph (b) of Section 15 of the Act to any person who is an undischarged bankrupt or who has taken any relief under the law relating to insolvent debtors. That is a new paragraph being added to Section 15 of the Act. As the member for West Perth has already said, Section 13 of the Act reads as follows:—

> No articled clerk shall, without the written consent of the board, during his term of service under articles, hold any office or engage in any employment other than as bona fide articled clerk to the practitioner to whom he is for the time being articled, or his partner; and every articled clerk shall, before being admitted as a practitioner, prove to the satisfaction of the board, by affidavit or otherwise, that this section has been duly complied with.

The member for Murchison has moved to disagree with the Chairman's ruling. In support of his argument he stated that if such rulings were to be accepted, it would interfere with the liberty of members. The hon. member knows that the liberty of members in this House is restricted by the Standing Orders of the House and, where our Standing Orders are silent, by the custom of the House of Commons. There is no shadow of doubt that the proposed new clause is in no way related to articled clerks. That is dealt with in Section 13 of the Act, and undoubtedly the amendment proposed by the member for Fremantle is not within the scope of the Bill. Members must realise that they are not entitled to move amendments that are beyond the scope of the Bill. I may briefly say that when a Minister or private member brings down a Bill, the principles are explained on the second reading, where most of the debate takes place; but members are not entitled in Committee to move amendments that are not within the scope of the Bill. Therefore I must uphold the Chairman's ruling.

Committee resumed.

Title—agreed to.

Bill reported with amendments.

BILL—LOTTERIES (CONTROL) CONTINUANCE.

Returned from the Council without amendment.

BILL—ADELPHI HOTEL.

Second Reading.

Debate resumed from the 21st November.

HON. C. G. LATHAM (York) [9.34]: This Bill has been introduced by the member for North-East Fremantle, and reveals a defect in the Licensing Act. There are two ways of altering such a defect, one the proper way and the other the way suggested by the hon. member. Of course, the correct way, instead of bringing down Bills of this nature, is to amend the licensing law.

Mr. Tonkin: I mentioned that.

Hon. C. G. LATHAM: As there might not be sufficient time this session to do what is necessary, I suppose there is no alternative to passing the Bill. It is true that Section 62 of the Licensing Act limits the power of the Licensing Board to grant a provisional license to a period of 12 months. When the measure was before us evidently it was thought that 12 months

would be a sufficient period, but all said and done members could not have given the matter very serious thought; otherwise they might have known that contingencies might arise, as they have done with the building of the Adelphi Hotel. A shortage of material, a strike or a lock-out would make it impossible to comply with the law. In this instance it was stated that the hotel could be constructed in 12 months. I had my doubts about it, but I believe, as the hon. member pointed out, that there has been a shortage of skilled labour which has hung up the completion of the building. I hope we do not accept this Bill as a precedent for introducing other measures of the kind. To my mind, Mr. Speaker, although you would probably rule me out of order if I attempted to discuss the point, this should have been a private Bill. It is entirely for the benefit of one man, the owner of the hotel, and I consider it should not have been introduced as a public Bill. Recently, however, so many matters of this kind have been brought before the House that the hon. member might be pardoned for having introduced the Bill. I should like the hon. member to tell us why the member for the district did not introduce the Bill. It seems extraordinary that the member who represents the Perth electorate, and sits on the Government side of the House, did not introduce the measure.

The Minister for Mines: There is nothing very extraordinary or wonderful about that.

Hon. C. G. LATHAM: Of course there is nothing wonderful about it, but there must have been a reason for it. When a defect is discovered in an Act, I think it is our duty to rectify it.

The Minister for Mines: I think so, too.

Hon. C. G. LATHAM: That is what should have been done. It would have been as appropriate for me to introduce the measure as for any other member not connected with the constituency. No doubt the hon. member will tell the House why he accepted or was asked to accept the responsibility.

Mr. Marshall: That has nothing to do with us.

Hon. C. G. LATHAM: It might have nothing to do with the hon. member.

Mr. Marshall: Nor with this House.

Hon. C. G. LATHAM: Quite a lot of things have nothing to do with the hon. member. By this legislation we propose first of all to extend for six months the provisional license granted by the Licensing Board. Secondly, we are protecting from forfeiture the bond of £1,000 put up by the person to whom the provisional license was granted. I do not know whether we have any right to accept the statement of the member for North-East Fremantle that the same consideration will be extended to the contractor who, no doubt, has also been required to put up a bond. It seems extraordinary that the contractor and the owner should have entered into a contract to do something which they knew was impossible in the time. I hope the hon. member will give us an assurance, as I believe he can do, that the contractor will not be penalised by the passing of this legislation. If it was impossible for the person to whom the provisional license was granted to complete his side of the bargain, and he has found it necessary to come to Parliament for redress, he should be prepared to extend equal consideration to the contractor. In the circumstances I shall support the second reading. I hope the defect in the Act will be rectified. This is not the first time this sort of thing has happened. In 1931, I believe, three Bills were introduced, and if I remember rightly, the strongest opposition to them came from you, Mr. Speaker. I have a rather keen recollection of it.

The Minister for Mines: Not Bills on similar lines. Those parties had not built at all.

Hon. C. G. LATHAM: There was a reason for it, namely that the cash was not available. Everyone had become afraid, and had locked his money up.

The Minister for Mines: They could not finance the work. That was quite different from this case.

Hon. C. G. LATHAM: This man started off to do something which he knew was impossible, according to the statement made to us, namely to build the hotel in the time. I understand that the contractor had great difficulty to keep the water down while he got the foundations in. I fully sympathise with him, but I hope that an amendment will be made to the Act at the earliest opportunity so that this class of legislation will not be brought down again. Otherwise it might be stated that we are granting privileges to one individual and that that is wrong in principle.

MR. SAMPSON (Swan) [9.41]: I feel that the proprietor of the building is deserving of sympathy. Unfortunately the Act does not permit of a period greater than 12 months being granted for the erection of the building, and it is obvious that in instances such buildings could not be erected in that time. When the mover replies I hope he will tell us whether, in the event of the Bill being passed, consideration will be extended to the contractor, if a penal clause exists in the contract. I am unaware whether there is a penal clause, but if there is, and this House approves of the extension sought by the Bill, equal consideration should be given to the contractor. I was particularly interested in one of the reasons given by the member for North-East Fremantle for the delay that has occurred. Although his statement might indicate a reluctant approval of remarks I have made on different occasions respecting a shortage of tradesmen in this State, it is nevertheless undoubtedly true that there is a shortage, including plasterers and others, in the building trade. The hon. member mentioned that nine additional plasterers were required, and were unobtainable in the State, and they are still needed on the building. It is a sad but true commentary on the lack of principles which control the different trades that such a position of affairs should continue. Never a day passes without some member being approached by those who are anxious to obtain unskilled work. Every member of this Chamber, too, is asked where sustenance work can be obtained. I believe that plasterers are being paid £8 10s. a week at present, and the unfortunate sustenance worker has difficulty to earn sufficient on which to live. That is not the fault of the sustenance worker; it is the fault of the system that enables proprietors or employers to refrain from employing the number of apprentices they should employ.

Mr. SPEAKER: I think the hon. member is getting well away from the scope of the Bill now.

Mr. SAMPSON: It is a reflection——

Mr. SPEAKER. It will be a reflection on the Speaker if the hon. member continues along those lines.

Mr. SAMPSON: I have no desire to do anything contrary to your interpretation of the Standing Orders, Mr. Speaker. There is a shortage of nine plasterers in connection with the work being carried out on the Adelphi Hotel. If the hon. member has done nothing more than focus public attention on the matter, he has done great good. I hope it will make a lasting impression on his own heart and mind. I know, Sir, you will not allow me to blame either unions or employers; but they are to blame.

Mr. SPEAKER: I think the hon. member had better discuss the Bill.

Mr. SAMPSON: I am discussing one reason why the erection of the hotel has taken longer than it should. The contractor was unable to secure the labour which he needed.

Mr. Hegney: What is the reason for that?

Mr. SAMPSON: Shortage of tradesmen.

Mr. Moloney: What sort of tradesmen?

Mr. SAMPSON: Plasterers and every section of the building trades. To-day it is difficult to get a bricklayer. Bricklayers are to be found only after careful search. Before they finish one job, they are approached in a kindly and sympathetic manner by those who require some bricks to be laid; then, if everything is all right, the bricklayers go along and do the job. They cannot do more than a reasonable number of jobs. The trouble is that a deficiency of bricklayers exists. It is a shame and a disgrace on every one of us that this condition should continue.

Mr. Marshall: Perhaps we should get some of the Maltese you wanted to bring here years ago.

Mr. SAMPSON: I do not wish either to be personal or to discuss foreigners. Whether Maltese or other British subjects, the people here should have the opportunity to learn a trade. Most of our tradesmen have latterly come from oversea. The hon. member interjecting is not taking any action to stop that. I hope the licensing law will be amended, for it is desirable that there should be sufficient time allowed to erect big buildings. Twelve months is insufficient. Even with all the equipment now available, it could not be done. In olden times some buildings took decades to construct. It is unreasonable that the Act should limit the construction of a building to one year.

MR. MOLONEY (Subiaco) [9.50]: I support the Bill, having regard to the remarks of the previous speaker and to their relativity to the building trades. Being perhaps the only member of the House who has arisen from that trade, I claim to be

a building trades representative. I have not observed too many of the present members of the Legislature having corns on their hands as the result of their association with labour during the last 20 or 25 years. Therefore I must be pretty right in saying that those members have been conspicuous by their abstinence from actual participation in those trades. The member for Swan (Mr. Sampson) in his zeal to assist the member for North-East Fremantle has imputed certain statements to him. He has also inferred that this hotel would have been erected much more quickly but for certain factors operating to prevent completion within 12 months.

Mr. Sampson: I did not infer that. I definitely stated it.

Mr. MOLONEY: It was not a matter of shortage of tradesmen at all.

Mr. Sampson: You are now contradicting the mover of the Bill.

Mr. MOLONEY: What militates against the securing of tradesmen now is that the present Government have given such a fillip to the industry, and that men are desirous of getting a little more than the margin. One of the factors which militated against the retention of men in this case was that the builders were not prepared to pay them the wages desired. People not conversant with building do not realise the many factors that intrude to prevent a job from being carried out within the specified time. Possibly the member for Swan, in view of his having had so many buildings erected for himself, realises the merit of that argument. He has at all times an unholy desire to feature a scarcity of artisans. That is the cry every time anything in the way of a scarcity of labour obtains in connection with the building trades. Those who proclaim that are often people who know nothing whatever of the industry. This is a huge job, for which only a limited period has been allowed. The period has elapsed, and the people concerned find themselves outside their scheduled time, which always occurs in the case of big jobs.

Mr. Sampson: Not always.

Mr. MOLONEY: I speak merely from my limited experience of 35 years. Good progress has been made with the job, generally speaking. The building is an ornate structure. As regards plasterers, I will get the member for Swan an army of plasterers to-morrow at £8 10s. per week. There are still a good many men in the building trades who have not yet been absorbed. As to apprentices——

Mr. SPEAKER: Order! The hon. member cannot deal with apprentices now. I refused the member for Swan (Mr. Sampson) permission to deal with apprentices.

Mr. MOLONEY: I fail to see any obstacle in the way of the desired extension of time. Time is always a factor hard to compute. People who put money into an enterprise of this kind are to be commended. The building will be an ornament to Perth. We should not do anything to hamper people who are prepared to put up a fine building, necessarily giving employment in connection with it. I have no hesitation in expressing the hope that the member for North-East Fremantle will succeed with the Bill.

MR. J. H. SMITH (Nelson) [9.56]: I shall not oppose the Bill, but it represents a bad precedent. In my opinion it would be much better to amend our licensing legislation. Like the Leader of the Opposition, I have wondered why the member for the district, or the Government, did not do this job instead of the member for North-East Fremantle. The member for Subiaco (Mr. Moloney), in answer to the member for Swan, let the cat out of the bag. The member for Subiaco said there was no shortage of mechanics or labour. That possibly is the reason why the member for Perth did not introduce the Bill. There is a nigger in the woodpile. Every member is jealous of interference in his district by another member, in any shape or form. I have known Ministers refuse to meet deputations when the members of the district concerned did not accompany those deputations. As to this Bill, however, all that sort of thing is left to the member for North-East Fremantle. It is not even entrusted to a member representing a Perth constituency. The reason, according to the member for Subiaco, is that the work cannot be completed in time except on a system of blackmail.

Mr. Moloney: I said nothing of the sort.

Mr. J. H. SMITH: Words to that effect.

Mr. Moloney: I ask for a withdrawal, Mr. Speaker. I never used the word "blackmail."

Mr. SPEAKER: The hon. member for Nelson must withdraw.

Mr. J. H. SMITH: I withdraw, unreservedly. However, it tends in the direction of blackmail. The member for Subiaco said contractors would not pay over and above the margin, and for that reason could not get tradesmen to work for them.

Mr. Hawke: Do you believe in the law of supply and demand?

Mr. J. H. SMITH: Yes, like everyone else of a democratic turn of mind.

Mr. Moloney: Do you know that the wage stated in an award is only a minimum?

Mr. J. H. SMITH: Of course I do. The member for Subiaco knows that is the rate that is always paid. The minimum amount is the award. I do not propose to reply to the interjectors; I am merely saying that there is really no necessity for the Bill since the applicant for the license has power to sell liquor. I have known instances where hotels that have been renovated or perhaps have been rebuilt conducted a bar while the renovations or building operations were going on. The Act insists that a bar must be maintained for the purpose of selling liquor, and there is nothing to prevent a man who has been given a provisional license from opening a temporary bar while the remainder of the building is being completed.

MR. TONKIN (North-East Fremantle—in reply) [10.2]: As I anticipated there has been very little real opposition to the Bill. The Leader of the Opposition stated that there were two methods by which this objective of mine could be achieved, and that I had selected the wrong one. When I moved the second reading of the Bill I mentioned that there were two ways by which the end I was striving for could be attained, but that I believed that the correct way in which it could be dealt with was by an amendment of the Licensing Act. I considered, however, that the session was too far advanced to attempt to amend the Licensing Act, and I feared that such a move would provoke a wide discussion. I admit it would have been much better if time had been available to amend the Licensing Act, and as there is a real necessity for that amendment, I trust that very little time will be lost next session in having that Act so amended. I am dealing with the present, and also an emergency that is of a particularly urgent nature. That is why I took this method as I desired that there should be the least possible delay. The Leader of the Opposition expressed some curiosity as to why I, and not the member for Perth, introduced the Bill. The hon. member, however, did not evince any curiosity when in 1931 Mr. Mann, who was member for Perth, introduced an amendment to the Licensing Act to give relief to people who intended to build hotels in Mt. Hawthorn and at Irwin-Moore.

Hon. C. G. Latham: That Bill had a general application.

Mr. TONKIN: I think that a little curiosity will add piquancy to the situation, and I do not intend to state why I have introduced the Bill.

Hon. C. G. Latham: Then why talk about it?

Mr. TONKIN: I have no doubt the hon. member will find out later on, and he will be well satisfied. However, I have introduced the Bill and am taking the full responsibility for it. It was asked that I should give some guarantee that the contractor would not be penalised in the event of his failing to complete his contract. I am authorised to inform the House that it is not the intention of the proprietor to enforce the penal clauses of the contract. As a matter of fact that was never intended because it was realised at the outset that the contractor was taking on a job which was almost impossible to complete within the time. The Act stipulates that 12 months shall be the maximum time allowed for the building of premises, and the contractor has to endeavour to complete the job within that time. Therefore, although penal clauses were included in the contract it was never intended that they should be enforced. I assure the House that if the relief sought is granted, the contractor will in no way be penalised if he fails to complete the contract within the specified time.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

BILL—SUPREME COURT.

In Committee.

Resumed from an earlier stage of the proceedings. Mr. Sleeman in the Chair; the Minister for Justice in charge of the Bill.

The CHAIRMAN: The Committee were dealing with the proposed new subclause moved by the Minister for Justice.

Hon. C. G. LATHAM: I have had an opportunity of looking at the amendment. It provides for an extra appeal which has not been the custom to grant in the past. There is another danger that hon. members should note, and it is that in the event of an indecision due to the fact that there are only two judges on the bench in the Full Court, they themselves may refer the case to another court consisting of three judges without consulting the litigants. I do not know what will happen in such an event if the litigants should decide not to go on with the case. Will the case be carried on in spite of them?

The Minister for Justice. No, it will be struck off the list.

Hon. C. G. LATHAM: I will accept the Minister's statement that if the litigants do not want to proceed further, the judges will not insist on the matter going further. It seems to me that a litigant should have the right to say whether the Full Court should consist of two or three judges. I am sorry it has been necessary to alter this, because it will make litigation much more expensive than it is to-day. On the other hand it may discourage people from using the court, though, of course, we will always find people anxious to spend money in litigation.

New subclause put and passed.

Bill reported with amendments.

BILL—MINING ACT AMENDMENT.

Second Reading.

Debate resumed from the 16th October.

MR. MARSHALL (Murchison—in reply) [10.14]: There is not much to which to reply. Most members spoke in favour of the Bill, but the Minister in a brief contribution opposed the measure, and in doing so broke very little new ground. The only other member who spoke against the Bill was the member for Kimberley (Mr. Coverley). It can readily be understood that members do not usually discuss Bills of this nature, because of their limited experience of the industry, and their limited knowledge of the laws that control it. The debate has resolved itself into a kind of duel between the Minister and myself as to whether the granting of reservations is legal in the first place, and whether it is logical in the second place. The member for Kimberley raised one point, namely that no one wanted to prospect in the Kimberleys until quite recently. That may be so, but I want to draw attention to the fact that no one wanted reservations there until recently. Had the price of gold not risen to the extent it has, probably no reservations would have been wanted, and no prospectors would have been there to want portions of those reservations. Now that the price of gold has risen, the man who is entitled to some reward for his labours, the man who has made all the sacrifices through pioneering the industry, is surely entitled to share in the added value of gold, and share to a greater extent than any wealthy company or individual who merely seeks to exploit the industry. I cannot understand members who say the prospectors should be debarred from the right to go into the old districts where they know that gold has been produced, and in many cases have produced it from such places themselves. Members must realise that because of the high cost of living and the fact that gold was only worth a little over £4 an ounce, the position was made intolerable for prospectors at that time. Now that the price of gold has gone up the prospector is entitled to participate in any profits that may be derived from the industry under present conditions. There would be no reservations in the Kimberleys, and probably none anywhere in the State, if it had not been for the rapid rise in the price of gold, and, at the same time, the probability of a continued rise in the price. The man who should receive most consideration is he who pioneered the industry in the first place. The Minister cannot deny that all that the companies holding these reservations have done is to prove at depth the old mines of the State, and the discoveries made by the prospectors. Taking it as a whole, very little new ground has been broken by the new companies. These new companies attempt by boring or legitimate prospecting to test the line of lode at depth, and the Minister has granted

to them miles of country around the old mines when there was no occasion to do so. Had no reservations been granted, just as much money would have come into the country. Let me instance Wiluna to prove my argument as to what was done before any reservations were granted. At Wiluna a million and a quarter of capital was sunk in that belt of country before any gold whatever was obtained, and this was done without any reservations, at a time when gold was worth £4 5s. per fine ounce. This shows that the investors were prepared to put their money into the industry under our ordinary mining laws. What must be their desire today when gold stands at £8 13s. an ounce? Naturally they wish to get all the country they can to the exclusion of other people, and the Minister is assisting them by granting reservations to the exclusion of other more deserving people. When these companies have tested the known gold-bearing leases within their reservations, and are satisfied they are of no value, they throw the area open to prospectors. While the price of gold remains high they will hold on to the areas. That is the unfortunate position that is created. The Minister referred to the proviso in the Act which I contend gives him no legal authority to grant these reservations. He said the proviso governed the whole section. He stressed the fact that this was where he got his legal authority in the granting of reservations. I am as positive as I was at the beginning, and when I spoke to my motion last session, that the Minister had no legal authority under the Act to grant the reservations. Before his authority could be tested, so much money would be required to be put up that no one would be prepared to challenge him. Section 297 of the Mining Act says—

> The Minister and, pending a recommendation to the Minister, a warden may temporarily reserve any grant of land from occupation, and the Minister may at any time cancel such reservation; provided that if such reservation is not confirmed by the Governor within 12 months the land shall cease to be reserved.
>
> Provided that the Minister may, with the approval of the Governor, authorise any person to temporarily occupy such reserve on such terms as he may think fit.

The reserve is a temporary reserve granted by the Minister. The Minister may grant the occupancy of any reserve that has already been granted. He has not granted the occupancy on the application of companies to occupy the reserve, but these people are going to the Minister with lithos and large areas marked on them, and are applying for the reserves, not for the occupancy. The Western Mining Corporation did not say to the Minister, "Here is a big reserve around the Great Fingal mine; we want the occupancy of that reserve." They marked out what they required, and the Minister granted them the reservation. I will explain what the section was intended for. Four reservations were granted in the early days, or rather the occupancy had been granted. I am surprised that not more than four were applied for. We know of the hurry and scurry connected with the establishment of little towns around gold discoveries, and that the warden had to take out little reserves here and there for public buildings, schools, churches, recreation grounds, racecourses, etc. It is a wonder that more mistakes were not made, and that many more reserves were not applied for. The section shows that they are only temporary reserves, made until it was known whether a town would be established or not. At first it is impossible to say what will happen, or whether the reserves will be required or not. If they are not required, they revert automatically to the Crown. People frequently inquire whether a reserve has been pegged out or marked out across some main ore channel. Any man would like the occupancy of such a reserve. An occupancy may be granted for the purpose of obtaining water, or for the feeding of stock, as was the case in the early days. Can the Minister show me where any reserve was granted for gold mining purposes?

The Minister for Mines: I can.

Mr. MARSHALL: He cannot.

The Minister for Mines: I was not referring to occupancy, but to reserves as reserves. Four of these were granted as far back as 1904.

Mr. MARSHALL: I wish to refer to the Minister's statement with regard to the price of gold. When I introduced the Bill, I referred to those who were actively engaged in endeavouring to influence the Federal Government to grant a bonus of pound for pound on all gold won. This was to be an inducement to foreign capital to come into the industry. I made the statement that these people had successfully applied to the Government and got the pound for pound bonus. I did not use the words in the sense the Minister tries to

make out, as he would have seen had he read "Hansard."

The Minister for Mines: That is where I got it from.

Mr. MARSHALL: The Minister could not have read it.

The Minister for Mines: I read your speech all through.

Mr. MARSHALL: I said that this particular organisation that was struggling to get the Federal bonus did not mention a word about larger areas being necessary, nor did the Minister use that argument with the Federal Government. None of these people said to the Minister that on the one hand larger areas were wanted, and to the Federal Government on the other hand that the bonus was wanted. All were satisfied with the mining laws as they were and with the areas as they were. There would have been no objection to them had the Minister stuck firm. I did not use the argument in the manner indicated by the Minister. I know very well they did not get £1 an ounce on all the gold produced but only upon the gold won above the production of a certain year. But where was the necessity for the granting of greater areas? Was it suggested that these people were to go to the Federal Government and be in a position to say that they had the opportunity to secure bigger areas and if the bonus of £1 per ounce were received from the Federal Government on all the gold produced, then foreign capital could be induced for investment in the industry? Never for one moment was that suggested. For the information of members who do not really know the position, let me tell them there is no limit to the area a company can hold under the 24-acre system. They can secure one 24-acre lease after another, and have a hundred of them.

Mr. Warner: They cannot get them for nothing.

Mr. MARSHALL: That is the point. One company may hold a number of leases. I will cite the position at Wiluna. There are 30 or more leases held there by the company, each of 24 acres. There is an amalgamation of the leases, and then an application is lodged for concentration of labour conditions on one or two of the leases. The other leases are without a single man on them, and no one growls about that. It puts everyone on the same footing; no one has any privileges, and no one receives any concession. If any privileges are to be granted, I suggest to the Minister that anything easy should be made available to the poorer section of the mining industry, namely, the prospectors. If the companies possess all the wealth the Minister referred to, they should be required to pay their way. Why should wealth secure preference rather than the poor in the industry, more particularly as it is upon the shoulders of the poorer section that we must depend in the course of time? Why should we have these privileged classes in our midst at all, particularly when there is no limit to the area a company can hold provided they can pay for their leases? Why should the wealthy company have greater privileges than the prospectors?

The Minister for Mines: They have not, nor do they get them.

Mr. MARSHALL: But they do get those privileges. I shall quote an extract from a letter I received from a man in the North-West. I admit that this has reference to a closed reservation, but I will follow up this letter by dealing with a few matters of which I have some knowledge. No doubt the Minister has had this letter before him.

The Minister for Mines: Yes, and it is absolutely untrue. I have a copy of the letter.

Mr. MARSHALL: The Minister has the original.

The Minister for Mines: And I have received details from the Mines Department which show that the statements made in that letter are absolutely incorrect.

Mr. MARSHALL: I will quote the letter, and the facts I shall give will not be incorrect.

The Minister for Mines: I do not say they will be, but the statements in the letter are incorrect.

Mr. MARSHALL: Here is an extract from the letter—

> To return to the reservations: Most of these are not legged, and men do not know where they commence or end, and so are scared they may be on the reservation. Occasionally it seems that the registrar does not have very full knowledge of them, as a case occurred where the registrar granted a prospecting area to a man, and, after he had broken some stone and had it crushed, he was informed he was on a reservation, which had apparently been granted in Perth. The prospector lost his gold in the warden's court.

That applied to a closed area, so naturally he would lose his gold. I do not want to go over the same ground all the time, but I will refer again to the reservation between Nannine and Meekatharra, extending 25 miles by 10 miles. That country has never had a pick put into it unless that has happened since I left the area to return to Perth. That reservation is bigger than the two pastoral leases adjoining. In the course of his speech on the Bill, the Minister said he would make these people peg their holdings. What difference will four pegs make regarding a reservation 25 miles by 10 miles?

The Minister for Mines: I do not know that I said that.

Mr. MARSHALL: I took a note of what the Minister said, and he stated, "They have to put in pegs now." Whether they put pegs in or not, it will not make the slightest difference, because no man can follow them up. It is impossible to police such a reservation. It is impossible to tell whether the people are complying with the conditions. Then again, the prospectors do not know what conditions have been stipulated, or what reservations have been granted. Two of the finest prospectors to be found in the State spoke to me the other day. They said, "If we go to Nabberu, will you give us a guarantee that no reservation will be granted there?" I said, "Certainly I will not. I cannot do that." They replied that they would not go out. That is the position confronting prospectors. Are they likely to go out 150 miles from Meekatharra, find gold, peg their lease, and then return to Meekatharra merely to find that they have operated on a reservation? Men will not go out under such conditions, yet that is what is happening.

The Minister for Mines: Of course it is not what is happening.

Mr. MARSHALL: It is.

The Minister for Mines: That is why the State batteries crushed more last year than ever before in their history.

Mr. MARSHALL: What has that to do with the granting of reservations? Is it not possible that the Minister may grant a reservation at Nabberu?

The Minister for Mines: It all depends upon the applications.

Mr. MARSHALL: Of course it is possible.

The Minister for Mines: If they did peg a claim on the reservation, that would not interfere with it.

Mr. MARSHALL: But does the Minister suggest that prospectors will go out 200 or 300 miles, prospect for gold and find it, peg out their 24-acre lease, and then return to find that a reservation has been granted and their work has gone for nothing? Will they do that?

The Minister for Mines: Of course not.

Mr. MARSHALL: And that is the position.

The Minister for Mines: And I have never been silly enough to suggest that they would.

Mr. MARSHALL: If the prospectors I have referred to went to Nabberu to-morrow and the Minister were to grant a reservation there, the prospectors would have no hope of securing any tenure for a lease they might peg out. In the circumstances, does the Minister imagine that the prospectors are going to continue their operations?

The Minister for Mines: There are more prospectors out now than ever before in the history of the State.

Mr. MARSHALL: I know that.

The Minister for Mines: And more gold is being crushed as a result of their work than ever before.

Mr. MARSHALL: I know that some prospectors are going out, but members will agree with me that the Minister has always stuck to his guns until now. He has always asserted that he granted reservations with a view to inducing foreign capital to be invested in the country.

The Minister for Mines: Yes.

Mr. MARSHALL: That has been the story he has stuck to, but he has now gone beyond that and says that there have been one or two instances where men in lowly circumstances have come to him for reservations and he has granted their application. That is the first time we have heard of anything of the sort. The Minister should be fair to members and say exactly what he has been doing regarding these reservations. He has not been fair to members, and it was left to me to find out what has been happening. I have here a map of Western Australia. Members will notice blue lines stretching right from one end of Western Australia to the other and taking in all the greenstone country, plus parts in the North-West and the Kimberley and Pilbara electorates. All that is within those blue lines shows the area that has been granted by the Minister for Mines to the Western Mining Corporation.

Hon. C. G. Latham: All that greenstone country?

Mr. MARSHALL: Yes.

Mr. Warner: They have a monopoly of the West!

Mr. MARSHALL: The position now is that if a company were to come forward to-morrow with £50,000,000 as capital to invest in a mining proposition, and they desired a reservation of country inside the blue lines I have indicated, the Minister could not grant their application, unless the Western Mining Corporation concurred. I emphasise the fact that in Western Australia all the greenstone country is regarded as indicative of gold-bearing channels.

Hon. C. G. Latham: That is generally recognised.

Mr. MARSHALL: And the whole of that country represents a monopoly in the hands of the Western Mining Corporation.

Hon. C. G. Latham: But that is not the whole of the greenstone country.

Mr. MARSHALL: Yes, the whole of it in Western Australia.

Hon. C. G. Latham: Is it?

Mr. MARSHALL: Yes, and the Minister should have told us that. Where is the Minister's argument now?

The Minister for Mines: Just where it always has been.

Mr. MARSHALL: If another company were to come along and require a reservation——

The Minister for Mines: They could get it.

Mr. MARSHALL: Inside the blue line on the map I have displayed?

The Minister for Mines: Yes.

Mr. MARSHALL: Then I will read extracts from some letters to let members see if they bear out the Minister's statement. I secured some from the Mines Department, and also some from the individual concerned. The man applied for a reservation, and the following letters passed between him and the Minister for Mines. Here is the letter from the Mines Department to the individual concerned, under date the 24th August, 1934—

I am directed by the Hon. Minister for Mines to acknowledge receipt of your letter of the 21st inst. applying for a temporary reservation at Wanganui. I would draw your attention to the fact that this area is within a large area which the department has undertaken with the Western Mining Corporation, Ltd., not to grant reserves without such corporation's concurrence. Such being the case, it will be necessary that you approach the corporation in the matter before we can give consideration to it. The address of the secretary is: Mr Gilbert, West Australian Chambers, St. George's-terrace, Perth.

The next letter is from the Western Mining Corporation Ltd. under date the 30th August, 1934—

We acknowledge receipt of your letter dated 25th inst., regarding your application lodged with the Mines Department for a reserve near Nannine. In reply we have to advise that the business has been referred to our principals in Melbourne, and when we receive their reply we will again communicate with you.

The next letter is also from the Western Mining Corporation Ltd. under date the 6th August, 1934—

Referring to your letter dated 25th August advising that you had lodged an application with the Mines Department for a reserve in the vicinity of Nannine, we regret that our principals are unable to extend their consent, and we are therefore obliged to object to the granting of this reserve.

Now we come to a communication from the Mines Department dated the 30th October, 1934—

Further to my letter of the 24th August last I am now directed by the Hon. Minister for Mines to advise you that full consideration has been given to your request for a temporary reserve at Nannine, but it is regretted it cannot be approved.

That follows out the contention in the first letter, namely, that unless the Western Mining Corporation gives concurrence, the Minister will not grant a reservation.

Hon. C. G. Latham: Apparently you have two Mines Departments.

Mr. MARSHALL: No, but we have two laws, one for the rich and the other for the poor. The rich man can get large reservations for a small pittance per annum. He can have conditions set up which are impossible to believe and for which no recognition could be given. On the other hand, we have the unfortunate poor person who has to pay in full for everything he gets. I am sorry the Minister introduced the name of an individual. I am not concerned as to whom he may be or is likely to be. I say the principle of granting reservations is illegal under the existing law, illegal in the first place and morally wrong in the second place. There is no limit to the area of land that can be held, and exemption, protection, and concentration can be obtained. But I think the one law should apply equally to all persons in the community. Now I will leave the Bill to hon. members. I have no more to say on

it other than that I am convinced that if the Bill be defeated there will be no equity and justice. On the other hand, if the Bill be carried, it will prevent the Minister from letting reservations, and we shall have no privileged class at all. The member who said the Bill did not do justice to all, misinterpreted it, because it puts everyone on the same footing. If the Bill be defeated, we shall continue to have two laws, namely one for the rich and the other for the poor.

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

Ayes	18
Noes	21
Majority against ..	3

AYES.

Mr. Boyle	Mr. Seward
Mr. Hegney	Mr. Sleeman
Mr. Johnson	Mr. J. H. Smith
Mr. Latham	Mr. Thorn
Mr. McDonald	Mr. Warner
Mr. McLarty	Mr. Watts
Mr. Marshall	Mr. Welsh
Mr. Raphael	Mr. Withers
Mr. Sampson	Mr. Doney
	(Teller.)

NOES.

Mr. Brockman	Mr. Nulsen
Mr. Collier	Mr. Rodoreda
Mr. Coverley	Mr. F. C. L. Smith
Mr. Cross	Mr. J. M. Smith
Mr. Cunningham	Mr. Tonkin
Mr. Hawke	Mr. Troy
Mr. Kenneally	Mr. Wansbrough
Mr. Lambert	Mr. Willcock
Mr. Millington	Mr. Wise
Mr. Moloney	Mr. Wilson
Mr. Munsie	*(Teller.)*

Question thus negatived; Bill defeated.

House adjourned at 10.50 p.m.

Legislative Council,

Wednesday, 27th November, 1935.

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

PERSONAL EXPLANATION.

Hon. C. F. Baxter and Departmental Meat Inspection.

HON. C. F. BAXTER (East) [4.33]: I crave the indulgence of the House in order that I may make a personal explanation. When dealing with my motion to disallow a health regulation, I mentioned that an inspector of the Health Department had passed horse-flesh as beef. I was taken to task very trenchantly and in a most definite manner by the Honorary Minister who spoke in opposition to my motion. He stated—

That was rather a serious statement to make, and I thought it advisable to clear the matter up, so that the people of the metropolitan area may be satisfied that the inspection, which takes place at the metropolitan abattoirs, is efficient. To quote the Chief Inspector on that point—

> This statement is certainly untrue. The only instance we have of horse meat being marketed as beef was in 1918. Our inspector, Clutterbuck, diagnosed it at once. The meat was seized, and the person who marketed it was prosecuted. The complaint was heard in the Perth Police Court on the 1st May, 1918. The defendant was fined £20 with £1 9s. costs. The carcase had been specially dressed and trimmed up to resemble beef, but our inspector was not deceived. If I remember rightly, our inspector was complimented on his perspicacity in detecting the fraud. I think, therefore, that Mr. Baxter should withdraw his statement. It is difficult to understand where he obtained his information. Mr. Clutterbuck discovered the carcase, and Mr. F. Higgs laid the complaint on behalf of Mr. Clutterbuck.

The Minister further stated—

> There is a great difference between that case and the allegation made by Mr. Baxter. Allegations of that nature convey an entirely erroneous impression.