sirable as it is to have proper valuations so that people may know what their burdens are, there should be nothing allowed to act as a brake on the efforts of the man in charge. He should be there with a full appreciation of the importance of the onerous duties which the Bill will throw upon him, and therefore I trust that when in Committee we shall see the clause deleted. Again, in connection with the rules of valuation laid down for the guidance of the Valuer General, it is stated that no regard shall be had to certain things, such as the existence of minerals, metals, gems, and so forth; yet there are other things in connection with land which have just as much right to be disregarded. I refer more particularly to timber. A man has as much right to expect that the timber on his ground shall not be taken into account in regard to the valuation of his land as has any person who may have metals, minerals, or precious stones on his ground. This apparently is an omission, and I think the Premier should give consideration to it. There are other items of a similar nature, to which I shall refer when in Committee. I do not know that I can say much more on the Bill just now. My leader considers the Bill has not been conceived in the best interests of the people of Western Australia, and although there are several points in connection with it which I think are good, and which he also admits to be good, yet taken on the whole, I think the introduction of this principle, taken in connection with things that have occurred during the past few years, is sufficient to place a considerable amount of nervous aprehension in the minds of those who will be affected by the Bill. Therefore I intend to vote against the second reading, but I shall do my best when in Committee to improve the Bill. Of course that is all any of us can do. I regret that the Premier did not give us a chance of adjournment. However, he is the leader of the House, and presumably he knows his own business best.

On motion by Hon. H. B. Lefroy debate adjourned.

House adjourned at 10.20 p.m.

Legislative Council,

Wednesday, 17th September, 1913.

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

PAPERS PRESENTED.

By the Colonial Secretary: Annual reports of the Zoological Gardens and Acclimatisation Committee, Public Service Commissioner, and Commissioner of Taxation.

QUESTION—PROPORTIONAL REPRESENTATION.

Hon. D. G. GAWLER (without notice) asked the Colonial Secretary whether an idea could be given to hon. members when the report of the Chief Electoral Officer on the system of proportional representation would be laid upon the Table of the House.

The COLONIAL SECRETARY replied: I am not in a position to answer the question to-day; I will, however, get the information to-morrow.

QUESTION—ROYAL PREROGATIVE OF MERCY.

Hon. D. G. GAWLER asked the Colonial Secretary: 1. Whether he will lay on the Table of the House a return showing the cases in which the Hon. the Attorney General has advised His Excellency to exercise the royal prerogative of mercy in regard to sentences by judges and magistrates, with particulars showing the names of the prisoners, the offences committed, the sentences awarded, the term actually served and the reasons for the exercise of such prerogative in each case? 2, Whether

it is the practice to refer such cases to the judges or magistrates concerned in each case before advising His Excellency to exercise such prerogative, and if so, whether such practice has been followed in each case ?

The COLONIAL SECRETARY replied : 1, There is no objection. 2, Where a case has been taken before a Judge of the Supreme Court it is the practise to refer the question of remission of sentence to him where the merits of the case are involved, but where the matter involved does not affect the justice of the sentence this course is not followed. This practice is in accordance with the wishes expressed by the Judges, and also in conformity with the procedure laid down (*Todd*, page 348). Where cases are heard by Magistrates it is essential to refer the question of remission to them for report in all cases, as (unlike the Supreme Court) there are with regard to Courts of Quarter Sessions, Petty Sessions, or Police Courts no records or evidence available in Perth for reference nor is the Crown Prosecutor in a position to advise.

BILLS (3)—THIRD READING.

1. Game Act Amendment (transmitted to the Assembly).
2. Roads Closure (*passed*).

BILL—COMPANIES ACT AMENDMENT.

Second Reading.

Hon. W. KINGSMILL (Metropolitan) in moving the second reading said : In submitting this small amendment of the Companies Act, I might say that I was almost deterred from doing so by the fact that there are already so many amendments to this Act. Indeed I might point out to the Colonial Secretary so that he in turn might point it out to the Attorney General, that the Companies Acts offer more work for the compiler than any Act on the statute-book, and it is time, I think, that these measures were codified. Hon. members will see that this is a small Bill comprising only one clause and it has been brought forward with the object of putting to an end an anomaly, indeed I might be pardoned for calling it an absurdity, which exists in our present Companies Act. It is proposed under this Bill to amend Section 5 and if hon. members will take the trouble to look up the Companies Act they will find that it reads as follows :—

> Subject to the provisions of the next following section and except as to Part 6, and the provisions therein contained or incorporated, this Act shall not apply to any Friendly Society, Benefit Society, or Building Society, nor to any company or co-partnership which carries on the business of life insurance, either alone or together with any other business, unless such company is already registered under the Ordinance, nor to any company or co-partnership formed or to be formed for the purpose of carrying on the business of banking.

Hon. members, will, therefore, see that if it occurred to any one in this State or any body of men in this State, to initiate a purely Western Australian bank it would be impossible for them to do so, excepting by securing the passage through Parliament of a private Act, and we know that private Acts are scarce in Western Australia. I am informed, and credibly informed, and so far as I have been able to verify the statement, it is true, that in no other part of the British Empire is legislation of this sort adopted against companies to be formed for the purpose of banking, so that Western Australia is absolutely unique in this regard, and it is an example which I do not think should be followed by other portions of the British Empire. Shortly, the effect of Section 5 of the present Act is to absolutely exclude our own people from engaging, if they wish, in the business of banking.

Hon. J. F. Cullen: Unless they get a private Bill through.

Hon. W. KINGSMILL : That is so, but on the other hand that would not be so bad if it were not that, whilst our own people are debarred from en-

gaging in this branch of industry, others from other States and countries may be admitted without the least difficulty, and that is substantially what has happened. As hon. members know, there are in operation in Western Australia at the present time a great number of banking institutions. There is one purely Western Australian institution which was in existence for a considerable number of years before the legislation which I am seeking to amend came into existence. I refer to the Western Australian Bank, which obtained its charter, not under a private Act, but under a public Act in 1879. In 1893 the existing Act was brought in, and I have read with considerable interest and great care, the debates which led to the placing of that measure on the statute-book, and it is strange to say this absolutely unique provision received no explanation whatever at the hands of those who introduced it, nor indeed was it more than casually alluded to in the debate: at all events no reason was brought forward to account for such a strange enactment taking place. If we look at this from a purely governmental point of view—the Government, I understand, are apt to regard such legislation possibly from the point of view of bringing in revenue—we find that the present system has little to recommend it. These outside banking companies are registered under Part 8 of the Companies Act of 1893, the sections being 198 to 212, and they may do so upon the payment of what is practically a nominal fee. However, if a company were formed here or if a partnership took place to engage in the business of banking, it would be essential, seeing the large amount of capital that would have to be provided, that the maximum fees under the Companies Act which amount to £50 or £60 would have to be paid, but that would be a small consideration. We must, however, consider that so far as these banking institutions which we have in our midst are concerned, they are run absolutely and entirely under the present Companies Act. I presume all of them, and I am speaking of outside corporations, have a charter, perhaps have legislation in the country in which they originated, but I am informed that that legislation applies practically only to that country, and that it offers no recourse in the event of any injustice being done to citizens of Western Australia except in so far as the minds of those trying the case may be affected by the evidence which is brought forward as to the existence of such a charter.

Hon. D. G. Gawler: Is there not litigation pending as to whether those foreign companies should come under that section of our Act or not?

Hon. W. KINGSMILL: I was not aware of that. I hope, however, that it will not interfere with the passage of this Bill. I hope also that the hon. member has not sprung a surprise on me. At all events, so far as the Western Australian aspect of the case is concerned, we may regard each and every one of these financial institutions as separate commercial entities, leaving practically out of the question whatever they may have attached to them in the other States or in the countries from which they came. Of course Mr. Cullen said there was one way open for our own people if they wished to engage in this industry, and that is to obtain a private Bill. There is also another way, and the other way is for them to start a branch, call it the head office, say in Adelaide, Melbourne, or Sydney, and then have an ostensible branch, but really the main trunk business, in Western Australia.

Hon. M. L. Moss: Are you satisfied that in the other States they have not to get an Act of Parliament before starting a bank?

Hon. W. KINGSMILL: Not according to the Victorian and New South Wales Acts, at all events. Having gone fully into this matter, I propose to read to hon. members, if they will bear with me, a *resumé* of the legislation dealing with this subject in Victoria and New South Wales, which I think may be taken as a fair sample of the banking legislation of Australia.

Hon. M. L. Moss: All banks except the Commercial Bank have a special charter, or the Kings charter.

Hon. W. KINGSMILL: Not so far as Australia is concerned.

Hon. M. L. Moss: That is so with the English banks.

Hon. W. KINGSMILL: I am not speaking of the English banks. The Bank of New South Wales undoubtedly has a special charter by legislation which has been amended from time to time.

Hon. M. L. Moss: And the Bank of Australasia.

Hon. W. KINGSMILL: I do not know where the Bank of Australasia has its head-quarters.

Hon. M. L. Moss: London, of course.

Hon. W. KINGSMILL: I am speaking of banks which are purely and simply Australian. The Acts of New South Wales and Victoria are the two instances of special legislation which I have come across during my researches, which though limited were as thorough as I could find time to make them. Now, with regard to the legislation which Mr. Moss has alluded to, hon. members will find in Victoria that the principal Act bearing on the subject is what is known as the Banks and Currency Act of 1890, and the sections which are applicable to the circumstances of banking in this State are but very few. We find, first of all, that Part 1 of this Act deals with the supervision of banking companies, and is really what is necessary for the protection of the public, which, of course, is the main object to be thought of in connection with this matter. This part, headed "Supervision of banking companies," provides firstly for a statement of the weekly average liabilities and assets to be kept. Again, it provides that a general abstract shall be made at every quarter. The next section provides that the quarterly abstracts shall be verified. Section 7 provides a penalty for neglecting to keep or make such balances and abstracts. Section 8 enacts that a copy of the charter or deed of settlement is to be recorded in the office of the Registrar General, and Section 9 says that a copy of the new charter or deed is to be in like manner recorded. Section 10 requires the names of the proprietors to be also recorded in the office of the Registrar General, and Section 11 provides for the liability of such proprietors to be sued. Then the Act goes on to deal with note issue, which I think in this latter day may be altogether disregarded, because the existing banks have almost discontinued such issues, and it is extremely improbable that any new institution would take that matter up where others have left off. The legislation in New South Wales dealing with those bodies who start banking institutions is even shorter, but, in so far as the provisions are concerned, practically the same as those in the Victorian Act. These two Acts, the Banks and Bank Holidays Act of New South Wales, and the Banks and Currency Act of 1890 in Victoria, are on the statute-books of those two States, in order that those persons who wish to start these banking institutions may do so in a systematic manner, and may be controlled for the purpose of public protection. Now the Companies Act in this State exists for that very purpose; the keynote of the Companies Act is publicity of the operations, and very many of the same provisions which are found referring to banking institutions in those special Acts in New South Wales and Victoria are also to be found in Part III. of our Companies Act. For instance, by Section 42 of the present Companies Act—

> The directors of every company shall cause true accounts to be kept of the stock-in-trade of the company; of the sums of money received and expended by the company, and the matters in respect of which such receipt and expenditure take place; and of the assets and liabilities of the company.

Hon. M. L. Moss: But you must remember that nobody is entitled to inspect those accounts under the Companies Act of 1893.

Hon. W. KINGSMILL: I will point out to the hon. member where inspectors may be appointed.

Hon. M. L. Moss: But the court does not appoint inspectors for the mere asking.

Hon. W. KINGSMILL: Quite so. In Section 43 a register of mortgages has to be kept, and so on; members will see that the interests of the public are fairly well

looked after. In Section 56 it is provided—

> The Governor may appoint one or more competent inspectors to examine into the affairs of any company, and to report thereon in such manner as the Governor may direct, upon the application following, that is to say—(1) In the case of any company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the company for the time being issued: (2) In the case of any company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered on the register of the company as members.

So hon. members will see that the objection entered by Mr. Moss is not too hard to get over. The provisions of the little Bill which I have the honour of introducing to hon. members are very simple. The measure provides the preliminary step, at any rate, to ensure that we shall not deny to our own people those privileges which we extend to outsiders. It may be true, as Mr. Moss has almost indicated, that in addition to this Bill, it will be necessary, perhaps, to bring in a measure on the lines of the New South Wales and Victorian Acts, which are very simple, for the purpose of regulating the practice of banking in Western Australia. But, at all events, in equity and justice to our own people, it is only fair not to deny to them that privilege which we extend to others.

Hon. J. W. Kirwan: Is not banking under the Federal control?

Hon. W. KINGSMILL: Certainly not. It is one of those subjects which may be taken under Federal control and form the subject of Federal legislation, but so far as I have learned, that step has not been taken yet. I think the legislation relating to banking in the various States still holds good and I do not know of any legislation to regulate banking, outside the Act for the establishment of the Commonwealth bank, having been placed on the Statutes of the Federal Parliament. Even that measure for the establishment of the Commonwealth bank does not mean, as perhaps was inticipated, that all other banks will disappear from the face of the earth.

Hon. W. Patrick: It does not mean any monopoly.

Hon. W. KINGSMILL: No, the Commonwealth bank has no monopoly and it does not mean that the Federal authorities are in future going to obtain a financial monopoly, because the banking people throughout the States look upon the existence of the Commonwealth bank as a stimulus to fresh exertion, rather than a deterrent from such exertion. At all events, hon. members may take this little Bill as the first step to granting to our own people those privileges which we grant to others. With that object I move—

That the Bill be now read a second time.

Hon. Sir E. H. WITTENOOM (North): I second the motion.

Hon. M. L. MOSS (West): I must confess that I have not had much opportunity of really coming to a conclusion as to what the object of the Bill is, because the hon. member who has just resumed his seat has given us very little information, in fact no information at all, upon the need that arises for interfering with the Companies Act in the direction contemplated by this measure. I do not know whether any attempt has been made by a number of capitalists in this country to start another banking institution, who had any obstacles put in their way to prevent them from carrying out their object, but I can see that these provisions in the Companies Act, although they may not be upon the statute-book of any other State of Australia, yet in the absence of a measure dealing comprehensively with the proper constitution of banking institutions, are a piece of legislation that this Chamber should hesitate very much to interfere with. It is quite obvious to me that the provisions of Section 5 of the Companies Act, which excludes banking companies from the operation of

that Statute, has been put there with the idea of doing what Mr. Kingsmill has in view, namely to protect the public, and it does protect the public where a number of persons start a banking institution, and therefore conduct a business which, if not conducted on sound business lines and with a fair amount of capital behind it, may lead to all sorts of trouble. Under Section 9 of the Companies Act of 1893 any five persons, each subscribing to one share, may form a limited liability company. That share may have only a nominal value of 5s. and five persons willing to take a share 5s. in value may become a registered company under this Act. Is it desirable in the interests of the community—and I have quoted an extravagant instance to show why this provision appears in the Companies Act—that five persons without capital should be entitled to start a company and get registration with a certificate of incorporation to carry on a banking business.

Hon. W. Kingsmill: Is this safeguard not advisable with other companies as well as banking institutions?

Hon. M. L. MOSS: Yes, but it is preeminently desirable in the case of a banking institution. Now what is the safeguard that is now given to the public? It is that no institution shall start banking without a special Act of Parliament. It is quite true that banking institutions in other parts of Australia, or other parts of the world, can come, and have come to carry on business in Western Australia, but I think I am fairly correct in saying that the Union Bank of Australia, Limited, which is an English institution, was originally known as the Union Bank of Australia, without the word "limited" attached to the title, and it commenced by virtue of a charter granted by the Imperial Government. When the Union Bank added the word "limited" to its name the shares, which were £75 in value, were paid up to £25, with an obligation on every shareholder of £50 for each share he held in the company. Therefore, when the charter was given to the Union Bank it went out into the world with this hall mark, that although its shares were paid up to £25 there was a further liability on the part of each shareholder of £50 per share. The Bank of Australasia had a special charter, but before it received that charter every inquiry was made to ascertain that it was a substantial institution. The Bank of New South Wales had either a charter or a special Act from the Parliament of that State.

Hon. W. Kingsmill: It may have had both.

Hon. M. L. MOSS: Yes, but these things are not readily granted until the fullest inquiry is made for the purpose of ascertaining whether they are substantial institutions. That is the case with the local institution, the Western Australian Bank, which is operated under a special Act of Parliament; and the National Bank of Australasia, Limited—I do not know how it is operated in other parts of Australia—but in regard to Western Australia I know it has its own special Act from the Parliament to carry on its operations. With regard to the Commercial Bank I do not know, and I make no comments with reference to that institution; but what I have said is sufficient to show that before these other institutions carried on in Western Australia were able to call themselves banks there were great safeguards against these institutions starting without either a charter from the Imperial Government or an Act of Parliament of one of the other Parliaments of Australia. It is quite true that we have no special legislation in Western Australia regulating our banks at the start, but in Section 5 of the Companies Act, which the hon. member wishes to repeal, we have the safeguard that no five flyblown persons can start a bank with no capital at all, but must come to this Parliament and show their bona fides. I have no desire to wreck the Bill the hon. member has introduced, but where I think it is sadly lacking is this: I have listened intently with the idea of him coming to that point of his speech to show some obstacle had been placed in the way of legitimate interests starting another bank in Western Australia. I do not know that that is the case. I think we ought to be careful before allowing any number of persons to start a banking business with-

out coming to this Parliament, or to some other Australian Parliament until we get the legislation which will come presently from the Commonwealth, whereby there will be a general safeguard for the whole of Australia before one of these institutions can be started. We know that in the carrying on of a banking business, take the case of receiving deposits from the general public, the general public will as a rule hand deposits to any of the banks I have named knowing it is absolutely gilt-edged investment, but I doubt whether that would obtain if all sorts of rotten institutions were allowed to start in this city without proper safeguards, and if people were stupid enough to deposit money with them and become creditors under the winding up of any such institutions. The hon. member has quoted from the Victorian Act to show that in Victoria there is the necessity to keep certain records and give certain publicity; but there is nothing like that in Western Australia.

Hon. W. Kingsmill: What about the Companies Act?

Hon. M. L. MOSS: I am coming to that. I think every member of my own profession in this House will agree that under Section 42 of the Companies Act directors are bound to keep records of stock in trade, money received and disbursed, assets and liabilities; but the general public dealing with that company are not entitled to go and pry into this business and ascertain what is in them; in fact the next paragraph quoted by the hon. member will show the point I take, namely, "that books of accounts shall be kept at the registered office of the company, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company, in general meeting, shall be open to the inspection of members during the hours of business." In the formation of a company for banking purposes there would be only five persons who would be entitled to inspection, so the safeguards of the public alluded to in this Section 42 would be of little value in safeguarding the public in connection with a banking company which could be so easily formed if this Bill is passed. A rather unfortunate illustration is the appointment of inspectors. I do not know one instance in the 32 years I have lived in Western Australia where the provisions of Section 56 have applied, and they never would be applied except in a case of great concern. This power is that the Governor-in-Council may appoint one or more competent inspectors to examine into the affairs of any company, and to report thereon in such manner as the Governor may direct upon application, as provided.

Hon. W. Kingsmill: That is a dead letter.

Hon. M. L. MOSS: No, it would be brought into operaton if a grave scandal occurred in connection with a public company whose shares are being sold on the stock exchange, and a scandal took place that the assets of the company were being manipulated as happened in Melbourne in 1893, when there was all sorts of villainy; the Governor would exercise that important power to have an investigation into the affairs of a company with a view to prosecute people for acts of maladministration. It has been put there, not for the purpose of waiting for grave occurrences, but in order to prevent them. The law says that persons cannot start a bank until they come to the Parliament and get a special Act.

Hon. C. Sommers: You cannot start a trustee company without an Act.

Hon. M. L. MOSS: One could be started, but not having all the powers of the West Australian Trustee Company. I shall listen with some amount of interest to hear the attitude assumed by the Government in connection with a Bill of this kind. My own observations are made in a very hurried way in reply to Mr. Kingsmill, but I want to know what the Government propose to do and whether the public interests in this State will be properly safeguarded by the repeal of this section. It strikes me that this would be a dangerous thing. While we have had an able speech from Mr. Kingsmill on the question, the Colonial Secretary may be able to present views from the other aspect. It should be

seriously considered by the Government, if this section is to be repealed, what real safeguards are to be put on the statute-book. I know of no walk of business life where the public are entitled to look to the Parliament for greater protection than where people start a bank and hold themselves out to the public as persons who will receive the public's money on deposit, and that there will be something like reasonable security when the time of payment arises. Unless I can hear something very much more than at the present time, and particularly unless I can be satisfied that injustice has been done to a body of persons desiring to start a banking institution——

Hon. W. Kingsmill: I do not know that.

Hon. M. L. MOSS: Then I withdraw this observation, and say that until I hear something more than has fallen from the hon. member. I expect to hear it from the hon. member in reply, or from the Government that they have taken into consideration the Bill before the House. While I am anxious on all occasions to assist my hon. friend in measures which he brings before this House, I think this one is not in the interests of the public at large, and, therefore, it will be my duty to oppose it.

On motion by the Colonial Secretary debate adjourned.

WEST PROVINCE ELECTION SELECT COMMITTEE.

Assembly's Message.

Message received from the Legislative Assembly giving leave to the Hon. W. C. Angwin to attend, if he thought fit, and be examined as a witness and give evidence before the select committee on the West Province election, 1912.

BILL—RIGHTS IN WATER AND IRRIGATION.

Second Reading.

Debate resumed from the previous day.

Hon. J. F. CULLEN (South-East): I shall not attempt to add to Mr. Colebatch's very scathing and very just criticism of the speeches made elsewhere in connection with this Bill. I only regret that the measure should have been handicapped by such speeches. I would just like to deprecate a good deal of the claptrap that has been talked about the industrial progress of this State in connection with this Bill. The Minister who introduced the measure in this House pleaded guilty to a reproach, or expressed himself as being open to reproach as representing this State, for the neglect of irrigation heretofore, and there have been all sorts of lamentations about our importation of butter and other things that may be produced here by the help of the Bill. I think that those who indulged so superficially in this kind of lamentation hardly understand the economics of industry. Do they dream of a condition under which there should be no commerce between a country and its neighbours, or are they simple enough to think that any country could sell only and not buy? Why has this State delayed the production of butter; why has it delayed what is known as intense culture? Because it had something more remunerative to do; that is the position. Imagine anybody in the day of the mining boom attempting to clear land and raise produce from the land. Why he would say at once, "I can earn from 15s. to 30s. a day at mining, and why should I go before the time to clear land?" In process of time, when mining had attracted population and made a market, people who understood the cultivation of the land came along and began to settle the country normally, naturally, without any coddling or forcing, and in process of time there will come along, if the authorities of this country will only allow them, people who understand intense culture, irrigation, butter-making, etcetera. It is the wisdom of any community to do at each stage that which pays best at that stage. How foolish it would have been at any earlier stage to go into the South-West and spend anything from £50 to £150 per acre on making the land cutivable through irrigation, when by spending

£1 per acre in the wheat belts, especially along the Great Southern railway, land could be made immediately productive. There is another matter of criticism I would like to add to this: I think that those who are forecasting such golden returns from intense culture slightly miscalculate the relative importance of such culture and the great staple industries of a country. Suppose some Government had been foolish enough—and goodness knows some Ministers are foolish enough for anything; I am not referring wholly to Ministers of to-day—suppose some Government had been foolish enough to coddle intense cultivation at an earlier stage, how quickly they could have overrun any line of demand in our mere handful of a population. Take potatoes: some people are running from the Government offices now to grow potatoes. They were moved by the abnormal demand some time ago for potatoes. But a few farms could grow enough potatoes for the whole of the State to-day, and then potatoes at the farm would be worth not more than from 20s. to 30s. a ton. That is all they are to-day in Victoria. And after all, the main trouble with all these products of intense culture is, not the growing, but the transit to market. Marketing—that is the cause of the cost in nearly every case, and while there is a limited market and costly transit, it would be foolish for any Government to force any industry. I say it is the wisdom of a community to advance naturally, rationally, its people doing at each stage that which is most profitable at that stage. But admitting now that it is wise to give attention to the question of irrigation, I am sorry that the Bill was not divided into two parts. It has become greatly confused by interlacing provisions for two distinct things. The definition and declaration of water rights is a subject for a very important measure by itself. Then in a second measure we should have had provision of sound lines for the application of water to land in the form of irrigation. It would have been very much better. As a matter of fact the Bill does not very satisfactorily or clearly attempt to define water rights. Clause 4 professes to define the Crown's right in water. It may be accepted, but it is a very crude definition. The Crown, this clause says, has vested in it, not only all rivers and lakes and lagoons, but all marshes and springs, subject, of course, to several restrictions mentioned later in the Bill. I would suggest to the framers of the Bill that it would simplify matters very much now if they utilised the provision which the Lands and Surveys Department adhere to strictly, namely, if they, after enumerating rivers and lagoons, were content to take boundary waters. It would save a lot of opposition to the Bill from owners of land within whose boundaries there are many marshes and depressions. Why, I hold a little hobby block, but there are half a dozen small marshes and swamps on it.

Hon. Sir E. H. Wittenoom: Does the water flow in and out?

Hon. J. F. CULLEN: In flood time, yes, but perhaps only for a few days in the year. And there are springs on it too. Under Clause 4 all these things can be claimed by the Government, and it would be preposterous for any Crown authority to attempt to follow up any such claim. Now, if after enumerating large water courses the Bill provided for vesting in the Crown all boundary waters, I am satisfied it would be a much simpler definition and would disarm a great deal of objection to the measure.

Hon. D. G. Gawler: It is a question of interpretation.

Hon. J. F. CULLEN: A good deal of objection to the Bill has been created by possible interpretations of the Bill. Of course the Ministers reply and say, "Oh, you can trust our good intentions; you would never dream of Ministers doing this or that." If good intentions were enough, we should need no Acts of Parliament at all; there would be no need for regulations and statutes if good intentions were sufficient, for all Ministers have good intentions. But in spite of good intentions they do most irrational and uneconomical and foolish things, to the risk of public interest. I want to point out that the Bill does not directly attempt to define land owners' rights in water. By the

way, I noticed in the *West Australian* this morning, an article which is not quite equal to its average. The article quotes a very superficial sentence from Mr. Swinbourne, one of the best authorities on water rights in Victoria. Mr. Swinbourne is quoted as having said, "It is not admissible for us to recognise any private rights in water." The funny part of it is that Mr. Swinbourne himself helps to legislate for such recognition. He had a large hand in legislation that provides for recognising certain rights of private owners. Concessions are made because of old riparian privileges, and this Bill, although it does not dare to define any rights of owners of private lands, tries to obviate their objections to the Bill by bringing in certain restrictions on Crown claims. That is to say, for instance, the owners of land will have all rights to springs and the water rising therefrom until it leaves their boundaries; and they will be allowed to take water for five acres for a garden which they are never expected to keep, because the Bill provides that the garden must not be used for anything but to grow vegetables and stuff for the family. It must not be used for any commercial purposes at all. It is a kind of empty concession which really means nothing, but which would be supposed to please a lot of people. My point is that the Bill does not attempt to define any rights of land owners in water; it proceeds on the assumption that they have no rights and then it makes these concessions. Now, I insist that anyone who recognises private rights in land must recognise also certain private rights in water. He cannot get away from it. The Minister who fathers this Bill might have consistently denied private rights in water, because he denies private rights in land to everybody but himself. He has taken care to have a little bit of his own, but as a doctrine he denies any private rights in land. The man who denies private rights in land will be consistent in denying private rights in water. But ninety-nine hundredths of Labour voters believe in having their own bit of land if they can get it, and I say that in respect to all these there are no grounds for denying a certain measure of private rights in water. For instance, a man owns, say, a thousand acres of land. Has he no right to use and impound as much as he can of the rain that falls on that land? Who will deny it? So, too, with regard to the springs that rise on that land. Why even the Bill says "Yes, we acknowledge a private right, and that water is yours until it reaches your boundary." I say it would have been better and would have disposed of a lot of opposition if the Bill had candidly faced the facts and admitted private rights where they really do exist. Now, I am not going to delay the House with any small question which can be brought up in Committee, but I want to deal with two or three clauses which I think must be radically altered before the public interest would be safe under the Bill. The Minister who fathers the Bill says, "Trust the Minister." As a matter of fact, the Bill is nearly all Minister; the Minister has a weakness that way, as honourable members know. We can understand it in a certain cast of mind, a kind of cocksure mind, but it is as remarkable for shallowness and want of balance of judgment as for its cocksureness. These two things always go together; the cocksure man is the man whose judgment his best friends would not depend much upon.

Hon. F. Davis: People in glass houses should not throw stones.

Hon. J. F. CULLEN: This Bill is almost all Minister. Of course the Minister can have no other object than to do what is best in the public interest. I admit that, but he might do a very serious injury to public interests for all that, and any legislation which creates uncertainty and doubt and anxiety in the minds of the best part of our population, the enterprising, active, industrious part of the population, will unman and weaken them in the work the country wants them to do.

Hon. J. W. Kirwan: Is there any Bill that does not cause uncertainty? I do not know of any.

Hon. Sir E. H. Wittenoom: Some of them create a good deal of certainty, especially the taxation Bills.

Hon. J. F. CULLEN: The Minisiter says "Do not be anxious." Down at that interesting conference at Bunbury, the report of which I have read with profit as well as interest, the Minister's answer to everything was "Do you doubt our intentions?" No one doubts their intentions, but the people do seriously doubt the Minister's grasp of the question and his sense of what is best for the public. That is what they doubt; they do not doubt his intentions at all. The first of the clauses to which I shall refer chiefly is Clause 29. This clause provides for a board to come in after the Minister and the commissioners. I think the board should come in earlier. Under this Bill the board will come in afterwards to bear the brunt. The Minister can be an open-handed spender of scores and perhaps hundreds of thousands of pounds. In fact, there is no limit under this Bill at all to what the Minister can spend. It may be said that Parliament will limit the amount, but there are some Ministers who do not give Parliament a chance. They spend the money and then say, "For the honour of the country pay this money which we have committed the country to." That is the trouble. There is no limit to the amount the Minister can spend, and he may spend what he likes. Perhaps it may be that some of the unemployed will go to him and say, "Why not start the Tinpot Gully irrigation scheme and put us on to work there and give us the standard wages? We may not be worth our tucker, but why should you hesitate? You will get us away from the doors of Parliament House and it is far better to have us away in the country than making a noise in Perth. Whatever the cost, you will put it on the shoulders of the devoted board who will come in afterwards." The board should come on the scene at an earlier stage, or someone on behalf of the owners of the land who will have to pay all the rates and find sinking fund and interest should come earlier on the scene. I, as a member of this House, insist that there must be some safeguard as to the taking up of irrigation districts and the launching of expenditure upon them, the burden of which will have to be carried by the owners of irrigable land in those districts. I think the board must come on the scene earlier, or we must provide that no irrigation scheme shall be taken up without the consent of at least a majority of the land owners who will have to find the money. There is another alternative; it might be provided that every scheme shall be submitted for Parliamentary approval. There would be no difficulty in a Minister on the advice of the commissioners evolving two or three schemes and submitting them to Parliament. If that were done I would be satisfied. If the land owners who will bear the burden are consulted I will be satisfied, but I shall never vote to give any Minister a roving commission over this country to evolve any scheme he likes, to start on it and spend what money he thinks well upon it, and then say to the owners in effect, "You have to find so much a year to pay for this scheme." Why, the rate necessary to cover interest, sinking fund and working expenses might be absolutely prohibitive, and what could be done by the land owners? Absolutely nothing. The board must come on the scene earlier and be consulted, which means that the property owners will be consulted, or each scheme must be first submitted to Parliament. Whether this House provides that each scheme should be submitted to Parliament for approval or not, it will have to provide that any serious expenditure of money, whether the limit be fixed at £10.000, £20.000, or £5,000, must be limited, and beyond that limit no executive should be able to go without direct parliamentary authority. It is not good enough to let the Minister, a cocksure Minister as I have said, draw upon the advance to the Treasurer, which advance is a quarter of a million of money, to draw as much as he likes out of that advance and then come to Parliament afterwards for his action to be condoned. It is not good enough, and it is not necessary, and to any Minister who says "If you do not pass this Bill you will be blocking irrigation" I say, "No, I am blocking your folly. You are blocking irrigation; not this House. You are the

handicap, the old man of the sea." As to the constitution of the board, there are three proposals in the Bill, namely, by the appointment of a local authority, that is a roads board or a municipal council, by the appointment of members by the Government, or by election by the occupiers of irrigable land. I want to point out straight away that it would be a fatal thing to place the control of an irrigation district in the hands of what is known as local authority, that is a roads board or a municipal council. These authorities are elected for totally different purposes and are supposed to hold different qualifications: furthermore, they would not properly represent the people concerned. A roads board district might cover many interests amongst which the irrigable land owners would be but a fraction, and it would be a fatal move to place the affairs of the irrigable land owners in the hands of a local authority elected for entirely different purposes. The roads board or municipal council would be strongly tempted to take the view that the more money spent the better it would be for their locality. They might prove to be jolly good spenders, and the men who had to bear the brunt might be but a fraction of the whole of the ratepayers. That is not good enough. The administration would be in the hands of people who did not represent the ratepayers, I mean the payers of the irrigation rates. I hope the Minister will make a note of this point. This House cannot allow the control of an irrigation area to go to a municipal council or a roads board who may have overwhelming interests that would be not consistent and perhaps would be antagonistic to the owners of irrigable land.

The Colonial Secretary: Are you speaking on behalf of the House?

Hon. J. F. CULLEN: I think the Minister will find that the House will be pretty unanimous on this point. He has only to go to the Victorian experiments to ascertain the truth of this matter. I think the solution would be made up out of paragraphs (b) and (c) of Clause 30. I think the board of management should be partly appointed by the Governor and partly elected by the owners—not occupiers—of land who have to pay the rates. I think that would be the soundest solution of the matter. The Government could take care that there were sound engineering and expert qualifications in its appointees, and the owners of the land would take care that they were represented by men they could trust to look after their interests. I think there would be safety in that arrangement. My remarks about these clauses are summed up in this way. The Minister must not have a free hand to spend what money he likes and then devolve the burden on a board. I think the board or the owners of the land who have to pay the rates must be consulted earlier or Parliament must be consulted. There must be some safeguard against unwise expenditure of money and unreasonable burdens being placed on the unfortunate owners of land who cannot get away, and who would have to pay even though they were crushed by the rates. I want to refer now to Clause 39, which deals with the power of levying rates. It says—

> An irrigation board may, with the approval of the Minister, from time to time make and levy rates, to be called irrigation rates, upon all irrigable lands situated within the district.

There is no limit except this, that the board must not take more than would be enough to cover interest, depreciation sinking fund, maintenance, working expenses, and the expenses of the board. That may be an unlimited sum and it may be that the board have not an atom of interest in the whole concern. There might not be a ratepayer on the board, and if they are very fond of riding in motor cars and living luxuriously it is impossible to say how rapidly any scheme might be smashed. The Minister no doubt will reply "You trust our good intentions." Of course, I trust their good intentions, but I do not feel free to let them make havoc of the interests of the people who are living on irrigable lands and cannot get away, and whose only escape would be through the bank-

ruptcy court. There must be some maximum fixed, and I ask the Minister to have that maximum placed in the Bill. There is, with regard to all other statutes conferring levying power, a maximum fixed, and to say there is a maximum fixed here, in that they cannot levy more than they want, is childish. I hope the Minister will give his careful attention to that point. The next clause I want to refer to is Clause 61. Shortly stated this clause gives power to resume compulsorily any irrigable land and lease it in perpetuity. I want to point out that under cover of this clause there is nothing to hinder the Minister from working in what I may call the "Bath blight" from which this country has suffered enormously—the wretched leasehold fad. There is nothing to hinder it. He can resume any irrigable land; he can resume the greater part of the South-West of the State and hold it and lease it in perpetuity. I am against this indirect attempt to drag in this terrible curse, from which the country is already suffering. That proposition must be modified. There is no objection to the Minister resuming compulsorily or otherwise any land required for works, or for the site of works; there is no objection whatever to that. But to give the Minister power to work in his little fad of leasehold under cover of this innocent Bill, I say would be abject folly on the part of the Legislature. I think it necessary to draw the attention of the House to the clause, and I mention it because none of the earlier speakers have referred to it. It is one of the most serious blots in the Bill. Power should not be given to resume land for speculation. There is absolutely no need for that in the Bill. I want to add to the very strong remarks of Mr. Colebatch on one point. This House is entirely in favour of irrigation.

Hon. F. Davis: One would hardly think that judging from your remarks.

Hon. J. F. CULLEN: The hon. member is not quite so discriminating as he might be. There is a clear distinction between an object one has in view and futile attempts in that direction. And I say the worst enemy of irrigation is the Minister who brings forward an impossible Bill and then goes to the country and screams that the Legislative Council has blocked irrigation. They have not blocked irrigation; they have demanded a rational and workable Bill.

Hon. J. W. Kirwan: Is the hon. member voting for the second reading?

Hon. J. F. CULLEN: Certainly. The trouble about the Bill is this: it requires very seriously re-casting. And it is a large order for this House to take that Bill and make it workable, but it is a duty that the House has to face. This House wants to facilitate the best possible use of the country, and of course the second reading of the Bill will be carried without dissent. But I want the House to appreciate very seriously the duty before it. This Bill will have to be recast in a number of its clauses. It is just a question whether it should be done in Committee of the whole House or whether it should not be done by a select committee, by a few experts on the question. But whatever is necessary, and whichever course the House may decide to take, I am sure at the outset every thoughtful man has credited this House in the past with being friendly to the object in view, and I am satisfied before the House has finished with the Bill we will have shown not only to the country, but to the Minister who fathers it, a better way of doing what he wants to do.

Hon. J. W. KIRWAN (South): There are a few observations I would like to make regarding this Bill, the outcome of my having listened very patiently to the discussion on the Bill in this Chamber during this session, and having also followed it with interest, though with silence, during its progress through the House last session. I think I can claim to be altogether unbiassed concerning this measure, for it will not to any material extent affect the province that I have the honour to represent in this House. But the question of irrigation is one of the very greatest concern to everybody interested in Australia, and in every part of Australia. The man who lives in Western Australia and who has made his home there, cannot

but be concerned at the attempt made by the Government of the day to bring to the State similar benefits to those that accrued from irrigation in other States. I have had an opportunity of seeing some of these benefits in the other States, and I only hope the South-West and every other part to which these benefits can be extended, will profit to as great an extent. I feel that one could talk for hours on what irrigation has done in the other States, and in the rest of the world, but all that information is before the House in the pamphlet which has been prepared by Mr. Oldham. Anyone who has travelled in other parts of the world, not only in Australia, but in India and America, knows what advantages come from irrigation. Therefore I think credit ought to be given to this Government for making what seems to me to be an honest attempt to devise some scheme that will prevent the water from running into the sea, as it has been running for many years past. This Bill may not be perfect; probably the Minister will not claim perfection for it. There never was and never will be a Bill of this character, or any other comprehensive Bill, that could not be torn to pieces by adverse critics, and those who desire to tear it to pieces. But I have been so much concerned about the matter that I looked up this morning some legislation of the other States bearing on the question, and I find that this Bill embodies all the best features and leaves out the objectionable features that are to be found in other measures. I may mention one or two points in connection with that later on, but there is one thing that ought to concern this House, and it is what actually happened to the Bill during last session. Those who were members of the House will remember—there has been no election since—that this House proposed, I think it was a dozen, it may have been 11 or 13, amendments to the Bill we are now considering. Of these amendments, I find five have been embodied in the Bill. Mr. Gawler, who spoke last night, pointed out that some of the amendments were a very great improvement. However, five are embodied in the Bill. Of the remaining amendments which are not embodied, and which constitute the real difference between this House and the other Chamber, there are three of outstanding importance, three really important amendments. I believe there are some members of this House during the last session who voted for these amendments with the intention of killing the Bill.

Hon. J. F. Cullen: That is a very serious charge to make.

Hon. J. W. KIRWAN: With the intention of killing the Bill. I repeat the charge, that I believe that there were members of this House who voted for these amendments with the deliberate intention of killing the Bill .

Hon. C. A. Piesse: Name them.

Hon. J. W. KIRWAN: The hon. member asks me to name them. I am not in the habit of making statements that I cannot support by testimony; that cannot be disputed. I am very careful over statements which I make, particularly the statement which I made, and which, as Mr. Cullen who interjected said, was a very serious one. In that statement I am only repeating what one hon. member of the House said during the debate last session. On page 4448 of *Hansard* the hon. member, Mr. Sanderson, who I regret to say, is not here, said "He would support Mr. Colebatch in the hope that the amendments would kill the Bill." That is the statement of the hon. Mr. Sanderson. A little while before that an endeavour was made to report progress, and judging by the remarks on that motion it would seem that the object of those who favoured that course was also to kill the Bill. I shall endeavour to show from the amendments suggested why it was, if these amendments were carried, it would undoubtedly kill the Bill. The hon. Mr. Sanderson, with that keen judgment and independence of speech for which he has been noted since he has been in the House, would not mince matters. He said "he did not wish to beat about the bush"; he was honest and straightforward about it. And if similar amendments are to be brought forward, I hope members will be honest enough to vote against the second reading,

and not by such preposterous proposals endeavour to kill the Bill in Committee, and endeavour to put the blame on others than those who are responsible. What were those amendments? I should like to refer to one or two of them. The first was in regard to the ownership of the beds of rivers, swamps and so on. Under this Bill the authority under the Government are taking control of running water, and having that control, and owning running water, surely nothing is more reasonable than that the authority who owns and controls the running water should also have the ownership of the land over which the water flows.

Hon. H. P. Colebatch: Even though someone else has bought and paid for it.

Hon. J. W. KIRWAN: It is the logical deduction from the taking over of the ownership and control of the water. To introduce a system of duel ownership would produce all sorts of complications. One body would be the owner of the water and would control it, and another would own the land. Suppose, as is likely under this Bill, it is desired to deepen the bed or build up the banks, then before the authority could touch that land over which the water flows they would have to go to the owner, and what sort of complications and litigation would ensue? Surely whatever anyone thinks of the Bill, if we want to make it a workable one, we must get the ownership of the ground over which the water flows. That is the logical deduction from the position which has been taken up. One of the other amendments suggested at the last sitting of this House, and which was not accepted by the Government, and rightly to my mind, is the amendment that is advocated now by some of the speakers. Rather than agree to an unworkable Bill, I can quite understand that the Minister would absolutely prefer that the Bill should not be passed. The other proposals which were submitted are these: One was to the effect that nothing in Part 3 of the measure shall have application except in irrigation districts proclaimed under Part 4. That practically means that the measure would not be operative except in irrigation districts. The Bill would be inoperative in every part of the State except where irrigation districts were proclaimed. The other proposal prevents the possibility of irrigation districts being proclaimed anywhere. The extraordinary proposal brought forward by the select committee appointed by this House is that no irrigation district can be proclaimed unless it is approved by two-thirds of the people owning two-thirds of the land.

Hon. H. P. Colebatch: That is copied from the New South Wales Act.

Hon. J. W. KIRWAN: I fully expected that interjection. That is one of the objectionable features of the legislation of the other State. I could point to certain others in the legislation of that State, but this one in particular ought to be specially avoided here. It was probably introduced by the reactionary Legislative Council of New South Wales. However, that clause if passed would render this Bill absolutely inoperative, and I cannot conceive any Minister of the Crown agreeing to a proposal that would make his Bill absolutely worthless. It will be only wasting our time going on with this measure, therefore, if a clause like this is inserted. I have not the faintest idea what the Colonial Secretary or the Government will do regarding these proposals, but I say that if the Government agree to this one they would be unworthy of the trust of the people, and they would render their Bill unworkable. Where can you get two-thirds of the owners of two-thirds of the land to agree to a proposal of this kind.

Hon. C. Sommers: Why not?

Hon. J. W. KIRWAN: There are a certain number of people who, having particular rights, adopt the dog in the manger policy, and they will not use the water themselves and they will not allow anyone else to do so. The suggestion that was made was that an Order in Council was to be published, and if within three months a petition was not presented by two-thirds of those holding two-thirds of the land, then the proclamation would not issue. I am glad to see that even the Bunbury conference, composed as it

was of men directly interested, had more sense than to propose anything so preposterous. All they asked was that a majority of the people should determine. But when a House of this character supports such a proposal as was made, it shows that the members of it are more conservative than the people who themselves hold the land.

Hon. C. A. Piesse: Will you agree to the majority proposition?

Hon. J. W. KIRWAN: The original holders interests are safeguarded. There are various safeguards contained in this Bill. There is that very provision which was agreed to, an increase in the quantity of land that may be irrigated free—an increase from three to five acres. That was one of the concessions asked for. Then, as regards special cases such as Mr. Colebatch mentioned, there is a special provision for licenses to be granted to safeguard the rights of individuals in matters of that kind to see that no grave injustice is done. Certain members have referred to what may happen under the Bill, but if we assumed that the Government and the administration officers would act foolishly, no Bill would ever be passed through this House. We are to assume that the Bill will be properly administered. If members want to bring forward these proposals again, I sincerely trust they will be, as Mr. Sanderson put it, perfectly straight and candid about it and vote against the Bill on the second reading instead of trying, to use Mr. Sanderson's words, "kill it."

Hon. W. Patrick: You have no right to say that.

Hon. J. W. KIRWAN: I am using the words of Mr. Sanderson.

Hon. W. Patrick: Mr. Sanderson is not here.

Hon. J. W. KIRWAN: I am entitled to quote what Mr. Sanderson said in this House. I say that some members of this House voted for the last amendments intending to kill the Bill, and when I was jeered at and asked to mention names, I promptly produced the exact words of Mr. Sanderson, which were to the effect that he would support Mr. Colebatch in the hope that the amendment would kill the Bill. A little before that, Mr. Sommers moved that progress be reported, and the Chairman asked to what date. Mr. Sommers replied, "To next year," and the Chairman answered that he could not accept the amendment unless the hon. member mentioned a date. Was not that an attempt to kill the Bill in Committee? It also indicated a spirit of hostility towards the Bill. Mr. Sanderson was perfectly honest in admitting that he voted for the amendments intending to kill the Bill. I believe there were other members in this House who voted intending to kill the Bill, but there was one man who was candid and honest enought to admit that, and I give him credit for it. Hon. members know as well as I do although I have not discussed the matter with any Minister, that no Minister would so demean himself as to accept proposals that would render the Bill inoperative and unworkable. Under these circumstances, why not be candid and vote against the second reading. There is one point that was referred to by Mr. Colebatch and I think it is a point that is very much in favour of the Bill. He said that all departmental officers were in favour of it, and that they were fair minded and were enthusiastic about the Bill. What better testimony can we have that there has been an honest endeavour to devise a statesmanlike scheme to utilise the waters now running to waste into the sea. There are a number of hon. members who will get up here and say they are in favour of irrigation and yet adopt an action which they know well will kill the Bill. I prefer the attitude taken up by Mr. Sanderson. I would plead with hon. members to pass the Bill in the interests of the South-West and in the interests of Western Australia. It has already been delayed twelve months by the action of this House, and I would earnestly plead with members who think well of Western Australia, and who desire to see it advance, to support the Government in this laudable endeavour to utilise the waters of this country.

On the motion by Hon. F. Connor debate adjourned.

House adjourned at 6.15 p.m.