no reason why we should incur the risk involved in having Alsatians in the country.

On motion by Hon. J. Cornell, debate adjourned.

House adjourned at 11.15 p.m.

Legislative Assembly,

Wednesday, 27th November, 1929.

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

QUESTION—PERTH-FREMANTLE ROAD, DEVIATION.

Mr. MALEY asked the Minister for Works: 1, What is the total cost to date of the road improvement work at, or near, what is known as the ropeworks bend on the main Perth-Fremantle Road, including the proportionate cost of administration charges, and removal and re-erection of telephone and electric light cables, etc.? 2, How much more is it estimated this work will cost to complete?

The MINISTER FOR WORKS replied: 1, £4,551. 2, £2,726.

QUESTION—UNEMPLOYMENT, SOUTH-WEST.

Mr. J. H. SMITH asked the Minister for Works: 1, Is he aware that grave unemployment exists in the South-West? 2, Does he know that over 100 men are awaiting employment at Pemberton? 2, Will he state how many men will be engaged on the Pemberton railway and roads in the Nelson electorate during the next three months?

The MINISTER FOR WORKS replies: 1 and 2, Answers to these questions were given to the hon. member on 6th August. 3, I am unable to say at present.

QUESTION—WHITE CITY, LEASE.

Mr. CORBOY asked the Premier: 1, Have the grounds, known as "White City," been leased? 2, If so, to whom, at what rental, and for how long? 3, Is it his intention during this session to lay on the Table of the House a copy of the lease, if any?

The PREMIER replied: 1, Yes. 2 and 3, A copy of the lease, which will afford complete information, is being typed and will be laid upon the Table of the House to-morrow.

BILL—STATE SAVINGS BANK ACT AMENDMENT.

Recommittal.

On motion by the Premier, Bill recommitted for the purpose of further considering Clause 4.

In Committee.

Mr. Stubbs in the Chair; the Premier in charge of the Bill.

Clause 4—Board of Directors:

The PREMIER: The clause deals with the appointment of the board of directors, and last evening Subclause 1 was amended by making provision for the board to hold office for one year. I then intimated that a further amendment would probably be necessary as no provision was made for the appointment of the board after the expiration of a year. In order that that omission may be rectified and provision made for a board to continue in charge of the operations of the bank, I move an amendment—

That after "year" the words "and who shall be eligible for "reappointment" be inserted.

Subclause 1 will then provide that the bank shall be administered and managed by a board of directors, composed of the Under Treasurer and two other members to be ap-

pointed by the Governor, who shall hold office for one year and who shall be eligible for reappointment. It will not follow necessarily that the same board will be reappointed. I looked into that point. With the further amendment, the clause will meet the desire expressed by the Leader of the Opposition. It will limit the term of office of the first board to one year, with the exception of the Under Treasurer, who will remain on the board.

Hon. Sir James Mitchell: Can other people be appointed?

The PREMIER: Yes.

Hon. G. Taylor: But the other two members will be eligible for reappointment.

The PREMIER: Yes; either or both of the other members may be reappointed or neither of them.

Hon. Sir JAMES MITCHELL: I have no objection to the amendment. Without it, the board would terminate at the end of 12 months. With the clause as it will appear now, it will give the Government a perfectly free hand to reconstruct the whole system of banking and the board as well. It would be awkward to do that if a permanent board were appointed at the outset. I think it is a mistake to fix upon the Under Treasurer as chairman of the board permanently, but I have no objection to the constitution of the board for the next 12 months.

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

Bill again reported with a further amendment and the report adopted.

BILL—COMPANIES ACT AMENDMENT.

Council's Amendments.

Schedule of 15 amendments made by the Council now considered.

In Committee.

Mr. Stubbs in the Chair; Hon. W. D. Johnson in charge of the Bill.

No. 1. Clause 3, paragraph (a)—Insert after "in" in line 24 the words "respect of."

Hon. W. D. JOHNSON: The amendments have been found necessary by a conference of representatives of a number of societies and legal advisers in order to comply with the Companies Act. The whole of the amendments were duly considered and adopted by the Co-operative Federation before being moved in another place. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 2. Clause 3—Insert a new paragraph to stand as paragraph (b), as follows:—(b) That before declaring a dividend out of the profits for the then last financial year of the company, the directors may in their discretion provide for the payment of a dividend upon the shares which had been issued and were held by shareholders during any one or more of the three preceding years in respect of which no dividend has been declared: Provided that such dividend shall be payable to the persons registered as the owners of such shares at the date of the declaration of such dividend.

Hon. W. D. JOHNSON: This amendment is required because some of the companies particularly those operating in the more easterly portions of the State, find that owing to the credit system in vogue, it is difficult during bad seasons and with limited capital to pay dividends. The Bill anticipated the payment of a dividend every year, but that cannot always be done, and the amendment will permit of dividends being held over for a term of three years when the deferred dividends will be paid before the actual profits are distributed. I move—

That the amendment be agreed to.

Hon. Sir JAMES MITCHELL: Would the profits to be distributed be those of the subsequent year or would they be reserved for the three years?

Hon. W. D. Johnson: If there was a small profit, instead of distributing it, the company would hold it over, and it might be distributed in the second or third year, but the limit is three years.

Hon. Sir JAMES MITCHELL: The only justification for the amendment would be if the dividends were paid on the trade done.

Hon. W. D. Johnson: This refers to a dividend on share capital.

Hon. Sir JAMES MITCHELL: A shareholder having sold his shares for value might find that he was losing some of the profit, while the man who bought would benefit. It is an extraordinary provision, the like of which I have never heard. If it were decided to pay a dividend covering the pre-

vious three years, the man who had parted with his shares would be precluded from receiving the dividend. If the fact were that credit was given and money was not collected for the three years, but when collected payment was made on the trade done, it would be reasonable, but when it is a dividend on share capital, it does not seem right to deprive the man whose money had earned the profit from the enjoyment of it.

Hon. W. D. JOHNSON: The amendment deals with a dividend on share capital. Generally a dividend of 7 per cent. is paid on share capital before the rest of the profits are distributed. In practice the profits made in one year may not be large enough to permit of the distribution of a dividend, and the idea is that no distribution of profits should be made in that year. In the following year, perhaps as a result of a good season, a dividend might be declared in respect of that year and the previous year, and having declared a dividend on the share capital, the rest of the profits would be distributed on the basis of business done. The same thing would apply if the profits were held over for three years.

Mr. Davy: You mean it is to be a cumulative preference share? If you cannot pay the dividend in the first year, it will be paid in subsequent years?

Hon. W. D. JOHNSON: That is the position. The trouble is these organisations are not working on a cash basis. Generally speaking co-operative societies do work on a cash basis, and an annual distribution is possible, but as it is necessary for us to give credit because of dealing with producers, provision has to be made accordingly.

Hon. Sir JAMES MITCHELL: If a man sold his shares he would not receive the dividend when it was declared.

Mr. Maley: The right person would not get the dividend.

Hon. W. D. Johnson: The shares would be sold on the basis that a dividend was due.

Hon. Sir JAMES MITCHELL: It is extraordinary to do something for a man who ceases to be a member of the organisation.

Hon. W. D. Johnson: If he ceased to be a member, it would be on account of his having sold his shares.

Hon. Sir JAMES MITCHELL: Is not the proviso designed to ensure that such a man would get the dividend?

Hon. W. D. Johnson: That has been inserted deliberately, so that if a shareholder sells his shares, the dividend will go to the holder of the shares at the date of the distribution.

Hon. Sir JAMES MITCHELL: Then if a man sold his shares in 1924 and a dividend was declared in 1927, the man who held the shares in 1924 would not receive the dividend?

Hon. W. D. Johnson: No; because the shares would have been sold subject to the dividend.

Hon. Sir JAMES MITCHELL: I cannot see that we are doing anything for the co-operative companies by agreeing to the amendment.

Mr. DAVY: Suppose that in one year a company could not pay more than 3 per cent., it would be made up in the subsequent year? If no dividend were declared in 1928, a dividend could be declared in the next year and ante-dated to the previous year, and if there was any surplus, a dividend could be declared for 1929?

Hon. W. D. Johnson: That is right.

Question put and passed: the Council's amendment agreed to.

No. 3. Clause 3, paragraph (b).—Delete the words "after setting aside necessary reserves" in lines twenty-eight and twenty-nine, and insert the words "in any year in which a dividend for such year shall be declared after setting aside to the credit of any reserve fund, as may from time to time be authorised by the memorandum or articles of association of the company."

Hon. W. D. JOHNSON: This amendment restricts the provision in order to bring it more into line with the Companies Act. The need for it was discovered by the Hon. J. Nicholson, M.L.C. I move—

That the amendment be agreed to.

Question put and passed: the Council's amendment agreed to.

No. 4. Clause 4.—Insert after "its" in line 39 the words "memorandum or."

Hon. W. D. JOHNSON: This amendment is essential on account of the Companies Act. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 5. Clause 4.—Delete the word "in any year" in lines 41 and 42, and insert in lieu thereof the words "and not sold or disposed of."

Hon. W. D. JOHNSON: This deals with the right of a company to purchase its own shares. That is not provided for in the Companies Act; in fact it is definitely barred, but under the co-operative movement it is necessary in order to maintain the value of the shares. When a shareholder dies, it is difficult to get the actual value for the shares. For instance, the shares of Westralian Farmers Ltd. are always available at £1 each to anybody qualified to become a member. A part of a deceased person's estate may consist of some of these shares, and it is often difficult to get rid of them at their face value. The idea is to maintain their value by giving the company the right to purchase one-twentieth of its own shares at face value, and re-issue them before putting out any new shares.

Mr. Davy: I think it should be made mandatory that such shares shall be sold by the company, and that a subsequent clause should be amended in that direction.

Question put and passed; the Council's amendment agreed to.

No. 6. Clause 4.—Insert after "not" in line forty-two the words "at any time."

Hon. W. D. JOHNSON: This is a consequential amendment, and was made in anticipation of the amendment which follows. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 7. Clause 4.—Insert at the end a proviso, as follows: "Provided that such shares shall not be deemed to be cancelled nor to be a reduction of capital, but may be sold or disposed of by the company in accordance with the provisions of its articles of association."

Hon. W. D. JOHNSON: This amendment was made so that the action of a company in purchasing its own shares could not be construed into anything amounting to a reduction of capital. Sufficient shares are always available to meet the demands of every purchaser.

Hon. Sir James Mitchell: Are they bought on the open market?

Hon. W. D. JOHNSON: No, they are bought from the companies. Only producers are eligible to become members. If a member were to leave Bruce Rock, he would want to sell his shares in the local company, and might have some difficulty in doing so. When he went to another district he would want to buy shares in the local company there, because it would be quite distinct from the other concern in the district he had just left. The object of this clause is to give service to members.

Mr. Davy: Should not this be made mandatory?

Hon. W. D. JOHNSON: I would not object to that. In actual practice, however, the shares would be disposed of at the first opportunity, so that it is hardly worth while amending the clause in that direction.

Mr. Davy: It is necessary to amend it in any case.

Hon. W. D. JOHNSON: If the clause were made mandatory, should not the time in which the shares were disposed of also be specified?

Mr. Davy: That could be specified in the articles of association.

Hon. W. D. JOHNSON: The company would have the right to buy in only one-twentieth of its share capital.

Mr. DAVY: Apart from the necessity for making this clause mandatory, I see another objection to it. It is nonsense to say that "such shares shall not be deemed a reduction of capital." The thing that is to be deemed not a reduction of capital is the outlay on the purchase of such shares by the company. That ought to be put right. I move—

That the Council's amendment be amended by striking out the words "to be," and inserting in lieu the words "shall such purchase by the company be deemed a reduction of capital."

Hon. W. D. JOHNSON: I know the hon. member is trying to make the clause clearer, but I think it is definite as it is and is correctly worded.

Mr. Davy: How can shares be a reduction of capital? It is the purchase of the shares that would reduce the amount of capital.

Hon. W. D. JOHNSON: The shares represent the capital. If one buys shares, one is dealing with capital. The amendment on the amendment is not at all necessary. The Bill was drafted by two lawyers, who most carefully took into consideration the Companies Act. The Bill has been considered by the Co-operative Association, and has been passed by the Upper House.

Mr. Davy: I assert that the two lawyers you refer to would agree with me in two minutes that the English of the clause is thoroughly bad and meaningless.

Hon. W. D. JOHNSON: I hope the amendment on the amendment will not be pressed.

Amendment on the amendment put and negatived.

Question put and passed; the Council's amendment agreed to.

No. 8. Clause 5.—Insert at the end the following:—"From and after the date that any such society shall become registered under the principal Act, as amended by this Act, then the registration thereof under the Co-operative and Provident Societies Act, 1903, shall be annulled or cancelled, and the rights, duties, or obligations of such society under such last-mentioned Act shall cease without prejudice to any subsisting right or claim by or against the society. Every society not already registered under the principal Act shall file with its application a memorandum and articles prepared in accordance with that Act, and comply with such provisions thereof as the registrar under that Act may require."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

It deals with societies registered under the Act. This clause, again, has been drafted mainly by the two legal advisers I have referred to. I should add that valuable assistance was obtained from another authority on company legislation, Mr. John Nicholson, in his capacity as a member of another place.

Question put and passed; the Council's amendment agreed to.

No. 9. Clause 6.—Delete the word "that" in line fifteen and insert "which."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

This is merely the correction of a verbal error.

Question put and passed; the Council's amendment agreed to.

No. 10. Clause 6.—Insert after "may" in line seventeen the words "without being required to make any application, or present any petition to the court in that behalf, as required under the principal Act."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

The object is merely to render clear that an alteration can be made without application to the court. The amendment is really consequential.

Question put and passed; the Council's amendment agreed to.

No. 11. Clause 6.—Delete the word "and" in line seventeen and insert "or."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

This is another correction of a verbal mistake.

Question put and passed; the Council's amendment agreed to.

No. 12. Clause 6.-Insert after "by" in line eighteen the word "special." Delete the word "special" and insert "general."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

The Companies Act requires the passing of a special resolution at a general meeting.

Hon. G. TAYLOR: This Bill appears to have emanated from the wrong Chamber. It should have been initiated in the place whence all these amendments originate. I hope the Minister concerned has looked into them closely.

Question put and passed; the Council's amendment agreed to.

No. 13. Clause 6.—Insert after "society" in line nineteen the words "and every such special resolution shall be forwarded to and filed or recorded by the registrar in terms of the provisions of the principal Act."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

The effect of the amendment is to provide that special resolutions shall be recorded with the registrar under the Companies Act.

Question put and passed; the Council's amendment agreed to.

No. 14. Clause 7, Subclause (1)—Delete all words after "due" in line twenty-eight to the end of the subclause, and insert "and any other moneys to which he may be then entitled under paragraph (c) of Section 3."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

This, again, is really a consequential amendment.

Question put and passed; the Council's amendment agreed to.

No. 15. Clause 7, Subclause (2)—Insert after "its" in line thirty-two the word "nett."

Hon. W. D. JOHNSON: I move—

That the amendment be agreed to.

Clause 7 deals with assets, and the word "nett" was inadvertently omitted before "assets"

Question put and passed; the Council's amendment agreed to.

Resolutions reported, the report adopted, and a message accordingly returned to the Council.

BILL—SANDALWOOD.

Returned from the Council with an amendment.

BILL—INTERPRETATION ACT AMENDMENT.

In Committee.

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

Clause 1—agreed to.

Clause 2—Insertion of new section; Registers, books of account, etc.:

The PREMIER: This clause is really the Bill. It is proposed, practically, to delete the clause in its present form, and substitute that which appears on the Notice Paper. The clause as it stands is rather wide, and could apply in many other directions than that of Government departments, whereas the provision is intended to apply to those departments only. I move an amendment—

That proposed Section 35a be struck out, and the following inserted in lieu:—"Where, by any Act passed before or after the commencement of this Act, provision is made for recording or accounting in Government departments by means of books, any method or system commonly used in commerce for recording or accounting, if adopted with the approval of the Governor in Council, shall be deemed to be such books."

Moreover, the proposed section in its new form permits of the making of desirable alterations; for instance, in the Water Supply Department, where, in the absence of this provision, the striking of a water rate would be illegal unless the present cumbrous system were continued.

Hon. Sir JAMES MITCHELL: The job of a Minister when he drafts legislation is to draft it as he wants it. I am surprised that this amendment should be necessary. A Minister should understand his subject when introducing a Bill. He should know the measure before he asks the Chamber to accept it.

The Minister for Justice: I brought it down to hear the discussion on it.

Hon. Sir JAMES MITCHELL: There is nothing like frankness.

The CHAIRMAN: There is nothing like keeping in order.

Hon. Sir JAMES MITCHELL: I am sure I shall be allowed to say we are very pleased to hear that the miserable proposal we are now striking out of the Bill should never have been in the Bill. Clearly we have been asked to agree to something that the Minister himself did not want, and had we passed it, we must have landed a lot of people in confusion. Now, happily, the Minister invites us to strike out all those miserable words, for after hearing much discussion in the House the Minister has changed his mind. I congratulate him, and I wish he had been as reasonable in all the legislation he has brought down this session.

Mr. CORBOY: I hope the difficulties the Government have experienced will be borne in mind by those who may be in office in the future. One of those difficulties is that the Water Supply Department is compelled to keep a rate book, and so it now becomes necessary to legalise some other method than what is generally recognised as books. The same difficulty is found in other departments. Until the Act is amended, it is not possible to adopt up-to-date methods of book-keeping. I hope the new principle will be still more widely adopted.

Amendment put and passed.

Title—agreed to.

Bill reported with an amendment and the report adopted.

Third Reading.

Read a third time and transmitted to the Council.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

In Committee.

Resumed from the previous day; Mr. Lambert in the Chair; the Minister for Works in charge of the Bill.

The CHAIRMAN: Progress was reported on Clause 17, which provides for a common rule.

Mr. DAVY: This clause will make awards cover people whether they are in an industry or not. It is a thoroughly bad clause, not only from the point of view of men who want to employ casual workers not in any industry, but also from the point of view of those seeking such employment. It means that if a householder desires to employ a man upon some odd jobs about the house and grounds, he will have to pay the worker award rates, according to whatever work he is doing. Thus, while the worker is engaged on a little carpentering job, he will have to be paid according to the award governing the carpentering industry; while he is mending the kitchen chair he will have to be paid the award rates for cabinetmakers; if he is asked to whitewash some tin erection in the back yard he must have to be paid under the painters' award; if asked to clean out the stable, he must be paid the rates awarded to carters, drivers and stablemen. So at the end of the day it will be extremely difficult to determine what ought to be paid to him. The result of making this law will be that nobody will be given casual jobs of this sort. There is no need for this clause. If industry be properly covered by awards, so can safely leave non-industrial employment to look after itself. It is only wise to leave a residue of employment at which, when industrial work is scarce, a man can get something like a living. The other night I quoted Mr. Fletcher's case at some length. It would have been utterly unjust to have made Fletcher pay his dairy farm hand the wages of a carter and give him the same conditions as are prescribed in the award for carters. It would not be just for the carters' award to be applied to farm hands working on a dairy farm; yet this clause will do exactly that.

Hon. Sir JAMES MITCHELL: Many men who for one good reason or another are bound to stay about the city and suburbs, could often get jobs about private residences if the householders dared to employ them. Conditions are bad enough to-day, but under this clause no such work can ever be offered. Already many people are begging food. The Government are putting men off with the idea, I understand, of putting them on again after the New Year.

The Minister for Works: Where did you get that idea?

Hon. Sir JAMES MITCHELL: I understand it is intended to put them on again in the New Year. However that may be, very many people are out of work, and this clause will make it impossible for them to get casual employment about the suburbs. Our duty is to see that people have the right to work and do work. We should also make it easy for people to get work, but the position in respect of insurance should be made clear. It will readily be understood that if any harm came to a man who was doing an odd day's work, the employer could easily be ruined. That was never intended, and according to the Minister it is not the law. No one seems to know what the position is, and therefore it should be made clear that a man can be employed without undue risk being run by the employer.

Hon. G. TAYLOR: However much one may desire to see arbitration a success, this clause is somewhat of a dragnet. If I understand it rightly, it will make every person an employer within the meaning of the Act, even if an individual is employed for one day only. I am not so much worried about a man being a carpenter; I am more concerned about people being compelled to become employers by Act of Parliament. As the position stands many would rather do themselves whatever work had to be done than engage a casual hand. Thus we shall have a lot of people remaining out of work by reason of the existence of the provisions of the Act. Our legislation is all right for the man who is in work, but it is all wrong for those out of employment. There are any number of men who could take light jobs at £2 or £3 a week, men who could not compete with the better class workmen, but who cannot get employment because of this legislation. Light jobs that could be carried out by people of this description would not affect industrial unionism one iota. Our trouble is to know how to legislate for that class. The Bill will make the position worse than it is to-day.

The MINISTER FOR WORKS: The clause really re-establishes the position that

has existed for a long time, not only here but in the other States. The fear of members opposite as to what this may do is disproved by the fact that what is proposed has been the law since 1912. It is only since the decision that was given in the Fletcher case that the position has been made any different.

Mr. Davy: Do you say it would have been just if the decision had gone against Fletcher?

The MINISTER FOR WORKS: I am not discussing an individual case at all. If that decision stood, it would mean that unions would have to go to endless trouble. One union, for instance, in order to get before the court, has had to cite no fewer than 351 employers.

Mr. Davy: Not to get before the court.

The MINISTER FOR WORKS: To get an award to govern the industry, as defined by this decision. I have a copy of the citation and the names of employers take up page after page.

Mr. Davy: But another amendment we have agreed to will overcome that difficulty.

The MINISTER FOR WORKS: That applied only to non-registered bodies. The present position has been created following upon the decision arrived at in 1911, when it was dealt with by the Commonwealth court. Up till now the one interpretation has been placed on the law in every State,, except by the industrial tribunal in Western Australia.

Mr. Davy: But there is no common rule provided for in the Federal Act, and unions have to cite everyone they desire to bind.

The MINISTER FOR WORKS: But what about the definition of "industry"? Under such a ruling as that we are discussing, an engine-driver in a gold mine is classed as a gold miner, and an engine-driver employed in the timber industry, as a timber worker.

Mr. Davy: But you cannot compare the Federal Act with our State Act.

The MINISTER FOR WORKS: I am pointing out that the Commonwealth altered their Act and in 1912 this House altered our Act to bring it into line with the Commonwealth Act, and thus put us in the position that the amendment suggests we should be in now.

Mr. Davy: There is no common rule section in the Federal Arbitration Act.

The MINISTER FOR WORKS: But it goes further than that, because the whole definition of "industry" is involved. It means that unions have to rope in everyone, and that will involve enormous cost. It was never intended that the whole basis of the organisation of trade unionism should be altered. An engine-driver is an engine-driver wherever he goes.

Mr. Davy: And is a horse driver a horse driver wherever he goes?

The MINISTER FOR WORKS: Yes.

Mr. Davy: Then that man on Fletcher's farm was a horse driver?

The MINISTER FOR WORKS: The hon. member has quoted an extreme instance in which the man was not fully occupied as a horse driver. My own view is that the union made a mistake in taking that case to court at all. It has become of great importance, because it went to the Full Court and gave rise to a decision that has upset all calculations. I have previously cited the instance of Boan Bros., who erected their present building themselves and did not engage a contractor. They employed the men direct and the building was put up by day labour. Yet Boan Bros. are not in the building industry! If the decision stood, it would mean that Boan Bros. would not be covered by the award.

Mr. Davy: Who supervised the work?

The MINISTER FOR WORKS: Boan Bros. appointed a prominent trade unionist to supervise the work.

Hon. G. Taylor: The men were paid union rates.

The MINISTER FOR WORKS: Boan Bros. usually pay more than union rates. The point is that the whole structure of trade unionism would have to be altered if this decision were allowed to stand. The dread that hon. members have indicated is not warranted, because what the amendment seeks to set up has applied all through Australia since 1911, and there have been no complications. The provision in the Bill is essential in the interests, not only of the smooth working of the Arbitration Court, but in order to get back to the position in which we were previously, and which was so effective.

Mr. DAVY: I understood the Minister to say that the industrial arbitration system has worked well in Western Australia, where there has been practically little conflict between employers and workers. Yet we are

told that the Fletcher decision, which is at least two years old, and which followed the Parker decision, which must be four years old, will lead to utter chaos in our industrial system and compel the total reconstruction of the basis of trade unionism.

The Minister for Works: Methods are being adopted to get round it, but they are cumbersome and expensive and may break down.

Mr. DAVY: I do not know what those methods are. Regarding the Fletcher case, the union endeavoured to rope in everyone they could and cited a whole lot of people. I find it difficult to understand why that was done because an industrial agreement that is made a common rule certainly embraces everyone who has the slighest resemblance to being engaged in the occupation purported to be covered in the original agreement. In this instance, it was only when the union sought to make it apply to people engaged in activities utterly unlike those occupying the attention of the original respondent parties, that the court gave its decision. The Minister has said that, in his opinion, the union was unwise to proceed against Fletcher, but nevertheless he proposes to amend the law in such a way as would make Fletcher liable. If we agree to this amendment of the Act, it will mean that if a man is engaged for any substantial part of his time driving a horse on a small farm, his employer will be required to pay him the wages and provide the conditions set out in the horse drivers' award. I do not think the Minister would contend that the conditions under which such a man was employed, were similar to those of men engaged by Foy & Gibsons, Moullins and others who are engaged in the carrying business each day.

The Minister for Works: But this will not prevent separate conditions applying.

Mr. DAVY: But if an agreement is made and it becomes a common rule, then those conditions will inevitably apply to such people as Fletcher's employee. Dairying can have no resemblance whatever to the business conducted by Moullins or Boans. Yet if the Minister has his way, that is what will obtain. The Minister has quoted the instance of Boan Bros. and their building. I am sure he will agree with me that that is a most exceptional case. I should imagine it to be the only instance of such a happening on such a scale in Western Australia. It is a common thing for people to build houses without letting a contract for a specific sum.

The Minister for Works: There is no contractor employed for the University buildings.

Mr. DAVY: But the people engaged are not the employees of the University. The Minister has referred to one exceptional case and I have referred to another, according to the Minister, but I submit that my case was by no means exceptional.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. LATHAM: I cannot see how the provision could be applied to country areas. A man on a farm has to do many kinds of work in a day and, if he had to be paid a different rate for each kind of work, considerable difficulty would arise.

Mr. DAVY: I think the Minister has proved conclusively that his proposal should not be adopted. From his point of view, perhaps, some other amendment should be carried, but not this one. He said that under the Commonwealth law the same position exists as he desires to create, but that is absurd. Under the Commonwealth law it is not possible to make a common rule. A Commonwealth award binds only those persons who are cited as respondents. It does not affect anyone who is not actually summoned to appear at the court. Consequently every one is called as a respondent whom the applicant union considers to be likely to employ anyone covered by the desired award. On the Minister's own argument he should admit that the provision is a bad one. Although it might cure the difficulty he has mentioned, it will immediately cause much greater difficulty. If he wishes to obviate the chaos that he told us in one breath already exists and in another breath does not exist, he should think out a better provision. The Minister said the principal reason for bringing down the Bill was the decision of the Full Court. If that is so, why not confine the Bill to the proposal in Clause 9 and avoid the highly controversial matters included in Clause 17? We argued this point in 1924 and 1925, and made clear our attitude. No doubt the Minister will succeed in carrying the clause, but I shall divide the Committee on it.

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

Ayes	.. .. ..	16
Noes	.. . ..	13
Majority for	..	3

AYES.

Mr. Chesson	Mr. McCallum
Mr. Collier	Mr. Munsie
Mr. Cowan	Mr. Rowe
Mr. Johnson	Mr. Troy
Mr. Kenneally	Mr. A. Wansbrough
Mr. Kennedy	Mr. Willcock
Mr. Lamond	Mr. Withers
Mr. Marshall	Mr. Wilson

(*Teller.*)

NOES.

Mr. Brown	Sir James Mitchell
Mr. Davy	Mr. J. H. Smith
Mr. Doney	Mr. Stubbs
Mr. Ferguson	Mr. Taylor
Mr. Latham	Mr. Teesdale
Mr. Lindsay	Mr. North
Mr. Maley	

(*Teller.*)

Clause thus passed.

Clause 18—Amendment of Section 87:

Mr. DAVY: I ask members to read the words proposed to be struck out and the words proposed to be inserted in lieu, and decide what the object is. The words to be struck out are—

> The court, by its award, or by order made on the application of any industrial union or person bound by the award, may——

The words proposed to be inserted are—

> The court, by its award, or by order on the application of any industrial union or person bound by any award or industrial agreement, may——

The Act provides that a board of reference may be appointed if any person bound by the award concerned applies. The Minister proposes that a board of reference may be appointed if any person bound by any award applies. Evidently a person bound by a bricklayers' award may demand a board of reference in connection with the baking award. I should like to hear the Minister's explanation.

The MINISTER FOR WORKS: The object is merely to apply the same provision to industrial agreements as applies to industrial awards. The Act limits the board of reference to awards. The amendment will permit boards of reference to be appointed in connection with agreements as well as awards. That is the sole purpose of the amendment.

Clause put and passed.

Clauses 19, 20—agreed to.

Clause 21—Amendment of Section 97:

Mr. DAVY: I do not intend to oppose the clause. The main proposal is to substitute "shall" for "may." If an enforcement application—which after all is a prosecution for breach of an award—is brought against an employer for not having paid the amount of wages prescribed by the award, the court may, in addition to fining the employer, order the wages short-paid to be paid. The Minister proposes to substitute "shall" for "may." This may work very serious hardship. The short payment by an employer is very often due to a lack of understanding on both sides as to what an award means. In the Fletcher case the employer may have found himself faced with the necessity of paying hundreds of pounds to a man, who would never have been entitled to it had not the union secretary dug up some academical point. I shall not oppose the clause because the Minister has added a proviso to the effect that payment may be made in instalments. I suggest to the Committee, however, that a limitation of the period ought to be set down. The Minister asked why a man should not be paid what was due to him. That is all right, but if it is suddenly discovered that an employer owes something under an artificial statute, which he would never have owed but for some bright person taking a particular point and obtaining a decision in his favour, there should be some limitation in respect to such payment. It is bad for the community and dishonourable in a claimant for a man to sit on his rights and a year or so later, after agreeing to work for certain wages, to say that he is entitled to a larger amount and perhaps secure judgment to that effect. That is not the equivalent to a man not paying what he owes and knowing that he was not doing so all the while. The three months limitation in the old Act was the proper one.

Clause put and passed.

Clauses 22 to 26—agreed to.

Clause 27—Working outside fixed hours:

Mr. DAVY: This is an immoral clause. It is not necessary for the protection of the worker. Its origin is due to the fact that people who have been in industrial fights too long have developed a warped view. I do not say that of the Minister, who has

been so long out of the industrial fight that he has begun to become a normal being. I have noticed distinct signs of his return to normality.

The Minister for Works: I have some distance to go yet.

Mr. DAVY: If the Minister would let himself go and become his natural self, he would be quite a normal human being. I do not believe that even now, if he relaxed a little and become natural, he would favour this clause. It has emanated from the mind of a man who cannot help dividing the community into two classes only, the bosses and the workers. Anyone who is neither a boss nor a worker, and is not involved in the good old industrial fight and dragged into the arbitration arena, is some kind of freak. The man who has the impertinence to work for himself, owing no duty to any employer, and not concerned in trade unionism, having his political views formed independently of any other influence, is a kind of social pariah. So we get this wonderful clause, which proposes to say to a man, when working for himself and owing no duty to anyone, that he may be restricted by an award in the hours he works when such award is designed only to prevent the exploitation of a worker by an employer. I shall divide the Committee on this clause.

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

Ayes	16
Noes	13
Majority for	3

AYES.

Mr. Chesson	Mr. McCallum
Mr. Collier	Mr. Munsie
Mr. Cowan	Mr. Rowe
Mr. Johnson	Mr. Troy
Mr. Kenneally	Mr. A. Wansbrough
Mr. Kennedy	Mr. Willcock
Mr. Lamond	Mr. Withers
Mr. Marshall	Mr. Wilson
	(*Teller.*)

NOES.

Mr. Brown	Sir James Mitchell
Mr. Davy	Mr. J. H. Smith
Mr. Doney	Mr. Stubbs
Mr. Ferguson	Mr. Taylor
Mr. Latham	Mr. Teesdale
Mr. Lindsay	Mr. North
Mr. Maley	(*Teller.*)

Clause thus passed.

Postponed Clause 5—Amendment of Section 19:

The MINISTER FOR WORKS: This clause deals with the registration of the A.W.U. I have found great difficulty in framing one that is likely to work smoothly. I am afraid this will not give satisfaction. Instead of creating new difficulties we had better face the difficulty as we see it now. I am going to ask the Committee to vote against the clause.

Clause put and negatived.

Postponed Clause 10—Amendment of Section 43:

The MINISTER FOR WORKS: This clause says that the president of the court shall be appointed a judge of the Supreme Court. The member for West Perth suggested an amendment. The idea we had in mind was that the president should have the right to take his seat on the Supreme Court bench when dealing with business arising out of the arbitration laws. Appeals are taken direct from industrial magistrates to the Full Court and the Supreme Court, and the arbitration viewpoint is not represented. With the object of remedying that, as well as giving the president the status I believe Parliament intended him to have when the law was passed, it was proposed that he should be declared a judge of the Supreme Court. It was never desired that his work should be other than that arising out of the Industrial Arbitration laws. We had no wish that he should be taken away from his industrial work and put on to Supreme Court or other work, but desired that his full time should be given to the administration of the arbitration laws. In order to ensure those things, I move an amendment—

That after "Supreme Court," in line 3, there be inserted, "And in such capacity shall hear or join with other Judges of the Supreme Court as the case may require in the hearing of any matter or proceeding taken in the Supreme Court by way of appeal or by certiorari or otherwise from or in respect of any judgment or order of an industrial magistrate made under the provisions of this Act, and also in the hearing of any matter or proceeding taken in the Court of Criminal Appeal under the provisions of Section 106 of this Act. But save as aforesaid he shall devote his whole time and attention to the court constituted under this Act in the capacity of President thereof."

This amendment will achieve the object desired and, I think, also meet the views of the member for West Perth. If a case goes from the Arbitration Court to the Supreme

Court, the president of the former tribunal will have a seat on the Supreme Court bench. Men continually doing Arbitration Court work must have a keener insight into the effects of any Supreme Court or Full Court decision than is possible in the case of judges dealing with arbitration questions only occasionally. Supreme Court and Full Court decisions have been given that were altogether contrary to the viewpoint of the Arbitration Court. Past presidents of the Arbitration Court have given in the Supreme Court or the Full Court decisions that were totally opposed to views expressed by them in the Arbitration Court. It may be of advantage to the other judges to hear the opinions of the President of the Arbitration Court, whose life-work relates to industrial questions. Indeed, his services should be invaluable to the higher courts when dealing with questions arising out of this Act. I do not agree at all that the possibilities outlined by the member for West Perth could become actualities. The hon. member suggested that a President of the Arbitration Court might resign, and still remain a Supreme Court judge, until there were bushels of Supreme Court judges who had retired from the Arbitration Court. The first block to that—and a most effective block—is that there would be no salaries for such ex-presidents. Another block is that men who are appointed presidents of the Arbitration Court are men of standing and responsibility, quite incapable of anything in the nature of a confidence trick.

Mr. Davy: Some president might get fed up with the job.

The MINISTER FOR WORKS: In order to place the matter beyond the region of possibility, the amendment provides that the whole time of the President of the Arbitration Court shall be devoted to Arbitration Court work.

Mr. DAVY: We are, of course, talking purely academically, and not with any reference to persons. Solely in order to avoid the very possibility of misconstruction of my remarks, I say that I have the greatest possible respect for the President of the Arbitration Court, and that nothing I am now saying alludes to him in his present position. The amendment would entirely meet my objections if the Minister would allow me a slight amendment on it. Certiorari is a proceeding whereby a subordinate court is put in its place; that is to say, is stopped from trying to exercise a jurisdiction it does not possess, or is called upon to explain what it means by taking a certain responsibility on its shoulders. I do not see how we can possibly have a member of a subordinate court sitting as a member of a superior court on certiorari proceedings. That position seems absurd. It is as though a person called to the bar of this House to explain conduct amounting to contempt of Parliament were allowed a voice in the decision. I would be agreeable to the President of the Arbitration Court sitting in the Court of Criminal Appeal as proposed by the amendment. If the Minister will agree to the deletion of of all words of the amendment from "of" following "hearing" in line 3 down to "hearing" in line 7, I would accept the rest subject to a little further amendment. I would like the Minister to agree to the addition of the following words to his amendment:—"and if he shall resign his position as President of the Arbitration Court, he shall be deemed to have resigned his position as a Supreme Court judge." The position of a Supreme Court judge, under a British Constitution such as ours, is somewhat peculiar. In appointing a judge one has to be extremely careful no to give him all sorts of rights which perhaps one does not intend to bestow. I want the President of the Arbitration Court to have every possible dignity, privilege and power that a Supreme Court judge has—in his own sphere. I desire that the President of the Arbitration Court shall be called "His Honour," or anything else that he wishes, in order to place him entirely in the same dignified position as a Supreme Court judge. I believe that was the wish of every member of this side of the Chamber when the principal Act was before us, although perhaps it was not the desire of all members on the other side of the Chamber. We wished that the President of the Arbitration Court should have that exclusively independent position which a Supreme Court judge has. However, we must be sure that we shall not create a person a judge for the express purpose of conducting the Arbitration Court and leave him able to resign from that position to convert himself into a Supreme Court judge. I am not saying for a moment that this particular President of the Arbitration Court would not make a good Supreme Court judge. However, that is not the point, as he will not be on the Arbitration Court

bench for all time. I move an amendment on the amendment—

That the following words be struck out of the amendment:—"of any matter or proceeding taken in the Supreme Court by way of appeal or by certiorari or otherwise from or in respect of any judgment or order of an industrial magistrate made under the provisions of this Act, and also in the hearing."

Mr. LATHAM: I should like to ask whether it is proposed that the President of the Arbitration Court should hear a case referred direct to the court by an industrial magistrate, or whether it might be referred to the Supreme Court, as it is now. Is it proposed to do away with the reference to the Arbitration Court?

Mr. Davy: No.

The Minister for Works: A judge of the Supreme Court now can sit and hear it, and under this the President of the Arbitration Court will be able to do so.

Mr. LATHAM: I understand that an industrial magistrate cannot refer a case to the President of the Arbitration Court, but can refer it to a judge of the Supreme Court.

Mr. Davy: No.

The Minister for Works: A case can be referred to the Arbitration Court, but if it is an appeal from the magistrate it goes to the Court of Criminal Appeal.

Mr. LATHAM: Then the power asked for is that the President shall have a seat on that court?

The Minister for Works: Yes.

Mr. LATHAM: Again, there is a vacant seat in the judiciary at present. We have power to appoint another judge. I should like to know whether the appointment of the President of the Arbitration Court as a judge will interfere with any appointment to that vacancy.

The MINISTER FOR WORKS: If the member for West Perth will divide his amendment on the amendment, I will agree to half of it. I cannot accept the first part of his amendment, for it would mean that if a case not yet determined before the Arbitration Court were removed to a superior court the President would not be able to sit on that superior court. Moreover, it would prevent him from dealing with appeals from an industrial magistrate.

Mr. Davy: He cannot do that now.

The MINISTER FOR WORKS: But I propose that he shall. Under Section 106 of the Act such appeals go to the Court of Criminal Appeal, but under another section they go to a judge of the Supreme Court. The hon. member's amendment on the amendment does not cover that position, so I am unable to accept the first part of it. As for the rest, I see no objection to it.

Mr. DAVY: If the Minister will accept the second part of my amendment on the amendment, I will drop the first part. There are only two ways in which decisions of the Arbitration Court can be questioned. One is under Section 106 of the Act, where a man is sentenced by the Arbitration Court, or by an industrial magistrate, to imprisonment without the option of a fine, or is fined £20 or more. In those circumstances the offender has an appeal to the Court of Criminal Appeal. That is one way. The other way is where the Arbitration Court undertakes to exercise a jurisdiction it has not got, in which event we can go to the Supreme Court judges and ask for a writ of prohibition to stop the Arbitration Court from making an award beyond its jurisdiction. Although I am going to accept the Minister's offer, I cannot see the value of the words that I proposed to strike out from his amendment. I ask the Minister to look further into those words. In the meantime I will withdraw my amendment and move the second part of it later.

Amendment on the amendment, by leave, withdrawn.

Amendment put and passed.

Mr. DAVY: I move an amendment—

That the following words be added to the amendment just passed:—"and if he should resign his position as president of the court, he shall be deemed also to have resigned his position as a Supreme Court judge"

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

Title—agreed to.

Bill reported with amendments, and the report adopted.

BILL—STATE SAVINGS BANK ACT AMENDMENT.

Third Reading.

Read a third time and transmitted to the Council.

BILL—ROMAN CATHOLIC NEW NORCIA CHURCH PROPERTY.

Second Reading.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton) [8.35] in moving the second reading said: The object of this Bill is to vest in the Lord Abbot of New Norcia all the property belonging to the Roman Catholic Church within the territory under his control. The Bill is somewhat similar to one introduced three or four years ago in connection with the Roman Catholic Diocese at Geraldton. It has been asked for by the church, and a similar Act is already in existence in Perth as well as the Act in Geraldton to which I have just referred. The Act concerning the Geraldton diocese conferred on the Bishop of Geraldton in his corporate capacity power to sell, mortgage, lease, etc., and to exercise within the diocese of Geraldton all powers conferred by the Roman Catholic Church Lands Act, passed in 1923. The powers in the present Bill are set out with a view to the Lord Abbot of New Norcia having control in that district, and the approval of His Grace the Roman Catholic Archbishop of Perth has been received. Clauses 11 and 12 will enable the Lord Abbot to act by attorney and to appoint an administrator to act in the case of his death pending the appointment of his successor. These two clauses are new but no objection can be raised to them.

Hon. Sir James Mitchell: How is the property vested?

The MINISTER FOR JUSTICE: Some of it in trustees and some in the Lord Abbot himself and he can deal with it personally. While in many instances property has been made over to the church for the use of the church, it is vested in the Bishop as a person. If he should die or should be removed there will have to be an application made to transfer the property. By the Bill the Lord Abbot will be a corporation sole. This provision is necessary in such an institution, as there are changes in the occupants of the position of Lord Abbot through transfers or death.

Hon. Sir James Mitchell: The property is vested in the church as a church.

The MINISTER FOR JUSTICE: Yes, and vested in the bishop for the church.

Mr. Doney: Vested in the title instead of the person.

The MINISTER FOR JUSTICE: Yes, vested in the office-holder. Like other mortals, bishops die, or have to hand over their jurisdiction, but whoever is in control for the time being will have the right to dispose, sell, lease, mortgage, or do everything necessary in the interests of the church. Similar provisions apply in common with other religious institutions in this State, though in a slightly different form. The principle, however, has been agreed to by both Houses of Parliament on two or three different occasions. It is something that affects the people themselves. Everyone concerned has given authority to the Act coming into force, and it will not affect anyone adversely; indeed it will be a source of great convenience to the church and to whoever is bishop of the particular diocese for the time being.

Mr. Latham: Can you tell us how much land is referred to in the Schedule?

The MINISTER FOR JUSTICE: Most people know that the Lord Abbot of New Norcia controls a considerable area of land, over 20,000 acres I think.

Hon. G. Taylor: But that has nothing to do with the Bill.

The MINISTER FOR JUSTICE: I know, but the hon. member asked what land was vested in the bishop. Land is held by other people as trustees for the Church. I move—

That the Bill be now read a second time.

HON. G. TAYLOR (Mt. Margaret) [8.40]: In view of the remarks of the member for York, I hope the Minister has made it clear that the territory at New Norcia, known as the Benedictine Territory, is not affected by the Bill. The property referred to in the Bill is held by individuals as trustees for the Roman Catholic Church, and the Bill vests in the Lord Abbot similar power to that already vested in the Roman Catholic Archbishop of Perth and the Bishop of Geraldton, respecting land similarly held. I understand that the Bill will not be proclaimed until certain other things are arranged.

Question put and passed.

Bill read a second time

In Committee.

Mr. Stubbs in the Chair, the Minister for Justice in charge of the Bill.

Clauses 1 to 12—agreed to.

Schedule:

Mr. LATHAM: Can the Minister give the Committee any information about the Crown leases and conditional purchase leases referred to in the Schedule, whether they are or what they are?

The MINISTER FOR JUSTICE: I have not made inquiries about the property; it is the principle that we are dealing with, not the particular property of the Church. Certain persons have held an interest in these lands, and they have made over their interests in the property to the Church.

Mr. Latham: That is quite all right.

Schedule put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

Third Reading.

Read a third time and transmitted to the Council.

BILL—SANDALWOOD.

Council's Amendment.

Amendment made by the Council now considered.

In Committee.

Mr. Stubbs in the Chair; the Premier in charge of the Bill.

Clause 3.—After "1904" in line 5 of Subclause 4, add the words "but shall not include any land granted or demised, subject to the reservation to the Crown of sandalwood thereon."

The PREMIER: The amendment was moved by the Chief Secretary in another place. It was really in the original draft of the Bill, but was somehow omitted in the final draft. Unless the amendment be agreed to, the Bill would have the effect of excluding sandalwood on conditional purchase land. It will be remembered that ever since 1924 sandalwood has been reserved for the Crown when conditional purchase leases have been granted, and that timber belongs to the Crown now. Without the amendment sandalwood on land such as I refer to would be classed as private property wood, and would be taken into consideration when allowing for the ten per cent. quota. That would have the effect of considerably reducing the quantity the private property owners would get. It is necessary to include the amendment, and I move—

That the amendment be agreed to.

Hon. Sir JAMES MITCHELL: I agree that it is right to pass the amendment, otherwise the 10 per cent. quota would be considerably reduced. I thought sandalwood on conditional purchase leased land was reserved before 1924.

The Premier: It was done in your time.

Hon. Sir JAMES MITCHELL: I know it was necessary, because people were able to take up large areas of land in order to take the sandalwood, and then they forfeited the land, leaving the State to pay the survey fees.

Question put and passed; the Council's amendment agreed to.

Resolution reported, the report adopted, and a message accordingly returned to the Council.

ADJOURNMENT—SPECIAL.

THE PREMIER (Hon. P. Collier—Boulder) [8.53]: I move—

That the House at its rising adjourn until Tuesday, the 3rd December.

Question put and passed.

House adjourned at 8.54 p.m.

Legislative Council,

Thursday, 28th November, 1929.

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

OBITUARY—HON. A. J. H. SAW, M.L.C.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [4.32]: This House is poorer to-day than it was yesterday. West-