Ayes		Noes	
Mr. Boyle	Mr. Mungle	Mr. Fox	Mr. Tonkin
Mr. Brockman	Mr. Needham	Mr. Moloney	Mr. Wansbrough
Mr. Coverley	Mr. Nulsen	Mr. Sleeman	Mr. Wilson
Mr. Cross	Mr. Patrick		(Teller.)
Mr. Cunningham	Mr. Rodoreda		
Mr. Ferguson	Mr. Sampson		
Mr. Hawke	Mr. Seward		
Mr. Johnson	Mr. F. C. L. Smith		
Mr. Keenan	Mr. J. H. Smith		
Mr. Kenneally	Mr. Thorn		
Mr. Lambert	Mr. Troy		
Mr. Latham	Mr. Warner		
Mr. McDonald	Mr. Willcock		
Mr. McLarty	Mr. Wise		
Mr. Mann	Mr. Withers		
Mr. Millington	Mr. Doney		
	(Teller.)		

Amendment thus passed.

The MINISTER FOR LANDS: I move an amendment—

That the words "form in the first Schedule" be inserted in lieu of those struck out.

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

Bill again reported with amendments and the report adopted.

BILLS (4)—RETURNED.

1, Metropolitan Whole Milk Act Amendment.

2, Loan, £2,627,000.
Without amendment.

3, Reserves.

4, Electoral.
With amendments.

ADJOURNMENT—SPECIAL.

THE MINISTER FOR JUSTICE (Hon. J. C. Willcock—Geraldton) [12.1]: I move—

That the House at its rising adjourn till 7.30 p.m.

Question put and passed.

House adjourned at 12.2 a.m. (*Wednesday*).

Legislative Council,

Wednesday, 11th December, 1935.

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

BILL—RAILWAYS CLASSIFICATION BOARD ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

HON. J. NICHOLSON (Metropolitan) [4.35]: The Honorary Minister explained very fully the purpose of this Bill, and from the remarks made by him it would appear that the position is that under the Railways Classification Board Act of 1920 there is no power for the enforcement of any award or decision of the Classification Board. The Bill is intended to remedy what is regarded as a deficiency. There might be various views expressed in regard to a measure such as this, as to whether or not it is desirable that the Railway Commissioner should be under an obligation to carry out awards for the reason that he occupies a peculiar position in regard to the employment of the officers of his staff. One view which might be expressed is that there is some degree of similarity between the position of the Commissioner of Railways and that of the Public Service Commissioner, whose position was referred to in a Bill we considered the other evening for the purpose of bringing the civil servants within the provisions of the Arbitration Act. In that Bill it is provided on page 20 as follows:—

Notwithstanding anything to the contrary contained in this section, no forfeiture or penalty of any kind shall be imposed or inflicted upon the Commissioner or any other employer for any alleged breach of any award or order of the court, or of any agreement deposited with the Registrar as provided for in this Part; but if the court shall find that any breach as alleged has been committed, or that there has been any failure on the part of the Commissioner or any other employer in any respect to observe or give effect to any award or order or agreement aforesaid, the court may

submit a report of its finding to the Governor and forthwith on receipt of such report the Governor shall cause any breach or dereliction as aforesaid in such report to be corrected.

There the Public Service Commissioner is relieved, but the responsibility is placed upon the Governor. It may be argued with some degree of force that the Commissioner of Railways occupies a position different from that of the Public Service Commissioner. The Commissioner of Railways has been created a body corporate under the Railways Act. As such he obviously stands in a somewhat different position from the Public Service Commissioner, who is merely there to carry out the various duties that are essential in connection with the Civil Service, such as classifications, etc. The point of similarity which seems to provoke the reason for suggesting that the Commissioner of Railways should be treated on a somewhat similar basis to the Public Service Commissioner is this, that in the Industrial Arbitration Act Amendment Bill (No. 2) it is set out that the employer is as follows:—

"Employer" means in relation to any particular group of Government officers, the Minister of the Crown, body corporate, or other body or person by or under whom any Government department, State trading concern, State instrumentality or State agency, in which such group of officers is employed is administered. In the case of Government officers who are public service officers under and within the meaning of the Public Service Act, 1904, the Commissioner shall be deemed to be the "employer" within the meaning of that term as defined herein.

The Public Service Commissioner for the purpose of that Bill is deemed to be the employer, and this brings him within a status almost similar to that of the Commissioner of Railways. A State trading concern is a body corporate. If the person responsible for that trading concern should fail to carry out the award, he is excused of the responsibility, which is placed upon the Government to carry out what is required. The Bill before us provides for—

the Commissioner to give due effect to the decision of the board given on the hearing of such appeal, the said union or the said applicant, as the case may be, may in accordance with regulations make application to the board for the enforcement against the Commissioner of the said award or the said decision, and the board may hear and determine such application.

If upon the hearing of the application under this proposed subsection the board find that the Commissioner is not complying with the provisions of the award, or is not giving effect to the decision of the board, the board shall submit a report of their findings together with the particulars of the manner in which the Commissioner is in default, to the Governor, and on receipt of such report the Governor shall cause any breach or dereliction by the Commissioner as mentioned in the report to be corrected, and the Commissioner shall forthwith obey and comply with any directions received by him from the Governor under this proposed new section. The whole responsibility devolves upon the Commissioner of Railways.

Hon. A. THOMSON: It is not of much use having a Commissioner in such circumstances.

Hon. J. NICHOLSON: The Commissioner is carrying out the duties of a certain office. We know that that office is connected with one of the Government activities. I should like some explanation from the Honorary Minister on this question, and why the Commissioner of Railways is not placed in the same position as the Public Service Commissioner or an employer under the Industrial Arbitration Act Amendment Bill (No. 2), where the responsibility really passes from the Public Service Commissioner or the employer to the Governor.

The Honorary Minister: I do not see any difference.

Hon. J. NICHOLSON: There is a difference. Under this Bill the responsibility devolves upon the Commissioner of Railways to carry out the award.

Hon. G. W. Miles: And if he does not carry it out he can be dismissed.

Hon. J. NICHOLSON: The Honorary Minister pointed out that this would be a ground for dismissal, and would justify a resolution by both Houses of Parliament for his dismissal. Why should there be a distinction between the two Bills, the one dealing with the Civil Service and which brings officers under the Industrial Arbitration Act, and other governmental activities such as State trading concerns which are corporate bodies, where the responsibility devolves upon the Governor? It would be better to provide that if the Commissioner of Railways failed to carry out the award the Governor could do what is necessary.

The Honorary Minister: The Commissioner is the man to carry out the award.

Hon. J. NICHOLSON: It may be argued that the two positions are different. Seeing

that State trading concerns and other Government activities are corporate bodies, just as the Commissioner of Railways is a corporate body, it seems that there is a distinct similarity between the two. The employer in a State trading concern or other activity of the kind is in exactly the same position as the Commissioner of Railways. State trading concerns are corporate bodies; and another Bill which I have in mind—No. 44 on the file—provides that in the event of "any failure on the part of the Commissioner or any other employer in any respect to observe or give effect to any award or order or agreement . . . . the Court shall submit a report of its findings to the Governor and forthwith on receipt of such report the Governor shall cause any breach or dereliction as aforesaid mentioned in such report to be corrected." That practically leaves with the Government the responsibility to carry out or to correct any breach, or as the case may be. Summed up, the position is, in truth, that the Government is the employer. It is quite true that the Commissioner of Railways is appointed under the Government Railways Act and has certain powers vested in him, but virtually he is merely carrying out that work for the Government. Therefore I fail to see why there should be a distinction between the position of the Commissioner of Railways and that of the Public Service Commissioner or an employer in a State trading concern. I should like to hear what the Honorary Minister has to say on that aspect.

HON. J. CORNELL (South) [4.52]: I understand the position to be this. There is a Railways Classification Board, comprising a representative of the Commissioner, a representative of the railway officers, and an independent chairman. The purport of the Bill is that when the board make an award and the Commissioner of Railways does not comply with it the board may be asked to give an interpretation or a direction in the same way as the Arbitration Court does. Is that so?

The Honorary Minister: That is one of the things the Bill purports to do.

Hon. J. CORNELL: That in itself is quite all right, but the Bill goes much further, to the extent of saying that if, for the sake of argument, a classification is made by the board and the Commissioner of Railways does not observe the classification and thereupon an appeal is made either by the union or by an individual against the Commissioner's decision once again to the board, the board are to say that the Commissioner shall do this or that. But the Bill declares further that the board shall submit a report of its findings, together with particulars of the manner in which the Commissioner is in default. The board has to do that. Then the other man comes in. It is provided that on receipt of such report the Governor shall cause any breach or dereliction by the Commissioner as mentioned in the report to be corrected. How would the Government cause a breach or dereliction to be corrected if the Commissioner proved adamant? How does the Honorary Minister propose to get over that dilemma? Thereupon the Commissioner shall forthwith obey and comply with any direction received from the Governor under the section in question. Let us assume that the board will adjudicate as the Arbitration Court do to-day on a breach of award or classification. The board report to the Governor that the Commissioner will not accept their classification. What is the alternative? Is the Commissioner to be removed from office?

Hon. A. Thomson: He can be removed only by a vote of both Houses of Parliament.

Hon. J. CORNELL: Not at all.

Hon. A. Thomson: I thought that was so.

Hon. J. CORNELL: His removal would need an amendment of the Government Railways Act. I fail to see how the Commissioner, if he stands out, can be charged with dereliction of duty, or dealt with otherwise than by—to use a vulgarism—being shown the gate. Under the Government Railways Act the Commissioner's appointment is subject to approval by both Houses of Parliament. But his dismissal is not subject to the approval of Parliament. Under the Act he can be dismissed for misbehaviour or incompetence; but that would not come under this Bill. He can be dismissed for engaging in duties outside his office during the term of his office, or for becoming bankrupt, or for absenting himself for a period of 14 consecutive days without leave, or for participating or claiming to participate in the profits of any contract made with the Government. Then, the Commissioner having been suspended, the Minister for Railways shall cause a full statement of the reasons to be submitted to Parliament within

14 days if Parliament is sitting, or, if Parliament is not sitting, then within seven days of the commencement of the session; and the Commissioner shall not be restored to office unless each House of Parliament, within 40 days from the time when such statement has been laid before it, declares by resolution that he ought to be restored to office. Otherwise he may be removed from office. I submit that if the Commissioner is adamant in his refusal to accept the board's decision, he can be dealt with in only one way—by putting him out of office, and putting in a man who will carry out the board's decision. This involves an amendment of the Government Railways Act. Carrying the argument to its logical conclusion, how can the thing be done otherwise? Naturally, it is not to be assumed that the Commissioner would carry the matter to such a length; but, if he did, dismissal would be the only means of disciplining him, and dismissal involves an amendment of the Government Railways Act. Now, this Bill has nothing to do with that Act. I support the Bill to the extent that the board may adjudicate on a decision of the Commissioner, much as the Arbitration Court does to-day; but I will not go to the length of saying that if the Commissioner, in the opinion of the board or the Government, has not carried out a decision, he shall be disciplined for dereliction of duty and probably get the sack. That provision should come out of the Bill. With that reservation, I am prepared to support the measure.

Hon. A. THOMSON: I move—

That the debate be adjourned.

Motion put and negatived.

HON. A. THOMSON (South-East) [5.0]: I moved for the adjournment of the debate because one member who is desirous of speaking on the measure is not present. The contentions raised by Mr. Nicholson and Mr. Cornell suggest that the Bill requires more than passing consideration. Personally I would like a little more information than I have at my disposal at present. The Commissioner of Railways is subject to the provisions of the Act governing his appointment and is not amenable to political control. Allegedly he has free and untrammelled power to administer the Railway Department as he thinks fit. I can imagine the Commissioner may be placed in an embarrassing position if he feels that some portion of the Railway Classification Board's recommendations may not, in his opinion, be in the interests of the sound administration of his department. I cannot imagine the Commissioner would refuse to accept the whole of the recommendations of the board, but one would naturally conclude that, when considering those recommendations as a whole, he might feel that the interests of the department were not conserved in one direction or another. There are men who hold fairly responsible positions in the department who could make the Commissioner's position difficult if they chose to do so, and it would certainly be embarrassing to the Commissioner if he were compelled by the Classification Board to place someone in a certain position, although the Commissioner felt that such an appointment would not be in the best interests of the service.

The Honorary Minister: That point is not involved.

Hon. A. THOMSON: As I read the last clause of the Bill, it is quite definite that the Commissioner must accept the report.

Hon. V. Hamersley: There is no time limit.

Hon. A. THOMSON: I have no desire to hold up the discussion, but it certainly appears to me that the measure requires further consideration. The Commissioner of Railways is head of a department in which a great amount of money is involved, and he may not have the freedom that he would desire. I do not say that he should not comply with the decisions of the Arbitration Court; he is bound to do that.

The Honorary Minister: If you say he is bound to do that, you must support the Bill.

Hon. A. THOMSON: We know that the Commissioner, in common with all other employers, has to comply with orders or awards of the Arbitration Court, but we are not discussing the Arbitration Court. We are dealing with the Railways Classification Board.

The Honorary Minister: And that is the equivalent of the Arbitration Court with regard to the Railways.

Hon. A. THOMSON: But it is not the Arbitration Court, and that is the differ-

ence. It seems to me that when dealing with officers, the measure may take away from the authority of the Commissioner. A man occupying that position should at least have the right to say who shall be his officers, particularly in certain sections. I do not think the Minister who is administering the department would feel other than aggrieved if the Public Service Commissioner forced upon the Commissioner an officer who, in their opinion, would not work with the Commissioner in the best interests of the department.

The Honorary Minister: It seems to me that the hon. member has not looked up the principal Act and has misled himself.

Hon. A. THOMSON: I have not misled myself; I am dealing with the position as it is. The Minister definitely stated that if the board made an award, the Commissioner would have to abide by it.

Hon. J. Cornell: The board report to the Governor and therefore they become the adjudicators.

Hon. J. Nicholson: This subverts the power of the Commissioner.

Hon. A. THOMSON: That is what I fear, and for that reason I would like further information. The Honorary Minister may be quite correct when he says I have not studied the parent Act, but in view of the points made by two members of this Chamber, I certainly think Clause 3 requires serious consideration. In the meantime, I shall support the second reading of the Bill.

THE HONORARY MINISTER (Hon. W. H. Kitson—West—in reply) [5.5]: I have been somewhat surprised at the arguments used in criticism of the Bill. One principle only is involved in it, namely, the right of enforcement of awards of the Railways Classification Board.

Hon. J. Cornell: Why do you not tell them to go to the Arbitration Court and not bring the Government into it at all?

The HONORARY MINISTER: The hon. member knows that the Railways Classification Board was established to deal specifically with railway officers, and to them it is the equivalent of the Arbitration Court.

Hon. J. Cornell: I know that.

The HONORARY MINISTER: Then he knows how that body is operating.

Hon. J. Cornell: You should not discipline the Commissioner.

The HONORARY MINISTER: In advancing that contention. the hon. member is using an argument that is specious. It has no point in it whatever. The Railways Classification Board is to railway officers the equivalent of the Arbitration Court.

Hon. C. F. Baxter: How is that board constituted?

Hon. V. Hamersley: The members of the board are a law unto themselves.

The HONORARY MINISTER: Members suggested that what was required was a wages board, and that is what the board amounts to. It is of the type that members were agitating for in preference to the Arbitration Court.

Hon. E. H. H. Hall: Except that members of wages boards are men of practical experience.

The HONORARY MINISTER: The hon. member delights in quibbling. I do not desire to quibble in this matter at all. Questions were asked yesterday regarding the constitution of the board, and I quoted from the principal Act. I informed members that I was not in a position to tell them the personnel of the board, but I can do so to-day. The board comprises three members, one of whom shall be a magistrate or such other person as is agreed upon between the Minister and the Railways and Tramway Officers' Industrial Union of Workers, and that member shall be the chairman.

Hon. E. H. H. Hall: He has no practical knowledge of the working of the department.

Hon. G. Fraser: Neither has the President of the Arbitration Court.

Hon. E. H. H. Hall: When we advocated a wages board, we had in mind men with a practical knowledge of the department.

The HONORARY MINISTER: The hon. member did not know what he was advocating. The present chairman is Mr. McGinn, the resident magistrate at Kalgoorlie. No member would suggest that Mr. McGinn would not be a capable chairman for this or any other board.

Hon. J. Cornell: But he is a man who has twice too much to do.

Hon. R. G. Moore: He is one of the most capable men in this State.

Hon. E. H. H. Hall: No one would question his capacity as a magistrate.

The HONORARY MINISTER: The hon. member will perhaps keep quiet! Of the other members one shall be appointed by the Commissioner of Railways and the present nominee is Mr. Evan Thomas who is well known to every member. The other is a person who shall be elected in the prescribed manner by the Railways and Tramway Officers' Industrial Union of Workers. The union's nominee at present happens to be Mr. Huxtable, so that there are two men on the board who are very well acquainted with any matter that might come before it. Mr. McGinn, the resident magistrate at Kalgoorlie, is the independent chairman. That is the constitution of the board.

Hon. V. Hamersley: Who represents the public?

Hon. J. Cornell: Mr. McGinn.

The HONORARY MINISTER: It is no use the hon. member trying to joke.

Hon. V. Hamersley: I am not trying to joke.

The HONORARY MINISTER: The raising of these objections seems to me to be nothing less than quibbling.

Hon. A. Thomson: You have no right to say that.

The HONORARY MINISTER: I do say it. I say it to Mr. Thomson particularly, because of his remarks. He said it was not much use having a Commissioner if he were going to be subject to a board.

Hon. A. Thomson: As set out in this amendment. I did not mean the present board. I meant the conditions you are seeking to impose.

The HONORARY MINISTER: It is no use the hon. member trying to get away from what he did say. I have his actual words here.

Hon. A. Thomson: You are quibbling now.

The HONORARY MINISTER: The Commissioner will be placed in an embarrassing position.

Hon. A. Thomson: That is right; I said that.

The HONORARY MINISTER: It is not much use having a Commissioner under these conditions.

Hon. A. Thomson: You might quote all that I said; so that it will be correct and appear in "Hansard." I said more than that.

The HONORARY MINISTER: I suggest to the hon. member that if he had adopted the same attitude in regard to other industrial matters which have been discussed in this Chamber, he would be more consistent, but he says all the time, "Why don't they obey the orders of the Arbitration Court?"

Hon. A. Thomson: When did I say that?

The HONORARY MINISTER: Many times in this Chamber. I am pointing out the inconsistency of the hon. member. One day he says, "Why don't they go to the Arbitration Court?" Another time he says, "Why don't they obey the Arbitration Court?" Now he wants to say that the Commissioner of Railways should not be called upon to obey the decisions of the Arbitration Court.

Hon. A. Thomson: But it is not the Arbitration Court we are discussing.

The HONORARY MINISTER: It is the equivalent of the Arbitration Court so far as the railway officers are concerned.

Hon. A. Thomson: Who is quibbling now?

The HONORARY MINISTER: It is highly essential that the parties concerned should have the right to enforce the decisions of the Railway Officers' Classification Board, if it arrives at a decision which the Commissioner apparently is not prepared to obey.

Hon. A. Thomson: Have you quoted any instances that necessitate this amendment of the Act?

The HONORARY MINISTER: I told the House last night that there had been several cases in which unusual delay had occurred. I think that is the term I used. As to whether those cases had been satisfactorily disposed of eventually, I was not in a position to say.

Hon. J. Cornell: What would happen if the Commissioner refused to obey the engine drivers' award made by the Arbitration Court?

The HONORARY MINISTER: The union would apply to the court for the enforcement of the award, and the Commissioner would pay.

Hon. J. Cornell: What if he did not pay?

The HONORARY MINISTER: I am inclined to think there would be a certain amount of trouble if he did not.

Hon. J. Cornell: You could not sack him.

The HONORARY MINISTER: I do not desire to deal with the question of dismissing the Commissioner.

Hon. J. Cornell: That is the only alternative.

The HONORARY MINISTER: But even if it is, does the hon. member contend that the Commissioner of Railways shall be a power unto himself? Is the Commissioner to please himself whether he will obey an award of the Arbitration Court?

Hon. J. Cornell: The Government would not discipline him if he did not do so.

The HONORARY MINISTER: I am not so sure that the Government would not. There is nothing in this Act to say he shall not be disciplined.

Hon. J. Cornell: What about the dereliction mentioned in Subclause 3?

The HONORARY MINISTER: All this Bill says is that the matter shall be corrected; whatever the dereliction might be, it shall be corrected. There is nothing said about a penalty being inflicted on the Commissioner.

Hon J. Cornell: Suppose he were adamant, what would you do?

The HONORARY MINISTER: If he refused, he would be running the risk of any action the Government might take. That is the position.

Hon. J. Cornell: Exactly. If that is the position to-day, what is the necessity for the Bill?

Member: We do not want the Bill.

The HONORARY MINISTER: It seems to me that the objections which have been raised have on the surface apparently some substance in them, but when examined they have no substance at all. The principle involved is whether the Commissioner of Railways shall honour the decisions of the board before which he has appeared and put his case, in the same way as the Railway Officers' Union have done.

Hon. E. H. H. Hall: And one of the members is subordinate.

The HONORARY MINISTER: Will the hon. member please keep quiet and let me explain the case? The board give a decision which should, in ordinary circumstances, be binding on the Commissioner; but for some reason or other the Commissioner decides that he will not obey it. At the present time, under the Railway Officers' Classification Act there is no redress. The union has to accept not the decision of the board, but the decision of the Commissioner. I suggest that it is not as it should be. Once a case has been heard and a decision given, there should be some power whereby the decision can be enforced. I have again been asked whether I can quote instances. I stated previously I knew cases had occurred, but I could not quote specific instances. This, however, has happened. In the case of the railway detectives, the board classified them into three grades, fourth, fifth and sixth classes. The Commissioner obeyed the board's decision in respect to the fourth and sixth classes, but ignored the decision in respect to the fifth class. The board had made its decision after hearing both sides, but there is no provision in the Act to enforce the decision of the board.

Hon. E. H. H. Hall: Quite right.

The HONORARY MINISTER: There, again, the Commissioner should not be a law unto himself.

Hon. E. H. H. Hall: But he should not be ruled by his subordinate.

Hon. V. Hamersley: Hear, hear!

Hon. G. Fraser: Not when he is sitting on the board.

The HONORARY MINISTER: Again, under the provisions of the Act, temporary clerks engaged on construction work should come under the award. The Commissioner has refused to allow this. The matter did not go before the board, as it is realised that effect could not be given to the board's decision. There are other cases of a similar kind. The question was also asked whether there was any general dissatisfaction with the board. As I said yesterday, when answering an interjection, there is no general dissatisfaction with the board.

Hon. A. Thomson: How many actual cases are there?

The HONORARY MINISTER: I cannot say. There may not be many, but that is no reason why power should not be given to enforce the decisions of the board, because otherwise what is the use of having a board at all? We might just as well give the Commissioner dictatorial powers and allow him to be the final arbiter on everything. All other classes of railway workers, generally speaking, come under awards of the Arbitration Court.

Hon. J. Cornell: The teachers do not.

The HONORARY MINISTER: They are not engaged in railway work.

Hon. J. Cornell: The teachers have a classification board. Is similar provision made for them?

The HONORARY MINISTER: I said that all other employees in the railways were subject to awards of the Arbitration Court, generally speaking.

Hon. J. Cornell: The sooner the officers come under the Arbitration Court, the better.

The HONORARY MINISTER: Apparently they do not want the Arbitration Court. This Act was passed in 1921 and has given every satisfaction, generally speaking, with this exception. This Bill will place the railway officers in the same position as other civil servants.

Hon. J. Cornell: I object to making the Government the final court of appeal.

The HONORARY MINISTER: Whom would the hon. member say it should be?

Hon. J. Cornell: The Government are not the final court of appeal for the Civil Service. There is an appeal board, which is presided over by a judge.

The HONORARY MINISTER: The Government have no power over this board at all.

Hon. J. Cornell: The board report to the Government.

The HONORARY MINISTER: Yes, and the Act provides that the decision of the board shall be given effect to. I come now to the argument of Mr. Nicholson that the Commissioner of Railways occupies a peculiar position in relation to the staff. I do not see any difference between the relationship of the Commissioner of Railways and his staff and the relationship of the Public Service Commissioner and his staff. In either instance the Commissioner is the employer. For the purpose of determining industrial conditions, a board have been created. The case is heard, both parties put forward their arguments and a decision is arrived at. That decision should be enforced.

Hon. J. Cornell: There is a mighty difference between the two Commissioners.

The HONORARY MINISTER: There is no difference whatever.

Hon. J. Cornell: One runs a concern involving millions of turnover.

The HONORARY MINISTER: The matter of turnover has nothing to do with a question of this kind. The Commissioner of Railways is the employer.

Hon. E. H. H. Hall: One Commissioner is dealing with his own department and the other Commissioner is dealing with numerous departments.

The HONORARY MINISTER: I am very glad that the hon. member has come to that conclusion. The Bill contains one principle only; it provides for the enforcement of the decisions of the board. There is no provision in the existing Act whereby decisions might be enforced, and this Bill has been brought forward to make possible the enforcement of the decisions. I cannot see any logical argument against the measure. Objections have been raised to it, but I cannot see that there is any strength in them.

Hon. J. Nicholson: Look at Section 68 of the Government Railways Act, which provides that every such officer shall be deemed to be in the service of the Crown, not the Commissioner, and gives the Commissioner power to appoint, suspend, dismiss, fine or reduce to a lower class or grade any officer or servant.

The HONORARY MINISTER: What effect has that section?

Hon. J. Nicholson: We are asked to make the Commissioner liable.

The HONORARY MINISTER: He is the employer on behalf of the Government.

Hon. J. Nicholson: Those persons are deemed to be in the service of the Crown, not of the Commissioner.

The HONORARY MINISTER: I consider that that is absolutely necessary, but it does not affect the Railways Classification Board Act.

Hon. J. Nicholson: I think it is a point that should be considered.

The HONORARY MINISTER: I cannot agree with the hon. member. I do not propose to discuss the matter at greater length. It is a perfectly simple Bill, aiming at placing the railway officers in the same position as that of all other sections of Government employees, namely, giving them the right to have enforced a decision of the board who have investigated their industrial conditions. I hope the House will agree to the Bill.

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

Ayes	16
Noes	11
Majority for	5

AYES.	
Hon. L. B. Bolton	Hon. W. H. Kitson
Hon. A. M. Clydesdale	Hon. W. J. Mann
Hon. J. Cornell	Hon. R. G. Moore
Hon. L. Craig	Hon. T. Moore
Hon. J. M. Drew	Hon. H. V. Piesse
Hon. C. G. Elliott	Hon. C. B. Williams
Hon. J. T. Franklin	Hon. C. H. Wittenoom
Hon. G. Fraser	Hon. H. Seddon (*Teller.*)

NOES.	
Hon. E. H. Angelo	Hon. J. Nicholson
Hon. C. F. Baxter	Hon. H. S. W. Parker
Hon. E. H. H. Hall	Hon. A. Thomson
Hon. V. Hamersley	Hon. H. J. Yelland
Hon. J. J. Holmes	Hon. J. M. Macfarlane
Hon. G. W. Miles	(*Teller.*)

Question thus passed.

Bill read a second time.

In Committee.

Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

Clause 1—agreed to.

Clause 2—New sections:

Hon. J. NICHOLSON: I move an amendment—

That Subsection 3 of the proposed new Section 22B be struck out.

I suggest that the Honorary Minister should agree to report progress until to-morrow. I am only seeking to do what is right. According to Section 68 of the Government Railways Act certain officers are the employees of the Crown, not of the Commissioner of Railways. I do not think the Commissioner should be made responsible. In carrying out the Act he has power to appoint, dismiss, suspend and do various other things, and he is supposed to manage the railways. It is a big responsibility, and I want to see the railways conducted with harmony.

Hon. V. Hamersley: The Commissioner is the agent of the Government.

Hon. J. NICHOLSON: I should be glad if the Minister would agree to report progress so that this matter might at least receive a little further consideration.

The HONORARY MINISTER: I have no objection to reporting progress, but I want to tell the hon. member that in reporting progress. I do so in order to show him that I am not anxious to have the Bill put through until he is convinced.

Hon. J. Nicholson: I do not think you are.

The HONORARY MINISTER: The hon. member on the second reading raised certain objections, one point being based upon a provision in the Industrial Arbitration Act Amendment Bill, which calls upon the Governor to do certain things.

Hon. J. Nicholson: And it will be very necessary, should a conflict occur.

The HONORARY MINISTER: But there is no conflict in it at all. The Bill has been drafted by the Crown Law authorities, and surely we can accept their advice. It does not place the employees of the Commissioner of Railways in a position different from that of the employees of the Public Service Commissioner. This provides that on receipt by the Governor of a report showing that the Commissioner of Railways is in default, the Governor shall cause any breach or dereliction by the Commissioner to be corrected, and the Commissioner shall forthwith obey and comply with any directions received by him from the Governor under this section. No one but the Commissioner has power to comply with the provisions of any award of the board. The hon. member will realise that point. Surely to goodness, when we agree to go to an Arbitration Court or a classification board, or whatever it might be, we can agree to accept the decisions of that authority. If one party to a decision be not prepared to put it into effect, we should have some power of enforcement.

Hon. G. W. Miles: What power of enforcement have you in regard to the other side?

The HONORARY MINISTER: All the power in the world.

Progress reported.

BILL—LIMITATION.

Second Reading.

THE HONORARY MINISTER (Hon. W. H. Kitson—West) [5.35] in moving the second reading said: This Bill is introduced as a supplementary measure to the Supreme Court Bill, and is a consolidation of the statutory provisions in force in this State by which times are prescribed within which proceedings must be taken in the Supreme Court, local courts or wardens' courts, to enforce claims for the recovery of land and other causes of action. The first 35 clauses re-enact the provisions of the Real Property Limitation Act, 1878, relating to land and money charged on land. The remaining clauses deal with other

causes of action, such as actions of contract, or tort, or debts for rent payable upon a covenant in a lease, or money payable under a bond or other deed under seal, etc., as set out in Clause 38.

From Clause 36 onwards, the provisions re-enact the effect of Imperial Acts in force in this State, passed previous to 1829, and later Imperial Acts adopted by Acts of Western Australia, referred to in the marginal notes and in the Schedule to the Bill. Members will observe a footnote to Clause 49 enumerating certain Acts by which the time for proceedings to enforce claims under the Acts mentioned is specially limited. This Bill does not affect the provisions of those statutes.

The period set down for taking action varies in different causes. For instance, the right to recover debts is limited to a period of six years from the time when cause of action first arose. The right to recover money owing under a bond or contract of sale is limited to 20 years from the time when the cause of action first arose. The right to recover land from a person who is wrongfully in possession is limited to 12 years from the time when the land was first wrongfully possessed, but there are certain variations provided to meet cases where the plaintiff was an infant, or where the plaintiff was out of jurisdiction, when longer periods are allowed. For actions for false imprisonment or assault, the time is limited to four years from the time the wrongful act was committed; for slander, the limitation is two years; for seduction six years, and for trespass six years.

These are a few of the most important limitations; there are a great many others. The law does not encourage stale claims. It is naturally expected that a person should bring forward his action with reasonable promptitude, because if actions are withheld for many years, the evidence at the disposal of the party sued may be lost to him. That is the reason behind all such legislation. I think I have covered the principles of the Bill. After all is said and done, like the Supreme Court Bill, it is a purely consolidating measure, bringing up to date the law as it stands in operation to-day. I move—

That the Bill be now read a second time.

HON. H. S. W. PARKER (Metropolitan-Suburban) [5.40]: This Bill is simply consolidating the law as it exists to-day. Members may think that the periods fixed by the Bill are not correct. I would ask them to allow it to go through as it stands. At present if it is desired to ascertain what period a person has within which to take action in a particular matter or sue another person, it is often difficult to find out exactly what is the maximum period. This Bill sets out clearly and concisely exactly what the law is at present. I have had a talk with Mr. Sayer about it, and he assures me there is no alteration in the law as it is to-day. So far as I can see from a perusal of the Bill there is no alteration in the law. If at some future date Parliament should deem fit to alter the period it will be a very simple procedure. Without this Bill, if a limitation for bringing an action as regards any particular claim or class of claims were suggested, considerable difficulty would be experienced in ascertaining what statutes should be amended or altered. It will be seen that the Bill does not apply to the Crown. Very few Acts of Parliament do apply to the Crown. They have all to be set out. At present the statutes of limitation, so-called, do not apply to the Crown. A person has the right to take action against the Crown in common law, and the period is 60 years, but for practical purposes it has no application here. I strongly commend the Bill to the House.

HON. J. NICHOLSON (Metropolitan) [5.43]: I support the second reading, and endorse what has been said by the Honorary Minister and Mr. Parker. This Bill is a consolidation of the law as it exists at present, with perhaps one slight exception, namely, in relation to what is provided in Clause 36. That clause states:—

Notwithstanding any law or statute law now or heretofore in force, the right, title or interest of the Crown to or in any land shall not be and shall be deemed not to have been in any way affected by reason of any possession of such land adverse to the Crown.

As Mr. Parker has stated, ordinarily the Crown is not affected by or brought within the scope of the statutes of limitation. In an old Act, an Act of 1832, adopted by one of our Ordinances, and which became the law of the land shortly after the establishment of the then Colony of Western Aus-

tralia, there is a reference to the Crown and certain provisions are made with regard to a 60-year period of limitation for actions in respect of claims made against the Crown. A claim may be made in certain circumstances after 30 years, but an outside limit of 60 years is provided. There are instances where rights have probably been acquired here and in the other States as against the Crown. We should preserve any right where it can be proved that there has been 60 years adverse possession. I admit this is a long period. At the same time I acknowledge that having regard to the fact that we have many big areas of what we call waste land, Crown land, or unoccupied land, we are in a somewhat different position from other countries, where everything can be supervised more readily than is possible within the boundaries of Western Australia. I discussed this matter with Mr. Sayer. I should like to pay my tribute to that gentleman, in addition to the tribute that was paid by the Honorary Minister in connection with the Acts that he is codifying. He is doing a wonderful work in the codification of our laws, particularly laws which are difficult because of the scattered nature and long range of years covered by them. Too high a tribute cannot be paid to Mr. Sayer for the very valuable work he has rendered, and is still rendering voluntarily, without recompense, for the benefit of the State, notwithstanding that he has retired from the services of the State. His services should be recognised, because they are services of very great value. I drew Mr. Sayer's attention to Clause 36. In the margin there is a reference to Victoria Act No. 3754, Section 275. In the notes I received from Mr. Sayer he states that in the Victorian section No. 275 of Act No. 3754, in Volume 5 of the Consolidated Statutes of Victoria, 1928, the following words are added to the section:—"Where such possession has or has not exceeded 60 years." He says—

> I omitted these words as unnecessary. If you think the 60 years should apply, the following words may be added to the section:—"Unless such adverse possession is continued for a period exceeding 60 years."

If those words are added to Clause 36, the position will be made clear, and any rights which may have been gained or acquired by any person or persons within our State, where the adverse possession has continued for the long period of 60 years, will be preserved. Mr. Sayer, however, adds—

> It seems to me that persons in possession of waste land of the Crown without any title should acquire the land by application under the Land Act.

There is a great deal to be said for that view. However, if those words I have quoted were added the position would be safeguarded and protection which is only fair given to people who have acquired certain rights and expended money on property. If after 60 years they have done that which is necessary to assist in acquiring possession—fencing and improving the land—they deserve the title.

The Honorary Minister: It sounds very much like condoning an offence.

Hon. J. NICHOLSON: No. It is merely preserving a right which has long been recognised. Perhaps the Honorary Minister would care to look up the statute, passed over 100 years ago, which applies here. It is entitled an Act for shortening the Time of Prescription in certain cases, and its date is 1832. The preamble and first clause read—

> WHEREAS the expression "Time immemorial, or time whereof the memory of man runneth not to the contrary," is now by the law of England in many cases considered to include and denote the whole period of time from the reign of King Richard the First, whereby the title of matters that have been long enjoyed is sometimes defeated by showing the commencement of such enjoyment, which is in many cases productive of inconvenience and injustice; for remedy thereof be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that no claim which may be lawfully made at the common law, by custom, prescription, or grant, to any right of common or other profit or benefit to be taken and enjoyed from or upon any land of our sovereign lord the King, his heirs or successors, or any land being parcel of the Duchy of Lancaster or of the Duchy of Cornwall, or of any ecclesiastical or lay person, or body corporate, except such matters and things as are herein specially provided for, and except tithes, rent, and services, shall where such right, profit or benefit shall have been actually taken and enjoyed by any person claiming right thereto without interruption for the full period of thirty years, be defeated, or destroyed by showing only that such right, profit or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such right, profit or benefit shall have been so

taken and enjoyed as aforesaid for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it shall appear that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing.

The full text of the Act will be found in the volume of adopted statutes applicable to Western Australia. I have read the preamble and first clause merely to show that the period of 60 years as against the Crown is a recognised period. That period was fixed so far back as the year 1832.

Hon. H. S. W. Parker: Richard the First is with regard to custom.

Hon. J. NICHOLSON: Quite right; where one referred to anything as of time immemorial. From some very old cases it appears that although 60 years was a recognised period with regard to some rights, yet occasionally a lesser period was permitted. Other periods, however, have run up I think as high as 250 years. The whole subject is a most interesting study. I have taken here not the minimum period of 30 years but the maximum period of 60 years, which I consider a fair period to insert. I support the second reading.

Question put and passed.

Bill read a second time.

In Committee.

Hon. V. Hamersley in the Chair; the Honorary Minister in charge of the Bill.

Clauses 1 to 35—agreed to.

Clause 36—No title by adverse possession against Crown:

Hon. J. NICHOLSON: I move an amendment—

That at the end of the clause the following words be inserted:—"unless such possession has continued over a period exceeding 60 years."

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

Clauses 37 to 49—agreed to.

Schedule. Title—agreed to.

Remaining Stages.

Bill reported with an amendment and the report adopted.

Read a third time and returned to the Assembly with an amendment.

BILL—SUPREME COURT.

Second Reading.

Debate resumed from the previous day.

HON. J. NICHOLSON (Metropolitan) [6.11]: This is another Bill for which we are indebted to the good offices of Mr. Sayer. It is certainly a comprehensive measure, and must have involved a great deal of thought on his part. The Honorary Minister pointed out the extent of the law codified in the Bill. It embraces the law now embodied in some 42 Acts of Parliament. From inquiries I have made I find that the Honorary Minister's statement has been confirmed. From other sources I know of the interest which was manifested by the late Chief Justice of this State in this consolidation. He had gone into the matter very carefully. I believe the other judges of the Supreme Court have also given careful consideration to the Bill. Therefore, the House is quite entitled to accept it as presented. I shall certainly support the second reading.

HON. H. S. W. PARKER (Metropolitan-Suburban) [6.13]: I would very much like to add my commendation of Mr. Sayer for the drafting of this Bill. It is an extremely useful measure, more especially to legal practitioners. I shall move one or two amendments when the Bill is in Committee, but I have seen Mr. Sayer in reference to them and he is in accord with me. They will not alter the law in any way, but will merely correct a few oversights. I certainly commend the Bill to hon. members.

Question put and passed.

Bill read a second time.

In Committee.

Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

Clause 1—agreed to.

Sitting suspended from 6.15 to 7.30 p.m.

Clauses 2 to 68—agreed to.

Clause 69—Grounds for petitioning for divorce:

Hon. H. S. W. PARKER: I move an amendment—

That after "deed" in line 2 of subparagraph (i) of paragraph (f) of Subclause 3, the words "or agreement" be inserted.

This provides for a deed of separation, and I wish to make it more reasonable by adding the words "or agreement."

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That after "deed" in line 3 of subparagraph (ii) of paragraph (f) of Subclause 3, the words "or of such agreement" be inserted.

This is consequential on the previous amendment.

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That in line 3 of subparagraph (iii) of paragraph (f) of Subclause 3, the word "or" where it first appears be struck out; and that after "covenant" in the same line the words "or agreement" be inserted.

This also is consequential.

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

Clauses 70 to 76—agreed to.

Clause 77—Cases in which court may refuse decree of dissolution:

Hon. H. S. W. PARKER: I move an amendment—

That after "marriage" in line 2 of Subclause 1, the words "on a petition charging adultery" be inserted.

This clause is not the law as at present. It was the law prior to 1912, but after that it was made to apply only on the question of adultery. I think the marginal note also should be that of No. 7 of 1912.

The CHAIRMAN: That will be done in the reprint.

The HONORARY MINISTER: I referred to the amendment to Mr. Sayer, who was responsible for this consolidating measure. He says the clause should stand as printed as in Victoria and elsewhere. In the case of a petition on the ground of desertion, if the petitioner seeks divorce because the wife or husband, as the case may be, has left the petitioner, adultery during the marriage is a ground on which the court may refuse the decree. If this is an alteration of the law as it is to-day, then in the opinion of Mr. Sayer it is a desirable alteration, bringing the law into line with that in Victoria and elsewhere. I can only submit to the Committee the opinion of Mr. Sayer.

Hon. H. S. W. PARKER: I discussed this with Mr. Sayer, and he explained his opinion as to what the law ought to be. He admitted that it is not what the law is here now, but what the law is in Victoria. I should like to see my amendment go through for the reason that the discretion of the judge has to be exercised in a judicial way, not merely as a personal whim. It is often difficult to get all judges to exercise their discretion in the same way. One judge would perhaps grant a divorce when the question of adultery arose on the part of both parties, and another judge might refuse to do so. When action is taken the petitioner has more or less to gamble on the result. If he gets a judge with puritan leanings, he may not get his divorce. Up to 1912 judges had a general discretion, but the law was altered by Act No. 7 of 1912, to say that they should only have discretion where the application for divorce was on the ground of adultery. The amendment affects the question of the policy of the Legislature. I ask members to continue the law as it is at present, and not go back to the law as it was prior to the passing of the 1912 Act. Prior to 1912 a husband might petition for divorce against his wife on the ground of unfaithfulness. If it were proved that the husband was guilty of adultery the court could exercise its discretion as to whether the petitioner should be permitted to divorce his wife or not. The Act went even further. The wife might sue for divorce on the ground of the husband's desertion, but during the hearing of the case the husband might prove that the wife had been guilty of adultery; nevertheless the judge had power either to refuse to grant the divorce or to grant it. If my amendment is passed, the judge would have no discretion; he would have to grant the divorce if the wife proved that the husband had been guilty of adultery. There are other grounds for divorce. A wife may obtain a divorce from her husband in cases where there is an order or an agreement whereby the husband has to pay maintenance. If he habitually fails to pay that maintenance, the wife can apply for and obtain a divorce. If the clause remains as at present the husband can say to the court, "Yes, but since I left my wife she has been guilty of adultery." That gives a judge discretion to say whether or not he will grant the woman a divorce. If the woman is entitled to a divorce on the ground of her husband's failure to pay maintenance, I cannot

see why those two people should be bound to live together because the wife has been guilty of adultery. Why should she be debarred from her freedom? If my amendment is passed the judge will have to say, if the husband has broken the law by failure to provide for his wife, that the wife is entitled to her divorce. I am in favour of the law as it stands now. I think this clause appears in the Bill as it is because of the particular views of the draftsman.

Hon. L. Craig: Your amendment takes the discretion away from the judge.

Hon. H. S. W. PARKER: Except where the charge is a charge of adultery, in which case the judge has discretion.

Hon. J. NICHOLSON: When a petition is presented on the ground of adultery, or on other grounds that are allowed for divorce in England, the court has undoubted discretion. The judge may decide on the facts in each case whether he will exercise his discretion in favour of the petitioner or not. This amendment would bring the clause into line with the law of 1912, and limit the discretionary power of the court only to cases where the petition is based on adultery. If we insert these words they will control a later part of the clause, and will prevent the judge from exercising his discretion except in the case of adultery where the petitioner has been guilty of delay in presenting the petition. I think the judge should have discretion in each of these cases. The sanctity of the marriage tie is such that it is wise to leave each case for determination by the judge. It would be a mistake to limit the discretionary powers of the court in the way suggested. I must vote against the amendment.

Hon. H. Seddon: What Mr. Parker wants is the law as it is to-day.

Hon. J. NICHOLSON: It would be better to bring the law back to what it was prior to 1912.

Hon. H. S. W. PARKER: If we revert to the old law we shall be getting back to the time when divorce was very much frowned upon. It is not for the general welfare of the community a good thing to keep people joined together in holy matrimony when they cannot live together, and when both parties may not only be committing adultery but be living in adultery. If Mr. Nicholson and I were both judges, we might exercise our discretion with perfect fairness but in entirely different ways. Perhaps I would have more cases to try in divorce than would Mr. Nicholson. I cannot see why it should be entirely at the discretion of the judge to grant a divorce. If both parties desire a divorce, the whole of the circumstances of the case have to be brought out in court. If the husband is sueing his wife for divorce on the ground of adultery, he is bound to inform the judge of the conditions under which he himself is living at the time. I know of an instance where a man had lived away from his wife for many years and then ascertained that she was living in adultery. He himself was living in adultery. The judge exercised his discretion and refused a divorce, so both parties were compelled to continue to live in adultery. Before 1912 judges would not grant a divorce in cases where both parties were living in adultery, hence the reason for the alteration of the law. The judge still has a right to exercise his discretion. Mr. Nicholson also referred to the question of unreasonable delay. Suppose there has been a delay of 10 or 15 years, I should think that is all the more reason why a divorce should be granted.

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

Clauses 78 to 80—agreed to.

Clause 81—Relief to respondent on petition for divorce:

Hon. H. S. W. PARKER: I move an amendment—

That in line 1 the words "for the dissolution of marriage" be struck out and "in a matrimonial cause" inserted in lieu

The effect of the amendment will be that if a person takes out a petition for divorce, the respondent may, in what is called his answer, also apply for a divorce. The amendment is designed to avoid cross-petitions. The drafting of the amendment has been approved by the original draftsman of the Bill.

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That the words from "sought" in line 2 down to and including the word "desertion," in line 4, be struck out.

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

Clauses 82, 83—agreed to.

Clause 84—Decree nisi for divorce or nullity of marriage:

Hon. H. S. W. PARKER: I move an amendment—

That the words "has been ordered to pay the costs of the proceedings," in lines 30 and 31, be struck out and "or co-respondent has failed to pay or tender the amount of such costs of the proceedings awarded against the respondent or co-respondent as have been taxed then" inserted in lieu.

There is a misprint in line 26. The word "or" should read "on." This is really an amendment to the Bill that was introduced by Mr. Fraser. The clause provides that where a petitioner is granted a divorce the decree nisi shall be returnable at the end of six months, when a decree absolute can be automatically applied for. Certain formalities must, however, be complied with. There are cases where a person goes so far as to obtain a decree nisi, but will not apply for the decree absolute. That leaves the parties in an extraordinary state —half divorced. The clause, as printed provides that the respondent may apply for the decree absolute if the petitioner does not.

Hon. H. Tuckey: That was in the Divorce Bill.

Hon. H. S. W. PARKER: Yes, but that Bill did not pass. This Bill will take its place. We want to go further. The respondent should not have that right unless he pays the costs. Where there is a co-respondent and an order is made against him for costs, the practice is that the husband or petitioner, pays the wife's costs and the co-respondent has to recoup him, and also to pay the husband's costs. In a number of divorce cases the respondent and co-respondent subsequently marry, and it is thought only right that the respondent, in these circumstances, should not be permitted to get a decree absolute unless the respondent has fulfilled his obligations and paid the costs awarded against him. That might easily be defeated, because there is no power to force a petitioner to tax his costs, and costs cannot be claimed until they are taxed. Certain formalities have to be complied with in that connection. The clause also provides that the decree shall not be made absolute on the respondent's application until such costs have been paid. I desire to add the words "or tendered." There have been cases where costs have been tendered, but refused. The provision is purely to cover the case of a vindictive petitioner.

Hon. G. FRASER: I have followed the hon. member very closely, but am not satisfied with the proposed amendment. It is all right from the respondent's point of view and possibly would be fair in the circumstances mentioned by the hon. member, where the respondent and co-respondent marry. But what about the position where the respondent had nothing to do with the co-respondent?

Hon. H. S. W. Parker: There would not be a divorce.

Hon. G. FRASER: After the decree nisi, the respondent would not be free until such time as the co-respondent paid the costs.

Hon. H. S. W. Parker: Then the respondent would have to raise the costs.

Hon. G. FRASER: That would hold up the decree absolute.

Hon. H. S. W. PARKER: The position would only arise where a man petitions against his wife, and a co-respondent is named. In those circumstances the husband has to pay in hard cash his wife's costs before he can go to court. He has also to enter into a bond for costs to be incurred for the trial and so on. That often is a very great hardship to a man. If the respondent and co-respondent are not living together, and the wife desires to marry again, she would naturally want a decree absolute, and I do not think there would be any difficulty in raising the money to pay for the costs. The circumstances under which that would arise would be very rare indeed.

Hon. G. FRASER: I am not satisfied that the explanation meets the point I raised. We should amend the law so that it will be fair to all sections. Mr. Parker said the matter of getting costs was quite simple. I consider it one of the hardest things.

Hon. L. Craig: Only in the case where the wife wants to marry again, when the next husband would pay.

Hon. G. FRASER: The next husband might be willing in the flesh but not in the purse. I do not think the amendment will be satisfactory.

The HONORARY MINISTER: If we agree to Mr. Parker's amendment, will it cover the matter contained in the Divorce Amendment Bill now on the notice paper? I was given to understand that if the con-

solidated measure was agreed to, it would cover the matter contained in that Bill. If that is not so, we shall have to give further consideration to the other Bill. Far better would it be to deal now with this authoritative measure than to pass another amendment.

Hon. J. Nicholson: I understood that the provisions of this Bill would take its place.

The HONORARY MINISTER: After the remarks of Mr. Fraser, I am wondering whether it will. Could Mr. Parker definitely advise us on the point?

Hon. H. S. W. PARKER: It does take the place of the other Bill. The question of the custody of the children is not necessary because in all matrimonial causes it is decided on the decree nisi. As to maintenance, when a petition is issued by a husband against his wife, she applies for alimony to carry on during the litigation. That would continue until the decree absolute. Her rights are protected. The amendment would give practical effect to the other Bill.

Amendment put and passed.

On motion by Hon. H. S. W. Parker, Subclause 3 consequentially amended by adding at the end of Subclause 3 the words "or tendered."

Clause, as amended, agreed to.

Clauses 85 to 93—agreed to.

Clause 94—Damages:

Hon. H. S. W. PARKER: I move an amendment—

That the following words be added to Subclause 1:—"and such petition shall be served on the alleged adulterer and the wife unless the court shall dispense with such service or direct some other service to be substituted."

As the clause stands, the husband might sue a man for damages for having had intercourse with his wife, and the wife would not have any right to appear. The amendment would give the wife the right to enter the court and protect her honour if she so desired. Otherwise she would be the party most discussed, and yet would have no say.

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

Clause 95—agreed to.

Clause 96—Alimony and maintenance:

Hon. H. S. W. PARKER: I move an amendment—

That after "marriage" in Subclause 4 the words "restitution of conjugal rights" be inserted.

I believe the words were omitted by the draftsman in error. He is quite satisfied that they should be inserted.

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

Clauses 97 to 176, Schedules, Title—agreed to.

Bill reported with amendments.

Recommittal.

On motion by Hon. G. Fraser, Bill recommitted for the further consideration of Clause 84.

In Committee.

Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

Clause 84—Decree nisi for divorce or nullity of marriage:

Progress reported until a later stage of the sitting.

BILL—APPROPRIATION.

Second Reading.

Debate resumed from the previous day.

HON. A. THOMSON (South-East) [8.35]: I wish to touch on two or three matters mentioned by the Chief Secretary. Mr. Holmes, referring to the Financial Agreement, criticised the effect that agreement had had on the finances of Western Australia, and incidentally the hon. member quoted the amounts of money New South Wales and other States were receiving from the Commonwealth. I admit that that principle was embodied in the Agreement. But we must realise that the Commonwealth Government for some considerable time had been determined that the per capita payments should cease. The result has been exactly as indicated by the hon. member: the largest States get the largest amounts of money. The features of the system have been perpetuated in the Financial Agreement. I supported the adoption of that Agreement in another place, and for sound reasons. In this Chamber it has been pointed out by Mr. Holmes that the Financial Agreement has at least prevented unfair competition in the raising of loans, each State offering a somewhat higher rate of interest. In my opinion it has also been the means of securing considerable savings to the Australian people by enabling them to effect conversions in the Old Country.

Again, it must be admitted that the existence of the Financial Agreement saved the credit of Australia as a whole. A certain Premier of New South Wales had gone almost mad, financially speaking; and his actions were jeopardising the credit of the whole of Australia. So that while the Financial Agreement may inflict some disabilities on us—our Premier frequently having to visit the Eastern States to confer with the Loan Council, for example—on the whole the Agreement has proved highly beneficial to Western Australia and to Australia as a whole. Unfortunately we are obliged to raise large sums of money by way of loan in order to carry on, and for that reason among others I have no regrets for having supported the adoption of the Agreement. The Chief Secretary, dealing with the question of harbours and port charges——

Hon. J. J. Holmes: Have you finished with me?

Hon. A. THOMSON: Yes. The Chief Secretary stated that the Fremantle Harbour had to carry losses sustained at outports. If my memory serves me, the hon. gentleman said that a sum of £200,000 had been expended on the port of Albany. I am sure that the expenditure of that amount of £200,000 goes back to the Dark Ages. I was surprised at the statement that all the losses incurred at other ports had to be recouped by the port of Fremantle. May I suggest that the Government could possibly reduce the loss—if there is one—at the port of Albany by encouraging greater use of that port. As has been definitely proved, the handling of wheat and other commodities is as economical at Albany as at any Australian port. The Albany Harbour is entirely under the control of the Commissioner of Railways. If the Government's policy is to make the central port meet losses sustained at outports, they should introduce a Bill giving the outports some representation as regards the general administration of the Fremantle Harbour. While Albany is entirely under the control of the Commissioner of Railways, it has no say in the administration of its own port. I am expressing my personal views in reply to the Minister. If it is intended to consolidate the whole of the charges incurred at harbours, the Government should seriously consider the introduction of a measure giving the outports representation on the Fremantle Harbour Trust, so that they may have a say in the charges imposed in their respective harbours. That would tend to improve the position, because there would be greater reciprocity between ports than now exists; and charges might be reduced for ships using more than one port. Possibly the Government intend to adopt a policy of centralised control of harbours. Speaking as a member having a port in his Province, I do not want a system of control of the revenue of that port without representation. Concerning another matter I desire to show that an opinion I have held for many years has been more than justified by an inspection of files laid on the Table of the House dealing with the clearing of land west of Mt. Barker. For years I have advocated the establishment of a standing committee on public works. I believe the Chief Secretary himself favours the proposal, and introduced into this Chamber a Bill for the establishment of such a committee, the measure unfortunately being defeated in another place. I say unhesitatingly that had such a committee been in existence, the expenditure of £64,000 on land clearing west of Mt. Barker would not have resulted so disastrously as the files disclose. I trust members will bear with me while I deal with various aspects of the subject. I shall show the House clearly that the then Government in starting the work of land clearing west of Mt. Barker by way of providing employment for single unemployed did not act hurriedly, but embarked on the undertaking after careful consideration. I shall now proceed to quote extracts from the file proving this assertion. As regards the Minister who stopped the work, I acknowledge that I might have done exactly as he did. I am raising the question in order to show the position with which this State is confronted when it is possible for one Minister to undertake a project costing £64,000 and for another Minister, upon a change of Government, stopping the work, with the result that the whole of the expenditure is wasted. A perusal of File No. 932/32 discloses that on page 9 there is a letter from the Surveyor General, Mr. Camm, in which he states—

A perusal of Lands and Survey file No. 932/32 discloses that on page 9 there is a

letter from the Surveyor General, Mr. Camm, in which he states—

In connection with the area now being subdivided west of Mt. Barker, I consider that there will be at the very least 60 blocks on which clearing operations can be carried out, while it will also be necessary that the roads giving access to the various blocks shall be cleared in addition. It is, of course, difficult to express an opinion as to the area to be cleared and partly cleared on each block, but assuming that £300 worth of work is to be done on each holding, this would mean about £18,000 for clearing.

The Surveyor General also indicated that the work of subdivision had not been very far advanced. That shows what it was estimated to cost on the 24th August, 1932. I am dealing with this matter to indicate that the then Government were careful in handling the scheme and endeavoured to make sure before expenditure was incurred that sound lines were followed. Then there is a letter from the Secretary of the Unemployment Council, Mr. A. H. Macartney, dated the 30th August, 1932, in which he said—

The Unemployment Council on the 4th August agreed to an expenditure of £12,000 for clearing an area of land on the Frankland River for the absorption of the unemployed.

Following upon that, there is a letter written by the Minister for Lands to the Premier as follows:—

On page 110 of the Agricultural Bank file 213/33, the Secretary of Group Settlements asked me to approve of expenditure on a number of settlements under the control of this department. I agreed to the expenditure on several of the areas on which settlement had taken place, but suggested on page 111 that the proposed expenditure on the Frankland River unemployed clearing camp stand over as I doubted the utility of the expenditure recommended.

Later on the Minister stated—

I recently visited the Frankland River, and I regard the expenditure on seed and superphosphate as a waste of money. The country being cleared is 40 miles from a railway, and there is no intention whatever to put settlers on the land either now or in the near future. No proper seed bed could be made except by the use of ploughs and even this tillage would require to be maintained from year to year or the sown grass would be smothered by the natural growth which can only be permanently eradicated by cultivation. Experience has shown that in the first season there is a reasonable germination, but immediately the natural herbage starts to grow the sown grasses and clovers cannot compete.

Then on the 16th August, 1932, I asked a question with a view to ascertaining whether money was being made available for work on the scheme and how much money had been expended from Commonwealth funds. The reply I received was that no money had been expended. Here is a letter to the Minister for Employment from Mr. Macartney under date the 16th August, 1933, dealing with clearing work at Frankland River—

The above-mentioned scheme was commenced during July of 1932 to enable work to be found for single unemployed and financed partly with Commonwealth funds. It was proposed that the land should be cleared and laid down with pasture to serve as a holding ground for surplus young cattle and later thrown open for selection. Approval to the scheme was given by the Commonwealth representatives, namely, Sir Charles Nathan and Mr. R. O. Law. If it be proposed that the land be used for settling families, then areas of at least 70 acres on each of the 90 holdings should be cleared. Our limit for the period is an average of 50 acres. At the end of July the position was as follows:—2,164 acres partly cleared, 851 acres burnt up, and 628 acres laid down with pasture (sub. clover). As a scheme for absorbing unemployed single men, it has been praised by many people, but the cost as a land settlement scheme is very high. The major item is labour. Our instructions are that the average man in the camp should receive a rate which will enable him to earn the basic rate. The point the Unemployment Board wish to emphasise is that there is no definite plan, and desire to suggest that the Minister for Lands inspect the work so that he may be fully conversant with the conditions prior to any discussions regarding the future of the scheme.

The next extract is from a communication from the Minister for Lands, who stated—

The expenditure on the Frankland River clearing to the 31st March last amounted to £61,290, and it is expenditure on work which, in the present circumstances, I entirely disagree with. We have no record of the actual work done nor has the department at any time been consulted with regard to the work to be performed. Apparently this department is charged up with the cost, but the Unemployment Board call the tune.

He went on to say that the land was not required for settlement purposes. Then on the 6th July, 1934, the Minister for Employment, Mr. Kenneally, stated—

It is a question as to whether we should cut the loss entirely or whether a minimum number of men should be kept on the Frankland River proposition with a view to seeing whether the State can in some way benefit from the expenditure of the money, but pending any definite determination in this direction, I propose to keep the number of men employed on this work down to an absolute minimum.

On the 20th July of that year the Minister for Lands wrote the following minute:—

It may be correct that this work emanated from the Lands Department, but not during my administration. I certainly at no time approved of it, and I do not approve of it now. During the last financial year expenditure was incurred in the purchase of superphosphate and fencing material contrary to my wishes. I regard that expenditure as a waste of money. Even though I disapproved of the expenditure on superphosphate, it was incurred behind my back. How can this department be expected to submit to expenditure on work which is undertaken contrary to its wishes? I had arranged with the Hon. Treasurer to reallocate the money provided for superphosphate to assist settlers already established on the land. This had a practical purpose. The expenditure on superphosphate and fencing wire at Frankland River has no practical purpose whatever. The land is not required for settlement, and settlers are not obtainable except on sustenance for land already developed with access to railway communication, public conveniences, and a market. Some of the fencing wire disappeared in transit, and has never been recovered or its loss explained. The superphosphate will, at most, promote growth to feed vermin.

Now I come to a consideration of the improvements that had been effected. I do not claim that had I been in the position of the Minister for Lands, I would, or would not, have adopted the procedure that he did The record of improvements effected to the 31st August, 1934, was as follows:—

Number of holdings—67.
Area part cleared (grubbed)—3,550 acres.
Area burned up—1,648 acres.
Area under pastures—628 acres.
Posts cut for fencing—25,421.
Posts erected and bored—21 miles 64.8 chains.
A dam has been dug on location 1921, estimated capacity 136,000 gallons.

A number of small wells have been sunk on different locations and creeks dammed in various places for water conservation. Pastures on the whole are becoming well established. Area which has been reconditioned (suckers bashed, etc.), approximate 700 acres, which includes thinning out trees where necessary.

Hon. H. Tuckey: That applies to the whole of the Frankland area.

Hon. A. THOMSON: Yes. When a change of Government took place, and I heard that it was the intention of the Minister for Lands to cease work in the Frankland area and in effect had decided to abandon the project, in company with the late Mr. Piesse, then member for Katanning in the Legislative Assembly, I waited on the Minister for Lands and the Minister for Employment. We suggested to those Ministers that in view of the money that had been expended in clearing land and providing roads, some arrangements should be made to enable the State to be recouped for the expenditure incurred. Our suggestion was that we should accompany the Minister for Lands to the cleared area and take with us three practical men who were quite capable of advising on what steps should be taken. When I mention the names of those three gentlemen we suggested, members will agree that they were men of practical standing, fully qualified to advise how the land could best be dealt with. The men I named were Mr. T. Sounness, chairman of the Plantagenet Road Board, Mr. Crane of Forest Hill and Mr. T. Skinner of Carbarup. I do not desire to cast any reflection upon the gentleman who ultimately did make the inspection of the area—I refer to Dr. Hadley—and the suggestions he submitted as to how the land should be dealt with. I shall read part of that gentleman's remarks, which are available to members on page 56 of the file. The concluding paragraph of his report states—

The place as it is is undoubtedly an asset to the State and in future years there will very probably become a demand for it. I strongly advise therefore that it should not be allowed to slip back, as it quickly would if left alone, but that a small permanent staff, employing about five men, should keep the suckers in control, and put at least 50 pounds per acre granulated superphosphate each year on the clover. This could be done by contract. A small rent could most likely be obtained from neighbouring farmers for the use of the pastures.

I have quoted these various particulars from the file in order to trace the arrangements that were entered into and to indicate the expenditure that was incurred. The then Minister for Lands, Hon. C. G. Latham, did not go into this matter without making due inquiries or without the benefit of the advice of the Surveyor General and surveyors under his control. He also sought the advice of the Agricultural Department. On the 29th June, 1932, a letter was submitted by the Director of Agriculture to the Secretary of the Premier's Department as follows:—

At the request of the Hon. Premier, Dr. Dunne and Mr. Gardner visited the Mt. Barker and Kendenup districts, and I am forwarding herewith a copy of their report for his information. Soil samples were obtained, and have been submitted to the Government Analyst for examination, and as soon as the results are available a complete report will be supplied to the Hon. Premier.

I do not propose to read the whole of the report, but I shall place before members the concluding part which reads—

> Acting under instructions from the Hon. Premier we visited the district west of Mt. Barker on the 21st and 22nd instant in company with Surveyor Paine, who is at present working in connection with the classification of this country. The country inspected was that adjoining the road between Pardellup and the Frankland River. This country consists of undulating forest land covered with low forest and low-lying creek flats between. The latter are relatively unimportant in extent . . . . .
>
> In general, the area is mainly a fairly good second-class type of forest country. There are some rich dioritic patches which compare very favourably with the better soils of the Mt. Barker district and the Bridgetown district. The third-class country is confined to the sand of the sandy flats and some of the more gravelly jarrah soils.
>
> In our opinion this country is suitable for the cultivation of subterranean clover and other annual forage plants of similar requirements, but its suitability for the higher grades of perennial pasture constituents can only be determined by experiment. Arrangements are being made to have some experiments carried out on a similar type of country at Mt. Barker.

I have quoted this to show that this scheme was embarked upon by the previous Government after mature consideration. The present Minister was within his right in deciding to discontinue operations on that area. I am not questioning his right to do that, but what I am questioning is the unfortunate principle which seems to be involved, namely that one Minister can start an expenditure of money, carry it on to the tune of £64,000 and then another Minister coming along can stop the work.

Hon. H. V. Piesse: Did the Minister personally inspect that work?

Hon. A. THOMSON: Yes, a portion of it. That was towards the latter end. Last year I was not seeking information in any carping spirit in regard to the money which had been expended, but only after having discussed the matter with men who have been out there and who know the position. I was merely anxious that the State should get some return from the expenditure which had been incurred. The Government decided to throw open the land, and according to the files it was only after an application had been made by a Mr. Walker to lease the area that the department was galvanised into taking action. It is common knowledge that we have a large number of farms in the hands of the Agricultural Bank, and from what appeared in the "West Australian" to-day there are 300 groups open for selection in the Busselton, Manjimup and other areas. Despite that, it seems to me a scheme should have been evolved to maintain those improvements. Some 25,000 posts have been cut and left in the bush and there are 19½ miles of fencing which, having been built, has been neglected. But what I want to stress is the startling fact that one Minister can begin an expensive work and another Minister come along and stop it. If we had a public works committee, the Minister would not accept the responsibility of stopping a work like that and allowing the land to revert. Had we had that public works committee, the Minister would have required that committee to put up a recommendation before the work was stopped. That area can produce good pastures. The Government as a primary step took every precaution to see what it could grow. They had the authority of Sir Charles Nathan and Mr. R. O. Law, both of whom approved of the land. The then Government had to find work for single men, and instead of sending them to Blackboy and the National Park they sent them down there. I want to congratulate Mr. Shapcott and the Government on having utilised the labours of sustenance workers in the development of the National Park, which has already become a fine national asset. I am not condemning the Minister for Lands for having stopped the work after the expenditure of £64,000, but I am condemning the principle under which one Minister may start an important work and the next Minister step in and stop it.

Hon. W. J. Mann: The men down there went on strike for a considerable time.

Hon. A. THOMSON: Yes, I am aware of that, and possibly they were not all giving good service. So it is impossible for the State to recoup itself to any extent, because necessarily inexperienced men were put there and they had to be paid the basic wage. I hope the Chief Secretary, when replying, will give us some definite assurance as to whether it is the intention of the Government to bring the whole of the harbours in the State under a centralised control. Despite the information given to me that no Commonwealth money was expended, I suggest that if Commonwealth money was not utilised, that was the idea when they started, because £12,000 was made available.

Hon. W. J. Mann: And the Commonwealth representatives investigated it.

Hon. A. THOMSON: Yes, and approved of it. I hope that some means will be found whereby that land may be preserved from going back. It is essential that the clovers established there shall be topdressed if they are to be maintained. Unless something be done, the whole of the money expended there will be lost. I suggest that the Minister get in touch with his colleagues and see whether it is not possible even now to retrieve some of the expenditure incurred down there. I know one man who went to the district without a shilling and now has an excellent property there. I know also of another man there who has a thorough knowledge of pasture. The chairman of the road board was born and bred in the district and he, too, has made a success of it. If the Minister had sought the practical advice of those men some scheme could have been evolved to avert the loss of money. I am not contending that the Minister for Lands did wrong, but I take strong exception to the principle by which one Minister can stop the work of another, and so involve the State in heavy loss.

HON. C. H. WITTENOOM (South-East) [9.11]: The Chief Secretary, when moving the second reading, said he did not like members to speak in generalities. I am not going to speak in generalities. There is only one point to which I wish to refer, and which I think will be of advantage to the railways and increase their freight, and will relieve the port of Albany from a very serious disability from which it suffers. What I refer to is the running of the State motor vessel "Kybra" which we all know was built some years ago by the Government for the south-east coast trade. That coast is now served by the "Kybra" with approximately a monthly service from Fremantle, and in addition to that service—which generally runs rather more than a month—there are certain interstate boats which call about every third week on their western trips coming from Adelaide to Fremantle. They drop cargo from the Eastern States, but on their eastern trips they pick up only the mails. Not infrequently the Albany Woollen Mills have certain parcels which those interstate boats, to their credit, will pick up on the way to the Eastern States. But, generally speaking, those interstate boats will only pick up cargo when coming from Adelaide to Fremantle, and will not do so when going east. The Albany merchants say that owing to the infrequency of the visits to Albany by the "Kybra," they have to pay heavy storage charges at Fremantle on overseas freights while awaiting transhipment, or, alternatively, they have to send their goods by rail, paying a very heavy freight. The difference between the "Kybra's" freight and the railway freight on machinery is that the railway freight is nearly five times as much as that by the boat. So it is almost impossible to think of sending those goods on by the railway instead of by the boat. In consequence, many of the Albany merchants who are now importing from overseas order their goods to be shipped on through bills of lading from Adelaide, and do this at a saving in cost to themselves. This means a loss to the State on transport charges, etc. The interstate shipping companies gain the advantage of the additional freight, which ought to go either to the railways or to the State steamers. The harbour charges which we would like to see go to Fremantle are left in Adelaide. The Government should reinstate that which Albany previously enjoyed, namely the port to port rates for goods shipped in bond. That existed for many years until done away with in August, 1930. I will quote one case to show the difficulties we have to contend with. During the last three weeks, the West Australian Woollen Mills took delivery at Fremantle of packed machinery weighing between 110 and 120 tons. This cargo was consigned to the mills at Albany from an English port. When the order was given last July or August, it was arranged that the machinery should arrive before the annual Christmas holidays, so that it could be unpacked and the beds for the machinery laid down, and the plant erected during the holidays, when the mill was not working. Unfortunately the consignment missed the "Kybra" on the 15th November, and now has to wait until the 13th December. This makes it almost too late to deal with the machinery during the fortnight's summer holidays. During that period there will be no business going on in the mill, and it affords

an excellent opportunity to instal the machinery.

Hon. A. Thomson: Had it been consigned to Albany it would have arrived at the mills long ago.

Hon. C. H. WITTENOOM: It could have come by an interstate boat. Had the "Kybra" been running at a convenient time, the cargo would have been sent by that vessel.

Hon. A. Thomson: As a result of this policy we are driving trade to Adelaide.

Hon. C. H. WITTENOOM: Yes, as well as losing wages for employees, etc. The freight on this case machinery by the m.v. "Kybra" would have been 17s. a ton, but by rail it is £3 13s. 6d., plus a few additional expenses. The rail freight is five times as much as the sea freight, and is out of the question. Had it not been for the shipping strike, the machinery could have been sent by another vessel, the "Koomilya," but that cannot now be done. In that case, of course, the freight would have gone out of Western Australia. The suggestion I make is that if the Government will not consider the port to port rates that we used to have, they should consider the port to port rates when there is a long interval between the regular trips of the "Kybra." A certain amount of cargo may arrive just after the "Kybra" has left, and must remain at Fremantle for two or three weeks, piling up charges all the time. That is exceedingly hard upon the traders concerned, and goes a long way towards inducing them to have their goods consigned to Adelaide and sent from there to Albany. There would be no necessity to consign goods via Adelaide if it were made possible to consign them direct to Albany. The convenience of the traders of the latter town ought to be considered.

Hon. A. Thomson: And the convenience of people inland, too.

Hon. C. H. WITTENOOM: I also wish to refer to the railway freight for chaff for starving stock on the Murchison. I am interested in stations on the Murchison, where the drought conditions are appalling, and worse than anyone has known for 30 or 40 years. Mr. Lefroy, who is interested with me on the Murchison, says the same thing. The freight on chaff for sheep is comparatively low, provided the chaff is fed to the sheep, and nothing else. But what about the working horses, the stallions, and the brood mares? We have to keep them alive. I have sent to the coast all the horses I could spare, and my neighbours have done the same. We did that because of the high freight on chaff with which to feed those animals. I hope the Government will give consideration to the request not only for a reduction in freight on chaff for sheep, but on chaff for other animals that are used on the stations. I support the Bill.

HON. E. H. ANGELO (North) [9.22]: I am disappointed that this important Bill should have reached this Chamber in the dying hours of the session. It does not give members an opportunity to do their duty to electors and to the State in general. Another place has the greatest say in financial matters, but from the fact that the Bill is sent to us for our approval, we are expected, as a House of review, to go carefully into Government expenditure and make suggestions we may consider beneficial, or criticise anything we find wrong. How is it possible with so many departments and so many hundreds of items for members to give that close attention to the matter that they should give when the Bill is brought down during the last week of the session? Something should be done to ensure that the Bill arrives earlier than it usually does. How can we be expected to do our duty to our electors and to the State, in the circumstances? There are many things I would like to comment upon but cannot do so for lack of time. We are all weary of the long session.

Hon. J. Cornell: It has been an easy one.

Hon. E. H. ANGELO: And we are anxious to close down. If we all did our duty we might be here for many weeks yet. There is one expenditure it is my duty to protest against, namely, that involved in continuing the State Insurance Office. Last year a Bill was brought down to legalise that office, but this House refused to pass it.

Hon. J. Cornell: Who brought it down?

Hon. E. H. ANGELO: The Government did. In no uncertain manner the House refused to pass it. Year after year this item of expenditure appears on the Estimates. I do not blame only this Government, for the previous Government had an opportunity to put a stop to it, but they did nothing in the matter.

Hon. T. Moore: What harm is the office doing? What is wrong with it?

Hon. E. H. ANGELO: I will tell the hon. member. Last year the Honorary Minister claimed that the State office had made a big profit, and that its existence was fully warranted. Quoting from the Auditor General's report in every instance, I proved that was incorrect. I am now going to quote from this year's report of the Auditor General to show that the office is still losing money. If it were not losing money, and taxpayers were benefiting by its continuance, and by this expenditure there might be some excuse for overlooking the illegality of its existence. Unless some radical change is made in the administration the taxpayers each year will have to make good considerable sums of money. The Auditor General's report is the only authority that gives us some conception of the operations of this office. If members will turn to page 46 of that document they will find that in the marine and Government fire fund a profit for the year was made of £1,100. One fire of any dimensions would not only wipe out that sum but probably leave a big deficit. That is the only branch of the office that is showing a profit.

The Chief Secretary: That was established 25 years ago.

Hon. E. H. ANGELO: It is the one bright spot in the undertaking. Now we come to the Government Workers' Compensation Fund. The credit balance on the 31st July, 1934, was £17,767. The credit balance on the 30th June last was £957, showing a deficit for the year of £16,810. The Government have since had a claim for £750, so apparently there is now no credit balance left. In this report, the Auditor-General said—

> In past years a fund of £50,000 was built up from an excess of premiums over compensation and medical expense payments, but this has been rapidly reduced during recent years, and at 30th June, 1935, amounted to £957.

That shows there is a considerable loss in that section of their business. Turning to the next page we come to Industrial Diseases Section. The report shows that from 1926 to 1935, premiums amounting to £405,684 were received, while only £159,310 was expended on claims and medical expenses, leaving a surplus of £248,000. This, however, is qualified by a comment of the Auditor-General to the effect that the Industrial Diseases Section includes miners' phthisis claims already admitted, but only partly paid, amounting to £229,000; while bad and doubtful debts are put down at £3,000. That practically absorbs the whole of the so-called surplus.

Hon. T. Moore: Who would cover the miners' phthisis insurance if you knocked out the State Insurance Office?

Hon. E. H. ANGELO: There is a further qualification in a statement which appeared in the report of the Auditor-General for last year, but which is not included in this year's report. There he points out that the amount charged to Consolidated Revenue during the last nine financial years under the Miners' Phthisis Act amounted to £349,416. This year it amounts to £62,101. That means that the sum of £411,517 has been charged to Consolidated Revenue to provide for payment of claims under the Miners' Phthisis Act. The Auditor-General, when commenting on those figures, said—

> The reason for meeting portion of the compensation from the funds of the State Insurance Office was that the majority of the persons compensated were suffering from tuberculosis with silicosis, the latter being an industrial disease under the Workers' Compensation Acts for which the State Insurance Office has collected insurance premiums from employers of mine workers. Owing to the more liberal compensation under the Miners' Phthisis Acts as compared with the Workers' Compensation Acts, the great majority of persons compensated elected to come under the former Acts in lieu of applying for compensation under the latter, thus relieving the State Insurance Office of paying compensation which otherwise it would have been called upon to meet under its insurance policies relating to industrial diseases

Hon. T. Moore: Called upon because the other companies would not take it.

Hon. E. H. ANGELO: That has nothing to do with the other workers.

Hon. T. Moore: It has a lot to do with the miners.

Hon. E. H. ANGELO: That is so. I am merely talking about the operations of the State Insurance Office.

Hon. T. Moore: The miners do not worry about those matters.

Hon. E. H. ANGELO: But the taxpayers of the State whom I am representing do worry a great deal. Do not forget that. The report shows that instead of there being a big profit, there must have been a tremendous loss under this section of their business. Then we come to the general accident business on page 47 of the report. It

will be seen that the premiums collected since the office was instituted amount to £482,957, whilst the claims and administration amounted to £493,847. That shows an apparent loss of £10,890. but it must be borne in mind that it is the policy of insurance companies to set aside one-fifth of their revenue to meet outstanding claims each year, and two-fifths of reserves for unexpired risks. That is, the premiums collected during the latter part of the year should be set aside to meet claims for the coming year.

Hon. T. Moore: They do not cover miners' phthisis insurance. That is the point.

Hon. E. H. ANGELO: The amount which should be added to outstanding claims would be £18,547, while the amount to be held in reserve for unexpired risks would amount to £37,094, making a total of £66,531. But if the business were conducted by a private company, and we have 55 of them in the State, dividend tax would have to be paid on those premiums. That would have amounted to £11,095 since the inception of the business; while financial emergency tax and hospital contribution for the last four years would have amounted to £2,742, so that there is a loss in this section of the business of £80,368 since the inception of the office.

Hon. H. J. Yelland: You are charging all the administration expenses against the general accident business. Why not distribute them between the general accident business and the industrial diseases business?

Hon. E. H. ANGELO: As I have already said, the industrial diseases section shows a tremendous loss. You could if you so desired distribute the administration expenses between the two sections, making the amount for each section, say, £13,000. That would still show a loss of £67,000 in the General Accident business. I think we can safely say that every branch of the business, with the exception of marine and fire insurance, is losing very heavily. I ask, is it to the advantage of the State to continue this insurance office? We have over 50 insurance companies who could cater for the business. I believe the State Insurance Office came into existence because the Government said they could not get the insurance offices to cater for the miners' phthisis insurance.

The Honorary Minister: Did not the insurance offices refuse the business?

Hon. E. H. ANGELO: No. They wanted time to consider the risk, and I do not blame them. It was not a case of fools rushing in where angels fear to tread. It was new business, and the insurance offices could not get the information they required from the Government as to the number of miners who might be affected. They therefore required time to consider the matter. They were not given time, and the Government said, "Let us start an insurance office straight away." Members now know the result. I remember the debate in another place, and that it was stated the insurance companies desired more information from the Government.

The Honorary Minister: Never mind the debate. Do you remember what actually took place?

Hon. E. H. ANGELO: What I go by is what took place in the debate. That is all I know.

The Honorary Minister: I see.

Hon. E. H. ANGELO: I do not know what the insurance companies would quote for the business now, but it seems to me the Government are carrying on an illegal business so far as insurance is concerned, and that it is of no benefit to the Government or to the people of the State.

Hon. T. Moore: It is of benefit to the miners.

Hon. E. H. ANGELO: I think we could get the insurance companies to undertake the business.

Hon. T. Moore: They have refused to do so.

Hon. E. H. ANGELO: Then retain the miners' phthisis business and let the insurance companies undertake the other risks. The State Insurance Office is showing a loss of £17,000 on workers' compensation insurance.

Hon. T. Moore: Government employees! Someone has to carry on.

Hon. E. H. ANGELO: I know who is getting the benefit: it is the medical profession.

Hon. T. Moore: All of it?

Hon. J. Cornell: They are not getting anything out of the industrial diseases branch.

Hon. E. H. ANGELO: I am referring to the workers' compensation insurance.

Either the State will have to increase its rates in order to meet the deficit, or the risk will have to be undertaken by the 50 odd insurance companies carrying on business in this State.

The Honorary Minister: Will they undertake it at the same premium?

Hon. E. H. ANGELO: They could be asked for a quote, anyhow. I think it very necessary to amend the Workers' Compensation Act not in order to curtail the compensation payable to workers, but to lessen the undue advantages that are being received by a section of the community which is not entitled to them. I hope a select committee will be appointed to go into the whole question. In the meantime, I do urge the Government to look into the matter and see if they cannot do away with this illegal business. I have risen as a member of the House to enter my protest against the continuance of this illegal business.

On motion by the Honorary Minister, debate adjourned.

BILL—BULK HANDLING.

First Reading.

Received from the Legislative Assembly and read a first time.

Second Reading.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [9.43] in moving the second reading said: At the beginning of this year, a Royal Commission was appointed to investigate and advise upon all matters in connection with the bulk handling of wheat in this State, paying due regard to the system already in operation and conducted by Co-operative Bulk Handling Ltd., and to the expenditure already incurred by that company in providing existing facilities. The Royal Commission investigated the matter very thoroughly. They examined witnesses and took extensive evidence. They also inspected local bulk handling installations, and others in South Australia, Victoria and New South Wales. On completion of their investigations, the Commissioners reported that, although they favoured a board constituted on lines similar to the Victorian Grain Elevators Board, appointed under the provisions of the Victorian Grain Elevators Act, 1934, in view of the terms of their commission, and, on consideration of the large amount of capital invested in the existing scheme, they recommended that the company at present operating under the name of Co-operative Bulk Handling Ltd. be allowed to carry on, subject to legislative control to protect those vitally interested. As a result of that recommendation, it is proposed in this Bill to confer on Co-operative Bulk Handling Ltd. the exclusive right to instal bulk handling facilities at all sidings throughout the wheat belt in this State. This Bill, however, in return for such monopoly, imposes certain definite obligations on the company in respect of the grower and the other interests concerned. Up to the present, there has been no real control of the company's operations, although they have secured leases and have installed equipment at 53 sidings. Present-day conditions definitely indicate that the success of the wheat industry depends wholly upon cheapness of production, reasonable handling costs and marketing efficiency. Although the grower is the principal factor, there are other interests that are also vitally concerned, such as the millers, the merchants and the shippers. Each of those parties has certain obligations cast upon him. The grower produces the wheat, but it is the merchant and the shipper who secure the markets for it and arrange the schedule of transportation, so as to market the produce to the best advantage. The Commissioner of Railways is also vitally interested. He has to provide the rolling stock and facilities to transport the produce to the seaboard, and the port authorities must necessarily make sufficient arrangements to ensure efficient handling at the ports. The Royal Commissioners had to give due consideration to the fact that any authority to which the control of bulk handling facilities was entrusted must have regard to all those interests, and must pursue a policy to prevent any clashing of interests that would be harmful to the industry and to the State.

Bulk Handling Ltd. have been carrying on more as receivers of wheat in bulk and as transporters to ports and sidings, and have not had proper storage facilities at ports. This position has removed them from the strict status of bulk handlers, but, if this Bill is accepted by Parliament, all necessary facilities will have to be provided at main ports in accordance with the recommendations of the Royal Commission.

The Bill, therefore, provides for the continuation and extension of the present

method of bulk handling, subject to proper safeguards. In framing the Bill, the Government have pursued a policy that they consider will be fair to all parties. As this Bill concerns a private company a preamble has been provided which sets out how the company came into being, and the objective of ultimately handing over the bulk handling enterprise to the growers. It is provided that the Act shall come into operation on a date to be fixed by proclamation. This is for the purpose of allowing the Government sufficient time to frame regulations and attend to other necessary formalities.

Clause 2 sets out the definitions of various terms used in the Bill. It is provided that the company shall be granted the sole right of receiving wheat in bulk at railway stations and sidings, where they have installed bins, and the sole right to contract or arrange for the handling, transport by rail and delivery of wheat in bulk, until the 21st day of December, 1955. Ninety per cent. of the marketable crop of bulk wheat must be delivered to the company wherever necessary facilities are provided. A grower is permitted to transport by rail, in bulk, not more than 10 per cent. of its marketable crop.

Hon. G. W. Miles: Ten per cent. in bags?

The CHIEF SECRETARY: Ten per cent. in bags or in bulk. An exception is made in the case of the miller, as the Bill definitely affirms his right to utilise his own bulk handling facilities at his own premises. This will enable a miller to go out into the country and purchase any special milling wheat that he requires. Farmers desiring to bag their wheat and transport it in bags may do so without infringing the company's rights.

The Bill makes it mandatory on the company to equip sidings with bulk handling facilities where the average annual receival of wheat, over a period of five years, exceeds 20,000 bushels. This is a reasonable provision, and it would not be worth while to provide equipment at sidings receiving less than that quantity. It is also provided that plans and specifications of all proposed future installations must be submitted to the Minister for his approval and consent. This will give the Minister power to insist upon proper provision being made for the handling of wheat in accordance with the Act. Furthermore, if, in the opinion of the Minister, any country bin or equipment is inadequate to meet the needs of the district, the Minister may require the company to make any alterations or additions he considers necessary. Moreover, the company are required to take proper precautions for the protection from weather, fungus, or vermin of all wheat received and handled.

Another provision prohibits the company and their officers from dealing in wheat. This is in order to obviate any likelihood of abuse, but this provision will not extend to cases where it is necessary to buy up wheat to make good a shortage, or to dispose of wheat which represents an excess in the out-turn. Any moneys resulting from an excess in out-turn must be paid into a special reserve fund to provide for future shortages. This fund will be limited to an amount of £20,000. In the event of its exceeding that amount, the excess will be transferred to the general funds of the company.

The company and their officers and servants are prohibited from giving preference or showing favouritism to persons desiring to avail themselves of the services of the company; nor will they be allowed to tout or canvass on behalf of any wheat-buyer doing business with the company. It is also provided that the company or their servants shall not disclose any matters relating to the business affairs of a client which might tend to place the client at a disadvantage. Within three months from the commencement of the Act the company must provide and keep in force a bond of £20,000 from some reputable insurance company to be approved by the Minister. The bond shall be conditioned for the performance of all obligations and duties under the Act. It is also provided that the company shall be liable for liens against the wheat. This provision is in accordance with existing law. The liability will also apply to any person who buys wheat from a farmer for putting into bulk if the buying of the wheat frustrates the lien of any lien-holder. The Bill makes provision to authorise the company to set up, out of its own resources, a fund for meeting liabilities of this sort, and, furthermore, it gives the company right of recourse against any person when the company's receival of wheat has been innocent.

The company are liable for failure to deliver wheat from any cause for which they are responsible, subject to their failure not being due to an act of God, or unforeseen

circumstances not attributable to the fault of the company. Any such liability will be based on the average market price for wheat at the date the request for delivery was made. If a person entitled to obtain delivery of wheat suffers other damages by the failure of the company to supply, he may recover those damages in a court of law, but the company will still be entitled to the toll charge on the wheat they are unable to deliver. This is a fair provision, as the company are liable to compensate the holder of a wheat warrant as if the wheat were actually in their custody.

A protective provision is included to the effect that the company shall have no proprietary right or interest in the wheat, such as would render the wheat liable to seizure or attachment on account of the company's debts or obligations. The company are merely agents holding the wheat in custody, and creditors of the company will have no right to wheat so held. The Bill also preserves to the millers the right of obtaining supplies of millers' wheat at sidings. This is in accordance with established practice. The company will also be required, at their own expense, to insure all wheat in their custody with some reputable insurance company approved by the Minister. In the event of wheat so insured being lost or damaged, the insurance moneys received for such wheat shall be used towards the purpose of purchasing wheat to replace that damaged, or, alternatively, the company may pay the money into a reserve fund to meet liabilities for shortages.

Whereas, in the past, the company have framed all their own conditions in regard to handling and delivery of wheat, they will, in future, carry on as a public utility, and an obligation will be imposed on the company to exhibit a printed copy of their conditions at every country railway station or siding where business is being done. Terms and conditions specified in regard to delivery and handling of wheat are substantially in accordance with established practice in other States and other parts of the world, and any alterations of the conditions will be subject to the Governor's approval. The conditions are laid down in the Schedule to the Bill. It is provided that the company shall not contract out of the conditions laid down.

Provision is made for the fixing of quantity and quality of wheat before receival, and for the issue of warrants for the wheat received. These are essential records. In order to keep the warrants of one season distinct from another, no two warrants for the same purpose are to bear the same number, and, for identification purposes, the warrants are to be numbered consecutively. It is essential that the warrants shall be negotiable instruments transferable by endorsement, in the same way as cheques, bills of exchange, etc., but provision is made that, on the first receival of wheat from a grower, the person taking the certificate from the grower shall be concerned to see that all liens and encumbrances are satisfied before he pays the grower for the proceeds of the wheat. After that, any other transferee or person who receives the document in good faith and for value will be a holder in due course and will receive an absolutely good title. The company are under an obligation to see that wheat received into the bins is up to grade, and that they do not receive wheat that is unsound or over the prescribed variation from the grade.

Owing to the fact that the f.a.q. quality is not fixed until very late in the season, it is necessary to make some provision for a standard to be used, and the Bill provides that "W.A. Standard White" shall be the standard until the f.a.q. is fixed. The "W.A. Standard White" is fixed at 62 lbs. to the bushel, and all other grades are docked in accordance with any variation from the standard. On receipt of wheat at a country bin, an officer of the company will determine whether any dockage is to be imposed in respect of such wheat. In the event of an assessment of dockage being made, particulars of it shall be stated on the warrant. This will ensure the right of a holder of a warrant to receive an equivalent quantity and quality of wheat to that which has been put in and in respect of which the warrant was issued. In the event of a dispute arising between the owner of the wheat and the company in regard to the quality or grading of it, provision is made that samples are to be submitted for determination to an officer of the Department of Agriculture, nominated by the Minister. The loser of the appeal will pay for the test.

Provision is made for the creation of a Shippers' Delivery Board. This provision is based on an existing practice which has

been evolved as the result of negotiations between the merchants and the company, and is designed to meet the position in regard to lack of storage facilities at ports. The board constituted under the Bill will be a more representative one than that which has hitherto acted, and will consist of the Commissioner of Railways or his nominee, a nominee of the Fremantle Harbour Trust Commissioners, a nominee of the merchants and a nominee of the company. The chief functions of the board will be to arrange shipping rosters, so as to make best use of all facilities available for the handling, transport, storage and delivery of wheat, and to prevent disorganisation or congestion which would cause undue delay. They will also see that adequate supplies of wheat are transported to the ports to meet the demands of shippers.

Provision is made to ensure that the holder of a warrant shall be entitled to receive an equivalent quantity of wheat of the same quantity and quality as stated in the document, but not the identical wheat. Certain rights in regard to sampling, and provision for arbitration in cases of dispute, are also included. The powers of the company to impose charges for their services are restricted. They will be permitted to impose a toll charge of 5/8d. per bushel, or such lesser charge as may be fixed from time to time by Order-in-Council, and they will be permitted to impose a handling charge of not more than 1⅛d. per bushel, and such other charges as may be approved by the Governor. They will not be allowed to make any other levies or charges except such as are fixed or prescribed in the Bill, and the Governor will have power to reduce any of those charges if he considers it necessary to do so. In the event of alterations in charges, they shall not affect the holder of any warrant issued before the alteration took place. The company will be granted a lien against all wheat delivered to their care in respect of the toll and any other charges payable. The company will be obliged to submit a balance sheet and revenue account to the Minister in control, each year, and he will table it in both Houses of Parliament. The company are also obliged to keep such other records as may, from time to time, be prescribed, and their accounts shall be open to inspection at all times by any officer appointed by the Auditor General. Other necessary machinery provisions are included in the Bill. The measure is chiefly one for consideration in Committee. I trust that members, after having given it full consideration, will place any proposed amendments on the Notice Paper so that I can have them carefully examined and be advised upon them. Then I shall be in a position to give reasons for or against their adoption. I move—

That the Bill be now read a second time.

On motion by Hon. C. F. Baxter, debate adjourned.

House adjourned at 9.59 p.m.

Legislative Assembly,

Wednesday, 11th December, 1935.

The SPEAKER took the Chair at 7.30 p.m., and read prayers.

QUESTION—AGRICULTURAL BANK.

Liens Against Wool.

Mr. WARNER asked the Minister for Lands: 1, Is he aware that the Agricultural Bank are enforcing the statutory lien against wool in the drought area where farmers have little or no wheat proceeds? 2, Is he aware that in consequence most of the farmers affected by this action will be unable to carry on? 3, Will he endeavour to have the Bank adopt a more reasonable attitude in the drought stricken areas?

The MINISTER FOR LANDS replied: 1, No; although Section 51 of the Agricultural Bank Act gives the Commissioners a