

can be satisfied but the worker. All that the Bill provides is that the law shall make a bill of sale for him and give him a month's back pay. I move—

That the amendment be not agreed to.

Question passed; the Council's amendment not agreed to.

No. 8.—Fourth Schedule: Strike out the figures “£250” in line four and insert “£50”; strike out the figures “£250” in line five and insert “£50” and strike out the words “but does not exceed £500.” Strike out lines six, seven, eight, and nine:

The ATTORNEY GENERAL: I am not wedded to this. It may appear to be somewhat exorbitant. It limits the amount paid in stamp duty for the registration of a bill of sale. The amendment will give us a little more revenue than we now have, but will not give us the revenue we should have got if my schedule had remained as it was originally introduced. I move—

That the amendment be agreed to.

Question passed; the Council's amendment agreed to.

Resolutions reported, and the report adopted.

A committee, consisting of the Hon. J. Mitchell, Mr. Dwyer, and the Hon. T. Walker, drew up reasons for not agreeing to three of the amendments made by the Legislative Council.

Reasons adopted, and a Message accordingly returned to the Legislative Council.

House adjourned at 6.12 p.m.

Legislative Council,

Wednesday, 9th September, 1914.

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

PAPERS PRESENTED.

By the Colonial Secretary: 1, Regulations under the Game Act, 1912-13. 2, By-law of Weston Local Board of Health, under Health Act, 1911-12.

QUESTION—RAILWAY FREIGHTS ON STARVING STOCK.

Hon. C. F. BAXTER asked the Colonial Secretary: Have the Government decided to reduce freights on stock which will be starving for food; if not, will they give consideration to this most urgent matter?

The COLONIAL SECRETARY replied: A reduction of freight will be considered in all special and deserving cases.

BILL—POSTPONEMENT OF DEBTS.

Recommittal.

The COLONIAL SECRETARY (Hon. J. M. Drew—Central): I move—

That the report be adopted.

Hon. F. CONNOR (North): I move an amendment—

That the Bill be recommitted for the purpose of considering a new clause to stand as Clause 5.

Amendment passed.

In Committee.

Hon. W. Kingsmill in the Chair; the Colonial Secretary in charge of the Bill. New clause:

Hon. F. CONNOR: I move—

That the following be added to stand as Clause 5:—"This Act shall also apply to the Crown and Crown debts."

It is only just to the people who come under the operation of the Bill, that the taxation which they have to meet should be on the same lines as people who live on the land. Take the owner of property against which there are certain debts. That property is mortgaged, and the amount of the interest of the mortgage is quite equal to the revenue being received from that property, or nearly so. I do not think it is the intention of the Government that they should have a preference over other debtors in a case of this sort. The Crown should not have a pull over any other creditor. In a Bill of this nature I believe, unless it is specified to the contrary, the Crown would have a prior right. I do not think that the Government should have a prior right in this way. I therefore move this new clause.

The COLONIAL SECRETARY: It seems to me that this Bill as it stands could be made to apply to the Crown. It has been decided that provision should be made for a Royal Commission, and that the Government should act on the advice of that Royal Commission. I have no doubt that if the Royal Commission advise that certain Crown debts should be included, the Government would be bound to accept that advice. The Government in the past, in times of stagnation or drought, have shown every consideration to those who owed them money, and have extended every leniency. Here, however, it is proposed to insert a clause placing a very great obstacle in the way of the Government recovering taxation.

Hon. J. F. CULLEN: I presume the hon. member when he says Crown debts means debts due to the Crown and not by the Crown. I do not think this will take him any forrader. All that this amendment could do would be to bring it within the power of the Commission to recommend a proclamation bearing on Crown lands. Anything that appears in the Bill up to this only places it in

the power of the Commission to recommend that a moratorium be declared with regard to certain debts. Is it likely, even if the Commission recommend the Governor to proclaim a moratorium in regard to the debts due to the Crown, that the Governor would do it? There is really nothing in the amendment. No Government would make a proclamation with regard to debts due to them. If they wanted to be lenient and give time they would exercise the power they already possess. Would the Government proclaim a moratorium against themselves?

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

Ayes	..	..	..	2
Noes	..	..	..	20

Majority against .. 18

AYES.

Hon. V. Hamersley

Hon. F. Connor
(Teller).

NOES.

Hon. J. F. Allen
Hon. R. G. Ardagh
Hon. C. F. Baxter
Hon. E. M. Clarke
Hon. J. Cornell
Hon. J. F. Cullen
Hon. J. E. Dodd
Hon. J. M. Drew
Hon. J. Duffell
Hon. D. G. Gawler

Hon. Sir J. W. Hackett
Hon. J. J. Holmes
Hon. A. G. Jenkins
Hon. J. W. Kirwan
Hon. R. J. Lynn
Hon. C. McKenzie
Hon. E. McLarty
Hon. H. Millington
Hon. A. Sanderson
Hon. H. P. Colebatch
(Teller).

New clause thus negatived.

Bill again reported without amendment, and the report adopted.

Read a third time and returned to the Legislative Assembly with amendments.

BILL—PLANT DISEASES.

Assembly's Message.

A Message having been received from the Legislative Assembly notifying that it had agreed to Nos. 2, 3, and 4, of the amendments made by the Legislative Council in the Bill, but had disagreed to amendment No. 1, the same was now considered.

In Committee.

Hon. W. Kingsmill in the Chair; the Colonial Secretary in charge of the Bill.

No. 1—Clause 32.—Strike out this clause :

The COLONIAL SECRETARY : I move—

That the amendment be not insisted on.

The Council has given a very serious blow to the Bill by striking out this clause. The object of the Bill is the preservation of the fruit industry. The power asked for in the clause is only commensurate with the importance of the Bill. The placing of the onus of proof on a defendant has been found necessary in measures vitally affecting the public interest. In the Customs Act there is a similar provision, as there is also in the Postal Act, and the Police Act of 1902. Any citizen can be brought up on a charge of being a rogue and a vagabond, and the onus of proof of innocence rests on himself. So it is no new principle. The interests of the defendant are safeguarded in the Bill. In all ordinary cases all that it is necessary to do is to make a complaint in order to secure a summons, but under the Bill it will be necessary to go further. The inspector laying the charge will have to swear his averment that an offence has been committed. He is not likely to do that unless he has every reason to believe that it is so. The defendant must prove his innocence. If he receives a notice to carry out certain provisions of the Act, he must be in a position to show that he has exercised every endeavour to comply therewith. The Bill says that all prunings must be destroyed. An inspector may discover a large heap of prunings just outside an orchard. He may have evidence to show that the vines in the orchard were only recently cut, and that there is no other vineyard within half a mile: yet he may not be able to successfully prosecute without the power given in the clause, which places on the owner of the vineyard the onus of proving that he did not commit the offence. With regard to the discovery of disease, every owner of an orchard must report within 24 hours. His garden may be reek-

ing with disease, and there may be reason to believe that he is well acquainted with that fact; yet the inspector could not take action unless he had the power given in the clause. It should be easy for the owner of an orchard to prove his innocence if he has committed no offence. The clause is of the utmost importance, and I hope the Committee will not destroy the effectiveness of the Bill by insisting upon throwing out the clause.

Hon. H. P. COLEBATCH : I hope the Committee will insist upon their amendment. The Colonial Secretary has not used one argument that could not be used in regard to any prosecution for any offence under any Act. If it is the policy of the present Administration that we should abandon the principle of British justice which declares every man to be innocent until he has been proved guilty and adopt the principle that a man is guilty until proved innocent, let the Government say so, and let the country approve of the alteration of principle; but until the Government have declared for such a principle and the country has approved it, I intend to stick to the principle that a man is innocent until proved guilty. The clause says the averment of the prosecutor shall be sworn. The man who makes the sworn complaint swears that the offence has been committed, and if he can swear to that he can, of course, prove it. If, as the Colonial Secretary suggested, all the prosecutor has to do is to swear that he believes the orchardist did commit an offence, it will be a very dangerous position indeed. It may be absolutely impossible to prove innocence in regard to spraying, and things of that sort.

Hon. A. SANDERSON : The clause is comparatively mild as compared with the rest of the Bill. The Bill has not been discussed.

The CHAIRMAN : The Bill cannot now be discussed.

Hon. A. SANDERSON : Whether the Council is well advised to insist upon the amendment is a debatable point. My inclination is to let the clause pass,

for the reason that the Bill has been asked for by the fruit-growers. If we insist upon the amendment, it will give the Government an opportunity of dropping the Bill and using our action as a political cry at the coming elections. I am not going to quarrel with the criticisms of Mr. Colebatch, because I think he is perfectly right. I endorse all that he has said. But what he has said about the clause applies to the whole of the Bill, which has not been discussed, and cannot now be discussed. Are we going to throw out the Bill and place on the Legislative Council the stigma which will be used in the elections? Moreover, if the Government take advantage of this dispute to drop the Bill it will deprive the fruit-growers of what they are asking for. We should not wrangle over a clause which, as compared with some of the other clauses in the Bill, is mild in its effect. It would be a great blow to the fruit-growers if the Bill were lost. We have not been able to discuss the Bill, yet we are now going to jib at this comparatively unimportant clause.

Hon. J. F. CULLEN: The Committee might very safely agree to the Minister's proposal. The clause is wonderfully safeguarded because a Government official can only take action by swearing an information.

Hon. J. DUFFELL: I am going to stand by the action the Council took on the previous occasion. To lay a charge against a person, take that person to a court of justice, and then force him to put up a defence to prove his innocence, is a wrong procedure, and I cannot see anything in the argument of the Colonial Secretary to convince me to the contrary.

Hon. J. E. DODD (Honorary Minister): One would think to hear the remarks of the various speakers that this was some new principle which was being introduced. In the Police Offences Act the powers given are ten times greater than those contained in the Bill. If one were outside a house where gold was supposed to be, he could be arrested, and he would be bound to prove his innocence; or if one were walking with a man who had gold in his possession it would be

necessary to prove one's innocence. The same principle is in the Factories Act at the present time. An Asiatic has to prove that he was not here before 1903, and, in fact, in many other ways the principle exists. As a general principle it is unsafe to place such a provision in an Act, but there are occasions when we cannot help it, and in this case it is absolutely necessary that some such power should be given. It must not be forgotten that the information has to be sworn, and if an inspector cannot prove what he has sworn he may find himself in a hole.

Hon. E. M. CLARKE: The Honorary Minister compares this Bill with the Act relating to gold stealing. The position is that in the case of a man who is in possession of a lot of gold, nothing is more simple than for that man to prove that he got it honestly, if he did so; but here it is simply a case of one man's word against another.

Hon. R. G. ARDAGH: The cases stated by Mr. Clarke are not parallel. There are many men who have gold specimens in their possession who would not be able to prove where those specimens came from. I myself have a number of specimens which I have had for 20 years, and if I were asked where they came from I could not give an explanation. I agree with the Colonial Secretary that this clause is absolutely necessary.

Hon. H. P. COLEBATCH: One of the reasons given by the Legislative Assembly for disagreeing with the amendment made by the Council is that the provision merely has the effect of throwing the onus of want of knowledge or innocence on the defendant, and then only when the allegations have actually been sworn to by the complainant. Take the first portion of that objection. If we turn to Clause 33 of the Bill we find that it reads "whenever in any such prosecution knowledge must be shown, such knowledge shall be presumed unless and until the contrary is proved and the defendant satisfies the court that the want of knowledge was reasonable and was not in any way imputable, to negligence on the part of himself, his servant or agent."

Consequently the reason given by the Assembly does not apply at all. Then take the last reason of the Assembly, which says: "The purpose of the clause is to relieve the department of an obligation to prove facts which are essentially and necessarily within the knowledge of the defendant and which, if the onus of complete proof were always laid upon the department, would render convictions difficult and in many cases impossible." The onus of complete proof is not laid on the prosecution; in any case the prosecution have to set up a *prima facie* case, something for the defendant to answer. If the clause is allowed, all that will be necessary will be to bring a person before the court, the charge will be read out to him and he will have to establish his defence without any evidence being given for the prosecution. This will make a complete revolution in police court procedure. I know of instances where the Police Offences Act has been taken advantage of in the same way. I have had experience of that myself while sitting on the bench.

The COLONIAL SECRETARY: From Mr. Colebatch's remarks it would appear that this is something new. It is not a new principle. In fact it is a principle which has been adopted in Western Australia since it has been a colony. The old Customs Act contained a similar provision, and it is to be found also in the present Customs Act. With regard to the Police Act of 1904 in connection with the unlawful possession of gold, the onus of proof is thrown upon the defendant, and in that case the defendant may have to stand his trial for a serious offence, involving a heavy term of imprisonment. In a case like that it may seem an unfair principle, but in connection with what is practically a civil prosecution the principle is very often adopted. The clause will only compel a defendant to go into the witness box and prove his innocence on oath. I do not wish the impression to go abroad that this is the policy of the present Government. It has been the policy, in certain cases, of every Government in Western Australia ever since Responsible Government, and even before.

Question put and division taken with the following result:—

Ayes	..	..	..	13
Noes	..	..	..	8

Majority for .. 5

AYES.

Hon. J. F. Allen	Hon. Sir J. W. Hackett
Hon. R. G. Ardagh	Hon. R. J. Lynn
Hon. F. Connor	Hon. E. McLarty
Hon. J. Cornell	Hon. H. Millington
Hon. J. F. Cullen	Hon. A. Sanderson
Hon. J. E. Dodd	Hon. C. McKenzie
Hon. J. M. Drew	(Teller.)

NOES.

Hon. C. F. Baxter	Hon. J. J. Holmes
Hon. H. P. Colebatch	Hon. A. G. Jenkins
Hon. J. Duffell	Hon. E. M. Clarke
Hon. D. G. Gawler	(Teller.)
Hon. V. Hamersley	

Question passed; the Council's amendment not insisted on.

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

BILL—BILLS OF SALE ACT AMENDMENT.

Assembly's Message.

The Assembly having disagreed to four amendments made by the Council, the reasons for the same were now considered.

In Committee.

Hon. W. Kingsmill in the Chair; the Colonial Secretary in charge of the Bill.

No. 4—Clause 10: Strike out the clause:

The COLONIAL SECRETARY: I move—

That the amendment be not insisted on.

I would ask hon. members to bear in mind that the man of limited means sometimes has occasion to borrow money, and that unless he can give some good security he experiences considerable difficulty in finding a lender. If the man has some security, of course the interest is not so heavy as otherwise it would be. Owing to existing legislation a man who requires a loan of £20 has to adopt the

expedient of borrowing £31 from the lender and returning £11 to the lender immediately afterwards. Thus the existing legislation is evaded.

Hon. D. G. GAWLER: That transaction would be void. It would be a colourable transaction.

The COLONIAL SECRETARY: Possibly; but who is going to invoke the aid of the Supreme Court in regard to a bill of sale for such an amount? The whole thing is ridiculous. I do not think that whoever was responsible for the section in the principal Act could have foreseen what would result from it.

Hon. H. P. COLEBATCH: The section in the principal Act was inserted purely in the interests of the small family man, the small householder, and no one else at all. Its purpose is to prevent such a man from giving a bill of sale over his furniture. Last session, when this very clause was discussed, two members of the Labour party strongly supported the attitude taken by the majority of the Chamber, for that very reason. There may, of course, be cases in which it would be quite legitimate for a man to raise £15 or £20 on his few sticks of furniture. I admit that there are two sides to the question; and if the present Government, as representing the poor man, will take the whole responsibility of repealing the section, which was passed entirely in the poor man's interest, I will not persist in my objection.

Hon. J. F. CULLEN: I am prepared to let this amendment go, but not for the reasons assigned by another place. Those reasons are not only illogical; they are also insulting, though I am sure not intentionally so. This Chamber will hardly be credited with taking so deep an interest in the poor man as to wish to prevent him from rushing to the money lender. However, since the Government, as the poor man's champions, want to confer on him the doubtful benefit of access to the money lender, let it be so. I wish to point out, however, that the reasons of another place go on to say that the views of this Chamber are absurd.

Hon. R. G. ARDAGH: I believe I was one of the two members referred to by Mr. Colebatch. On going further into the matter, however, I have altered my views, as every man is entitled to do. In my opinion, the argument advanced by the Assembly is a good one. To make a man borrow £30 if he wants only £10 or £15 is absurd.

Hon. J. CORNELL: I am one of the members who voted last session for the retention of Section 46 of the principal Act, being then of opinion that the striking out of that section meant a good deal to the working man. I am still of the opinion that the section would be a good one if the working man did not get over it. I am led to believe, however, on good information, that the section has become practically inoperative. A person desiring to borrow less than the minimum under the principal Act gets over the difficulty by being tendered £30 by the money lender and immediately returning £10 to him. If the section can be evaded in that fashion it is as well to put everyone on scratch and let people borrow £1 on a bill of sale if they wish to do so.

Hon. A. G. JENKINS: I voted against this clause last session, and if it went to a division again I would vote against it once more. The only person affected is the man of small means, and the only security such a man has, in 99 cases out of 100, is his furniture. The only person from whom such a man would be able to borrow is the money lender, and the borrower would have to pay usurious rates of interest. Therefore, the result of repealing the section referred to will be simply to break up small homes. However, if the Government care to shoulder the responsibility, I do not object. With regard to the Colonial Secretary's remark that the framer of the section in the principal Act cannot have known what he was doing, I wish to say that I prefer that draftsman's law to the law of any member of the present Government. The Act was drawn by Sir Walter James, one of the leading lawyers of the State.

Question put and passed; the Council's amendment not insisted on.

No. 5.—Clause 17, Paragraph (b):
Strike out the words "before or" in line
3:

The COLONIAL SECRETARY: I
move—

*That the amendment be not insisted
on.*

The object of this clause is to validate bills of sale which were taken when the Government made advances to the farmers during the period of drought. They are called bills of sale but they are really assignments to the Department of Agriculture in trust to realise and distribute the assets among creditors of the wheat belt settlers. They are bills of sale under the interpretation of the Bills of Sale Act. The Department of Agriculture decided to supply seed wheat and fertiliser to the farmers, agreements were made which were called assignments, and the Government took charge of the assets of the settlers and acted as trustees. The bills of sale were not registered because there was not sufficient time in which to do so. The settlers required assistance and it had to be speedily given, and the Government did not wait to give notice of intention to register these bills of sale. The effect of the amendment will be to invalidate these bills of sale, and no one can benefit thereby except creditors who have come into existence since the bills of sale were given. All the creditors previous to this have been provided for. It is necessary to protect the interests of the Government. Every one approves of the Government's action and yet hon. members are thus refusing to validate it.

Hon. J. F. CULLEN: I am glad the Minister has not stooped to use the arguments in the Assembly's reason for disagreeing to this amendment. The reason given is that the words were intended to give protection to the storekeepers and others. For unmitigated humbug the statement could not be worse. The Minister has said it is for the protection of the country as a whole, not for the storekeeper.

The Colonial Secretary: The storekeeper as well.

Hon. J. F. CULLEN: Yes, as part of the country as a whole. The amendment would not invalidate, but would fail to validate the claims of the Government.

The Colonial Secretary: As against other creditors, it would.

Hon. J. F. CULLEN: The Legislature should validate these bills of sale. The Government came forward when the farmers were in a hole and, without wasting time, gave what was necessary to carry them over. They gave this assistance in all good faith, and no honest borrower would wish to repudiate it. The Government acted as trustees of the whole country and it would be wrong to refuse the validation.

Hon. J. DUFFELL: I support the amendment. There is no argument in the reason of the Assembly to lead me to alter my opinion.

Hon. J. J. HOLMES: I hope the amendment will be insisted on, if for no other reason than that given by the Assembly. The reason states—

These words are intended to give protection to the storekeepers and others who have already made advances at the request of the Minister for Agriculture to assist the settlers in the farming districts and who, if these words be omitted, may be deprived of their security.

If that would be the only effect of the amendment, it would be all right, but what about protection to those who have made advances, not at the request of the Minister of Agriculture, but with an honest desire to help settlers in their trouble? The amendment will protect every merchant and not solely those who made advances at the request of the Minister. It is said that the Government advances amount to £90,000, but merchants have made advances to the extent of some hundreds of thousands of pounds.

Hon. R. G. Ardagh: And without security for what they have given?

Hon. J. J. HOLMES: Yes. They are not asking for security; they are satisfied to wait until the borrowers can pay them, but they object to the Government legalising their claims and the claims of those who have made advances at the re-

quest of the Government. The Government wish to protect themselves and those who have made advances at their request, but they do not care about the others. This is legislating for one section of the community, the Government and those whom the Government have requested to make advances.

Hon. J. F. Cullen : The Government is the whole community.

Hon. J. J. HOLMES : Of course, but let the Government share the good and the ill-effects with the whole community.

Hon. V. HAMERSLEY : I voted against the amendment previously and I see no reason to alter my opinion now. I shall support the clause as it originally stood.

Hon. A. SANDERSON : I strongly object to this interference with the ordinary business of the country. If the Government, or the storekeepers, with their eyes open, have done certain things and now want Parliament to legalise their actions, they cannot be greatly surprised if Parliament refuses. If the Government came to the rescue of the farmers in a certain crisis, let them put the transactions on a business or charitable basis. The business of the country must be carried on and if we allow such interference as this, we will frighten the merchants because they will never know the result of ordinary business. This has been the curse of the country and has stopped progress and development because it frightens merchants, bankers, and individuals who are prepared to stand by their contracts and do a fair thing. I hope the amendment will be insisted on.

The COLONIAL SECRETARY : Many members do not appear to realise the position. It has been suggested that the Government are endeavouring to rob creditors, and that this is an immoral proceeding. All of the creditors in existence when these bills of sale were given are included. Provision is made for their payment and they are asking for protection as well as the Government. If these bills of sale are upset, the merchant and every creditor of the farmer at that time will find his interests affected equally

with those of the Government. The only people who can benefit are subsequent creditors. Notice of intention was not given when these assignments were registered, because there was no time to do so, and that is the direction in which the defect occurred. Since then, and perhaps 12 months after registration and notification that these people had given a bill of sale over their assets, these farmers may have incurred fresh liabilities, and it may be within the power of those who have given credit to come down and invalidate the bills of sale which the Government hold and which are in the form of an assignment. The Minister for Agriculture says that what it is desired to protect are the assignments of the department in trust to realise and distribute amongst the creditors of the wheat-belt settlers.

Hon. J. J. HOLMES : This measure is not brought forward to validate something done by the Government nor only to deal with the bills of sale referred to by the Colonial Secretary, but with every bill of sale. The object of striking out the words "before or" is that there would be no undue advantage given. What I object to is retrospective legislation, and the singling out of the Government and their friends for special treatment. Make the measure as stringent as you like in regard to future transactions but do not make the Bill retrospective.

The COLONIAL SECRETARY : This measure is not to validate unregistered bills of sale but to relieve the necessity in the case of the Government and those who have supplied fertilisers, to give notice. As far as past transactions are concerned the only party that can be affected is the Government, because no one in the community, except the Government, has registered a bill of sale without giving notice of their intention. Every person in the community who has registered a bill of sale does give notice of intention.

Hon. C. F. BAXTER : The reason given by another Chamber for disagreeing with the amendment does not seem to apply to this case at all. I have consulted a number of those directly interested and they are quite willing to grant

the privilege to the Government. I shall certainly agree with the Government on this occasion.

Hon. H. MILLINGTON: It is understood that the Government should be placed on a footing with those doing business with the farmer. Those who deal with the farmer do so from a business point of view. It is pointed out that the Government came to the assistance of the farmer and have done their best to make the bills of sale valid, considering they had to do so hurriedly, and those who now say that bills of sale should not be valid, it seems to me are condemning the Government for coming to the assistance of the farmer. I contend we are bound to uphold the Government in a matter of this description.

Hon. A. SANDERSON: Do members understand what the amendment is; what the effect of it will be on the Bills of Sale Act? The interference that is going on now with ordinary business is justified by the war, but if this is a question of the Government validating their acts, surely it is better for the Council to have a special Bill passed dealing with the matter.

The Colonial Secretary: We want to continue to do in the future what we have been doing in the past.

Hon. A. SANDERSON: I know something of the perplexity of the interference with documents of this kind. A serious responsibility will be thrown on members if, without the greatest consideration of what they are doing, they press the amendment.

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

Ayes	..	..	..	16
Noes	..	..	..	5

Majority for 11

AYES.

Hon. R. G. Ardagh	Hon. D. G. Gawler
Hon. E. M. Clarke	Hon. V. Hamersley
Hon. H. P. Colebatch	Hon. A. G. Jenkins
Hon. F. Connor	Hon. J. W. Kirwan
Hon. J. Cornell	Hon. C. McKenzie
Hon. J. F. Cullen	Hon. E. McLarty
Hon. J. E. Dodd	Hon. H. Millington
Hon. J. M. Drew	Hon. C. F. Baxter

(Teller).

NOES.

Hon. J. F. Allen	Hon. A. Sanderson
Hon. J. Duffell	Hon. J. J. Holmes
Hon. R. J. Lynn	(Teller).

Question thus passed; the Council's amendment not insisted on.

No. 6.—Clause 17, par. B: Strike out all the words after "crops," in line 10:

The COLONIAL SECRETARY: It is necessary that these words should remain, and I have a stronger position to show now than when the Bill was before members previously. After it had been decided to strike out the words I was under the impression they were scarcely necessary because it seemed to me the first portion of the paragraph gave the Minister for Agriculture every necessary power. It gave him power to make a bill of sale for the purpose of providing seed wheat, fertiliser, bags, or twine for use in putting in, taking off, and harvesting the crop. It seemed to me that that gave the Government all the power necessary in the circumstances. After consultation with Mr. Sayer I found that the Government have not only been supplying seed wheat and fertiliser, but have actually been supplying the farmers with necessities of life. It is a very difficult thing to ventilate matters of this kind publicly, and have these statements put into circulation through the medium of the Press, but I trust that hon. members will realise the necessity in this instance. Through the meeting of those assignments which Mr. Sayer says are absolutely necessary the Government have been able to guarantee the accounts of some of the settlers who are in desperate circumstances. What the Government have done in the past they wish to do in the future. I hope that under these circumstances the Committee will not insist upon the amendment.

Hon. V. HAMERSLEY: I do not know that I have heard sufficient from the Colonial Secretary to make me alter my view in connection with this matter. The Government are not the only people who have advanced money to provide them with means of sustenance. It seems to me that the previous portion of the measure, so far as the crop is concerned, is quite sufficient to cover all that the

Government require. It appears that the Government in advancing money to the farmer wish to place themselves in a better position than private traders, and that is what the latter object to. One firm which has advanced money to the farmers referred to the Minister for Agriculture being relieved of the necessity of giving notice of a bill of sale and says that this is wrong if the power applies generally to a bill of sale without restriction. The previous operation of that measure has no restriction in it. It applies just to the growing crop on a man's land and providing him with seed and fertiliser. Firms have probably granted to farmers moneys and goods before the Government have, and yet the Government are to step in behind them and take a lien over the assets that these people have advanced money on. The traders are quite satisfied to act in concert with the Government on the arrangement which has been made where the department acts as trustee. The clause may apply to transactions which have taken place two years ago. The Government want to legalise back accounts and many firms have had to forgo money just as much as the Government. I think it is taking an unfair advantage of the firms which have acted just as generously as, and more generously, than, the Government towards many settlers. I do not wish to belittle what the Government have done, but I do not wish to see the Government take an unfair advantage.

Hon. J. DUFFELL: I am going to stand by my previous opinion in regard to this measure. I would like to ask the Colonial Treasurer if it is a fact that they have arranged with storekeepers to supply the necessities of life to settlers. How can we reconcile that keen feeling of humanity with the fact that the Government have been acting so stringently of late with the farmer and settler by only allowing 10s. in the pound from the Agricultural Bank upon work which has been carried out, and to meet obligations which the farmer has been obliged to incur. The whole thing is contradictory. The Colonial

Secretary says that they have stood by the farmer and now we have the other thing staring us in the face, that they have done nothing to stand by them. I see no reason why I should depart from my previous action in the matter.

Hon. J. CORNELL: I think there is a good deal of misunderstanding over this clause. I would like to know from the Colonial Secretary, if the Committee agree to this clause, if it would have this effect: supposing a private firm had got a bill of sale over land or goods and chattels for money owing by some person to whom the Government had advanced money for seed wheat, fertiliser, etc., would this clause do an injustice to that person who held the bill of sale by placing him in an inferior position to that of the Government?

Hon. D. G. Gawler: It would not affect the relative positions of the two securities.

Hon. J. CORNELL: Then I see no objection.

Hon. J. J. HOLMES: If I understand this clause aright it is designed to exempt the Government from giving notice of any bill of sale they may take over any asset that the Minister for Agriculture may have by way of security. They may take a bill of sale from a client for any asset that the client may have, and can then immediately register it as a legal document and be protected at the expense of others. If the ordinary merchant, however, wants to take a bill of sale he has to give 14 days' notice.

The Colonial Secretary: The Government must put down consideration for the amount of the bill of sale.

Hon. J. J. HOLMES: A client may give a bill of sale to the Government for some goods he has acquired from some merchant, and immediately the Government secure that bill of sale they can register it.

The Colonial Secretary: Do you think the Government would stoop to that sort of thing? Would any Government?

Hon. J. J. HOLMES: Any bill of sale immediately it is signed can be registered and become a legal document. Any merchant or anyone else if he wants a bill

of sale must give 14 days' notice. I think it is preposterous.

The COLONIAL SECRETARY: The old argument has been repeated by the hon. Mr. Hamersley. He suggests that the Government want to step in and take the assets. I would point out that they cannot do so unless they are prepared to give consideration to the amount of the bill of sale. Supposing the Government decide to advance £100 in the form of fertilisers, twine, seed, and probably food. The Government does not swoop down and seize the assets. They take security in connection with the advance of £100.

Hon. D. G. Gawler: Over anything he has got.

The COLONIAL SECRETARY: Any-one else can come in and by putting up £100 can avail himself of the security. It seems an unreasonable attitude that some hon. members are adopting. It is the attitude that every lender takes up, that he must have security for every amount that he advances. If it is £100 he is secured to that amount. Why should not the Government be secured in the same way? This Bill legalises to a further extent than is provided for in the first portion of the subclause. In the first portion we are validating in connection with notice of intention so far as seed wheat, fertiliser, twine, etc., are concerned, but the Government did enter into an arrangement with the storekeepers in regard to supplying goods, and it is necessary, therefore, for further power to be given which would be outside the seed wheat, fertiliser, or twine in connection with the supply of food and the necessities of life generally. This is retrospective insofar as assignments have been made in the past in that direction. Provision has been made that the Minister for Agriculture can do the same thing in the future. If he desires to assist the farmers with necessities of life, it shall not be necessary to register notice of intention, for the very good reason that he may already have supplied seed wheat or fertiliser, and the farmer putting in the crop may be unable to obtain credit,

and if the Government supplies him with food to carry him over the harvest, why should not the Government be secured? There is no reasonable argument against it. The hon. Mr. Duffell raises the old cry in regard to the Government only paying 10s. in the pound in connection with the Agricultural Bank. I clearly explained the reasons the other night, that the object was to place the Government in a better financial position than they would be in other circumstances. There is now more money available than would have been the case if the Government had not restricted the advance upon the occurrence of the war.

Hon. J. Duffell: You jeopardise the farmer; you starve him to place the Government in a better position.

The COLONIAL SECRETARY: Every section of the community must be considered. The Government have to look ahead and endeavour to discover how it is possible to finance this country at a time when the money market in London is closed. How are we going to carry out the necessary works and undertakings of the State otherwise? We have to conserve our financial resources. The hon. Mr. Cornell asked the question that if a private firm held a bill of sale over the assets of a person who was being assisted by the Government, would that person be in an inferior position to the Government? If the bill of sale was already registered the position of the private individual would in no way be adversely affected by any assistance rendered by the Government. They would only come in with a sort of second mortgage. A bill of sale previously registered by a private individual would have the first right. No one's interests would really be affected, but the Government who stepped in and assisted the farmer, and at the same time took into consideration all his creditors, and protected them up to that date, only ask under this amendment that their interests, and those who are associated with them, shall be preserved.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. J. HOLMES: I do hope that the leader of the Government will give this matter some further consideration. We must recognise that the Government as traders have embarked upon the manufacture of agricultural implements, for example. Now, there is a cash price and a time payment price for these implements. The Government should trade as ordinary traders. The point is that under this clause, if it be carried as printed, the Government can supply machinery and then take a bill of sale not only over that machinery, but over every other asset that the debtor may have—assets possibly supplied without security just on the chance of getting payment. Then the supplier of these assets finds that the Government step in, supply some machinery, and take a bill of sale over the whole of the farmer's assets. No doubt, as the Colonial Secretary says, the other creditors could come in and buy the Government out. But then it becomes a cash transaction on the part of the Government. The effect of this measure will certainly be a limitation of credit. A man now gets credit on his good name, but the possibility of the Government registering a bill of sale over the whole of such a man's assets will prevent credit from being given. I do not object to the Government entering upon these trading concerns, but the least one may expect is that they shall trade on the same footing as private traders.

The COLONIAL SECRETARY: Mr. Holmes laid great stress on the question of agricultural implements, but it is not necessary to take a bill of sale over such implements, because they are specially protected by Section 2 of the Bills of Sale Amendment Act. Again, implements sold by the State Implement Works are sold on the time payment system, and therefore the transaction would be protected under this measure. Thus, the hon. member's arguments fall to the ground. If the amendment is insisted upon, it will mean that many of the securities of the Government will be invalidated through the defect that notice of intention was not given. So the Government will be unable to furnish assistance to

farmers in the future, as has been done in the past, without giving notice of intention to register a bill of sale. At present that can only be done as regards fertilisers and fodder. It may become necessary to supply settlers with food, or to guarantee a settler with the storekeeper. If the amendment be carried the Government will not be able to assist farmers in that way without first giving notice to all other creditors to come in. Section 3 of the Bills of Sale Act, 1906, provides that notice of intention to register must be given. Section 18 provides that notice need not be given in the case of any bill of sale over wool or stock, separately or combined, made bona fide and for valuable consideration. The clause now under discussion extends that exemption to a bill of sale granted to the Agricultural Department or the Minister for Agriculture.

Hon. C. F. BAXTER. What else do you want protection for but seed wheat and fertiliser?

The COLONIAL SECRETARY: Food, for example; or a guarantee of, say, £50 with the storekeeper. Does the hon. member desire that notice of intention to register should be given before that is done? A great deal depends upon the amendment.

Hon. C. F. BAXTER: The Colonial Secretary said a great deal about assisting the farmer; but the Government are already secured as regards seed wheat, fertiliser, bags, and twine. The only thing remaining is food supply, and I am willing that special protection should be granted as to that. Outside these things, however, I do not see why the Government should enjoy any privilege over private trading concerns. I strongly support the amendment, subject to the exemption of food supply, which will fix the farmer up.

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

Ayes	..	..	..	10
Noes	..	..	..	9
				—
Majority for	..	..	..	1
				—

AYES.	
Hon. R. G. Ardagh	Hon. A. G. Jenkins
Hon. J. Cornell	Hon. J. W. Kirwan
Hon. J. F. Cullen	Hon. C. McKenzie
Hon. J. E. Dodd	Hon. H. Millington
Hon. J. M. Drew	Hon. F. Connor

(Teller).

NOES.	
Hon. J. F. Allen	Hon. J. J. Holmes
Hon. C. F. Baxter	Hon. R. J. Lynn
Hon. J. Duffell	Hon. A. Sanderson
Hon. D. G. Gawler	Hon. H. P. Colebatch
Hon. V. Hamersley	

(Teller).

Question thus passed; the Council's amendment not insisted on.

No. 7—Clause 18, Strike out the clause :

The COLONIAL SECRETARY : I move—

That the amendment be not insisted on.

This clause will afford necessary protection to workmen. Cases have arisen in which an employer of a fairly large number of men has given a bill of sale over his chattels, and subsequently has failed. His assets have been seized and the workmen have been deprived of what was due to them. Last year there was a provision for the protection of wages to the fullest possible extent. This Bill, however, is limited to one month's wages, and any lender will take this into consideration when he makes a loan, just as rent is taken into account.

Hon. H. P. COLEBATCH : The Committee having given way on the other amendments, I hope the Minister will not press his views in regard to this one. If we pass this clause it will do far more harm than good. There may be occasional cases, so occasional that few ever hear of them, in which men lose their wages because a bill of sale covers the assets of their employers. But if we do not insist on the amendment we will increase the difficulties, which are already great enough, of employers getting what they require to carry on their business.

Hon. D. G. GAWLER : I hope the amendment will be insisted on. The reasons for which the Assembly disagreed to the amendment read—

The clause should be retained because the worker should be placed on the footing of other creditors, and

given a preferential consideration as though he has been protected by a bill of sale.

This suggests that other creditors are on the same footing as the holder of a bill of sale. Other creditors have no preferential treatment, whereas if we accept the clause it will place the wages men above ordinary creditors. The reasons continue—

Not being able to obtain the formal protection of the law, the law should protect him in the case of seizure by the sheriff or other officers of the law. The Wages Act, Truck Act, and Masters and Servants Act already provide protection for workmen. The reasons continue—

This clause follows the principle recognised in the Bankruptcy Act.

This clause seeks to place a workman above a bill of sale, and it does not follow the principle recognised in the Bankruptcy Act. In the Bankruptcy and Companies Acts a bill of sale comes before a preferential creditor. Largely because another place has shown no reason for not agreeing to the amendment, I hope the Committee will insist upon it.

Hon. V. HAMERSLEY : It is obvious that the amendment should be insisted on in the interests of all concerned. There are many instances in which stock is advanced to farmers. If the clause is retained farmers will be denied credit for horses to pull the machines to sow and take off their crops. At present farmers may get credit for horses up to perhaps £200, but if the clause is retained the credit now enjoyed will be withdrawn.

Hon. J. CORNELL : I hope the amendment will not be insisted on. All the arguments advanced against the clause can be quoted in support of it. Surely when a man accepts work he should have the right to know that there is security for his services equally with the money lender.

Hon. D. G. Gawler : What about the storekeeper who is giving the farmer credit?

Hon. J. CORNELL : If the storekeeper needs protection, the hon. mem-

ber can bring down an amending Bill. A workman might see security in front of him, but the employer might give a bill of sale, and where would the security be then? The clause gives the worker only a reasonable degree of security for his services. A month's wages will be a mere bagatelle, and if the clause will ruin the employer and destroy his credit, he must be skating on very thin ice at present.

Hon. R. J. LYNN: We hear much about the protection of the worker under this clause, but the restrictions placed on the man who desires to borrow will possibly do more harm to the worker than if the amendment is insisted on. It is difficult enough now to borrow money, and if provisions are inserted which will militate against a man borrowing, employment will not be available to workmen. If an individual desires to borrow £100 to carry on urgent work of a nature which will continue the employment of a number of men, it may be impossible to get the money if a contingent liability may be set up against the loan.

Hon. J. Cornell: The security will be minus the month's wages.

Hon. R. J. LYNN: This might debar a man from obtaining a loan and continuing the employment of workmen. Only in isolated cases would the clause be useful, and in view of the harm likely to accrue, the Council should insist upon its amendment.

Hon. H. MILLINGTON: I hope the clause will be allowed to remain in the Bill. I do not see how any harm can be done to the worker by it. Take the farmers for instance; some of them have borrowed money from any person from whom they could obtain it, and some also get as much from the Government as they can. They then turn round and borrow from the labourer in the shape of his labour, and if they ever do pay him there is no such thing as paying interest. I do not see why the labourer should not be protected in this case. It is not a fair thing for a man, unless he knows he is in a position to pay him, to employ another. I do

not see why hon. members who are so particularly anxious not to do the workmen any harm should go against the proposal of the Government. I would sooner take the Government's idea as to what will safeguard the interests of the workers than that of hon. members. They are not particularly careful as to whether this will harm the worker but that it should not be harmful to the other fellow.

Hon. J. F. ALLEN: I regret that the members of the Government and their followers do not take into consideration the argument which has been before the House, namely that there are more than two parties in this State to be considered in legislation. The ordinary workmen, who one might take it are the workers of the State, are those who work for a daily wage: but they are not the only workers in the State. I say that the whole of the workers are entitled to consideration at the hands of the Government, and that the Government should see that the interests of all affected are considered. If we look at the wage earner for a moment we find that he is already protected in many other ways under the law in a manner that no other occupation in the State is protected. He has first claim before rent and before insolvency. If the Government give preference to the wage earner over other people they will create a very difficult position. I know of the case of a man who borrowed £800 to put into his business; he was paying wages at the rate of £600 per month—three-fourths of the total amount that he borrowed under his bill of sale. Would it be a proper thing to place a man in such a position that he would not be able to finance himself in an operation of this description? If we perpetrated such a blunder as to allow this measure to go through we shall be placing undue hardship upon the shoulders of those who desire to improve properties they have at the present time. We must recognise that not only the wage earner, but the shopkeeper and the small storekeeper should also be given an equal right with the wage earner himself.

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

Ayes	8
Noes	12

Majority against	..	4
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AYES.

Hon. J. Cornell	Hon. J. W. Kirwan
Hon. J. F. Cullen	Hon. C. McKenzie
Hon. J. E. Dodd	Hon. H. Millington
Hon. J. M. Drew	Hon. R. G. Ardagh
	(Teller).

NOES.

Hon. J. F. Allen	Hon. V. Hamersley
Hon. C. F. Baxter	Hon. J. J. Holmes
Hon. H. P. Colebatch	Hon. R. J. Lynn
Hon. F. Connor	Hon. E. McLarty
Hon. J. Duffell	Hon. A. Sanderson
Hon. D. G. Gawler	Hon. A. G. Jenkins
	(Teller).

Question thus negatived; the Council's amendment insisted on.

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

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

Second reading.

Hon. J. E. DODD (Honorary Minister—South) [8.13]: The present Bill to amend the Arbitration Act has been brought about for the same reason as many other Bills that have been before the House during the last fortnight. The Bill will practically suspend any arbitration court award, provided an agreement is come to between the parties, and will extend the functions of arbitration to a very great extent. It has been said that there is no need for some of the legislation which has been introduced, and I believe it is said in some cases that there is no need for the amending legislation which is being introduced in this respect. I think, however, I can clearly show that there is need of some kind of legislation to more effectively control the relations between employer and employee than is the case at the present time. As far as unemployment in this State is concerned, I do not think we are in such a bad way as other

States in the Commonwealth; that is to say I think we are better situated in respect to unemployment and the number of men out of work than any other State in the Commonwealth. Apart altogether from that, however, there is a very great number of employees out of work at the present time, and a large number working at reduced hours and under different conditions from what they were prior to the outbreak of the war. We have had an enumeration of the factories made, to see how the war has affected the employers and employees in those institutions, and I find the number of factories which have brought about a reduction in their employees is 101, while the employees put off total 633. That is here in the metropolitan area. It will be understood that insofar as the gold mining and outside districts are concerned, there is really no difference in the condition of employment from what prevailed before, but in and about the metropolitan area quite a large number of employees are being discharged. I think that when we make an enumeration of the shops, we will find that the number has been doubled. I can safely say that the number of hands employed to-day is a thousand or more less than it was a short time ago. It is possible that the number of unemployed may increase, in fact it is quite on the cards that it will increase, and so that there is some justification for the introduction of the Bill, calculated to bring about some amicable relation between the employer and the employee and so if possible do something to get over the effect of this unemployment, something which may possibly provide more employment and better regulate the conditions between the parties. This is not an arbitration Bill; it is really one of conciliation. It is not what may be termed an arbitration Bill, except in relation to unorganised labour. The Bill sets up the Control of Trade Commissioners as a body who will seek to bring about conciliation between the parties affected. Clause 2 deals with organised labour. Under it the parties to any industrial agreement or award of the Ar-

bitration Court may enter into an industrial agreement on any matter to which the agreements or awards relate, or other matters. That is an extension of the definition of industrial matters under the Arbitration Act. They may enter into a new agreement upon those matters in regard to which they are already agreed, and on any other matters. The reason is this: There are many points arising under present conditions which do not come within the definition of "industrial matters" as defined in the Act, and consequently we are giving a very wide definition to those matters in order to allow the commission as far as they can, to be of some use in trying to cope with the situation. The commissioners appointed under the Control of Trade in War Time Act may, at the request of either party to an award or an agreement, summon any person to attend them, and their function will be to endeavour by conciliation to effect an agreement between the parties to an industrial agreement or award. The clause goes on to state—

Every such agreement shall have the same effect and may be varied, renewed or cancelled, and shall be enforceable in like manner as an industrial agreement under the principal Act. An agreement made under this section shall have effect so long only as this Act continues in force; and upon any such agreement ceasing to have effect by the termination of this Act or from any other cause, any industrial agreement or award temporarily superseded by such agreement shall forthwith again come into operation.

In other words, immediately an agreement made before the commissioners ceases to have effect by reason of the termination of the Act, the previous agreement or award brought about by the operation of the Arbitration Act shall again come into operation. There is a proviso that if no agreement is arrived at under this section as to all or any of the matters to which an industrial agreement or award relates, the industrial agreement or award shall continue in force. That

is an important point, and I think it has been overlooked in some of the criticism levelled at the Bill. It means that unless an agreement is arrived at between the parties the commissioners have no power, and the industrial agreement or award of the Arbitration Court shall continue to operate. That should be a fairly substantial lever in bringing about some settlement if the employer seeks to impose conditions which he ought not to impose, or if he seeks to reduce wages below a fair rate. Then the parties to the award or agreement simply say, "Well, we will not agree." On the other hand, I think it provides a certain leverage against employees to induce them to try to arrive at some agreement in order that the greatest good to the greatest number may obtain. If a number of employees realise that it will be better, perhaps, to accept less favourable conditions than they have hitherto enjoyed, the leverage is there to help them to agree. I do not know whether there will be any criticism against the first part of the Bill, namely, that dealing with the question of organised labour. To my mind it seems a very fair arrangement to get over some of our troubles. At a time like this it is necessary that we should try as far as we can to look at things fairly and squarely, and if an employer cannot possibly pay the rate or give conditions which he has hitherto given, some arrangement may be come to whereby the employees will endeavour to meet him. There are some industries which, perhaps, are doing better and enjoying improved conditions since the outbreak of the war, but there are others to which this does not apply, and which are finding it hard to continue operations at all. If the two parties can come to an agreement, the Bill will give them an opportunity of doing so. Clause 3 deals with the question of unorganised labour. It gives the commissioners power on their own initiative or at the request of any person to inquire into any industrial matters and to summon any persons, whether such persons do or do not belong to any industrial union of employers or workers. Some may belong to a union, a few in one place and a few in another, and the commissioners have all the pow-

ers of the Arbitration Act of 1902 and its amendments in order to try to bring about some agreement in regard to those workers. On such inquiry the commissioners may order and direct the parties so summoned to enter into an agreement upon any industrial or other matters not being a subject of any existing industrial agreement or award, in such terms and upon such conditions as the commissioners may, in their discretion, think fit; and upon such order being made the agreement shall be deemed to have been signed by and shall be binding upon the parties therein named. In this clause the commissioners have power to make an agreement whether the parties agree or not.

Hon. J. F. Cullen: That is pretty strong.

Hon. J. E. DODD (Honorary Minister): If the hon. member could see some of the representations we have received in regard to unorganised workers he would realise that it is necessary to be strong. I can draw attention to one firm that discharged all its employees, and those the weakest of the employees we have in our midst, namely women and girls.

Hon. J. F. Cullen: Perhaps the employer could not pay them.

Hon. J. E. DODD (Honorary Minister): Those employees were all discharged, and a fortnight afterwards they were re-engaged at a very much reduced rate of wages, a rate of wages which is a disgrace to Perth and would be a disgrace to London. There is no question about that, and to allow employers such as that to have a free hand at a time like this when we have hundreds of people looking for work, is not in the best interests of the country. The Bill, like all other laws, is not to impose hardship on the man seeking to do right, but simply to protect the individual against those so anxious to do the wrong thing. I stated just now that in this particular factory the rate of wage being paid would be a disgrace to any part of the British dominions. I find that in another place, a very reputable factory, this same class of workers, namely women and girls, have been reduced 25 per cent. without

any reference to anybody or any union. Those who took the trouble to read the newspapers to-day or yesterday will have seen that one firm has been cited before the Arbitration Court for reducing its employees without consulting anybody, notwithstanding that the firm was working under an award of the court.

Hon. D. G. Gawler: The employees agreed to accept the reduced wages.

Hon. J. E. DODD (Honorary Minister): That is just what we wish to prevent. If we are going to give the employees the right to accept a reduction without complete reference to the parties to the award, we will be getting back to something which I think the Legislature will not tolerate. In many cases the employees accept a reduction because they think they have no power to help themselves, and it is because we are trying to help them, particularly those constituting unorganised labour, that this particular clause has been included in the Bill. Although I for one have always held that the Arbitration Court should deal only with organised labour, still at such a time as this, when there are so many looking for employment, I think we are quite justified in getting away to some extent from what we believe in regard to industrial matters in order to see whether we cannot bring about a better state of affairs than that existing now. The clause goes on to say that it shall be in the power of the commissioners to include in any such agreement such provisions and make such adjustments by the reduction in the hours of work of individual workers, or of the rate of pay, as may, in the opinion of the commissioners, prevent or tend to prevent as far as practicable the unemployment of workers. The Bill as originally introduced went a little further than that, but it has been amended since its introduction in the direction which I have already read, and that is, that the commissioners shall, to the best of their ability, make such adjustments by the reduction in the hours of work of individual workers, or in the rates of pay, whichever they may think fit, as to prevent or tend to prevent the unemployment of workers. It has been

held that the Arbitration Court has no power to alter an award in the direction of reducing the hours in the way some of the workers and employers desire to do, and I believe some have entered into an agreement whereby they will work a lesser number of hours and receive payment accordingly, in order that a larger number may continue to remain in employment. After the commissioners have viewed all the circumstances of the case, and they should be in a fairly good position to judge, having regard to the work on which they are engaged at the present time, they consider that a reduction of hours, with a subsequent reduction of pay, may bring about more employment of workers, and tend to reduce unemployment, they will be doing something which will be in the interests of all concerned. The persons who may appear before the commission on behalf of the organised workers are not limited in any respect. If the workers choose to elect an industrial inspector to appear on their behalf, or a secretary or an official of a union, they may do so. They may, in fact, choose anyone they think fit to conduct the case for them before the commission, and after the agreement is made under this clause, if any person commits a breach thereof the registrar of industrial unions, or any industrial inspector, may apply to the commission for the enforcement of the agreement. Another provision is that the agreement made under this clause shall, except so far as the same may be varied or annulled, have effect while this measure continues in force, and no longer. That is, in relation to unorganised labour, agreements shall continue in force only so long as this Act remains in force, and it is further provided that the Governor may make regulations as he may deem necessary or expedient to carry the measure into effect. Those are the provisions of the Bill in a nut-shell. I do not think it is necessary to say anything further. There may be some criticism about the method by which we seek to regulate the conditions during the present crisis. I think there is no question whatever that a Bill of some kind, or a law of some

kind or other is needed at the present time in order to regulate the conditions of employment, other than the statutes we have in force. I move—

That the Bill be now read a second time.

Hon. D. G. GAWLER (Metropolitan-Suburban) [8.37]: I agree with the Honorary Minister, and most hon. members, I am sure, will agree with him also, that some measure of this description is necessary, and I am certain that we are all at one with the Minister in endeavouring to prevent, as far as possible, the extension to the working class, or to anyone else, of the disastrous effects of this war. Chief amongst those effects no doubt will be the creation of unemployment. The question remains, however, whether the Bill is calculated in the best possible way to carry out this idea. The Bill itself contains two very important ideas in Clauses 2 and 3. In Clause 2 we find an element of conciliation, and in Clause 3 we find the element of compulsion. I think we should look about and ascertain whether there has not been a cry outside for a considerable time that unemployment can be met in a most effective way by the worker and the employer coming to an agreement. I would point out that Mr. Somerville, the representative of the workers on the Arbitration Court, a man who has made an exceptional study of this matter, who is known to be fair-minded, and whose experience in matters of this sort is second to none in the State, writes to the daily Press in the following terms:—

Surely it would be wise to confine ourselves to facts; and what are the facts which up to the present require to be dealt with? There is only one. Certain awards provide for a weekly engagement, and in order to spread the available employment over as many workers as possible it may be desirable to suspend that clause. All that is necessary is a simple one-clause Bill to the effect that if the parties to an award or agreement agree to suspend any clause of it the Court of Arbitration, or the President, shall have power to ratify such arrangement.

That is the very idea expressed in Clause 2, and, as I have said, while Clause 2 contains an element of conciliation, Clause 3 contains an element of compulsion. There is an extraordinary provision in Subclause 2 of Clause 2, which is a contradiction in terms. It says that the commissioners may order parties to enter into an agreement. Fancy ordering two parties to do that. It is like Germany invading Belgium and ordering Belgium to enter into an agreement to allow her to remain there. The fact of ordering an agreement is a contradiction in terms, and that, I think, creates a considerable slur in the clause. Then again, Clause 2 contains, if I may say so, another undesirable principle. It sets up another arbitration court alongside the present one. What is the necessity for doing that? I think it is due to the Government to show us the necessity for such an extraordinary departure from the present Arbitration Act.

Hon. W. Kingsmill: It is not even advisable.

Hon. D. G. GAWLER: And the question arises necessarily, whether the proposed arbitration court which it is proposed to set up here will be as well qualified to deal with these matters as the existing court.

Hon. J. E. Dodd (Honorary Minister): Both parties to the conference objected to the present Arbitration Court dealing with these matters.

Hon. D. G. GAWLER: I will take the Honorary Minister's word for that, but even so why should we depart from the principle? Are not the present commissioners saddled with about as much work as they can possibly do, without having thrust upon them a vast amount of work which they will never be able to do, and which they will not understand? Do not we know that the present Arbitration Court has as much as it can do to grasp the details of every case, and the conditions of the various industries and the callings that come before it, and is that not one of the great objections to the present court? Yet we are going now to cast all those duties and

responsibilities on the commission. We are going also to let this commission interfere in matters which the present Arbitration Court has not been allowed to interfere in. That is to say, Clause 3 seems to suggest that this new court can go into matters outside an award or an agreement which is filed in the present Arbitration Court. Let me point out another thing. The Honorary Minister dwelt on the fact that Clause 3 refers solely to unorganised labour. That is not so. It refers to organised as well as unorganised labour, and it allows unions as well as others who are not members of unions to appear before the commission, because here are the words—

The commissioners may, at the request of any person, or of their own motion, summon any persons, whether such persons do or do not belong to any industrial union of employers or workers, to attend before the commissioners on an inquiry by them into any industrial matters not being the subject of any existing industrial agreement or award.

That clearly contemplates that a union may go before the tribunal as well as unauthorised workers. Then Subclause 2 also allows them to go into matters which are not the subject of an existing industrial agreement or award. I have said already it is casting on this body a great deal more work than they will ever be able to do, and I think that is a serious matter that should be taken into consideration by the Minister. The chief provisions in Clause 3 are the ordering of the reduction in the hours of work of individual workers, or the rates of pay. It seems to me it might be possible for the commission to do both, not only order a reduction of hours of workers, but also a reduction of rates of pay. If Mr. Somerville's idea be correct, all that can be done by Subclause 2 was illustrated in Berry's case which was published in this morning's newspapers. Here the employer met the employees, and the employees agreed, unanimously, I believe, or perhaps with only two or three exceptions, to accept a reduction in wages. The employer said, and the evidence bore him out, that if

they did not do that he would have to shut down altogether. They agreed. He did not dictate to them. The hon. member interjecting must know a good deal more than I do about this. I am going on the facts as they are stated in the Press, and I am also going on the facts as apparently believed by the Arbitration Court. If this Bill had been in existence at the present time, Mr. Berry and his employees would have come under Clause 2 of the measure. They could have said, "We wish an alteration in our award or agreement." Then the matter could have come before the commission, and the commission could have registered the alteration. I must say, however, that I venture to believe that the provision we have in Clause 3 of this Bill is going to cause very serious trouble. I for one am not prepared to go to the extent of agreeing to Clause 3. I hope I can show my sympathy for the Bill even when I do think that Clause 2 is quite sufficient to meet all present requirements. There is another point which has been stressed by Mr. Somerville, and on which this Bill infringes, to a considerable extent, on the present Arbitration Act. The Bill allows the introduction of unorganised labour into the Arbitration Court. I do not think that that is a wrong principle, but we have here an Act under which unorganised labour is refused access to the Arbitration Court. That is based on the union principle of collective bargaining. This Bill throws that principle away, and allows unorganised labour to approach the Arbitration Court. Personally, I object absolutely to the principle of compulsion in the Arbitration Act, and I always shall object to that principle. I contend that the principle of compulsion has completely broken down, and that we shall have to revert to wages boards or conciliation such as exist in Canada. I believe the Minister himself is in favour of that course. I have said enough, I think, to show hon. members that I object to Clause 3; but, at the same time, I must say that I agree with the principle of the Bill, which, I think, is sufficiently set out in Clause 2.

Hon. J. F. CULLEN (South-East) [8.47]: There are two courses which may be taken in regard to this Bill. Either the Government should withdraw the measure and bring in a simple amendment of the Arbitration Act conferring conciliation powers on the Arbitration Court, or this House will have to recast the Bill on those lines. I am satisfied that anyone who has watched industrial questions in years gone by will recognise at a glance that the commissioners whom the Bill proposes would be helpless to do the work which would be cast upon them. Here are three men who have been selected for certain work in connection with the prices of commodities during war time. Well, so far, they have had practically no serious business to do. Happily there has been, up to the present, no great cause to trouble these commissioners. But just because they happen to be a Royal Commission already existing, the Government say, "We will make them a Court of Conciliation for industrial questions." It is an absolutely new world they would be introduced to. If there is to be conciliation at all, then I say, in view of present conditions, the commission would be simply overwhelmed. It is work they are not qualified to do. They could not possibly do it. Besides, they would have to be invested with all the paraphernalia of a court. What possible reason can the Government advance for leaving idle the court now qualified, by long experience, to handle the matter, and taking three novices and setting them an impossible task? I think it can safely be assumed that if this Bill is passed, if a "commission of conciliation" is created, the work of the Arbitration Court will be to all intents and purposes suspended. It is not to be supposed that any further cases will come to the Arbitration Court during the continuance of the present crisis. Very well. This special legislation throws the members of the Arbitration Court idle—though their salaries must go on—and creates a commission of novices to deal with the most complex business that any court could have to deal with. I am concerned as to the personnel of the pro-

posed members. I do not care what they are called so long as they are capable of their work, and know what they are about. Why, in the name of all that is rational, did not the Government in this Bill clothe the Arbitration Court with powers of conciliation? The whole thing could have been done in a simple clause. I have an idea why the Government did not do it.

Hon. J. E. DODD (Honorary Minister): Both parties preferred the commission.

Hon. J. F. CULLEN: Who are both parties? Who was in a position to speak for both parties?

Hon. J. E. DODD (Honorary Minister): The employers' federation and the workers.

Hon. J. F. CULLEN: They said they would not have the Arbitration Court?

Hon. J. E. DODD (Honorary Minister): They preferred the commission to the Arbitration Court.

Hon. J. F. CULLEN: I should like to have that a little more fully. We have had *ex parte* statements from Ministers here in this House, which statements have not been borne out. The leader of the Opposition in another place has had laid upon his shoulders many things that he never did or said, and he has been quoted here as an authority that ought to weigh with members of this House. I am satisfied that the statement quoted by the Honorary Minister does not represent the whole of the case. I can understand one or other party being tired of the Arbitration Court. I know the employees are rather tired of it, or their representatives are. The Arbitration Court is a good court when it gives the right award; but, if it fails to give the award asked for by the employees, the court is a very bad court.

Hon. J. E. DODD (Honorary Minister): The same thing applies to both sides.

Hon. J. F. CULLEN: More or less, no doubt. Is this House to believe that a mere opinion about trying something new—a child's opinion that it would like to play at something else—is sufficient

to justify the clothing of novices with powers of industrial conciliation? The slightest consideration would show anyone who has studied the industrial question that three men like those commissioners would be absolutely helpless under the mass of complex work that must devolve upon them in such circumstances. I have an idea why the Government did not propose to clothe the Arbitration Court with powers of conciliation. The Government reasoned the matter this way: "We will keep the members of the court from getting into bad habits. It will be bad if they become a party to the lessening of earnings." Because that is what the Bill means. The Government have not said so in plain language; but that, in effect, is what the Bill means—the lessening of earnings. The Government have brought in a Bill to provide for lessened earnings; that is the plain English of it. The Government said to themselves, "If we allow the Arbitration Court to become an instrument for lessening earnings, then the Arbitration Court will never be trusted again by one side in any case that may go before the court in future."

Hon. J. E. DODD (Honorary Minister): The hon. member is arguing on wrong premises.

Hon. J. F. CULLEN: The position is exactly as I have said. I recognise, as the Government recognise, that if this crisis lasts there must be a lessening of the volume of employment, and consequently a lessening of earnings. It follows that either shorter hours at the same rates of wages must prevail, or else present hours with much lower rates; or, as a third alternative, there will be reduction of wages commensurate with the strenuousness of the trouble. I am not blaming the Government for that, but I am blaming them for embarking on a new experiment in which they have no grounds for expecting success; none whatever. Either the Government should withdraw the Bill and bring in a measure of one clause, or perhaps two clauses, clothing the Arbitration Court

with powers of conciliation to do what this Bill proposes that three novices should do, or else this House must recast the Bill. If the Government will not do the work, then of course it is work for this House to do. I shall vote for the second reading, but on the understanding that the Bill must be recast either by the Government or else by this House in Committee.

The COLONIAL SECRETARY: I move—

That the debate be adjourned pending consideration of messages from the Legislative Assembly.

Motion passed; the debate adjourned.

BILL—POSTPONEMENT OF DEBTS.

Assembly's Message.

Message from the Assembly received notifying that it had agreed to amendments Nos. 1, 7, and 9 made by the Council, subject to further amendments, and had disagreed with amendments Nos. 2, 3, 4, 5, 6, and 8.

BILL—BILLS OF SALE ACT AMENDMENT.

Request for Conference.

Message received from the Assembly asking that a free conference be granted.

The COLONIAL SECRETARY (Hon. J. M. Drew—Central) moved—

That a free conference be granted and that the Hons. H. P. Colebatch, D. G. Gawler and J. Cornell be appointed managers to confer with the managers from the Legislative Assembly in connection with the Bills of Sale Act Amendment Bill.

Question passed.

Sitting suspended from 9.2 till 9.45 p.m.

Conference Managers' Report.

Hon. H. P. COLEBATCH: I have to report that the managers appointed by the Legislative Council met the managers appointed by the Legislative Assembly, and failed to arrive at any agreement.

Report adopted.

BILL — INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT.

Second Reading.

Debate resumed from an earlier period of the sitting.

Hon. J. CORNELL (South) [9.55]: In rising to speak on the second reading of this Bill, I occupy an unique position. I have always been accused in this Chamber of taking my orders from the trades hall, and now we have reached the position that this Bill has neither the benediction of the trades hall nor the benediction of the employers' federation. It is the reverse. There is only one reason which can be brought forward in justification of the introduction of such legislation as this, and that is the European crisis, and the effect that that crisis may have upon the industries of our State and the workers engaged in them. The points on which the speakers who have preceded me seem to disagree, and the point in which that political faith I subscribe to, are most concerned in, is the tribunal which will have to adjudicate. The position as it presents itself may be divided under four headings. To-day we have the Arbitration Court. Under that court awards and agreements have been made; that is one head. Those who work under those awards are safe to this extent, that employers may reduce the number of hands employed, but they cannot reduce the wages or entrench on any of the conditions set out in the award or agreement. There is no power on earth which shall say to an employer "You shall keep your industry going," but our industrial machinery provides that those who have taken advantage of it shall have to do certain things while keeping the machinery going. So far as these parties are concerned, the only stumbling block in the way now is that there is no safety valve in the present Arbitration Act which would give them legal power to contract outside of the award or agreement, but they have this legal power to a certain extent, that if both parties agreed to do so, the question of legality would not come in. Then there is another body

of workers, that is, those who are working under expired agreements or expired awards. They cannot be provided for without an amendment of the Arbitration Act. Then there is a section of organised workers who have never had an award or an agreement. Something should be done for them. Then there is another section of workers who are not organised, and as a consequence of not being organised they cannot avail themselves of the Arbitration Act as it exists to-day. Members in another place, in discussing this Bill, did not argue on the premises that Mr. Gawler argued on. Mr. Gawler has taken his premises from a letter to the Press written by Mr. Somerville, the workers' representative on the Arbitration Court. When the Bill was discussed in another place, that letter had not been published, and as a consequence members there argued from other premises, and those premises were that the Arbitration Court should be made available to any worker. I am totally opposed to that. Hon. members who favour that have one object in view, and that is that by giving unorganised workers full and free admission to the court of arbitration they would bring about the destruction of the organised worker. I am not wedded to the Bill, nor do I think the Government are wedded to it. The Bill which we have before us is the result of a conference which took place between the representatives of the employers' federation and representatives of the unions in the metropolitan area. I am not at liberty to divulge what transpired at that conference, nor do I think I would be justified in doing so, seeing that the proceedings were not reported in the public Press, except to say that there were some points which it was clear they wanted, and there were other points which it was clear were not wanted. So far as Clause 2 of the Bill is concerned, if this House thinks that the court is the proper body to vary agreements it will require very little alteration to amend the law in that direction. The words at the beginning of Subclause 2, "the Commissioners appointed under the Control of Trade in War Time Act," could be deleted, and the words "the

Court of Arbitration" inserted. With regard to the commissioners acting as conciliators to bring about variation of existing agreements or awards, there appears to be this difficulty: that apparently the labours of the commissioners cease when they have achieved the variation. Should there be any breach of the varying award or varying agreement, the Arbitration Court would be called upon to deal with the matter. It is generally understood that the authorities who have acted in the capacity of conciliators in such a case would be more conversant with the considerations which led up to the variation than other parties would be, and that as a consequence the conciliators would be better fitted to adjudicate on a complaint of a breach of the varying award or agreement. However, that difficulty might easily be overcome; and I think no one would take exception if the Arbitration Court were given the necessary power. It is a power that should be vested in some tribunal. Clause 3 is somewhat more definite than the preceding clause. Not only are the commissioners to act in the capacity of conciliators, but to a certain extent they are to act in the capacity of dictators. When an agreement is arrived at, whether by the volition of the commission or by mutual consent of the parties brought together, the commission will be the party to decide on any question of breach of agreement. If this House would agree—and it is necessary that some agreement should be arrived at—to delete the words "whether such persons do or do not belong to any industrial union of employers or workers," in lines 3 and 4 of Subclause 1, and to introduce some saving clause, which could be easily embodied, giving the Arbitration Court power to deal with unorganised labour, then the commission would be left only to deal with questions of unorganised labour. Exception has been taken to the powers of the commissioners as defined by Clause 3. These powers are mandatory. The Commissioners can make an agreement of their own volition, and the parties will be bound thereby. If it is justifiable now to bring about variation of our industrial laws in order to meet

the exigencies of the position with which we are confronted, it is doubly justifiable to provide some tribunal which will be able to step in and say to the unscrupulous employer, "If you employ workmen and workwomen you shall at least pay them sufficient to keep body and soul together, or else you shall close down your business." I know that there are employers who would be unscrupulous enough to keep their businesses going while paying their workers such pittance as would hardly support existence. In normal times, workers have a safety valve in the shape of a strike if repellent conditions are imposed upon them. They can refuse to put up with such conditions; and they can rely on their more fortunate comrades in employment to give them assistance to bring such an unscrupulous employer to his knees, or, at all events, to a sense of the claims of fairness. In these times, however, the meaning of such a Bill as this is that it has become necessary to vary existing awards and agreements. Why necessary? Owing to the stringency of the money market, and the wide-spread unemployment likely to occur in our community. With all due respect to Mr. Gawler, I say that if this House does not insist on some body holding arbitrary powers to stop an employer from sweating women—and the women workers will probably be the first to be attacked—we shall bring about a state of affairs which will be repulsive, at all events to me. I hope that if a majority of the Chamber proceed to amend the Bill, it will be done on reasonable lines. Subclause 2 will easily admit of amendment on lines that are reasonable. Ways and means can be provided by which those best organised, and therefore best fitted to look after themselves, will be enabled to tide over the present difficulty. If the House decides to confer the powers of Clause 2 on the Arbitration Court, then I say it will be useless and hypocritical to endeavour to bring Clause 3 under the Arbitration Court unless members are prepared to give that court the same power as that given to the commissioners by Clause 3. I do hope hon. members will approach the question in a

humanitarian spirit. Let them picture in their minds an unscrupulous employer—and that is the only way in which the matter can be approached—an unscrupulous employer who will take advantage of the present unfortunate position of affairs to reduce his workmen and workwomen to such a condition as would be absolutely repulsive. I trust hon. members will approach the Bill in that spirit. If they desire that the Arbitration Court shall deal with the question, the least they can do is to give that court the powers which the Bill proposes to confer on the commissioners.

On motion by Hon. R. G. Ardagh debate adjourned.

BILL—BILLS OF SALE ACT AMENDMENT.

Assembly's Message.

Message from the Assembly received notifying that it no longer disagreed to amendment No. 7 made by the Council.

House adjourned 10.19 p.m.

Legislative Assembly,

Wednesday, 9th September, 1914.

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

PAPER PRESENTED.

By the Premier: Statutes Nos. 14 and 15 of the University of Western Australia.