Legislative Assembly.

Tuesday, 11th September, 1945.

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

QUESTIONS.

NORTH-WEST AIRPORT.

As to Learmonth v. Onslow as Site.

Mr. RODOREDA asked the Premier:

1, Was the State Government consulted in reference to construction (now proceeding) of civil airport at Learmonth (Potshot) on Exmouth Gulf, about 90 miles from Onslow?

2, If so, was consideration given to the claims of Onslow which has a deep water jetty, large oil storage tanks and delivery mains to ships, and a natural aerodrome and the use of which would obviate the establishment of another small isolated community on the North-West coast?

3, If not, will he take up the matter with the Federal authorities, and, if they have no valid objections to Onslow, see if it is too late to make the change?

The PREMIER replied:

1, No.

2, Answered by No. 1.

3, There are indications that the new Empire Air Route to Australia may miss Exmouth Gulf. Representations will be made to the Commonwealth Government to consider the claims of Onslow in connection with any future requirements for oversea services now provided at the Learmonth aerodrome.

RAILWAYS.

As to Loco. Oil Fuel Tests.

Mr. WILSON asked the Minister for Railways:

1, What quantity of oil fuel was used on the 16 trial runs conducted with engine 286 fitted for burning oil fuel, during August, 1945?

2, What was the cost per ton of fuel used?

3, How does this cost of oil fuel consumed compare with that of local coal for a similar amount of work?

The MINISTER replied:

1, 35 tons used on 20 trips.

2, £11 4s. 6d. per ton in tankers at North Fremantle.

3, Approximately 3½ to 1 in favour of local coal.

SCHOOL BUS SERVICES.

As to Road Aid for Local Authorities.

Mr. WATTS asked the Minister for Works:

1, In view of the large number of motor-bus services that have been approved for the consolidation of country schools, and the necessity for the maintenance of the various roads concerned by local authorities so as to ensure comfortable and regular transit by such buses, is he prepared either through the Main Roads Department or from some other source to make financial assistance available to local authorities for the construction or upkeep of such roads so as to enable them to cope with the work involved in a satisfactory manner?

2, If so, will he cause a public statement to be made in the near future as to the circumstances in which, and the conditions upon which, such assistance would be granted?

The MINISTER replied:

1 and 2, The use of any particular road by a school bus would not in itself justify the granting of financial assistance to the local authority concerned, as the bus would represent only a small part of the total traffic on the road. As in the past, the Main Roads Department is still prepared to consider requests from the local governing authorities for assistance in road construction irrespective of the class of traffic concerned.

COMMONWEALTH EMPLOYMENT SERVICE.

As to Displacement of State Labour Bureau.

Mr. LESLIE asked the Minister for Labour:

1, Is he aware of the statement, published in "The West Australian" newspaper of the 25th August, by Mr. H. T. Stitfold, Deputy Director General of Manpower, that it is intended that a Commonwealth Employment Office is to displace the State Labour Bureau?

2, Is Mr. Stitfold's statement correct?

3, If so, has the State Cabinet given consent to this displacement of the State Labour Bureau?

4, When is this displacement to take place?

The MINISTER replied:

1, Yes.

2, Yes.

3, Yes.

4, Since the inception of the National Service Office, the Commonwealth has been conducting the Labour Bureau and State officers were seconded to the Commonwealth authorities for this work. The complete change-over is shortly to be effected.

BILL—MINES REGULATION ACT AMENDMENT.

Read a third time and transmitted to the Council.

BILL—MINE WORKERS' RELIEF (WAR SERVICE) ACT AMENDMENT.

Report of Committee adopted.

BILL—INSPECTION OF SCAFFOLDING ACT AMENDMENT.

Second Reading.

THE MINISTER FOR WORKS (Hon. A. R. G. Hawke—Northam) [4.36] in moving the second reading said: The main amendment in this Bill aims to give to employees in the building industry the right to apply for appointment to the position of Inspector of Scaffolding. Under the Act that right is at present restricted to tradesmen. Most of the scaffolding work in the industry is carried out by builders' labourers. The men who do scaffolding work have to be in possession of a permit license, and a license of that kind can be obtained by a man only after he has shown he is capable of carrying out the important work of erecting and managing and generally looking after scaffolding in connection with buildings. Most, if not all, of the scaffolding work in connection with the new Perth Hospital has been carried out by a builder's labourer, who has, of course, been in possession of the necessary license.

The general practice in the building industry is that suitable qualified builders' labourers are the men who do all or most of the work in connection with the erection, control and management of scaffolding. Yet the Act over the years has denied to those men the right even to be considered for appointment as inspectors of scaffolding, that right being restricted, as I previously mentioned, to competent tradesmen who have been employed in the industry over a period of at least seven years. Under the Act as at present constituted, even the competent tradesman cannot be considered for appointment as an inspector of scaffolding unless he first submits himself to an examination and succeeds in passing that examination to the satisfaction of the authority concerned. It is not proposed to depart from that method of testing the ability and qualifications of applicants in future.

The only proposal in the Bill, on the point I am discussing, is that all men engaged in the building industry will, after having had seven years' practical experience, be eligible to be considered for appointment to the position of inspector of scaffolding. That will mean that, although builders' labourers will now become eligible for appointment to the position of inspector of scaffolding, they will—as will everyone else concerned—have to qualify by way of examination before they can be appointed to such a position. I have not been able to ascertain why, in the long years of the past, builders' labourers were excluded even from being considered for appointment to this position. It might have been believed many years ago, that in the work attaching to a position of this kind there would be a certain amount of clerical duty, a certain amount of work which would require the person appointed to be ordinarily qualified as regards writing, figures and so on.

Mr. Doney: Other than that is there no major duty, except to see to the safe and proper erection of the scaffolding?

The MINISTER FOR WORKS: The main duty of an inspector of scaffolding would, of course, be to ensure that all scaffolding used in connection with buildings was safe and secure, and that no danger thereby existed to the lives of men working on or close to the scaffolding. As I was saying, before the member for Williams-Narrogin interjected, there might, many years ago, have been reasons of the kind I mentioned for the exclusion of builders' labourers, but, with the general advance in education over the years, I think it can be said that the education which everyone receives these days is sufficient to qualify even a builder's labourer to be at least eligible to sit for an examination to enable him to qualify, if he has the ability and the capacity, for appointment to a position of this kind. This Bill proposes to make the necessary amendments to the principal Act, to enable any worker in the building industry, after having served therein for seven years, to be eligible to sit for examination and, if successful, to be considered for appointment to the position of inspector of scaffolding.

The only other amendment in the Bill has to do with the definition of the term "horizontal base" and the definition of the term "scaffolding." In the present Act the term "horizontal base" is defined as being the ground level, for general purposes, and the term "scaffolding" is defined to exclude any structure which does not exceed 8ft. in height from the horizontal base. These definitions have met all requirements except as to scaffolding which has been erected over waterways. There is, as members will understand, a great deal of constructional work in connection with small boats, harbours, jetties and so on, where scaffolding has to be erected over waterways, and there has been a conflict of opinion as to what constitutes the horizontal base in the case of scaffolding erected over a waterway. There has consequently been a conflict of opinion, also, as to the height at which scaffolding erected over such waterways could be brought within the definition of the Act in relation to the term "scaffolding."

Those who have wanted to avoid coming under the provisions of the Act, in regard to the control of scaffolding, have argued that the horizontal base in such instances is the surface of the waterway, while those who have wanted to give the workers concerned the protection of the Act have argued that the horizontal base is the actual bed of the waterway. There is a great deal of legal doubt as to which opinion is correct, and the amendment on the point, in this Bill, aims to clear away all doubt and conflict. Therefore the measure lays it down that the horizontal base in the case of scaffolding erected over a waterway is to be the actual bed of the waterway in question. This will ensure that in future a good deal of the scaffolding in connection with the work I have indicated, which cannot legally be brought under the provisions of the Act today, will be so brought under the provisions of the Act. There is every justification for proposing to take this action, because men are engaged on work of this kind at considerable risk to themselves, and some accidents have taken place over the years which would not have taken place had the scaffolding in use been under the control of inspectors appointed under this Act, and had the work been under the provisions of the Act itself. Those are the only two amendments in this Bill, and I think they will commend themselves to members. I move—

That the Bill be now read a second time.

On motion by Mr. Doney, debate adjourned.

BILL—RIGHTS IN WATER AND IRRIGATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 4th September.

MR. McLARTY (Murray-Wellington) [4.47]: During the weekend I visited some of the irrigation areas and discussed these proposed amendments with the people concerned in those districts, and I find that they think the amendments are desirable. The Minister is therefore justified in asking that he be given permission to grant special licenses, rather than that he should have to obtain the permission of the Governor. When a special watering is asked for it often means that some particular crop has to have water immediately and, if the Governor's signature has to be waited for—which really means waiting for a meeting of the Executive Council—the crop might suffer meanwhile. I can therefore see no objection to the Minister taking this power

and, on the contrary, it seems to me desirable. I do not think that the increasing of the maximum fine to £100 will make much difference. The maximum already prescribed should have the effect of deterring a man from stealing water, and it is seldom that a magistrate inflicts the maximum penalty.

With other members, of course, I do not hold with stealing. No-one would be justified in stealing water. It is a serious matter, particularly when a shortage exists. If one person takes water to the detriment of another when he has no right to do so and when water is rationed, the infliction of a heavy fine is justified. Therefore I offer no objection to the maximum amount being increased. The Minister has probably noticed an amendment which I have put on the notice paper and which I hope he will accept. The proposed new Section 39A begins—

> If any person shall take water from any water supply, etc.

I propose to move for the insertion after the word "shall" of the word "fraudulently." It is possible for a person to take more water than he is entitled to and he might take it without knowing that he was doing wrong. This has happened on occasions, but under present conditions, particularly in the irrigation areas where the water is under control, a person could not take more than was his right without knowing that he was stealing it. In such a case, the water flows down the channels and through the irrigation drains in which there is an outlet that is controlled, and users of the water have no right to interfere with it. If anyone did interfere with it, that would be wilful interference. In other cases, particularly outside irrigation areas, where a person is granted permission to take water, he might take more than he was entitled to have without really knowing that he was committing an offence. If we insert the word "fraudulently," I believe the Minister will have all the protection that is necessary.

The Minister is asking that a certificate signed by him shall be sufficient reason for including any drain or channel in any irrigation work. I do not think there can be any objection to that proposal, although the Minister did say in the course of his speech that in present circumstances it was necessary that irrigation work to be carried out in future should be planned in the fullest detail. Such planning will be necessary in future. If we are carrying out any great public work, it should be fully planned in advance. I do not think the amendment will make any alteration in that respect; the work would still have to be fully planned. I think this amendment deals mainly with works that have already been constructed. The Minister told us that about 1930, when these irrigation works were being constructed, they were rushed and there was not time to observe all the preliminaries or comply fully with the Act. Therefore I believe that this amendment will apply more to works that have been carried out in the past than it will to works that will be undertaken in the future.

If the Minister is given this power, there should be some safeguard to property-owners. Notice should be given to those who will be affected. I would not like to think that officers of the department would enter a man's property to carry out certain works or take control of them unless the man had been previously notified. To give proper notification, some advertisement should be published advising what action is contemplated. The amendments as outlined by the Minister are justified and I support the second reading of the Bill.

MR. McDONALD (West Perth) [4.55]: I support the suggestion of the member for Murray-Wellington that the penalty which can involve one year's imprisonment should be for those who fraudulently take water. As the clause is drafted, a man might incur liability to that imprisonment by taking water to which he is not entitled under a completely honest belief that he is entitled to it. I do not consider that the Minister would weaken his control under the Act if he agreed to the hon. member's amendment because, if a man had mistakenly taken water to which he was not entitled, it would be difficult for him to contend that he was under a misapprehension in taking the water a second time.

I am fortified in the suggestion I am making because, in the Metropolitan Water Supply, Sewerage and Drainage Act of 1909, the legislature was careful to draw a distinction. Section 16 contains a penalty for any person who, without the authority of the Minister, diverts water from any stream, watercourse or source of supply, etc., and the penalty is one not exceeding £5 for

every day during which such supply of water shall be diverted or diminished by any act done by or by the authority of such person. That covers the case of a person diverting water not necessarily with any fraudulent intent. It does not expose him to the risk of a term of imprisonment; it exposes him to a penalty. When it comes to a matter of imprisonment under that Act, Section 56 requires that the offence must be a fraudulent one. The section begins—

> Any person who fraudulently takes or causes to be taken any water belonging to the Minister from a reservoir, main, or pipe belonging to or vested in the Minister, etc.

Such person is guilty of a misdemeanour and liable to imprisonment, with or without hard labour, for any term not exceeding two years. I do not want to be told that a man who took water under this proposed legislation and who did so under a mistaken belief as to his rights should rely upon the discretion of the Crown not to prosecute him. I have had that argument out before. We should not impose a penalty of imprisonment on any man who commits a breach of the Act or regulations simply because he is under a misapprehension as to his rights.

Hon. J. C. Willcock: The magistrate would exercise his discretion.

Mr. McDONALD: The magistrate would have no discretion at all under the proposed amendment if a man took water to which he was not entitled and he must be convicted, even though he was fined a shilling or cautioned. What I want to say is that no citizen should be liable to conviction in a court of criminal jurisdiction by reason of an honest or bona fide mistake as to his rights. It is not the fine of £100; it is the fact that he has recorded against him a conviction. Under this Bill, if he takes water to which he is not entitled the court must convict him, even although it may say that he did so from an error in date or through information wrongly given to him or any other reason which indicated that he was acting with perfect honesty according to his belief as to the facts and his rights.

Mr. Watts: That would be in conflict with the Criminal Code.

Mr. McDONALD: It would be. The present Minister for Mines—so as to have no confusion—has had my sympathy many times in not requiring a man to prove that he is innocent. This goes rather further and I hope the Minister will accept the suggestion of the member for Murray-Wellington. The other point on which I would like some information is with respect to that part of the Bill which enables the Minister to grant licenses, whereas now they must be under the hand of the Governor. The substitution of the Minister's permit for the Governor's appears to be, in general, a reasonable one in matters of this kind; but the Bill applies to Section 15 of the principal Act. Section 15, as I read it—somewhat hastily, I agree, in the time at my disposal—refers only to licenses to take water which may be applied for by people who, at the time of the passing of the parent Act or before that time, had been in the habit of taking water from this source.

Mr. McLarty: They must have had riparian rights.

Mr. McDONALD: Yes. It is people who have certain riparian rights who are entitled to take water; and they were to be entitled, under Section 15 of the parent Act, to have a license to continue taking that water for a period of ten years from the passing of the parent Act. At the end of the ten years they apparently could get no renewal of the license. Section 15 provides the kind of interim provision which would give those people, whose riparian rights had been affected by the legislation, a period of respite during which they might continue to enjoy those rights, but that period would end after ten years. This permit had to be applied for by the owner or occupier at any time within 12 months from the commencement of the Act, which I think was passed in 1914. May I ask whether all those permits under Section 15 have now expired? I do not know whether I am misreading the Act.

The Minister for Works: They still operate.

Mr. McLarty: That applies to the people who have riparian rights.

The Minister for Works: We are granting the permits from time to time.

Mr. McDONALD: Under Section 16 of the principal Act the Minister may, on the advice of the commissioners, grant a license to any owner or occupier of land to take, use or dispose of water from any watercourse, lake, lagoon, swamp or marsh

on such terms and subject to such conditions and for not exceeding such period as may be prescribed. I can understand that that section, which is permanent and continuous, might still be availed of by landowners and that permits would be required from the department; but the amendment in the Minister's Bill refers to the preceding section and not to Section 16, which I have just quoted. I suggest to the Minister that he might inquire into that matter and let me know whether I am under a misapprehension in my reading of the Act and the Bill, or whether the provision for the permit to be signed by the Minister, instead of by the Governor, should not relate to Section 16 of the parent Act, instead of relating to Section 15 as it does now. The other observation I wish to add relates to what has been mentioned by the member for Murray-Wellington.

While I do not intend to contest the amendment proposed by the Bill under which the Minister may certify any particular dam, drain, channel, pipe or other work to be portion of works within the meaning of the Act and that the Minister's certificate shall be received as final in any court of law, I do not regard it as very satisfactory. I appreciate the Minister's explanation that in 1930 and 1931, owing to shortage of staff men, the provisions of the Act may not have been fully complied with and that that condition of affairs must have obtained to an extent during recent years, but the Act is very explicit in trying to make certain that when the Minister goes on to a man's land and takes any source of supply of water, or resumes any part of his land for the purpose of irrigation channels, or does any other works required for irrigation purposes, the landowner shall be told exactly what is being taken from him. The whole scheme of the parent Act is that the landowner shall be told in explicit terms what effect on his rights the proposed irrigation works will have; and he is allowed—if my memory serves me rightly—an opportunity to protest. Again speaking from memory, I think he can, if necessary, go to the court. Those are very salutary provisions, and the difficulty with the Minister's amendment is that, while no doubt it assists in the elucidation of the Act, it means that whereas the landowner may have placed his own interpretation on the original gazetted notice by which certain rights and certain lands were taken from him for irrigation works, the Minister now can, by a certificate, place a different interpretation on it.

The Minister's interpretation by his certificate under this Bill may not be the same as the interpretation placed by the landowner on the proposals as outlined or stated under the parent Act when the proposed works were gazetted. Yet under this Bill the landowner has no remedy if the Minister should see fit, in perfect good faith, to declare that certain rights or certain land did in fact form parts of irrigation works, when the landowner on the original gazetted notice was of opinion that those rights and that land had not been intended to form part of the works. While I do not propose to contest the part of the Bill dealing with the certificate, I would suggest to the Minister that he regard it as a temporary measure only and overhaul the provisions of the legislation generally, so that if there are any difficulties in specifying the details of proposed works then the machinery for that purpose should be placed upon a basis that would be convenient to the department and at the same time afford sufficient protection to the landowners who are going to be affected. I would not raise this matter, as I am not an expert, if it were not for the fact that in the areas where irrigation is likely to be carried out—and, in fact, in all areas of the State—water rights and water supplies are of very great value, and in the South-West land is of very great value.

I think that in any legislation, while every convenience should be afforded to the department in carrying through its works, at the same time we ought to ensure that the landowner knows what is taking place and has an opportunity to be heard. The two matters which I particularly wish the Minister to look at are, firstly, whether Section 15 of the parent Act is the section the Bill really aims at affecting; and, secondly, my suggestion that, in line with the Metropolitan Water Supply, Sewerage and Drainage Act, any penalty which involves a term of imprisonment shall only be for people who are shown to have knowingly and fraudulently taken water to which they were not entitled.

MR. CROSS (Canning) [5.13]: I am not in love with the Bill. It seems to me

that it will give the Minister power to refuse a landowner permission to use water, even although he has had the right to use it all his life. Later on, I notice that Clause 3—

Mr. SPEAKER: Order! The hon. member must not mention clauses of a Bill on the second reading.

Mr. CROSS: Mr. Speaker, in another part of the Bill provision is made that if a man who has 20 or 30 head of stock takes any water to which he is not entitled he can be fined. It is not a question of a minimum or a maximum; the penalty is definitely a fine of £100 or imprisonment for 12 months. That to me does not seem to be right. I do not know what the Minister's explanation will be; but it seems to me to be definite that notwithstanding any right the man has, the Minister can make an inquiry and as a result of such inquiry may refuse that man's application to use any more water. Then the Bill provides that if a man takes any water—no matter how small may be the quantity—he is liable to a fine of £100 or to imprisonment for 12 months. That is the minimum.

Mr. McLarty: No, the maximum.

Mr. CROSS: The Bill does not say so.

Hon. J. C. Willcock: Look at the Interpretation Act.

Mr. CROSS: I did not read that. I would like the Minister, when replying, to explain the position. If a man owns or buys land and has access to water, he suffers one of the greatest blows possible if he is prevented from getting that water.

THE MINISTER FOR WORKS (Hon. A. R. G. Hawke—Northam—in reply) [5.16]: The member for Canning is quite astray on both points. First of all the fine set out in the Bill purports to be the maximum. If a person is found guilty of the offence in question he could be fined as small an amount as £10, or any sum between £10 and £100. This Bill will give the Minister no more and no less right to deny any person, with rights in water at the present time, than existed in the past. It contains nothing aiming to give the Minister, or anyone else, more power in that way than has always existed. As a matter of fact, the only proposal in connection with which the Minister will have power, where he did not previously have power in regard to the granting or refusing of water, is by the simple process of transferring responsibility from the Governor to the Minister. At present the Governor has to sign these special licenses before they become legally effective. The Governor signs largely on the reports and recommendations given to him, and the Minister cannot make a recommendation to the Governor unless he first receives a favourable report from the commission. Therefore the only thing in this Bill which will affect the position of the right of a person to take water from a stream is the transfer from the Governor to the Minister of an existing right. So, there is no increase in the power, in general, in connection with that matter.

The Bill will simply obviate the necessity of sending the special licenses to the Governor for signature. This provision has been placed in the Bill simply because it is believed that it will save a fair amount of time and do away with a roundabout procedure. I, as Minister, am not anxious to have this job, but as a matter of commonsense it will be just as easy and as wise for everyone concerned if the Minister, instead of forwarding the recommendation to the Governor, who always signs the license, were to sign the special license himself and have it issued to the landholder concerned without any further delay. I propose, when in the Committee stage, to discuss the amendment to insert the word "fraudulently" in a certain part of the Bill. The member for West Perth raised the question as to whether the amendment, which aims to transfer responsibility from the Governor to the Minister in connection with the issuing of special certificates, should not have relationship to Section 16 as against Section 15 of the Act. Section 15 is the only one with which we are concerned, because it is the section under which all action is now taken in regard to the Governor signing special licenses to authorise persons, with rights in water, to obtain the right to take water from a particular stream. Section 16 is the one that already gives the Minister power to issue licenses under certain conditions. But it is Section 15 of the Act, and not Section 16, that we are aiming to deal with in the Bill and, as I have already explained, the only intention, in the appropriate amendment in the Bill, is to transfer the actual right of signing a special certificate from the Governor to the Minister.

Hon. J. C. Willcock: Is not this for new irrigation areas?

The MINISTER FOR WORKS: Not necessarily new ones, but wherever a stream is proclaimed Section 15 immediately becomes operative in regard to those landholders who have had certain rights previously.

Hon. J. C. Willcock: Not under the 1912 Act.

The MINISTER FOR WORKS: This section would not now be operating in connection with land that was proclaimed in 1914 or 1920, but only in regard to streams which will be proclaimed, and then it operates for a maximum period of ten years. As I said previously, the amendment simply aims to achieve the transfer of a certain legal right, namely, that of signing a special license, from the Governor to the Minister. Members can be quite sure, therefore, that the amendment is a simple one, and seeks only to make that change for the purpose of saving time and avoiding more or less roundabout procedure. I will have consideration given to the suggestion made by the member for West Perth, as to whether at a later date it would not be possible to devise a method by which a certain minimum number of essential particulars should not legally be necessary before an irrigation work is commenced, and also a certain minimum amount of essential consideration and information given direct to landholders who might be affected in the event of new irrigation works being developed and put in hand.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Rodoreda in the Chair; the Minister for Works in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 15:

Mr. McDONALD: I am not altogether convinced by the Minister's remarks. I suggest that he discusses with the Parliamentary draftsman the relevancy of Section 15 of the principal Act to this particular amendment. I have not had time to examine the matter very carefully, but Section 15 commences, in the first subsection, by stating—

> Such owner or occupier may at any time within 12 months from the commencement of this Act apply to the Minister for a special license.

It goes on to provide that the special license can be for ten years. I can see nothing to authorise a renewal of the ten-year period, and think there is good ground for the Minister to have a talk on the matter.

The Minister for Works: I shall certainly do that.

Clause put and passed.

Clause 3—New section: Unlawful taking of water an offence:

Mr. McLARTY: I move an amendment—

> That in line 1 of proposed new Section 39A, after the word "shall" the word "fraudulently" be inserted.

A few minutes ago I gave reasons why this word should be inserted. The member for West Perth and the member for Canning evidently share the same fears that I do, namely, that a person may be affected, as the clause now reads, although there is no deliberate intention to steal water. A magistrate can decide whether a man is doing something deliberately or not. But, as the clause is worded, even if a man's actions were not deliberate he would, nevertheless, be subjected to this very heavy fine. I hope the Minister will accept the amendment.

The MINISTER FOR WORKS: I do not propose to accept the amendment. The insertion of this word would, in the event of the Bill becoming law, make it almost impossible for the department ever to get a conviction. The position would then be worse than it is at present, and it is very bad as I explained to members in my second reading speech. The few irrigationists who steal water are very wily birds, if I might use that term to describe them. They are very tricky in everything they do, and I have no doubt they steal many other things besides water, and it is not very often that sufficient proof of what they do is found to enable them to be successfully prosecuted. We ought to get our minds fully centred on the irrigationists who steal water and know, when they are taking the water, that they are in fact stealing it. Those are the only people with whom the department is concerned.

We have had many instances similar to that mentioned by the member for West Perth where irrigationists have, without a full knowledge of their rights, taken water when they were not legally entitled to do so. We have never had any trouble with such men. As soon as they have been in-

formed of their rights and duties, they have always from that time onwards done the fair thing. On the other hand, the few with whom we have had trouble are men who know all there is to know about it. In fact, often they know too much for those seeking to curb their illicit activities and by legal action to compel them against their will and their general make-up to act honestly regarding the quantity of water they take from irrigation channels. I hope that members will keep their minds on the point that the men we seek to control and if possible reform, are deserving of no sympathy from anyone. If the word "fraudulently" is inserted in the proposed new section, I am afraid we shall make it possible, and perhaps reasonably easy, for the few men I have referred to to establish on all occasions a successful defence that their action was not fraudulent and that although the water they took was in fact stolen and taken against the law, it was not taken fraudulently.

Reference was made by the member for West Perth to the provisions of the Metropolitan Water Supply, Sewerage and Drainage Act and he pointed out that what might be considered fairly small penalties were provided for taking water wrongfully under certain conditions and severe penalties for taking water under fraudulent circumstances. I can inform that hon. member that never has there been a successful prosecution under the provisions attached to which there are severe penalties. In fact, experience over the years has shown the impossibility of launching a successful prosecution under those provisions, with the result that all prosecutions instituted by the department are taken under those sections of the Act which prescribe small penalties. If an investigation were made of the various Acts which embody the word "fraudulent" as a necessary condition to a successful prosecution, it would be found that those provisions had practically become dead letters, because of the almost impossible task of proving that a person committed any one of the offences involved fraudulently.

I trust the Committee will support the department and the Government in this earnest attempt to tighten up the Act for the purpose of curbing the activities of the few men who have caused all the trouble during past years. I am sure the great majority of the irrigationists in the South-West support the provision in the Bill and are just as anxious as the Government to see that the few individuals who offend are compelled, by the imposition of severe penalties if necessary, to fall into line and play the game with their fellow irrigationists in general, and so ensure that each irrigationist receives his fair share of the volume of water that is available from year to year in irrigation districts.

Mr. WATTS: I support the amendment, not because I desire in any circumstances to protect a person who, deliberately knowing he is doing wrong, takes water from an irrigation scheme and thereby deprives his fellow irrigationists of their rights, but because I wish, as I feel sure the member for Murray-Wellington wishes, to prevent men from being convicted for taking water that in fact they did take in the honest exercise of their claim and belief that they were doing right. A man may be under a misunderstanding as to his rights in a matter of this description. I had not intended to intervene in the debate and would not have done so had it not been for the point of view expressed by the Minister that the insertion of the word "fraudulently" would prevent convictions from being obtained. I submit that is not so. Under the Criminal Code an essential to a successful prosecution for stealing is that the act shall be fraudulent. There has been no end to convictions for stealing, and no difficulty has been experienced in that regard. The onus has been on the defendant to prove that what he did was done in the honest exercise of his rights and was therefore not done fraudulently. Section 371 of the Criminal Code sets out the definition of stealing and refers to "a person who fraudulently takes anything capable of being stolen." If there is no fraudulent circumstance, it is not a matter of stealing. We are asked to pass a provision which will not have that effect at all. A man might take water on a day or in circumstances that were not authorised and, no matter how innocent might be his action—

Mr. Cross: Or how little water he might take.

Mr. WATTS: —or how little water he might take, and although the man might honestly believe he was justified in taking the water, the magistrate, in the absence of the inclusion of the word "fraudulently," would be obliged to convict him, and to im-

pose a fine upon him of at the very least one-tenth of the maximum penalty prescribed. Thus we will render a man who, under the Criminal Code would in any circumstances be convicted of an ordinary stealing charge and subject to a small penalty, liable under the Bill to a minimum penalty of £10 or a term of imprisonment if the magistrate saw fit to impose it, which I do not think for one moment he would—and this merely for doing something in the exercise of his honest claim of right. I think the provision in the Bill goes a little too far.

Mr. CROSS: I am not worried as to whether the amendment is agreed to or negatived. The Minister remarked that the minimum penalty would be £10, but it could be £100 and 12 months' imprisonment. If we peruse the records of cases dealt with by some magistrates—I emphasise that word "some"—we will realise that remarkable decisions have been reached. For this reason I intend to move an amendment affecting the penalty. It must be obvious that a man who had run out of water might take a 100-gallon tank to the creek and get some water only to be caught by a diligent inspector, and he might have to pay a penalty of £100 or even £10—and each penalty would be ridiculous.

The MINISTER FOR WORKS: I desire to correct the member for Canning who indicated that under the clause the penalty could be £100 and imprisonment for one year.

Mr. Cross: No, £100 or imprisonment.

The MINISTER FOR WORKS: The hon. member did not say that; I am saying it for him. The member for Katanning said that if the word "fraudulently" were inserted and the accepted legal procedure were followed in these cases, the onus would, in effect, be on the defendant to prove that he took water without fraudulent intention.

Mr. McDonald: That would not get him out of trouble.

Mr. Doney: He is not compelled to do that unless you put in the word "fraudulent."

Mr. Watts: That is what the Minister is arguing.

The MINISTER FOR WORKS: I am always fearful about disagreeing with legal men, but I think that if the word "fraudulently" were inserted, the great responsibility would be on the department to prove that the defendant took the water with fraudulent intent. I do not think there would be any onus on the defendant to prove anything at all. I suggest that anyone who goes into court trying to prove that someone took water with fraudulent intent has a big job ahead of him, and will seldom, if ever, succeed.

Mr. Doney: Would you desire a conviction if fraud could not be shown?

The MINISTER FOR WORKS: Certainly. If it can be shown that a person has taken water wrongfully, against the provisions of the Act and the regulations and by doing so acts to the detriment of his fellow irrigationists, most certainly a conviction would be sought. To have to go further and prove that the man who took it had fraudulent intent in his mind at the time is a more difficult problem.

Mr. McDONALD: This represents a matter of some principle. The Minister said, "Let us turn our thoughts on to a few bad men who take water." I say that is not the right approach. Let us turn our thoughts on to a matter of principle, to the innocent man who may take water and become liable to be sent to gaol under this clause. I want to protect the Government. We all recall the methods adopted by the Roman Emperor Caligula. When he was short of money he would make laws and have them hung on a pillar too high to be read. People, therefore, did not know what the laws were and they were then brought before magistrates and fined, and the revenue was enhanced accordingly. I do not suggest that the Minister is like the Emperor or that he has any such designs in mind.

It has been a principle for a long time that in spite of the trouble and difficulty that lies on the Crown, it must prove that a person did something with guilty or fraudulent intent. That is done every month in the criminal courts and every day in the police courts. People who are guilty sometimes escape punishment, but on broad principles that is better for the community than that an innocent person should be punished unjustly. There is the person who takes water and is proved to have done it fraudulently, and there is the other person who takes water in good faith but unlawfully. It should be possible to pick up everyone of these people merely by proving that

they had taken water carelessly even if it cannot be proved that they did so fraudulently, and to make them pay perhaps twice as much as the water was worth. It is quite another thing to send a man to gaol especially when that can be done for a period of 12 months. No man should be in danger of being sent to gaol unless the prosecution is prepared to prove that he did what he did with a guilty mind.

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

Ayes	17
Noes	18
Majority against	1

AYES.

Mrs. Cardell-Oliver	Mr. North
Mr. Cross	Mr. Owen
Mr. Hill	Mr. Perkins
Mr. Keenan	Mr. Read
Mr. Kelly	Mr. Seward
Mr. Leslie	Mr. Shearn
Mr. Mann	Mr. Watts
Mr. McDonald	Mr. Doney
Mr. McLarty	*(Teller.)*

NOES.

Mr. Fox	Mr. Needham
Mr. Graham	Mr. Nulsen
Mr. Hawke	Mr. Panton
Mr. J. Hegney	Mr. Smith
Mr. Hoar	Mr. Tonkin
Mr. Holman	Mr. Trint
Mr. Johnson	Mr. Wise
Mr. Leahy	Mr. Withers
Mr. Marshall	Mr. Wilson
	(Teller.)

Amendment thus negatived.

Mr. CROSS: I move an amendment—

That in line 8 of the proposed new section, after the word "penalty" the words "Not less than £2 and not exceeding" be inserted.

If a man is caught taking a little water out of a stream and the offence is only a minor one, and he is caught merely because of the excessive zeal of some officer, the magistrate should be permitted to fine him only a small amount; in other words to make the punishment fit the crime.

The MINISTER FOR WORKS: On the second reading I indicated that whilst it was necessary to have a higher maximum penalty it was also necessary to have a higher minimum, the existing minimum being only £1.

Mr. Cross: A little while ago you said it was £10.

The MINISTER FOR WORKS: I am talking about the existing minimum in the Act. Provisions of this kind could have a very good disciplinary effect merely because they exist in an Act of Parliament. If the minimum is too low the disciplinary effect has gone. Discipline can only be imposed by bringing the processes of law into operation.

Hon. N. Keenan: Is not that a matter for the magistrate?

The MINISTER FOR WORKS: Yes.

Hon. N. Keenan: He may impose a fine of £100.

The MINISTER FOR WORKS: This is a question where Parliament is being asked to indicate how seriously it views the offence of taking water wrongfully from irrigation channels and irrigation schemes. In this Bill we are indicating to magistrates that the minimum penalty which ought to be imposed by way of a fine in cases of this kind should be £10. Whilst it is true that magistrates are given discretion it is also true that Parliament can decide the extent to which that discretion shall operate, in that it fixes the minimum and the maximum penalty. The proposed amendment to the Act raises the minimum penalty to £10, whereas the amendment proposes to make it £2. A small fine allows the offender to get away with handsome financial profits at a low cost, and also imposes detrimental effects upon the operations of other irrigationists because they have acted honestly whereas the offending irrigationist has acted dishonestly. An offence of this kind is serious enough to warrant the imposition of a higher fine than £2, and I think the Bill reasonably meets the situation with a minimum penalty of £10.

Mr. DONEY: Apparently the Minister does not think there are any honest men in the irrigation areas. He does not make any provision for those men who are normally honest but have been guilty of a purely technical offence. Surely he will not argue that a person who is guilty of this offence through some negligent employee should be fined £10.

The Minister for Works: We would not prosecute that type of man.

Mr. DONEY: There is bound to be a prosecution provided he takes water, whether fraudulently or not. Had the Minister accepted the previous amendment, I could understand his present outlook; but a man has merely to take the water, and does not

need to have taken it fraudulently, to find himself landed in court and faced with a fine of at least £10, unless he is lucky enough to get on the right side of the magistrate and be let off entirely. I see more virtue in the amendment than I did at first. There should be room in the clause to deal with a man who has erred without intent. If the penalty were made £2, I would agree. There would still be the right to fine the "bad" man anything from £10 to £100. I appeal to the Minister to accept the amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 4 and 5, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—CONSTITUTION ACTS AMENDMENT (No. 2).

Second Reading.

Debate resumed from the 4th September.

MR. WATTS (Katanning) [6.4]: In the Lieut.-Governor's Speech it was stated that—

> Measures dealing with the franchise of the Legislative Council and the resolving of deadlocks between the two Houses will be submitted to you. They will be similar in principle to Bills which failed to pass last year.

The House will recollect that three Bills were introduced last year, all having reference to one aspect or another of the franchise or authority of the Legislative Council. Last year two of those Bills were introduced in this order: First, there was a Bill to provide for the election of the Legislative Council on adult suffrage. That Bill passed this House. After that, but before the first Bill had been considered by the Legislative Council, came a Bill similar to the one now under discussion, which is to reduce the Legislative Council's power over money Bills, and to apply the principles of the Parliament Act of Great Britain to all legislation, so that the right of veto will be severely curtailed and become virtually non-existent. That was the order in which they were introduced last year: First, one to alter the suffrage; secondly, one on the same lines as that with which we are now dealing, which was introduced before the other Bill had been dealt with in another place but after it had passed this Chamber.

This year, the Bills are being introduced in reverse order. We have the Bill before us regarding money Bills and the restriction of the right of veto, but we have on the notice paper a Bill to repeal Sections 15 to 17 of the Constitution Act; and, in view of the statement in the Lieut.-Governor's Speech and the similarity of the Titles—in fact, they are exactly the same—of the Bill introduced last year and the Bill introduced this year, it is only reasonable to assume that the Bill which is coming forward is the same in the second place this year as the one that was in the first place last year. My question is this: What does the Government want? Is it not able to make or capable of making up its mind that it wants either adult suffrage or the abolition or severe restriction of the right to veto? I suggest that it makes up its mind as to which of those it wants and lets us have an issue on one or the other. That is one item of advice I would tender in good faith to the Minister on this subject.

In regard to the Bill before us, in his speech the Minister reiterated the necessity for this measure because, in his opinion, the Legislative Council is undemocratic. His definition of democracy is one which I think is perhaps peculiar to himself. I advanced the question last year: Because the German Reichstag in 1913 was elected by adult suffrage, did the hon. gentleman suggest it was democratic? He returned no answer to the question; but I think, nevertheless, it should give him food for thought, because if he does think it was democratic, I would recommend him to read more about it; and if he does not change his opinion on that subject, he will be about the only person in Australia who would not do so. But bear in mind, it was elected by adult suffrage, and it was elected, too, before the extraordinary use of the blue and white ballot papers, or whatever it was that was adopted by Adolf Hitler, came into operation. But it was not a democratic House as I understand the Minister would wish the Legislative Council to be.

In the Minister's opinion, too, the Legislative Council bears a very close resemblance to the House of Lords in Great Britain. I submit that no reasonable man would argue on those lines indefinitely, as the Minister persists in doing, because there are very considerable differences. The

Legislative Council is at least elected by a proportion of the electors and is responsible to those electors.

The Minister for Justice: A very small proportion.

Mr. WATTS: I will deal with the Minister's figures later on. They were not quite accurate; but I will leave that for the moment. I say that it is at least responsible to a section of the electors and could be responsible, were an effort made to enrol them, to a very much larger proportion of the adult electors of this State, of which I will give some indication in the next few minutes. But the members of the House of Lords were responsible to nobody; they were elected by nobody; they occupied their seats, almost invariably, by accident of birth. Therefore, for a man who one must consider is gifted with normal intelligence to say that they are one and the same is, in my view, utterly ridiculous. But I always endeavour to follow the other fellow's line of reasoning and see what I can make of it; so I will follow the Minister's line of reasoning, although I may think it somewhat illogical, and assume for the moment that the resemblance does exist.

I will take as the foundation of the argument that the resemblance upon which the Minister insists does in fact actually exist. If that resemblance is to continue, he can, at least in his own mind, justify the Bill which is before the House. If the remarkably small proportion of the electors that he referred to are the only persons to whom the Legislative Councillors are to be responsible, he can to some extent justify the measure brought before us. In regard to the money section of it, as he reminded me, I am not unable to a great extent to see eye to eye with him. I think that the vexed question with which I will deal later on of the rights of the respective Houses in regard to money Bills ought to be clarified; and so, to that extent, I am prepared to go some way with the hon. gentleman. But if the Legislative Council is to be elected on adult suffrage, then the members of the Legislative Council would seem to have at least an equal right with the members of the Legislative Assembly.

As I have already said, although the order this year has been reversed, it is obvious that the Minister intends to produce a measure which is going to impose upon the Legislative Council adult suffrage; then, if there be some justification for some remodelling of the position in regard to money Bills, there exists no justification whatever for any alteration of the Legislative Council's right to veto, because what little resemblance there is between the House of Lords and the Parliament Act of Great Britain and the Legislative Council and the Constitution Act of Western Australia, as the Minister would have it, will have entirely and completely disappeared. So there will be no justification whatever for it; and that is the reason I said: Let the Government make up its mind which of these two things it wants, and make an issue of one or the other.

The Minister for Justice: And would you support one or the other?

Mr. WATTS: The Minister will gather what I shall do by the time I have finished my observations. I would remind him I am entitled to put my views in whatever way I think, and not as he would have me put them. As I said last year—and now repeat—the measure of support I can give to this Bill will depend very largely on what the Government proposes to do with the others. If the Minister will give us an undertaking that if this one is passed through this House in some form acceptable to this House he will not proceed with the others, if the Legislative Council passes this one, then he and I will be on quite a different plane from that on which we will be if he persists in pressing this Bill and then produces another which is going to give us adult franchise. That is why I find it so difficult to determine my attitude in this matter at all.

I repeat that I am prepared to see some readjustment of the relationship between the Houses in regard to money Bills, provided that the franchise of the Legislative Council remains as it is today. I am prepared perhaps to go a little further in the way of making some arrangements for the ending of what are known as deadlocks to some people, and what are at least differences of opinion between the two Houses—some arrangements better than those that exist today; but I am not going to agree to any alteration in that regard if the Legislative Council is going to have inflicted upon it a system of adult suffrage. So it seems to me that before I can give a clear determination of my views on this vexed problem, I must know what the problem is; and

I certainly do not know it now, because the Minister persists, as the Rt. Hon. W. M. Hughes once said, in "surrounding the incomprehensible by the unknowable."

Sitting suspended from 6.15 to 7.30 p.m.

Mr. WATTS: I was saying, in regard to this measure, that the Minister surrounded the incomprehensible by the unknowable. I say, incomprehensible, because there are certain portions of the Bill that I defy anyone to put into practice satisfactorily. As far as the unknowable is concerned, I have already referred to the fact that I do not know what the Government wants as it persists in introducing two Bills which are so opposed to each other that if one were carried the other would be absolute nonsense, and vice versa. I have asked him if he will give an undertaking that if one—this Bill for example—passes this House in a form acceptable to members here, and is passed by another place, we shall not have to contend with the other.

In the course of his speech the Minister mentioned some doubts that had been expressed by members on this side as to his sincerity in introducing these measures. So far as I am concerned his sincerity, at this stage, is not impugned. Nor do I know of anyone here who has seriously impugned it. But I do say this: that if he does not give such an undertaking and make his intentions reasonably clear—clear enough for the understanding of average people anyway—I shall begin to have some doubts as to his sincerity in regard to these measures. But before I proceed any further with reference to the Bill I would like to refer to the figures which the Minister quoted. He stated that 273,832 persons voted for the Legislative Assembly at the last elections.

The Minister for Justice: The number is 274,856.

Mr. WATTS: The copy of the Minister's speech given to me contains the figure I mentioned and I have therefore quoted it. Even if the figure is 274,000 it makes no difference to the point I am about to make. That was the number who voted, plus those who were entitled to vote for the 11 uncontested seats. That is to say, it included all those people who either voted or were entitled to vote at the Assembly elections, there being at that time no fewer than 11 seats for which there were no elections. I would have taken no exception to his process of calculation being applied to the Legislative Council, but in that case he left out the votes of the two uncontested provinces, namely the Metropolitan and the Metropolitan-Suburban Provinces. The latter is by far the largest in population of all the provinces of the Legislative Council, and the two together have a total enrolment of 33,374. Therefore the figure the Minister quoted in the one case was the maximum possible available and in the other case the absolute minimum.

The Minister for Justice: The figure is 79,000.

Mr. WATTS: It was given to me as 39,000. If the hon. gentleman's case is so bad that he has to go about it in that manner, then it is extraordinary to me.

The Minister for Justice: The figures are absolutely correct on a percentage basis. I defy anyone to say that my figures are not correct.

Mr. SPEAKER: Order! The Minister will have the right to reply.

Mr. WATTS: The figures quoted——

The Minister for Justice: You have to take the percentage.

Mr. WATTS: ——are taken, I have no doubt, from the biennial elections of the Legislative Council. I insist on saying, until it is proved to the contrary, that the figures given by the Minister in the one case include those of the uncontested seats whereas in the other those figures are left out.

The Minister for Justice: They do not come into it.

Mr. WATTS: They have come into it for the Legislative Assembly and therefore are entitled to be considered in the case of the Legislative Council. Another remarkable thing about the last Legislative Council elections, which I think is worthy of some comment at this stage, is that there was no candidate of the Government Party to represent either of the two provinces I have mentioned, the Metropolitan, and the Metropolitan-Suburban provinces. The representatives sitting in the Legislative Council at the time—neither of whom was a member of the Government Party in this Parliament—were allowed to be re-elected unopposed notwithstanding the fact that there were, in those two areas, something like 33,000 electors whose franchise might

have been sought had the Government been determined to impress its point of view—whatever it may be—in regard to the Legislative Council upon the Parliament of this State. Had the Government's designs on the Legislative Council's powers or franchise been as sincere as the Minister would have us believe one would have imagined that those seats would have been strenuously contested, especially when one bears in mind that two other provinces were uncontested, namely, the East province for which no candidate of the Government Party appeared, and the North province where a similar state of affairs was experienced. So it seems to me that this House is entitled, as I have said once or twice before in the last half-hour, to be told what exactly is the desire of the Government in regard to the Legislative Council. What particular attitude does it want to adopt? Is it the one comprised in this Bill or something comprised in some other Bill that we have had before and look like having again in the future?

I will now turn to the Bill itself. If the Minister lectures us on democracy, as he invariably does, I am entitled to address a few words to him on the subject. He claims with some justification, though I say with not complete accuracy, that this Chamber is democratic in the ordinary accepted meaning of the term. So I expected to find in this Bill the amendments that were made in this House to a similar Bill last year, but I do not find them here. So I accuse the Minister on this occasion—and only on this occasion for the time being—of being not democratic in that matter, accepting for the moment his own definition of the word.

The Minister for Justice: That is a matter of opinion.

Mr. Abbott: That is not surprising.

Mr. WATTS: I have no occasion to be surprised. I simply state the facts. The amendment, as put in by this House, is not included in the Bill, and that is the most important part of it to me. I would remind members what the amendment was that was accepted by this Chamber. It provided that the Speaker's certificate in regard to a money Bill, should be supported by the majority of the Standing Orders Committee of this House. There is a very strong reason why that should be included. I will not submit any reason of my own, but will quote from a memorandum issued by Captain, the Rt. Hon. E. A. Fitz Roy, the Speaker of the House of Commons. This statement is reported in volume six of the "Journal of the Society of Clerks-at-the-Table in Empire Parliaments," at page 129, and is as follows:—

> The Speaker is the servant of the House, and as such is always willing to undertake duties put upon him by the House. When it is suggested that a new and difficult task is to be added to the existing burdens of the Speaker it is as well, before doing so, fully to consider the effect that the exercise of these duties might have upon his status in the House, and his relations to its members.
>
> How wide Governments should frame their money resolutions so as to give scope for amendments to the Bills which are to be founded upon them, is a question which may give rise to extreme controversy between different parties in the House. The Speaker's authority and status rest upon his absolute impartiality and the confidence which members repose in him. This is the very foundation stone upon which the Constitution and procedure of the British House of Commons is built. Any weakening or break in it would bring the whole structure to the ground. The initiative in expenditure is reserved to the Crown under standing order 63——

That was in the Imperial House.

> The responsibility for drafting a money resolution upon which a Bill is to be founded rests, therefore, with the executive and the King's Recommendation signified by a member of the Cabinet. It is true that the Speaker is the guardian of the privileges, rights and liberties of the House against the power of the Executive, and he has from time to time expressed opinions in the case of money resolutions. Would it be wise definitely to place upon the Speaker a task which may call upon him to give a decision on a matter which may be highly controversial, and which might bring upon him the accusation of having favoured one side or the other in the controversy.
>
> No doubt in practice few financial resolutions would need to be referred to the Speaker on the ground that they were in too detailed terms. In these matters it is essential to look ahead, and the time might come, especially if it is to become the practice to oppose the Speaker in his constituency at election times, that such a ruling might be referred to at the time of an election.

There we have, in far better language than anything I could possibly put before this House, the reason why there should be someone who should stand behind Mr. Speaker in coming to a decision on matters raised in the money clause, the first clause of this Bill. Last year, as I have said, this House accepted that amendment, which was

a reasonable amendment. It was not the amendment that was first put before the House, but it was altered on the motion of the member for Williams-Narrogin, and in that form was accepted by the Minister and the House, and in my opinion there is no justification for this Bill having been brought before the House, on this occasion, without such an amendment having been inserted into it.

Hon. J. C. Willcock: Why do you not try to insert it?

Mr. WATTS: I do not doubt that I shall try to insert it before the Bill passes the Committee stage, but that should not be necessary. This House, which the Minister says is democratic, should not have to put it into the Bill. It should be there all the time. That is the charge that I make against the Minister; that he preaches democracy, but does not practise it, because, if this is the democratic House that he says it is, the words that this House put there should be in the Bill.

The Minister for Justice: Is this not a democratic House?

Mr. Doney: That is not the point in dispute.

Mr. SPEAKER: Order!

Mr. WATTS: That is that part of the Bill, Mr. Speaker. Now we come to another part of it, which is a portion of the incomprehensible. There is one important passage in this Bill which I overlooked last year, and that is the use of the words "sent up to the Legislative Council at least one month before the end of the session." I submit that unless the words "the end of the session" are defined in some way, this Bill would only lead to endless argument. The practice has grown up—in my view it is quite a good practice—at a time when the Government considers that the business of the session has been dealt with, to adjourn the House to a date to be fixed by Mr. Speaker. That date has varied, in my ten years in this House. It has been as early as October 8th, and at late as the 22nd December, but in either event it need not be the end of the session.

The session only ends when Parliament is prorogued, and that frequently takes place in June or July of the following year, so, supposing the House adjourns on December 22nd, is it known on November 22nd, that the House is going to adjourn on that date, or exactly what the state of Government business will be on that date? Supposing that it is, it will not be the end of the session, under the practice we have followed. Are we then to find a Bill, introduced 24 hours before the business concludes, being regarded as having been introduced one month before the end of the session, because the Government does not have Parliament prorogued until the following June? By what yardstick are we to measure this month? The monthly period applies, under this Bill, and it is therefore of importance, not only to money Bills, but to all other legislation. It cannot therefore be said that the difficulty will not arise because the Legislative Council has no right to amend a money Bill. It definitely will arise in other cases, where the right of veto in the ultimate is involved.

Dealing with money Bills, in any event, I think it will be agreed that a money Bill can be amended by the Legislative Council, notwithstanding the provision in this Bill. There is nothing in this Bill to stop the Legislative Council amending a money Bill, and for once in my life I have found something in "May's Parliamentary Practice" which is prepared, presumably, to support an argument that I wish to use. It is a rare and interesting occurrence, but it has taken place on this occasion. I have here the 13th edition of "May's Parliamentary Practice" at page 436, where it says—

> A money Bill which has been passed by the House of Commons and sent up to the House of Lords at least one month before the end of the session, but which is not passed by the House of Lords without amendment within one month after it is so sent up to it, is, unless the House of Commons direct to the contrary, to be presented to His Majesty and becomes an Act of Parliament on the Royal assent being signified to it.

In the note to that it says—

> The Commons are not debarred from considering amendments made by the Lords to a Bill which has been certified by the Speaker as a money Bill.

And the authorities given are 1 and 2 George V., chapter 13, section 6, which happens to be the Parliament Act of Great Britain, which contains an express provision preserving all rights of the House of Commons in that section, and also certain references to the House of Commons debates. There it is perfectly clear, according to "May," that the Commons are not debarred

from considering amendments made by the Lords to a Bill which has been certified by the Speaker as a money Bill, and it will not be debarred under this Bill, so that if the Legislative Assembly is not debarred from considering amendments, obviously the Legislative Council can make them, or they would not be there to be considered. The Legislative Assembly is entitled to reject them, to take no notice of them, or to accept them. It has those alternatives; firstly, to ignore them and say, "You should not have made them," secondly, to accept them and, thirdly, to reject them.

It seems to me that there are circumstances in which it might be desirable for the Legislative Assembly to be prepared to consider amendments. It is not beyond the bounds of possibility that circumstances might arise where the Government itself might wish to change some provision in a money Bill, and therefore it seems to me that there should be a provision in this Bill to clarify this position, that if amendments are made, this House will consider them, provided it has absolute authority to reject them or not as it thinks fit. It appears to me to be implied that it has that power, but I would say it would be far wiser if the power were actually given to it so that, in the event of the necessity arising, opportunity might be taken to deal with an amendment which it is desirable to make to the Bill, perhaps for reasons that have arisen since the Bill passed this House. I must say that I can find no procedure laid down for this House that will clear up the point unless there is some proposal in the Bill. Perhaps the Minister will agree to an adjournment of the debate and invoke the aid of the Crown Law Department.

Hon. J. C. Willcock: That is provided for under our Standing Orders.

Mr. WATTS: And he will also have to invoke the aid of the Crown Law Department, in my view, particularly with regard to the phrase "end of the session," because of the practice that has grown up here—a practice that is quite desirable. I am not objecting to it, but am only pointing out the difficulty of applying the words in the Parliament Act of Great Britain to the circumstances that prevail here. In Great Britain, I am given to understand, the prorogation of Parliament takes place at the conclusion of business. His Majesty, or his Commissioner, goes along and prorogues Parliament, or else a proclamation is issued to that end on the following morning. There is no question when the session ends. It ends there and then. Under our system it is not so, and unless the point is cleared up and some reasonable definition is inserted in the Bill, we are liable in the years to come, if the Bill becomes law, to find ourselves involved in endless argument.

I should like to quote one or two other things to the Minister. In volume 1, at page 31, of the journal I have already mentioned, regarding the phrase "money Bill" and the difficulties that arise out of the use of it, I find the following:—

> The term "money Bill," often so loosely used, has always been difficult to define in such a manner as to comply with the rights of the more popular Chamber, as the guardian of the public purse, and, at the same time, to allow the Upper House that consideration of legislation which it claims it should have as a constituent part of the Parliamentary machine.
>
> There is scarcely a Parliament in the Empire where there has not been serious disagreement between the two Houses.

I might interpolate that it would appear from the statement of the Minister for Justice that there is in this Parliament some specialty in these disputes between the two Houses, that it is only in Western Australia, consequent on the extraordinarily undemocratic constitution of the Legislative Council, that these disputes have arisen. The opposite is clearly the fact.

> There is scarcely a Parliament in the Empire where there has not been serious disagreement between the two Houses, in connection with what should be considered the scope of the Upper House in the amendment of monetary provisions of Lower House Bills.

The Minister for Lands: The trouble is that the Legislative Council here wins every dispute.

Mr. WATTS: The statement continues—

> In the overseas Parliaments the directly-elected Upper Houses have contended they should have greater latitude in the treatment of such provisions than nominated second Chambers, and indeed, constitution framers have usually made provision accordingly . . .
>
> However, no matter how well the provisions of written constitutions, restricting the powers of the Upper House in regard to questions of public money, may be defined——

I ask the Minister to take note of this because it bears on what I have said about invoking the aid of the Crown Law Department—

——cases will still arise where both Houses of Parliament, and even all parties therein, desire amendment to be made by the Upper House in a monetary provision of a Bill, already transmitted to it by the Lower House, which provision the second Chamber is not allowed by the Constitution to amend. Sometimes such instances are consequent upon amendments made in the original Bill during its passage through the Lower Chamber; at other times, they are due to inaccuracies, or drafting flaws, which have escaped detection during consideration of the Bill in the warmer atmosphere of the more popular Chamber, or it may be, they are owing to difficulties in the interpretation of the law in regard to the particular provision . . .

In all cases, the power of the Lower House over public money remains intact, but the convenience is afforded both Houses of according to Parliament the review also of monetary provisions in Bills and of ensuring the smooth working of the Constitution between the two Chambers in regard to questions dealing with public money.

A moment ago the Minister for Lands interjected to the effect that the Upper House here always wins. I remind the Minister that, at the time he made his interjection, I was referring to money Bills.

The Minister for Lands: It does not matter what Bill it is.

Mr. WATTS: It does matter.

The Minister for Lands: Not a bit.

Mr. WATTS: A gentleman recently deceased, for whom every member of this House who knew him had the greatest respect, was Mr. A. R. Grant, formerly Clerk of Parliaments in Western Australia. I find in this volume No. 1 of the journal some information supplied by Mr. Grant in regard to the rights of the Western Australian Legislative Council over Bills. I do not propose to read all that Mr. Grant said because to do so would be wearisome, and I would not have mentioned it at all but for the interjection by the Minister for Lands.

The Minister for Lands: Then I withdraw my interjection.

Mr. WATTS: Mr. Grant said——

However, it must be admitted, in this State Parliament, that no amendment has ever been requested in a Bill appropriating moneys for the ordinary annual services of the Government.

So, up to that time, Mr. Grant, a man with a very wide knowledge of the proceedings of this Parliament and one not given to making statements that were not capable of the clearest proof, was able to inform the world at large that so far as the appropriation of money for the ordinary annual services of the Government was concerned, there had been no occasion on which the Legislative Council had prevented the passage of a Government Bill.

The Minister for Lands: Are you sure that he was not referring to the Appropriation Bill?

Mr. WATTS: I am speaking about money Bills.

The Minister for Lands: And I am speaking about what Mr. Grant said.

Mr. WATTS: The Minister for Justice, of course, has slavishly followed the Parliament Act of Great Britain. He has quite ignored the Constitution Acts of the State, so far as I can see. He has quite lost sight of the fact that Great Britain has no Constitution Act.

The Minister for Justice: I am quite aware of that.

Mr. WATTS: The only legislation for determining the life or power of Parliament is the Septennial Act of 1715, which limits the duration of Parliament and was itself amended by the Parliament Act of 1911 to reduce the maximum period from seven years to five years, and that is the present position. So, in inserting in this Bill a provision that the only law the measure shall not extend to is one for extending the life of Parliament, the Minister has slavishly followed the Parliament Act, losing sight of the fact that that is the only Constitution Act Britain has. We in this State have Constitution Acts, all of which are of equal importance. We have a written Constitution, and I say we are entitled to exclude from the provisions of the measure the Constitution Act itself, because that could not be passed in any other way than was contemplated by the Constitution. Otherwise, we shall see this measure, which is supposed to relieve the indecent strife—if I may so term it—between the two Houses and prevent the amending of money Bills made a means ultimately, by an indirect method, of obliterating the second Chamber, which the Minister says he does not want to do.

The Minister for Justice: There is no provision in the Bill for that.

Mr. WATTS: If the Minister excludes the Constitution Act from the provisions of this measure, then all that can happen is that an amendment of the Constitution Act

may be sent from this House on three separate occasions, having been passed by the requisite majority, and if it fails to pass the Council, it will become the law of the land and the Minister will have obtained, by an indirect means, what he says he does not want. There is no question about that. Unless the Minister excludes the Constitution Acts from the provisions of this Bill, then he is going to put the Legislative Council in a position to be ended by indirect means. The Minister says he does not want that, so it is only fair that some amendment should be inserted in the Bill to cover the point. The Minister has fallen into this difficulty because he has completely followed the provisions of the Parliament Act of Great Britain without taking into consideration the difference between the unwritten Constitution of Great Britain and the written Constitution that we have in this State.

Mr. Cross: Is not this the time to alter our Constitution Act?

Mr. WATTS: Obviously so! It is the time to alter the Constitution in a certain direction, but not in other directions. If I accept the statements of the Minister made in his speech, that is the position as I see it. I intend to put on the notice paper before I am very much older certain amendments to the Bill. Before I conclude, I am going to have a word or two to say to the Minister on the question of the number of persons who are entitled to vote for the Legislative Council. The Minister knows as well as I do, although he skimmed over this subject very nicely in the course of his remarks both this year and last year, that enrolment and voting for the Legislative Assembly have been made compulsory by law; but neither enrolment nor voting is compulsory for the Legislative Council. Therefore, the comparison of the enrolments is a comparison which is made without comparable laws governing it and is consequently, with all due respect to the Minister and his views, hardly a reasonable comparison.

Mr. Cross: The other place does not want compulsion.

Mr. Mann: How does the hon. member know?

Mr. WATTS: I do not think the hon. member is entitled at this juncture to say what the other place wants in this matter.

The Premier: In any case, it would be very difficult.

Mr. WATTS: It might be, and at the moment I am not advocating it. I am saying that the Minister is making comparisons between things which are not comparable, and that is hardly reasonable. He did so simply to bolster up an argument which otherwise would not be as strong as he thought. I venture to say that the application of the same methods, if they could and were applied to the enrolment for the Legislative Council, would produce such a substantial increase in the enrolment of that Chamber under the existing franchise laws as almost to split to pieces the last fragment of the Minister's argument.

Mr. Cross: Even you could not state the qualifications for the Council without looking them up.

Mr. Mann: Of course my leader could.

Mr. WATTS: The member for Canning was in my mind as I reached that point in my remarks, because it has been, I understand, one of his peculiar privileges to undertake the enrolment of members for the Legislative Council in the North-East Province.

Mr. Cross: That would not matter.

Mr. WATTS: He made an extraordinary success of it and I am extremely grateful to him for having done so, because it has enabled me to establish that there are at least hundreds of people——

Mr. Mann: Thousands!

Mr. WATTS: It is a safe assumption to say that there are thousands who ought to be on the roll and are not. In 1940, at a time before the Goldfields were substantially denuded of a great number of persons who resided there because of the war position, we find there were 3,324 men and 1,201 women on the North-East Province roll, a total of 4,525. In 1944, however, after the arduous efforts of the member for Canning there were 3,470 men, an increase of 146, and 1,967 women, an increase of 766, making a total of 5,437, or an increase of 912. It will therefore be seen that these figures give great satisfaction in dealing with two aspects raised by the Minister for Justice. The first was that there were eligible people, because of the extraordinary property qualifications required, who could be enrolled in great numbers for the Legislative Council. I do not doubt that the search made by the mem-

ber for Canning was not as complete as he would have liked, but even so, 912 additional people were enrolled.

The other argument is that not many women can be enrolled for the Legislative Council, yet we find that 766 additional women were enrolled for the North-East Province in 1944 as compared with the number enrolled in 1940. If that could be done in the North-East Province at a time when its population was certainly not on the upsurge, but rather the other way round, what could be done if a determined effort were made by the Government or by its canvassers, or by anybody else, to improve the enrolment and increase the number of persons entitled to vote for the Legislative Council? Of course, it is obvious; and there is another point, Mr. Speaker. Not only did this increase of 912 take place in the period to which I have referred, but between the years 1940 and 1944 there was a decrease in the State-wide enrolment for the Legislative Council of not less than 6,454, thus bearing out my argument that it was not a very propitious time in which to increase the enrolment for the North-East Province. I therefore suggest to the Minister that if he desires to improve the democratic voting position—once again using the term "democratic" in the form in which he desires me to use it—if he wants to improve the voting position with regard to the Legislative Council, he should take unto himself persons of as great mental and physical activity as the gentleman to whom I have been referring and send them out into the Legislative Council Provinces. I venture to say it will not be very long, if he does so, before he will have doubled the representation of which he complains.

On motion by the Minister for Lands, debate adjourned.

BILL—GOVERNMENT EMPLOYEES (PROMOTIONS APPEAL BOARD).

Second Reading.

Debate resumed from the 4th September.

MR. DONEY (Williams-Narrogin) [8.6]: As was the case with regard to a Bill almost identical with this last year, so it is with the one now before us, in that I am wholly in accord with the principles that prompted its introduction. Indeed, this year's Bill—so far as I am concerned anyhow—appears to be far more acceptable than its predecessor, as very many of the amendments moved in this Chamber by the member for Nedlands, the member for Perth and myself were then accepted by the Chamber and have since been embodied by the Minister in the Bill now before us. I think that was a very proper thing indeed for the Minister to do, that is, to honour the decisions of this Chamber. I call the attention of the House once more to the position which has just been referred to by the member on my right, where another Minister should have taken the same course but omitted—wrongfully, of course—to do so. But even though the Bill has been so substantially improved, it contains a number of blemishes, great and small, which it is our duty of course to remove, or at least try to do so.

The major blemish, as I see it, is that one which very severely limits the operation of those fairplay principles upon which the Bill is based, in that it permits appeals to lie only with respect to the lower group of salaries, the higher group being, as I see it, sacrosanct. I am referring to that part of the Bill which permits appeals against promotions to salaries up to, but not beyond, the figure of £750. I am unreservedly opposed to that distinction. I disliked it very much last year; equally do I dislike it now. I intend later on, during the Committee stage, to submit an amendment in an endeavour to defeat it. This discrimination is entirely unfitted to the spirit of the times we are passing through; and, as members on both sides of the House should agree, it is altogether undemocratic. If the Government will insist upon perpetuating the discrimination it will very certainly destroy a good Bill, and the Government will have only itself to blame if it fails of enactment for any reason at all. The House will know that, for a long while, members here have been blaming members in another place for the lack of success of last year's Bill. I hold that that is not fair criticism. If my memory serves me right we had last year's Bill under discussion in this Chamber for a period of something like five or six weeks, but it was not sent down to the other place until three or four days before the end of the session.

Mr. Rodoreda: You talked about it too much here; you kept it back.

Mr. DONEY: That may easily have been so. I only know that this very important,

and troublesome, and highly contentious Bill was sent to another place, which was allowed only three or four days to complete a quite arduous review of a measure which took us five or six weeks to consider. In those circumstances we deserved everything we got. In regard to promotions to the upper group —that is the group above £750—nothing, says this Bill in effect, must interfere with the wishes of the Government as expressed directly or through the Public Service Commissioner, the reason given being, of course, that the Government has a right to choose senior officers best able, in its opinion, to implement its policy. I do not agree with that; and I find it very difficult to relate such a decision to the explanations by the Minister as to why he introduced this Bill. As members will recall, he went to a great deal of trouble to show how widespread was the discontent, the discouragement, and the loss of efficiency resulting from absence of the right to appeal. He spoke of certain quite questionable influences that operated to the detriment of men who should have been chosen but were not. I take it that he wanted those questionable influences removed.

I put to the Minister this question: Where are these questionable and indeed pernicious influences mostly found? Are they found with respect to the group above the £750 mark or the group below it? I do not press the Minister for an answer. I think it is well known to everybody here that in the upper group considerably more feeling is engendered than in the case of the lower group. I know that you, Mr. Speaker, will agree that the further we travel upward from the £750 mark the more intensive becomes the plotting, and the planning, and the favouritism, patronage, and so forth, all tending, of course, to produce that very situation which the Minister says he seeks—and I believe he does seek—to cure. I am not blaming the Government, or only the Government, for its presence. I say it is the product of the tolerance and the blindness of successive Governments, and that it obtains not only in this State but in every State and in every part of the civilised world; that is, if civilised we are—I am not too sure even of that point! Here is a chance to cure it, not wholly, I admit, but certainly partly. But for some strange reason, the Minister in charge of the Bill—and I suppose that means the whole Cabinet—will not accept that chance. The Government has the numbers, and undoubtedly it will have its own way; nevertheless the Government will certainly be wrong.

Mr. Mann: It may accept the amendment.

Mr. DONEY: No. I recall how strenuously last year we strove to introduce the particular clause in the Bill to which I am referring.

The Premier: You might not be so obstinate this year.

Mr. DONEY: I am not optimistic at the moment, but may be the Minister will prove amenable to pressure. Perhaps the Minister is not quite as tough as he was during his first few years of office. Looked at from the point of view of the appellant, do we not know that the bigger the lost prize the bigger the sense of injustice and frustration on the part of the applicant who considers he has been denied fair play? This Bill is said to be based on the Queensland legislation—mainly, I think, on legislation of Queensland 13 George V. No. 31. I cannot think it was in that Bill that the Minister found anything at all prompting him to the invidious distinctions between what I am terming the upper group of salaries and the lower. I ask him whether he did. Personally I have not been able to find it here; and yet the Minister made certain references to that measure indicating he had copied from it the major principles of the Bill now before the House.

The Minister claimed, I think, that the Queensland Act has been most successful; which means that it has managed to achieve that success without the quite untenable discriminations that the Minister is now insisting on. The assumption, of course—the quite allowable and proper assumption —is that if the Minister himself would forgo that discrimination he too would have a full measure of success. I do not know why he will not do that. He will spoil his Bill if he does not. I ask him whether he questions the competency of the board which, after all, is a board of the Government's own choosing, to adjudicate in respect of highly paid servants. If it is not that, I ask the Minister what it can be. I think that on a similar occasion last year—as a matter of fact during the Min-

ister's second reading speech—I submitted to him questions which sought to ascertain for the information of the House the reason why the Minister would insist upon putting in that bar with respect to the £750.

The Premier: He realised that you were rude to interject.

Mr. DONEY: I do not think that was the case. Nor can it be that in his opinion the collective wisdom of the board is less effective when dealing with the £750 group than when dealing with those on the lower range, or that the collective wisdom of the group can be of lesser quality than, say, the solo effort of the Public Service Commissioner. Certainly it would appear that the Minister believes that at the £750 a year mark the board suddenly loses its capacity to weigh evidence and judge wisely. I do not want the House to understand that I am in any way complaining of the attitude or of the work accomplished by the present Public Service Commissioner, or by the gentleman who preceded him. I am one of those—and I suppose that would include every member present—who had complete faith in the Public Service Commissioner now just retired. Of course I have equal faith in the gentleman who now occupies that high office. They are two just men. But after all, they are human and liable to err. They are just as liable to err in respect of promotions dealing with the second group as with the promotions of the lower group.

I have made reference to Government patronage. It seems to me that today we are so accustomed to Governmental patronage along strictly party lines, of course, that the practice passes among us almost unnoticed. I allege that practice, not against the present Government, or not wholly against the present Government, but, in the past anyhow, against all Governments, not only in this State, but in all States. I find it very difficult to know whether the practice is being followed more brazenly today than heretofore. I only know that in the interests of decency and justice every opportunity should be taken to eradicate, or at least to lessen this evil. By deleting from the Bill this cleavage between the upper and the lower groups of salaries we shall go a long way in that direction. I say, and so I imagine say all of us, that members of the Public Service should rise in their respective departments by industry, by ability and by tact, and certainly not because faithfully, or perhaps servilely, they happen to be supporters, politically, of the red or of the blue colours. If the Government wants the best man for a special job that man is best picked by a small body——

Mr. Triat: Of blues.

Mr. DONEY: No. I want to be as impartial as possible. I was going to say that the best man is surely picked, not by the Government itself, or by the Public Service Commissioner, but by a small body of experts chosen for their good sense.

Mr. Cross: Who will choose that body?

Mr. DONEY: The Government, as laid down in the Bill. As I was saying they would be best selected by a small body of experts chosen for their good sense, their specialised knowledge of departmental procedure and, above all, their complete probity. Further in the Bill there are other matters dealing with soldiers' preference and the desirability of appellants being represented by counsel. As I intend to deal with them in Committee, by submitting amendments, I had better not deal with them now and thus run the risk of repeating my remarks at a later stage.

MR. NEEDHAM (Perth) [8.25]: I welcome the measure which has for its object the establishment of a Government promotions appeal Board. I particularly welcome it because the Minister, when introducing the Bill, assured the House that the measure is practically a facsimile of the one that passed this Chamber last session and which was incontinently and summarily rejected by another place. Should this measure become an Act it will fill a long-felt want. A great deal of discontent and dissatisfaction has been evident in the Public Service amongst all Government employees because of the lack of a board of this nature. For many years past there has been a consistent demand for legislation of this kind. It is regrettable that the members of another place summarily rejected the measure which came before them last year. I am hopeful that this Bill, which will later reach that august body, will receive more favourable consideration.

Mr. Doney: Send it up to them a month earlier.

Mr. NEEDHAM: That may be helpful. But a measure did go up last year, perhaps at a late stage of the session, but I do not think that was sufficient reason for its rejection.

Mr. McDonald: It was not rejected; it was not proceeded with.

Mr. NEEDHAM: I am reminded that it was not proceeded with.

Hon. N. Keenan: By the Government; by your crowd.

Mr. SPEAKER: Order!

The Minister for Works: It was voted out by the Council.

Mr. NEEDHAM: The memory of the member for Nedlands is very defective. The object of this Bill is to ensure efficient work from those engaged in the various branches of the Civil Service. That applies to every department. The Government naturally desires to have its servants properly equipped to render efficient service, and that desire is reciprocated by those whom the Government employs. The absence of a board to deal with the question of promotions has not been helpful in the past in securing the efficiency which all desire should be evident throughout our State departments. Frequently there have been long delays when promotions have been contested. Those delays have been not only of weeks or months, but in some instances years have gone by from the time the protest was lodged until it was heard. On top of that, there was the old system, which is still in existence, and which this Bill purposes to remedy; that is, that the appeal was from Caesar unto Caesar, which was not in any sense of the term satisfactory. I contend that if we are to get efficient service from Government employees, we must protect them from unjust decisions. It is not my intention to instance any of those unjust decisions but there have been many, and because of them there has been a vast amount of discontent in the Government service.

The Minister for Works: Last year's Bill was defeated in the Legislative Council by 18 votes to eight.

Hon. N. Keenan: On the last day of the session.

Mr. SPEAKER: Order!

Mr. NEEDHAM: My statement that the Bill was summarily rejected has been questioned, but there is evidence that it was rejected by a very large majority. This Bill is designed to protect Government employees, in whatever department they may be working, from unjust decisions. Those who, in another place, might perhaps object to legislation of this nature, will say that there is already a Public Service Appeal Board in existence. That is true, and at one time it was thought that the Public Service Appeal Board had full power to deal with complaints lodged against any action of the Public Service Commissioner, including matters affecting promotions, but experience in recent times has proved that that power is not contained in the present legislation, and that the Public Service Appeal Board constituted under the present Act cannot deal with the question of promotions so far as the decision of the Public Service Commissioner is concerned.

Again it has been proved that the board had no jurisdiction to deal with any complaint that might be put before it on the ground of allegedly wrongful promotion—a very grave weakness in the present legislation—and if this Bill now before us becomes an Act, that weakness will be remedied. That weakness, to which I have referred, was a big factor in preventing that harmony and efficiency which are necessary in any department. One of the principal reasons for legislation of this nature is to bring about a system that will prevent all semblance of favouritism in the matter of promotions. The member for Williams-Narrogin referred to Government patronage. That, in itself, would be undesirable, but there is another danger, that of departmental patronage, which must also be avoided. There is no necessity for patronage of any kind, either Governmental or departmental, so long as each case of promotion is dealt with on its merits.

There is no greater avenue for the operation of favouritism or patronage—Governmental or departmental—than on the question of promotion. There is great room for the exercise of that pernicious system, so I am sincerely hopeful that on this occasion another place will not see any reason for objecting to this measure. The Government, like all employers, requires the most efficient service possible, and requires that the most efficient officer be promoted to the higher position, or the more responsible position. The Government wants to be certain—as would any other employer—that the man or woman who is promoted to a

higher and more responsible position has all the necessary qualifications. On the other hand, the employees in the Government service want to make sure that their valid claims for promotion are not overlooked, and therein we have the essence of the Bill now before us; the desire for efficiency, between the employer and employee. I think this Bill will meet both of those requirements.

The measure now before us provides that efficiency shall be the first and governing factor on which claims for promotion must be based, and no-one can cavil at that. It has been argued that seniority should count, and that efficiency should not be regarded. There are instances when seniority should be regarded, provided that all other things are equal. The Bill also provides for that particular contingency. If it is found that there is equality of efficiency in rival claims for promotion, then seniority will be taken into account, but not otherwise. If there are two employees equal in length of service, then the most efficient employee has the right to that promotion. It has been suggested by the member for Williams-Narrogin that legislation of this kind is not new. As a matter of fact, it is a long way behind other States of the Commonwealth——

Mr. Doney: What other State has this legislation, apart from Queensland?

Mr. NEEDHAM: I understand that both New South Wales and Victoria have similar legislation.

Mr. Doney: That is not so.

Mr. NEEDHAM: Similar legislation exists in other States besides Queensland, and if this Bill is agreed to it will be the means of increasing the present high rate of efficiency in the various Government departments. The members of the Civil Service in this State compare favourably with the civil servants in any State in Australia, or with the Commonwealth public servants. I would say the same for all Government employees, whether they are members of the Civil Service or not. All of them give to their employer, the Government, faithful service, and they stand second to none with the employees of other States of the Commonwealth. For this reason and because they have waited for this legislation for a long time, I hope that the measure will soon become law.

HON. N. KEENAN (Nedlands) [8.41]: This is a Bill which the member for Perth assures the House—and he is a very well informed person——

Mr. Watts: Sometimes.

Hon. N. KEENAN: —is almost word for word with the Bill which this House passed last session. I hope that, before the measure passes the Committee stage, the Minister will check the two Bills so that he may assure us that matters which were passed by this House last session have not been inadvertently omitted, as in the case of the Constitution Acts Amendment Bill (No. 2).

The Minister for Works: The Bill has already been before this House for one week.

Hon. N. KEENAN: I admit that, but I have not been in a position to carry out the duty of comparing the two measures. The Bill of last session was introduced into this House in the first week of December. Even then there was a general complaint that it had been brought down far too late to enable us to give it the consideration it deserved.

Mr. Rodoreda: The member for Williams-Narrogin said we had five or six weeks debate on it in this House.

Hon. N. KEENAN: I have before me the volume of "Hansard" containing the record of our proceedings, and it shows that the second reading was moved on the 7th December and the House adjourned eight days afterwards. I am looking at Vol. 2, page 2361 of "Hansard" for 1944. The reason I refer to this is that the Bill undoubtedly reached another place at a time when it was hopeless to expect that House to give it consideration.

Mr. J. Hegney: When did that House adjourn?

Hon. N. KEENAN: On the 15th December. I am informed that the Bill was presented to the Council on the very last sitting day, and it was not the only innocent that was murdered. It was murdered in company with other Bills. Unfortunately, the reason for its having been murdered was a reason for which this House was responsible; we sent it to the Council far too late in the session, and it was absurd to ask that House to consider it and pass it and a number of other measures on the last night of the session.

When the Bill came before this House last session, I recollect having called attention to the fact that, while the measure was very desirable, there were other possibilities that could be explored and would produce even better results. I recalled that for 40 years we had had on our statute-book a measure creating a Public Service Commissioner, but unfortunately we had not given him the authority which he should have, that all the power he had in the matter of appointments or promotions was that of recommending, and that it remained entirely in the hands of the Minister for the time being whether the recommendation was accepted or rejected. Consequently, in fact, the Public Service Commissioner had no power at all. It was therefore no matter for surprise when that statute failed to give satisfaction or justice to the servants in public employment. This measure, therefore, is undoubtedly a step in the right direction, but the requisite protection could be given by creating a Public Service Commissioner with authority to act. Of course, it would follow that such authority must be exercised with the care and discrimination that would satisfy all parties.

Another suggestion I ventured to make on the second reading of the Bill last session was that the difficulty, which is appreciated in this measure of dealing with public servants receiving salaries in excess of £750 a year, could be avoided by amending the Public Service Appeal Board Act of 1920 in order to give power to the board to deal with promotions and appointments in a manner that would relieve the position of a charge of favouritism being even suggested. The member for Perth was quite right in saying that the Public Service Appeal Board had ruled, as a matter of law, that it had no power to entertain appeals involving the determination of what public servants should be promoted or what public servants should be appointed amongst the many applicants for positions that were vacant. So that Act, if amended, also presents the possibility of achieving what this Bill aims at accomplishing, namely, to bring about a more equitable scheme for promotions and appointments in the Public Service.

Perhaps the outstanding blot on this measure—and I use that word not because I am in any sense condemning the measure because even the best legislation has some defects—is the limitation of its application to those in receipt of salaries up to £750. Members might recollect that the reason given for this was only one, and it was that when making the higher appointments, the Government should have a free hand and should not be trammelled in any way by the decisions of any board or tribunal. If we accept that, we ought to accept the whole position. If we admit that the public servant has a right to be protected in the matter of appointment and promotion, why limit it to those in receipt of a salary below or up to £750? I went so far as to ask the House to instruct the Committee to amend the Public Service Appeal Board Act of 1920 in order that every public servant regardless of what his salary might be—excepting some who by special provision were removed from the operation of the measure—should have the right to have his claims to promotion and appointment determined by a tribunal which would be, beyond question, impartial.

I do not wish to suggest that any Government would be guilty of being partial, but it does happen, especially among those who are disappointed in getting promotion, that suspicion arises when the appointment is made by a Government and by a Government alone, that that appointment has been the result of some political pull. That can be avoided by amending the statute to which I have drawn the attention of the House, the Public Service Appeal Board Act of 1920, by giving power to the tribunal created in that Act to deal with appeals. That tribunal consists of a Supreme Court judge and a representative of the Civil Service and is undoubtedly a tribunal to which no-one could take exception. The House in its wisdom last year supported the view of the Government that all appointments over £750 should be left in its hands or in the hands of its successors, who no doubt will some day arrive.

Mr. Cross: That is a long way off.

Hon. N. KEENAN: Not so far off as the hon. member considers, notwithstanding his wonderful capacity for producing voters or electors. Even with its blot, this measure is a valuable one and, up to a salary range of £750 a year, it undoubtedly does protect and give a full measure of justice to the Civil Service. So I hesitate

to ask the House to reject it, but I do express the hope that a more satisfactory explanation will be given for stopping at £750 than the explanation we heard on the last occasion. There is no reason at all why this Bill should not apply to all positions except those that it is deliberately determined are not suitable for any board to resolve on, as, for instance, appointments to the judicial bench, the Commissioner of Railways, the President of the Arbitration Court and other positions which could be suggested. All of those are appointments that clearly should be made by the Government, which should be responsible to Parliament and to the country for the result of the exercise of its choice. But in every other appointment, no matter what the salary is, even if it be £2,000 per annum, the tribunal suggested in this Bill could unquestionably act with satisfaction as well to the civil servants as to the public.

I do not intend to traverse the ground which has already been covered by the member for Williams-Narrogin. Besides, we all remember the debates of last December, except such portions of them as we have forgotten because they were not worth remembering, but so far as those portions that contained matter of merit are concerned, we do remember them. There is no reason, on the face of it, why the tribunal which this Bill proposes to create should not be able to determine all appointments and all promotions, with the exception of those which I have suggested should deliberately not be included in the measure. Accordingly, I support the Bill with those qualified statements.

MR. LESLIE (Mt. Marshall) [8.54]: I do not propose to delay the House by commenting on the Bill, with the broad principles of which I agree. I desire to confine myself to asking the Minister who introduced the Bill why certain amendments which he agreed to make to a similar measure introduced last session, and which were actually put down on the notice paper for the Legislative Council, are not included in the Bill. The amendments in question dealt with civil servants who were absent on war duty and who, because of their absence, were unable to become applicants for a vacancy and therefore would not be eligible to become appellants under the Bill. You will no doubt recall, Sir, that in order to protect the interests of that section of the Civil Service I moved an amendment in the Committee stage which was designed to delay the coming into operation of the measure until the termination of hostilities and for some time after that. The Minister saw the justice of the viewpoint submitted by me, and, on his assurance that a very evident fault would be remedied, I withdrew my amendment; and, following on a consultation with the Solicitor General, amendments were drawn up and afterwards put on the notice paper of the Legislative Council.

Although hostilities have ceased, we have by no means reached the stage where we can say to the men and women in the Forces who are civil servants and are now likely to return to their civil positions, that they will be able to participate in the benefits which the Bill proposes to confer upon them. Many members of the Fighting Services will still be away for some time on active duty, for how long it is impossible for any member of this Chamber to say. I would like the Minister to say why he did not include the amendments to which I have referred in the Bill before us, because I feel sure his reason must be particularly good. It may be that it is his intention to defer the operation of this measure until those service men and women have returned, or he may provide ways and means of dealing with them apart from regulations, which are unsatisfactory and do not secure to the people concerned the rights which we believe should be theirs.

The Minister for Lands: Would you hold the measure back until all the occupational troops are out of Japan?

Mr. LESLIE: No, but I think it only right that we protect their interests.

The Minister for Lands: Their interests were protected before they went away.

Mr. LESLIE: Not under this Bill! Unless they are applicants for a position they cannot become appellants. My amendment last year protected the civil servants by making them automatically applicants for a position if they were eligible for promotion. The fact that they were away from their work, therefore, in no way deprived them of their right of appeal. I should very much like to have an assurance from the Minister that their interests will be pro-

tected in this Bill. It is quite possible that when the Bill was drafted this session those amendments were not considered because they were not included in the printed copy of the previous Bill as amended in Committee.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Rodoreda in the Chair; the Minister for Works in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Interpretation:

Hon. N. KEENAN: I desire to draw attention to the fact that the word "employee" has a different definition in this Bill from that which was accepted by the House last session. On the last occasion an employee was defined as being a person employed under the State in a permanent capacity in any department, who is by the terms of his employment required to give his whole time to the duties of his employment, and who does not receive salary or wages in respect of such employment at a rate higher than £750 per annum. I think that the reason that was inserted was that it corresponds with subsequent clauses and that all the excepted persons—judges of the Supreme Court, the Chief Justice or the President or any member of the Court of Arbitration—are automatically excluded by the £750. At present we have a definition wide enough to cover an employee employed in a permanent capacity who has a salary of any amount far in excess of that received by the Chief Justice or the President of the Arbitration Court, or by any person who is in the Civil Service and receives an income of over £2,000 a year. Then there is a restrictive clause that although he remains an employee he is deprived of the right of appeal. I suggest that if the Minister wants to carry the restriction of £750 he should put it in the definition clause.

The MINISTER FOR WORKS: Clause 3 deals, amongst other things, with the definition of employee as outlined by the member for Nedlands. The other clause to which he referred is that which sets out those persons who will, in the event of the Bill becoming law, have the legal right to appeal. That clause also sets out the prohibition in regard to certain employees whose maximum salary rate will require to be £750, or in excess thereof. The Bill as now drafted sets the two questions up in the best possible form. In Clause 3, we define the term "employee" almost entirely for the purpose of differentiating between permanent employees and casual employees of the Government. In the latter clause, we set out those permanent employees who shall be entitled to the right of appeal, and also lay it down that there shall be a prohibition in regard to permanent employees or employees as defined in this Bill where they receive a maximum salary rate of £750 or over. I suggest that the procedure now set down is the best possible procedure. If we were to follow the hon. member's suggestion, which we did to a considerable extent last year, we would be confusing two questions in the one clause.

Mr. McDONALD: I do not think the suggestion of the member for Nedlands would affect that part of the definition which distinguishes between permanent and temporary employees. That part would still remain and, even though the clause was amended in the way suggested, the differentiation which the definition is intended to make would be preserved. I have noticed from an examination of the Bill that some of the amendments made last year in this House have been carried forward and incorporated in this Bill; but I find here an instance of an amendment which was carried last year in this Chamber, but which has not been incorporated in this Bill. Perhaps the Minister might assist me and other members by saying whether, apart from this particular clause, the amendments made last year have been incorporated in the Bill.

The MINISTER FOR WORKS: All I am permitted to say at this stage is that some have been included and some have not. As we come to the different clauses, I may be able to be a bit more specific.

Mr. McDONALD: I hope the Minister will not carry the Committee stage too far. We have been extremely co-operative this session. This and a number of other Bills were introduced this day week and some of them, like the soil conservation measure, are very important and of great moment to the State. I want to confess that the time at my disposal has not enabled me to give the study to all those Bills that I would like to give.

The Premier: The members of the Government are in exactly the same position.

Mr. McDONALD: They have the remedy in their own hands—to allow members full opportunity to study the Bills. To proceed straight from the second reading debate, which was conducted with extraordinary expedition, to the Committee stage on a Bill of this importance, is to proceed rather too rapidly for even a democratic Assembly as the Minister would call it. There may be other members like me who have put in time on some of the Bills, like the Soil Conservation Bill and other measures, but who do not feel too happy about all the details of this Bill. We have to study it more carefully in view of the circumstances that some amendments passed last year have been included and some left out, and they must all be analysed carefully to enable us to see how the position stands at the moment.

Mr. LESLIE: The definition of "Government hospital" embodied in the clause gives rise to the question of the position of infant health nurses who have now been taken over by the Government and are to be included in the superannuation scheme. Should not provision be made in the Bill for them? They are not employees of Government hospitals in the sense mentioned in the definition.

The MINISTER FOR WORKS: If the persons referred to come within the definition of "employee" in the Bill, they will be covered. I speak subject to correction when I say that I think they are now qualified to be covered, not in respect of Government hospital employees but under the general provision for employees.

Mr. Leslie: Do I understand that the Minister will look into the point and ensure that the interests of the infant health nurses are safeguarded?

The MINISTER FOR WORKS: Yes.

Clause put and passed.

Clause 4—agreed to.

Clause 5—Appeal by employee against promotion of another:

Mr. DONEY: I move an amendment—

That in line 1 of subparagraph (i) of paragraph (a) of the proviso to Subclause (1), before the word "any" the words "the promotion of another employee to any of the following offices, namely, Commissioner of Railways, Commissioner of Police, Public Service Commissioner, Commissioner of Public Health, Town Planning Commissioner, Director of Education, Director of Works or Chief Electoral Officer, but the appointment of any employee to any of the abovementioned offices shall be subject to the approval of Parliament" be inserted.

If the amendment be agreed to, I propose, as the notice paper discloses, to move for the deletion of other words dealing with the intention of the Government to discriminate between salaries below £750 per annum and those above that amount. I have already outlined fully my objection to that discrimination, and I shall not labour the point further at this stage.

The MINISTER FOR WORKS: When a similar Bill was before the Committee last year the principle contained in the clause was debated at considerable length. All the arguments for and against the principle were advanced at that time. The Government was very firm in its conviction that there should be a general prohibition of the right of appeal against promotions in respect of positions carrying a maximum salary of £750 per annum or over. Nothing has occurred between then and the present time to cause the Government to alter its view. The number of salaried positions in the Government service in connection with which the maximum rate of salary is greater than £750 per annum is small, but those positions are extremely important in relation to the government of the State. It ought to be remembered that the Government is elected to carry on the affairs of State, and to develop and put into operation a policy aimed at achieving the greater progress of the State. It should also be realised that the work of the Government in this direction is very greatly influenced, for good or ill, by the high-ranking officers of the Administration. Therefore it is entirely desirable that the Government itself should accept responsibility for the appointment of officers to such positions.

The Government is answerable to the people of the State every three years and, should it fail in its duty to appoint the best men available to such positions, the people will judge the Government for its failure and will dismiss it from office. The Government should not only be prepared to shoulder responsibilities of that nature but should be compelled to do so. If a Government is not capable of making appointments to the higher positions in the Service, it is certainly not capable of govern-

ing the State and should not be called upon to do so. It is entirely wrong for anyone to suggest that some board, committee or commission should have the right, the duty and the responsibility to make appointments to these high-ranking positions. They are almost as important as Ministerial positions. When we analyse the situation, it is clearly seen that Ministers of State have to rely very largely upon these high-ranking officers partly for the development of Government policy and largely in connection with the task of having the policy properly put into operation. I hope the Committee will not start on this occasion to tinker with the clause.

Perhaps if members try merely to tinker with it, the position will not be very serious, but I trust they will not set out to destroy the main purpose of the clause, which is that the Government of the day, no matter what its political complexion may be, shall, beyond any question, shoulder the complete responsibility in deciding appointments to these high positions in the service of the State. If the member for Williams-Narrogin does persist with this and his other amendments to this clause, I hope the Committee will reject them.

Mr. DONEY: This is not, as the Minister insists, regarded by us as a matter of party politics.

The Minister for Works: I did not insist that it was, or suggest it.

Mr. DONEY: Nor is there any suggestion of tinkering with this particular clause. In the interests of the Civil Service we want this amended because we regard it as sensible to do so. I have perused the three Bills brought down by the Queensland Parliament, over the years, dealing with promotions. I do not think that any bar was raised in those Bills to appeals, irrespective of what the salary might be. I cannot understand what I regard as the stubbornness of the Minister in this matter. He set out to show that he was anxious to accommodate the members of the Public Service when appeals were submitted. I ask him. Was it because of a request submitted to him that he initiated the distinction between the higher salary groups and the lower? The only reason the Minister has so far given for doing so is that in some ways the honour and the general interest of the Government are involved, and he goes so far as to say that if this provision is in any way tinkered with it might lead to the dismissal from office of the Government. That, however, is not likely to happen if the course I suggest is adopted.

The Minister said the Government has its own interests to serve and is faced with the need of implementing its policy, and that it can only do so if it reserves to itself the inviolable right of choosing its senior officers. But if an appeal is lodged against appointees to the £750 group so that they become subject to the consideration of the board, does the Minister mean to say that the board will give no consideration to the rights of the Government? Would not that board go to some trouble to see that either the original appointee should remain, or that someone else should be appointed in his stead? If someone else were to be appointed, then that person would be a man who, in the opinion of the board—and its opinion would be equally as good as the Government's—would be suited to the Government's policy. I do not know where the Minister got this idea from—perhaps he gets his directions from the Queensland statute.

Mr. Seward: From America.

Hon. J. C. Willcock: They change all Government officials there.

Mr. Seward: That is the policy the Minister is adopting.

Mr. DONEY: I wish the Minister would give a better explanation than merely to say that it suits the Government policy to have one individual appointed to a particular office, and no other man.

Hon. N. KEENAN: I admit that there is a great deal in the argument put forward by the Minister that the Government must be allowed to make what might be described as key appointments.

Hon. J. C. Willcock: Parliament has to approve some appointments.

Mr. Doney: I am excepting those.

Hon. N. KEENAN: What I am worried about is how the figure of £750 is arrived at. Some appointments below £750 have every reason to come within the class which the Minister claims as high-ranking. On the other hand, some appointments above £750 are mere promotions within departments. Take the Under Secretaries and their assistants, or the Premier's Depart-

ment which grew up from nothing, within the memories of some of us! Certain officers there are enjoying over £750 a year. If it were quite safe to leave every office of £750 and under to a board, why would it not be safe to leave every office of £1,000 and under to a board? What is the particular charm of £750? On the last occasion the Minister, to appease the criticism, which came mostly from the Government side, said he would bring down an amendment, which he did, that would add to the £750 all increases by reason of the basic wage adjustments. That provision was included in the Bill as it left this Chamber. The Minister said then that that involved a sum of about £70 to £80, so that the £750 became increased to £830. I have no doubt that the Minister was satisfied that he was taking no risk then because it was on his motion that the amendment was incorporated in the Bill, yet he assures us tonight that by going beyond £750 there is a risk which the Government should not take. If he approved of £830 on the last occasion, why does he stick fast at the £750 now? Why has the clause which allowed basic wage increments been taken out?

The Minister for Works: It is not taken out.

Hon. N. KEENAN: Is it in the Bill?

The Minister for Works: Certainly!

Hon. N. KEENAN: It is not in this clause.

The CHAIRMAN: The member for Nedlands must address the Chair. He can discuss this with the Minister later.

Amendment put and negatived.

Mr. DONEY: I move an amendment—

That in subparagraph (i) of paragraph (a) of the proviso the words "unless the Governor shall declare upon special grounds that such office or class of office shall be excluded from the operation of this paragraph; or" be struck out.

The words I propose to strike out indicate —and this is additional to what was allowed in last year's Bill—that an appeal may lie in certain circumstances, only if the Governor shall so declare. I think it will be obvious to the Committee that the voice of the Governor, in a case like that, is really only a reflection of the voice of the Government, and as I see it that would mean that the appellant may appeal against Caesar's decision, only if Caesar himself permits. I cannot see much benefit coming the way of appellants if that is so, and for that reason and because I regard it as practically useless, I move for the deletion of the words.

The MINISTER FOR WORKS: This part of the clause constitutes a prohibition in connection with appeals in respect of officers receiving a salary, the maximum rate of which is £750 per annum or over. There is a proviso which lays it down that an appeal may be granted to any officer in that class or any office in that class, if the Governor agrees that an appeal shall be granted. I do not understand why the member for Williams-Narrogin should want an absolutely cast-iron application of the prohibition, against appeals, to all officers in the class concerned.

Mr. Doney: Do you really think it amounts to much?

The MINISTER FOR WORKS: In practice I think it will amount to a fair bit. In fact, it is an attempt to meet one of the objections referred to by the member for Nedlands, who asked what virtue there was in having the prohibition line drawn through the amount of £750 per annum instead of through £500 or £800 per annum. I agree that it is impossible to draw a line of prohibition that would be entirely satisfactory. Wherever that line is drawn, there will be some cases to which the prohibition cannot reasonably be applied. In an endeavour to overcome that difficulty this proviso has been included in this part of the clause. Now the member for Williams-Narrogin wants to take it out. I think this proviso should be left in the clause to meet, as successfully as possible, the very point of objection raised a few moments ago by the member for Nedlands.

Amendment put and negatived.

Mr. McDONALD: I desire to voice the same objection as I took last year to paragraph (b), which requires that where any office is under an award or industrial agreement, in respect of which there is an industrial union, no public servant can have the advantage of an appeal unless he is a member of the union. I think public servants should enjoy the fullest right to exercise their duties, politically, as citizens, and the right to associate themselves with such

political views as they think fit. This clause tends to apply a certain compulsion which should be eliminated from the Act. We know that some unions can affiliate with political parties—it may be the Communist Party or any other party—but if they do so it is by a majority decision. It might be by a small majority, and the minority is then compelled to become an organisation in some particular party with which the minority may not have any sympathy. I think the civil servants should be entirely free to form their own political convictions, and I object to a clause which to my mind would make for a certain amount of compulsion. I would be far happier if the clause were eliminated.

The MINISTER FOR WORKS: We debated this particular part of the Bill when a similar measure was before us last year. Some members of the Opposition strongly expressed their views, and some members on the Government side expressed their views with equal strength. If we debated the issue for weeks each side would still hold its own view just as strongly. The proposed legislation will cover more than the civil servants. It will cover all permanent employees of the Government, irrespective of whether they are paid by salary or wages. This legislation has been developed by virtue of the activities of the organisations concerned. They have made the necessary approaches and have put forward their advice in connection with the manner in which the problems might best be tackled. This legislation has been suggested by the appropriate organisations over a period of many years. The Government takes the view that only members of the organisations that have been responsible to a large extent for having the measure introduced should be entitled to receive the benefits. We do not consider that any person—there are very few of them—who refuses to play any part in maintaining an organisation for protecting the rights and privileges of employees should be entitled always to enjoy all the advantages which are won only or mainly by the organisation. In these days it can be claimed that every person is entitled to play a fair part in maintaining an organisation that aims at protecting and advancing the interests of its members. This Bill would perhaps never have been introduced but for the work of the organisations. The Government is firm in the opinion that the measure should apply only to those persons employed by the Government who are members of the appropriate organisations.

Mr. McDONALD: I strongly believe in membership of industrial unions so long as they are not political. If a man wishes to take part in politics, he can join an appropriate organisation. While a union remains an industrial organisation, as was contemplated by the Industrial Arbitration Act, I would recommend everyone to join. But when a union becomes political in its associations as well as industrial, I would not impose any obligation on a civil servant who, for reasons that seem good to him, prefers to remain outside. There can be only a small minority of such persons, but they are entitled to protection.

Mr. ABBOTT: This is a Fascist provision. The Minister says that, because organisations have suggested provisions that are fair and reasonable to the Government, the Government should introduce provisions that are not fair and reasonable. That is a very weak argument. When the Government says that some men, who might not be admitted to a union, shall not have the right of appeal—because unions such as the Lumpers' Union have discretion as to whom they will admit to membership—

Mr. Fox: You do not understand the conditions.

Mr. ABBOTT: I do.

Mr. Fox: They have done that under industrial arbitration.

The CHAIRMAN: Order! The member for North Perth will address the Chair.

Mr. ABBOTT: We should not compel people in a democracy to support views that they do not honestly hold. That is the principle on which the Governments in Germany and Italy acted; men had to belong to a certain organisation before they could get justice.

The Minister for Lands: And what was done to the trade unions in America?

Mr. ABBOTT: A man should not have to belong to a certain organisation before he can get justice.

The MINISTER FOR WORKS: It is amusing to hear a man who is a member of the strongest trade union on earth getting excited about this proposal.

The Minister for Lands: Is his as strong as the B.M.A.?

The MINISTER FOR WORKS: To bark out the word "Fascist" does not alter the logic of the situation. We all know what the Fascist Governments did to organisations that existed for the protection and benefit of the workers, and when they were doing that, doubtless their actions had the full approval of the member for North Perth.

Mr. Abbott: Not at all.

The MINISTER FOR WORKS: We are asking very little of any Government employee when we say, "Here is the right by-law to appeal against promotions. This right has been won for you by organisations existing to protect the interests of Government workers. The benefit is available to you provided you play a very small part in assisting to maintain the organisations." That is the issue reduced to simple terms. A person who is prepared to accept all the benefits won by an organisation to which he could and should belong and yet does not belong, is not entitled to much consideration.

Mr. Abbott: I thought they were getting their rights by virtue of this House.

The MINISTER FOR WORKS: No, by virtue of the work of their organisations.

The Minister for Lands: And only by that.

The MINISTER FOR WORKS: The people about whom the member for North Perth is concerned have all through their lives done nothing to obtain progress, advancement, advantages and privileges, but have been amongst the first to grab what has been won by the work of other people. It is a sound principle in this part of the clause to stipulate that only those who are prepared to do a reasonable and fair thing, by being members of the appropriate organisation, shall be entitled to the benefits of this measure.

Mrs. CARDELL-OLIVER: I would like to ask the Minister, through you, Sir, how the measure affects nurses who, as we all know, have recently been asked throughout the State to join a union, but have refused? This applies also to the teachers.

The Minister for Lands: They did nothing of the sort. They were asked whether their union would affiliate. They are members of a registered union.

Clause put and passed.

Clauses 6 to 11—agreed to.

Clause 12—Venue:

Mr. McDONALD: I think the Minister has done very well in getting as far as he has and I suggest that he might encourage someone to move that progress be reported.

Mr. Cross: It is early yet.

Mr. McDONALD: We are about to come to some important aspects of the Bill, the basis on which appointments should be made and the basis of appeal. I would resent it if the measure were rushed forward. I want a Bill of this importance to go through in the interests of the civil servants of the State, but I do not want it to be dealt with in a perfunctory and hasty way.

The MINISTER FOR WORKS: I think there will be but little discussion on this clause. Dealing with the question raised by the member for West Perth, I would point out that the member for Williams-Narrogin last Tuesday moved the adjournment of the debate for a week. The Government raised no objection whatever, because we felt it was only reasonable to allow members a week for the purpose of refreshing their memories in regard to the principles of the Bill and, to the fullest extent possible, also in regard to the machinery provisions of the Bill. Earlier in the debate some members on the Opposition side sought to justify the action of a majority of members in the Legislative Council last year in throwing a similar Bill into the waste paper basket without consideration, on the ground that it was introduced too late in the session to enable them to give it reasonable consideration. On this occasion the Government is extremely anxious that there should not be the slightest possibility of such an excuse being put forward.

Mr. McDonald: So am I.

The MINISTER FOR WORKS: I am sure the member for West Perth is very keen about that, too. Once a Bill goes into Committee, I think it only right that it should go right through, if it is reasonably possible. Such a course is far more satisfactory to the Minister and, generally speaking, to all members. If we deal with six clauses of the Bill on one day, then adjourn and deal with another six clauses on some future occasion, and so on, other busi-

ness intervenes and the position of the Bill is likely to be at sixes and sevens. The Government does not desire to take the Bill completely through the Committee stage tonight, but would prefer that Clause 12 be dealt with before we report progress. When we go into Committee again, however, the Government will expect the Committee stage to be completed.

Mr. McDonald: I agree.

Clause put and passed.

Progress reported.

BILL—SOIL CONSERVATION.

Message.

Message from the Lieutenant-Governor received and read recommending appropriation for the purposes of the Bill.

BILL—CLOSER SETTLEMENT ACT AMENDMENT.

Second Reading.

THE MINISTER FOR LANDS (Hon. A. H. Panton—Leederville) [9.59] in moving the second reading said: This is a very short but very essential measure to amend the Closer Settlement Act, 1927. The parent Act was assented to in December of that year, but has never been used for any purpose, I presume principally because of the fact that very shortly afterwards the financial depression took place and there was but little encouragement for land settlement. So no use was made of the present Closer Settlement Act; but, in view of the land settlement that is to take place and particularly by way of soldier settlement, we desire to bring this Act, and probably some others, more up to date. Although there are considerable areas of land in Western Australia suitable for soldier settlement, the Government is anxious to get the best possible land it can for this particular purpose. As most members know, there are many large estates in Western Australia, some of which would be very suitable for soldier settlement. Many of them are in a somewhat unproductive state and the Government is desirous of obtaining some of them, if possible, to break up for purposes of land settlement. The Act of 1927 provided that only unutilised land could be dealt with. Subsection (3) of Section 3 states—

> Land shall be deemed unutilised within the meaning of this Act, if the land, having regard to its economic value, is not put to reasonable use and its retention by the owner is a hindrance to closer settlement, and cannot be justified.

I think if members read that carefully they will see that there could be a great deal of argument and possible litigation as to what is reasonable utilisation of any particular land. When land is said to be unutilised, a very good argument could be submitted that it is being utilised but not to anything like the extent it should be when land is particularly urgently required. We desire to obtain the right to have such land valued and, if necessary, resumed; but under the Act, we can foresee a good deal of delay and unnecessary litigation because of the language used in that particular section. The Act provides for a board, but the amendment sets up another board for the purpose of this particular measure, that board to consist of the Director of Land Settlement, the Under Secretary for Agriculture and a third member to be appointed by the Governor for his special knowledge. That third member would be appointed for his special knowledge of the district where land was to be valued and resumed.

Mr. Seward: He would be changeable?

The MINISTER FOR LANDS: Yes. The Director of Land Settlement is the principal man in this job at the moment. The Under Secretary for Agriculture would be a very essential member of the board, too; and the Government feels that a man with a good knowledge of the particular area in which it was proposed to resume land should join with the other two to constitute the board. The board will have power to inspect land, whether utilised or unutilised. That is the main thing I wish to emphasise, but it is not possible under the present Act. If the board considered such a course suitable, it would recommend to the Minister or to the Governor-in-Council that the land be resumed for the purpose for which this Bill provides. It will be noticed that the Act provides that the owner shall submit books, etc. We are not providing for that in this Bill, because we believe that every facility will be given to this board to inspect the land and value it, and to do what-

ever is necessary with a view to its making a recommendation.

Mr. Seward: They have power to value, have they?

The MINISTER FOR LANDS: Yes. The parent Act provides that the Governor may, once a recommendation is made, by gazettal take over the land in the name of the Crown, and the owner may then submit a claim for compensation. The machinery of the Public Works Department will be utilised to implement the taking over and the resumption of the land. The owner has also the right to invoke arbitration if he is not satisfied with the compensation offered for his land. The Government intends to spend large sums of money on the purchase of land directly and by resumption, and I think members will agree that for the purpose of soldier settlement it is entitled to the best land it can obtain. I do not think anybody will disagree with that.

The Government has no desire to face up to criticism such as occurred after the group settlement scheme regarding the class of land provided and many of the men placed thereon. I have been in this House for many years, and I have heard both inside the House and outside of it tremendous criticism of the class of land that was settled, particularly in the group settlement areas. Even with regard to soldier settlement after the last war, much unsuitable land was made available to soldiers for settling. A Bill is to be brought down concerning money to be expended not only in the re-purchase of land but for the training of returned soldiers as farmers and in getting farms ready—that is, in clearing them and providing machinery and all that sort of thing—and I do not think anybody—particularly members of this House—wants to see money expended on land of such a character that the men placed on it will fail.

We have a chance on this occasion to avoid to a large extent many of the mistakes made after the last war and during the period of group settlement. Having bought that experience in a very expensive way, I think we are justified in asking this House to bring all relevant legislation up to date in order to give the Government and departmental officers the best opportunity to make a real success not only of settling men on the land but of giving them the chance to make good. That is all that is in the Bill; it is a very short Bill, but a very essential one. There is only one important clause in it; namely, that providing for land whether unutilised or otherwise to be inspected and reported on with a view to resumption. Much land is, to the layman's way of thinking, not being utilised, to all intents and purposes, to anything like the fullest extent, and we want an opportunity to do something with it. I move—

That the Bill be now read a second time.

On motion by Mr. Seward, debate adjourned.

BILL—NATIONAL FITNESS.

Second Reading.

Debate resumed from the 6th September.

MR. PERKINS (York) [10.10]: So far as I am able to judge, national fitness work throughout the country areas generally and, I presume, in the city areas as well, has been running fairly smoothly. I can quite understand the difficulties that impelled the Minister to introduce legislation in order to secure greater control over the work in the event of disputes arising either between local committees or among the many public-spirited citizens who have been carrying on the work to date. I was anxious that an interval should elapse between the introduction of the legislation by the Minister and its discussion by the members in order that committees, particularly in the country areas, should have an opportunity to consider the provisions embodied in the Bill. I have discussed the measure with a number of people interested in this work and in each instance I was assured that the Bill provides for the flexibility that is essential in order to carry on the work satisfactorily. The essential point in connection with legislation dealing with the promotion of national fitness is to have as much flexibility as possible. The committees that are functioning in country districts are, generally speaking, doing excellent work and it would be indeed unwise for any central body to circumscribe the initiative of the local bodies.

So far as I have been able to gather, there is very considerable variation in the set-up as between district and district and there is a wide variety of local bodies interested and co-operating in the national fitness movement. That is all to the good

of the movement and spreads the interest over a greater number of people. I hope that the existing broadly-based interests will continue in the future. There are so many aspects of national fitness work that it is necessary that all bodies operating in the country districts particularly should co-operate for the welfare of the movement. One aspect that many of the country committees were particularly interested in is the question of sales tax being charged on equipment purchased by them, even though the funds were being expended through the central body. I understand that at first it was anticipated that if the funds were expended through the central body, the Commonwealth Government would be able to waive the collection of sales tax. However, that was found impossible with the result that, apparently, local committees, but for the introduction of the Bill now before the House, would have been faced with the necessity to pay sales tax on all equipment installed in the various centres. I do not know whether the Minister made the point perfectly clear, but I understand that under the Bill it will be possible for the money so spent to be regarded as funds expended by a State instrumentality, and sales tax will consequently be waived by the Federal Treasurer.

The Minister for Education: That is so.

Mr. PERKINS: That is an essential point. Prior to the introduction of this legislation I had received a lot of correspondence from country centres on this question, and I am glad that the position is to be rectified. In the circumstances I shall not take up further time in discussing the Bill. I agree with its general principles and, so far as I am able to judge and in view of the discussions I have had with interested people, it provides the necessary flexibility to enable the work to be carried on satisfactorily. I trust the expansion of the movement will continue along the lines that have obtained in the past. I have much pleasure in supporting the second reading of the Bill.

On motion by Mr. Leslie, debate adjourned.

House adjourned at 10.16 p.m.

Legislative Council.

Wednesday, 12th September, 1945.

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

MOTION—NORTH-WEST.

As to Action to Restore Economy.

HON. F. R. WELSH (North) [4.35]: I move—

That, in view of the serious position existing in the northern part of the State, this House considers that the Government should take immediate action to restore the economy of the North Province.

My object is to see whether something can be done to alleviate the situation in the North. In the old days, and for many years now, the North-West of this State has produced some millions of pounds worth of wealth, mainly through two major industries, the pastoral industry and the pearling industry. The latter is almost non-existent today. The town of Broome was practically built up and maintained by the pearling industry. The men engaged in that activity spent considerable sums of money in equipping boats, building homes, and putting the industry on a sound basis. As a result the State has benefited to a large extent from the revenue derived from those operations. Since the last war the price of shell has, at times, dropped considerably, so that the pearlers have had difficulty in making ends meet. The Commonwealth Government at one time came to their assistance by giving them finance so that they could take their boats to sea. But, of course, that was a first charge against the shell recovered. After that the Japanese sampans came along and poached in our waters so that the pearlers still had a wicked time.

When the war, which has just concluded, broke out, the Navy commandeered or destroyed practically every boat in the industry so that the pearlers were left without