Legislative Assembly.

Tuesday, 22nd December, 1903.

THE SPEAKER took the Chair at 11 o'clock, forenoon.

PRAYERS.

QUESTION—LIQUOR LICENSES INSPECTION.

MR. FOULKES (without notice) asked the Premier: Having regard to the reports received and the complaints made by the people throughout the State as to the quality of liquor sold, is it proposed to take steps to appoint inspectors apart from the police force to test the liquor sold in the various licensed houses throughout the State?

THE PREMIER: This matter has received consideration. We recognise the desirability of having competent inspectors; but the difficulty is the number of inspectors required to enable inspections to be carried out in the various parts of the State. I sympathise with the hon. member in his desire to have efficient inspection.

PAPER PRESENTED.

By the TREASURER: Increases of salaries granted to civil servants under Form J. Return to order of the House dated 24th November.

Ordered, to lie on the table.

ANNUAL ESTIMATES.

IN COMMITTEE OF SUPPLY.

Resumed from the previous day; MR. FOULKES in the Chair.

RAILWAY DEPARTMENT (Hon. C. H. Rason, Minister).

Vote — *Railways and Tramways*, £1,299,869 13s. 4d.

[General discussion on railway administration and vote resumed.]

MR. DAGLISH wished to bring under the notice of the Committee a special case in regard to administration which he hoped would receive the sympathetic consideration of members, as he believed it received already the sympathetic consideration of the Minister. Some little while ago a number of employees in the Railway Workshops met the Commissioner, and conferred with him as to various trade matters with a view to entering into an industrial agreement. Amongst others the boiler-makers had a conference and discussed at some length various points. They agreed with the Commissioner on a great number of these points. In regard, however, to the question of the minimum wage the Commissioner and the men were somewhat at variance, and after a great deal of discussion the Commissioner declared the conference off, as there was no hope in his opinion of an agreement being arrived at. But he then gave the men to understand that they would be retained under existing conditions. Under existing conditions these men had by the railway regulations certain rights in regard to holidays, and railway passes while those holidays were on. The men, a few days ago, heard rumours to the effect that they were not going to get the usual railway passes. They found out that passes were distributed to a number of workers, in fact to all the other workers in the loco. shops following different lines of occupation, but were withheld from these boiler-makers. Passes were distributed among men who through their trade unions had agreements with the Commissioner, and men who were outside the limits of all agreements. They were distributed even to nine boiler-makers who had been imported from England, but were withheld from the local boiler-makers. These men contended that under the railway regulations they had a legal claim to those passes and also to pay during the Christmas holidays, which extended over about 10 days. The shops closed last Saturday, and the men received no intimation in regard to the holidays and the question of payment while their holidays were on. The men approached him (Mr. Daglish), and he with other members introduced a deputation of them yesterday to the Minister for Works

to lay the case before the hon. gentleman. The Minister assured them he had no power except the power of suggestion or recommendation to the Railway Commissioner, and he (Mr. Daglish) believed the hon. gentleman entered into communication with the Railway Department. These men had heard nothing whatever from the Railway Commissioner, and went to see him. The Commissioner gave them to understand they had no right to go to the Minister, that he was "boss" of the railways and intended to be so, and he told them they would not get either railway passes or pay during the holidays. He (Mr. Daglish) had brought this matter up because he believed it was a glaring injustice. Apart altogether from the question whether there was a legal claim under the regulations, which had never been repealed, there was in his opinion a moral claim that until these men had an opportunity of taking the case for hearing before the Court their pay and their privileges should not be interfered with. If it was proposed to interfere with them, there should have been due notice served on the union, so as to enable the union to, if necessary, have the case discussed before any change from the previous procedure was made. They had had no opportunity whatever of discussing the matter. At the last moment, when there was no time to argue the matter, they had been told they would be treated exceptionally; in other words, they had been punished because they did not altogether agree with the Commissioner's view in regard to the different sections of the industrial agreement he was willing to enter into. Probably the Committee would hold that coercion of that sort was entirely wrong, and that it was rather a degrading thing to the Railway Department to attempt to practise it. In the Arbitration Court the Commissioner had expressed an opinion, and argued on it at length, that these privileges in the shape of railway passes and holidays represented an actual part of the pay of the employees. The Commissioner, although he proposed to reduce the minimum to the lowest standard with regard to the boiler-makers, had never proposed to interfere either with the pay or the holidays of the present staff, therefore he was taking a step which was entirely outside the limits of the procedure as outlined to them as being part of his intentions. Then, again, if the holidays and the railway passes represented pay, as the Commission contended, the Commissioner on his own initiative had interfered just before the workshops closed in the direction of reducing these men's pay by 6d. a day without giving them the slightest opportunity of redress or of appeal. The Commissioner argued that the privileges and holidays were worth 6d. a day. He (Mr. Daglish) maintained that when we established an Arbitration Court it was never contemplated that either the Commissioner or any other employer of labour should have the right to arbitrarily reduce pay under circumstances which prevented an appeal to the Court. If this had been done in an open fashion, if it had been done at a time which would allow reference to the Court, and the Court had then sustained the view of the Commissioner, he (Mr. Daglish) would have strongly urged it was the duty of the men to loyally accept the decision of the Court, and he thought every member of the Committee would be with him in that view. He hoped every member of the Committee would be with him also in the contention that the proceedings were unwarrantable and that the Commissioner, presuming on his position, had committed a glaring injustice, discreditable in the highest degree to his administration. One did not know how to deal with the matter, but with the object of doing it he proposed to move when one of the first items of the Railway Estimates was under discussion for a reduction, if that were the only method of getting an expression of opinion from the Committee on the subject, because he did not think the Commissioner should be allowed to continue in this course without the very strongest remonstrance from the Committee against such an act of injustice being perpetrated.

MR. JOHNSON: If the member for Subiaco would move for a reduction of the Commissioner's salary in order to bring the matter directly before the Committee, he (Mr. Johnson) would reserve what he had to say till that was done. He did not wish to have a discussion now and another later on.

THE CHAIRMAN: The Commissioner's salary was not on the Estimates.

MR. DAGLISH would take the matter on the item "Mechanical Engineer."

HON. F. H. PIESSE: In reference to railways generally, and particularly in regard to carrying out works in connection with improvements to opened railways, it was gratifying to him to find that the point he had fought for so long in this House and which he had so strongly advocated, the question of the construction of works by the Railway Department instead of by the Public Works Department, had been taken up by the Commissioner, who now considered that the work could be carried out better and more economically by the Railway Department than by the Public Works Department. That confirmed his own previous opinion. He had fought out the matter in this House on many occasions. With regard to the late Chief Mechanical Engineer, he desired to pay a tribute to the memory of a man who had done a great deal of good in connection with the locomotive branch, though much abused by members and outsiders who knew nothing of his good work. From the time Mr. Rotheram entered the department in 1900, he commenced to make changes which had been of great service to the State. The first thing he did was to increase the carrying capacity of wagons from 10 to 16 tons by a very simple contrivance, thus adding considerably to the economical working of the railways. Mr. Rotheram also improved the designs of locomotives, and brought about farther economy. By the report of the Commissioner it would be seen that 57 per cent. had been saved in hauling, which tended to show that the Chief Mechanical Engineer was a man of experience, notwithstanding what was said in the House to the detriment of his mechanical skill. Mr. Rotheram was also a man who tried to do his duty. Undoubtedly he brought about a great economy in the locomotive branch, although there were many engines laid by at Midland Junction to-day; and it was only just to say that all the saving brought about was the result of his skill, which had been so frequently condemned in the House. Mr. Rotheram's death was regretted by the Minister, and he (Mr. Piesse) simply desired to add words of sympathy for Mr. Rotheram's friends and a tribute of praise for the successful work he carried out in the locomotive branch, and to say that the country had lost the services of an able engineer. He (Mr. Piesse) did not wish to touch upon other matters, because he understood the desire was to get on with the work; but the matter of working expenses called for a few remarks. The proportion of working expenses to revenue again proved that his contention was right some years ago. We found that in 1900 the working expenses were 68 per cent., and that they gradually rose to 82 per cent., and were admittedly now going back again, but only by about ·2. This showed that administration in past days, so often condemned, was more economically carried out than now. The reduction from 72 per cent. in 1899 to 68 per cent. in 1900 showed that we were coming down in working expenses; but in the next three years there was a great increase consequent on the disarrangement brought about by the troubles which then occurred. He would not say that the present Commissioner was responsible for the increase to any great extent, because Mr. George had not yet had an opportunity of properly carrying out his ideas On the question of improvements he would point out to the Minister that great difficulties would arise in connection with the handling of traffic unless works in different parts of the country were carried out with promptitude. There was an eighteen-months-old request from the whole of the residents along the Great Southern Railway for increased accommodation, and a promise was made that these works would be carried out before the incoming wheat season; but nothing was done. Unless something was done there would be a great disadvantage not only to the department but to the customers of the railway.

MR. MORAN: The management of the railways in dealing with employees was very unsatisfactory. Several cases of dismissal of well tried servants for no reasons whatever had occurred, and positions were filled by persons appointed by the Commissioner purely on the ground of favouritism. He had in his possession documents disclosing the fact that a number of members in the House had written letters dealing with some of these dismissals. These letters, which had been forwarded to him, showed that Gov-

ernment supporters had come to the conclusion that injustice was done in several cases, and that, though the Minister was sympathetic, the officers of the department were obdurate. These Government supporters admitted that there had been harsh action on the part of the Commissioner, that they were unable to get satisfaction, that the Minister showed he was helpless in the matter, and that the Commissioner was all-powerful. It was rather startling to find that Government supporters seemed to have very little influence with their Government, otherwise they could not have been in earnest in promising that certain matters would be looked into. He would take one dismissal as an illustration of a gross case in which a good man's services were dispensed with and the man replaced by another. This was the case of Mr. Abbott, well known to the member for the Williams, who was replaced by a friend of the Commissioner. The man appointed to fill the position was previously employed by Mr. George, for Mr. George was part owner of the firm of Llewellyn & Co., Fremantle. The members for Fremantle districts would know that this was Mr. George's business. A man with a first-class career in the railway department was dismissed, and a gentleman employed by Llewellyn & Co. was placed in an important position on the railways.

MR. JOHNSON: In what position?

MR. MORAN: As Government Storekeeper.

MR. HIGHAM: Mr. Loveridge was a partner in Llewellyn & Co.

MR. MORAN: The member for Fremantle knew that Mr. George was a partner in or owner of that business.

MR. HIGHAM: Yes; there were three partners. Mr. Llewellyn now owned the business.

MR. MORAN: These were matters of considerable gravity, and pointed to the conclusion that all was not well in the management of the railways. He wanted to know how much of this kind of thing went on in other branches of the railways. Had not the time come for the appointment of an independent board of appeal to which every man on the railways could have the right to appeal to have his case tried? When dealing with the Government Railways Bill he intended to move amendments providing that every man of 12 months' service and over should be allowed to appeal against fine, dismissal, or retrenchment, to an independent board. The railway unions, if well handled, would help the country to good administration; and being responsible bodies they knew that abuse of power would bring its own punishment. In 1895 Mr. Abbott was engaged in Adelaide by wire from Western Australia for service in the loco. branch at £156 a year, and in that year took up his duties as correspondence clerk at Fremantle. The records and correspondence were not in a satisfactory state when he took charge, and he had to put in considerable overtime to get them in order. On the 1st July, 1897, he was made chief clerk in the loco. branch at £300 per annum, and remained in that position till June, 1900. He held excellent testimonials from Mr. Campbell, the late loco. engineer. Mr. Rotheram, when offered the appointment of chief mechanical engineer, insisted on bringing with him from New Zealand his chief clerk, Mr. Triggs, to act as chief loco. clerk here, to which position Mr. Triggs was appointed at £375 per annum, Mr. Abbott being displaced and informed that another and probably a better position would be found for him, as the general manager (Mr. Davies) was satisfied that he was a capable officer. In November, 1900, Mr. Abbott was granted a three months' holiday, and was given letters of introduction to railway officials in the Eastern States, where he made inquiries as to railway stores. On his return in February, 1901, he received official notice of his appointment as stores manager to the Railway Department at £350 per annum, to date from the 1st July, 1900. As the Government stores were not ready to be taken over by the Railway Department, Mr. Abbott was placed in temporary charge of the loco. store at Fremantle, where he remained till his dismissal from the service. In September, 1902, when it had been notified that the Government stores where to be taken over by the Railway Department, Mr. Abbott sought an interview with Mr. George, who refused him the vacancy, though Mr. George knew nothing of his qualifications. The reason was stated to be that Mr. Abbott was too young. In March, 1903, Mr. G. J. Loveridge,

who, so far as could be ascertained, had no experience of railways, was appointed at £300 per annum, and was down on the Estimates for an increase of £50. In July, 1903, Mr. Abbott went on annual leave for 14 days, after which he received notice that his service was no longer required. Were these injustices to continue? Were valuable officers' long and honourable services to be of no avail against personal friendship? Mr. Orr's was another scandalous case. The Minister knew that Mr. Orr had been wrongfully dismissed, and the former Minister (Mr. Piesse) knew it. Mr. Orr had written to the Premier demanding a full inquiry. The Premier knew him to be a victim of conspiracy and favouritism, and yet an inquiry was refused. Complaints were sometimes made that railway men used undue influence on members of Parliament; but was it not clear that there was much unfair dealing in the department, and more than the House should tolerate? The time had arrived for an appeal board, so that if retrenchment was necessary it should not involve injustice. Another case was that of Hawkins, an engine-driver at Broad Arrow, who, though not charged with any misconduct, was told he was no longer wanted, and was refused an inquiry. Such treatment was a disgrace to a free country. The correspondence in Mr. Orr's case was startling; and those members who knew the facts should enlighten the Committee. Even those who originally objected to the extraordinary appointment of Mr. George as Commissioner scarcely expected him to work such injustices as these. However inexperienced and incompetent Mr. George was known to be, none expected that he would use his power in such a Czar-like fashion. He (Mr. Moran) had no desire to attack Mr. George, nor to allow Mr. George to attack the rights of railway servants.

HON. F. H. PIESSE: Having dealt in 1900 with the case of Mr. Orr, he had nothing farther to say. The case of Mr. Abbott appeared to call for farther inquiry; for the officer had been buffeted about from place to place since Mr. Rotheram's appointment. He (Mr. Piesse) knew that Mr. Abbott had satisfactorily fulfilled his duties; and though in favour of the head of the department being allowed to deal with such matters without political interference, it certainly appeared that Mr. Abbott had been unjustly dismissed, and was entitled to an inquiry, and to some other position in the public service, or to special consideration. No doubt the Commissioner was satisfied with his own action in this and similar matters; but deserving officers would suffer injustice unless given an opportunity of appealing when they considered themselves unfairly treated. In these Orr and Abbott cases inquiries should be granted.

MR. HIGHAM: As to Mr. Abbott's case he knew practically nothing. Mr. Loveridge was a partner with Mr. George in the firm of Llewellyn & Co., Fremantle, and Mr. George had many years of experience of him as a stores manager, and knew him to be thoroughly competent. With regard to Mr. Orr's case he (Mr. Higham) knew very little, though a letter from him would be found on the file referred to by the member for West Perth. He (Mr. Higham) at Mr. Orr's request asked the Minister to have an inquiry made, and then ascertained that several hon. members had already appealed about the same case. The Minister could not well intervene. That was the purport of the letter sent back to Mr. Orr. In a large department like that of the railways, cases would occur in which men, through the tyranny of subordinate officers, were likely to be dismissed on unjust grounds. The appeal board should be open to those who had been dismissed; and it was to be hoped the Railway Bill would be amended so as to afford such facilities to the men.

MR. DIAMOND: Having gone into the case of Mr. Abbott, he believed that officer had been badly treated; and if the Minister could see his way to have an inquiry into the case made, it would be only doing an act of justice.

HON. F. H. PIESSE: It was not desirable that there should be any misconception as to the position he took up. We had placed a Commissioner in charge of the railways, and he (Hon. F. H. Piesse) as an old administrator considered the less interference there was on the part of politicians as to the management of the railways the better. That was why he supported, as far as he could, the action of the Commissioner who had

selected the best officer to control the stores branch. The Commissioner had dispensed with the services of a man who had given good service to the department for a number of years; and although there was no desire to place one man against another, some consideration should be shown to the officer who was dismissed if he was competent to carry on work in another position. He (Hon. F. H. Piesse) upheld the action of the Commissioner in finding the best man to carry out the work. Parliament held the Commissioner responsible for the success of the Railway Department, but any change made should not inflict injury on deserving servants.

MR. ATKINS: The discussion proved clearly that there ought to have been an appeal board in existence long ago. Though he thought the Commissioner should have perfect power in his department, there should be some appeal to a board so that the public would know the rights and wrongs of the different cases brought forward. It did not matter whether an officer held a high position or a low one, or whether he was a poor man or a rich man. Everyone should have the right to appeal and have his grievances ventilated. It was nonsense to say there would be trivial cases brought forward; men would not lose time over an appeal case if they knew that the grievance was only a trivial one, or was only brought forward for spite, for the men would know that if a good board was in existence they would go down. There should be some appeal from the arbitrary decision of the Commissioner; but in a case where a man had been dismissed, the Commissioner should not be obliged to take the man back again unless he chose to do so. That was the only stipulation he made in the matter of appeal. It would be impossible for anyone in charge of a large department to have discipline if he was forced to take back an employee who had been discharged. An appeal board would be as good for the Commissioner as for the men, as it would keep each one in his place. The Commissioner could not personally know what went on in the department, and he was obliged to take the word of his officers. If an appeal board had been appointed long ago, we should not have had the trouble that there had been. The Railway Department was in a ferment at the present time; therefore let a good board be appointed, and the Government pay for it.

MR. TAYLOR: After hearing the statements of the member for West Perth (Mr. Moran), backed up by other members, it was clear to the Committee that there was necessity for an appeal board being provided for in the Railway Bill. While those in authority should have power, it was necessary, having regard to the statements made, that there should be a tribunal by which the actions of those in authority could be judged. Mr. Loveridge, who replaced Mr. Abbott, was a partner in a business in which the present Commissioner of Railways was interested. It was stated that Mr. Loveridge had no knowledge of railway matters; but one could not say whether it was necessary for an officer in charge of the stores to have a knowledge of railway matters. The charges brought forward were sufficient to demand an inquiry. An appeal board would prevent the Commissioner or railway officers acting in a manner which they would not be able to uphold before the board. It was pleasant to hear the member for the Williams (Hon. F. H. Piesse) saying that he believed in placing all the power he could in the hands of the Commissioner. The member for the Williams was Minister for Railways and resigned his position owing to his refusal to recognise a combination of railway workers.

HON. F. H. PIESSE: The railway workers had done him the compliment of saying they would be glad to work under him to-day.

MR. TAYLOR: We heard that only from the member for the Williams, who desired to stem the wave of unionism in the State, but failed. The union of railway workers had done more——

HON. F. H. PIESSE: To increase the working expenses of the railways than anything else.

MR. TAYLOR: To facilitate the working of the railways more than anything else. The same thing obtained in every walk of life. It was proved that an employer could deal better with the workmen collectively than individually. When the Railway Bill was before the Committee it was to be hoped a provision

would be inserted for an appeal board. He hoped the Minister would see his way clear to insist on Mr. Abbott having a hearing, and his grievances ventilated. It was a sufficiently shady transaction that the man who had taken Mr. Abbott's place was at one time a partner with the present Commissioner.

THE MINISTER FOR WORKS: The object of the member for West Perth in calling attention to the cases mentioned was rather to point to the action which he intended to take on the Railway Bill with a view of constituting an appeal board. Provision was intended to be made for an appeal board in the Government Railways Bill, and perhaps some members of the Committee might wish to make the provisions more liberal than those on the Notice Paper. When the Bill giving the Commissioner his powers was before the Committee, a majority of members insisted that the Commissioner should be given entire control of the railway servants. That was given to him. Now it was very difficult and awkward for the Minister to interfere in any question affecting the appointment or dismissal of an officer. If the contrary had been the case it would have been possible for the Minister to say that such and such a man could be put on, and that another man should be put off. Hardly a day passed without the Minister receiving half a dozen letters requesting his influence in getting men appointed on the Government railways. One would readily see how easy it would be for abuses to creep in. In regard to the man Abbott, he hastened at once to say that as far as he ascertained there was not one word against the character or ability of Mr. Abbott; but it was found advisable to have a different individual in charge of the Government railway stores, and the Commissioner appointed Mr. Loveridge. Without detracting from Mr. Abbott, it was just to Mr. Loveridge to say that he had given the most entire satisfaction in the discharge of his duties.

MR. MORAN: As the other man had done.

THE MINISTER: As the other man had done. It was not necessary to say anything against Mr. Loveridge to advance the case of Mr. Abbott. Both were very good men, so far as he had been able to ascertain. If some farther inquiry would do anything to alleviate Mr. Abbott's position, he would be very glad to have that inquiry made.

MR. JOHNSON: Had the Minister the power?

THE MINISTER: There was no power to conduct an inquiry himself, and if the Commissioner would not have an inquiry held, he (the Minister) could not insist on one being held. Provision for an appeal board properly constituted and safeguarded should be welcomed. Although he did not admit—the Committee could not expect him to admit—there had been cases of injustice, yet any provision we could make to prevent injustices arising would, he was sure, be welcome to the Committee. As to the remarks of the member for Subiaco regarding the boiler-makers, and those of the member for West Perth relating to Mr. Orr, these remarks could be far better dealt with—as he believed it was the intention of those hon. members to do—when we were discussing the Government Railways.

MR. HASTIE: There was only one way to avoid all the injustices in the future, and that was to dispose of these items without any undue delay and get on with the next item, Government Railways Bill. If the Bill were put into proper shape, we should have very few of these complaints which we had just heard of. He had thought the Minister would make a reply to the general discussion going on last night, and was rather disappointed that no reference had been made to some of the things mentioned by himself. For instance, the question of freights and the probability of any alteration being made, especially for long distances. There was also the question of whether it was intended to extend the zone system just started in connection with the timber freights on the South-Western line. Was it intended to see if that principle could be applied equally and fairly to other parts of the country, especially those much farther away from the metropolis than were the timber mills? Then he would like to ask the Minister whether anything could be done in connection with an alteration of the freights or fares or an alteration or extension of railways, unless the Commissioner of Railways was agreeable. From

the reading of the Act there was some doubt on the matter, and he wished to get the Minister's opinion. Moreover was anything to be done in connection with the reduction of fares for long journeys by rail? He hoped the Minister would kindly answer these questions.

THE MINISTER was sorry he omitted to reply to the remarks of the hon. member last night. It was intended to reduce the long-distance freights on articles of food. It was announced as the Government's intention some time ago, and the Commissioner had been instructed to submit a scheme for effecting a reduction of about 25 per cent. in freights on articles of food.

MR. JOHNSON: Let the rates be called preferential.

THE MINISTER: They could hardly be called preferential rates, although in some cases the effect had been preferential, but he imagined such instances as there were would soon have to go by the board. We should soon have an inter-State Commission.

HON. F. H. PIESSE: There was very little in it—1/9—so the Committee might as well let it go.

THE MINISTER: It was very little, and, as the hon. member said, we might let it go. As to reducing the excursion fares, the member for Kanowna seemed labouring under a misapprehension. The hon. member apparently thought the special cheap fares now ruling were only to have effect during the Christmas holidays, whereas they would have effect throughout the summer months. The Government desired to render it possible for everyone to be able to leave the goldfields and visit the coast. There were very cheap rates from the goldfields to the various seaside places in the South-West, Bunbury, Albany, also Perth and Fremantle, and those rates would be continued during the summer months. As to the extension of the zone system, that was too large a question to go into at length to-day; but the hon. member and others had drawn his (the Minister's) attention to the matter. The question of extending the zone system to different parts of the State was receiving consideration at present, and he hoped it would be possible to do something in the matter.

MR. ATKINS: That was a very difficult problem.

THE MINISTER: It was indeed.

Item—Chief Traffic Manager, £1,000:

MR. HASTIE: The Chief Traffic Manager up to last year (including that year) got a salary at the rate of £900 per annum, but these Estimates showed that from the 1st January, 1903, his salary was increased to £1,000 per annum, and in accordance with that he got half the increase, or £50, between the 1st January this year and the 30th June. Why had that been done in this particular case and no other?

THE MINISTER: The Chief Traffic Manager was acting as General Manager for some considerable time. His salary was advanced to £1,000 per year while he was so acting, and it was felt that there was justification for continuing that increase because—and he thought the member for the Williams would bear him witness—there was a long-standing promise that Mr. Short would receive the same amount as the Chief Mechanical Engineer. The Chief Mechanical Engineer received £1,000 a year. As to the £50, it was given for the time Mr. Short was acting as General Manager.

Item—District Superintendents, £1,750:

MR. BATH called attention to what he considered very gross favouritism in the appointments made by the Commissioner. Some time ago at Kalgoorlie the District Superintendent went on a holiday, he thought, and it was necessary to appoint an acting District Superintendent. The Commissioner went to one of the inspectors in the service, paid at the rate of £250 or £225 a year, and appointed him over the heads of men who had been in the service a great number of years and who had infinitely more experience in the Railway Department. The Commissioner should have considered the long service of station-masters who at that time were in receipt of £290 a year.

MR. JOHNSON: The appointment referred to was practically a reflection on the positions of men higher in the ranks of the department than the officer chosen. This was only another of those cases where Mr. George was not dealing justly with the men under him, and it emphasised the necessity for amending

our Railway Bill to give Parliament a better hold over this gentleman. It was no use for us to discuss the items, for the Commissioner simply sat in his office and laughed at us. We should amend the Railway Bill and tell the Commissioner that he must deal justly with the men.

Item — Chief Mechanical Engineer, £1,000:

MR. DAGLISH moved as an amendment,

That the item be reduced by £100.

He did this to get an expression of opinion on the matter to which he had already referred respecting the boiler-makers. The Minister was referred to as a last resort, no satisfactory answer having been received from Mr. George, who had been written to and telephoned to, and these men were walking about without the chance of taking their wives and families away, and without having had notice which would have enabled them possibly to make other arrangements to provide funds for the holiday. All the other employees in the workshops got these railway passes and their holidays on full pay, not only those who had entered into an industrial agreement, but those likewise who were outside of unions. He wished farther to emphasise the circumstance that boiler-makers who were getting the same pay as the bulk of those boiler-makers referred to and were working under the same conditions, likewise had granted to them holidays on full pay and got railway passes in accordance with the regulations; but these regulations had been overridden in regard to certain men whom the Commissioner desired to force into acquiescence with him, whether he was right or wrong.

MR. JOHNSON supported the hon. member in his remarks as to the treatment meted out to the boiler-makers in Fremantle, or in fact throughout the service. It seemed a despicable action for the Commissioner to say nothing to the men until the Christmas holidays arrived. Immediately these men expected to get their holidays and make arrangements to go away, taking advantage of their free passes, they were quietly told by the Commissioner that they were not to get these passes. In the first place it was absolutely wrong to take this action without notice; and even had notice been given the Commissioner was not justified in doing what he did. It was ridiculous to have one section of the locomotive employees working with privileges and another section working without them. If privileges were to be granted they should be granted to all the employees. The Commissioner had reduced the wages of casual labourers on the goldfields. Before he (Mr. Johnson) had entered the House the casual labourers working in the yards at Kalgoorlie were dissatisfied with their conditions. At that time they received 8s. a day for 10 hours' work, and could not make ends meet. They therefore appealed to the then head of the department, who took their case into consideration, but becoming desperate the men approached him (Mr. Johnson) as secretary to the Goldfields Trades and Labour Council, and asked him to help them. After considerable trouble Mr. Rotheram arranged that the men should get 10s. a day for nine hours' work. All went merrily until the advent of Mr. George, and now we found that not only had he reduced the men's wages, but he was now paying the ridiculously low wage of 7s. a day for nine hours' work. It was utterly impossible for men to live on that wage on the goldfields, and the Commissioner must be devoid of all feeling to ask men to accept it. He (Mr. Johnson) recently asked the Minister some questions on the matter, and the Minister did not agree with the statement that advantage was taken of the number of unemployed on the goldfields; but the Minister was wrong, for the department would not get men to work at this low rate if men were not out of work on the goldfields. Casual hands were put on at the locomotive yards to do bullocking work, and the men had to accept work at the wage offered or do nothing. They worked for a couple of days and then knocked off, and others were put on to do the work. Thus Mr. George took advantage of the numbers of the unemployed to get work done at a low wage. This question of casual labo r was threshed out before the Arbitration Court in connection with the mining industry, and the Court decided that the rate of pay for casual labourers should be 10s. a day for eight hours. How, ther

fore, could the Government justify their action in paying 7s. a day? These casual labourers received no privileges, and had harder work to perform than the casual labourer on the mines who received 10s. a day. Something should be done to create a different state of affairs. There was a misunderstanding concerning the agreement between the Commissioner and the Railway Association with regard to these men's wages, but these casual labourers could not possibly be members of the association, and the association consequently could not take up their case. Even had the association agreed to this rate of wage for these casual labourers, members were not justified in accepting it. There must have been some misapprehension in regard to the agreement between the association and the Commissioner. There were several other matters in which Mr. George was not dealing fairly with the men.

THE CHAIRMAN: We were discussing "Chief Mechanical Engineer." Complaints against the Commissioner could not be dealt with under this item.

MR. JOHNSON: If the Minister would give an assurance that he would insist on the men on the goldfields getting the wages the Arbitration Court had said casual labourers should have, there would be no trouble.

THE MINISTER: With regard to the question of boiler-makers the Committee would realise that the Government would not for a moment interefere with the rights and privileges of this branch of the Railway Department; but the Commissioner assured him that the boiler-makers had in all the conferences held understood that, unless an industrial agreement was entered into fixing the minimum rate of wage at the outside rate, the men must be content to do without their privileges.

MR. DAGLISH: The Commissioner did not offer the minimum outside wage.

THE MINISTER: The Commissioner informed him that a minimum rate was sought to be fixed in an industrial agreement, but that it had not been agreed to, and that therefore he was paying a higher rate than the outside minimum rate, and that the men were informed that they must do without their privileges. One of the two courses must be adopted: the minimum rate of pay ruling outside with privileges, or an increased wage without privileges. The member for Subiaco had said the men had been taken unawares, and that they expected they would have the privileges with paid holidays at Christmas and free railway passes. The Commissioner informed him (the Minister) to the contrary, and that the men had understood for some time past they were not to receive these privileges. How could the Government be continually interfering in matters of this kind between the Commissioner and the railway employees? When his (the Minister's) attention was drawn to the matter he did all he could, and pointed out to the Commissioner what the men said; but the Commissioner assured him that the men were not correctly stating the facts and that there was absolutely no doubt in his mind that all along the men understood that they were not to enjoy these privileges. In regard to the casual labourers at Kalgoorlie, if the matter was brought properly to the notice of the Commissioner, as it would be, the Commissioner would be the last in the world to seek to make a man work for less than a fair wage. He (the Minister) admitted on the face of it that it appeared these men were entitled to the minimum rate of wage fixed by the Arbitration Court, and he promised to bring the matter before the Commissioner.

MR. DAGLISH: The question between the boiler-makers and the Commissioner was whether the minimum should be 11s. per day or 11s. 6d. per day. It was distinctly denied by the Boiler-makers' Society that 11s. per day was the ruling rate outside. The facts contradicted the assertion that the men all along knew they were to do without their privileges. Had they known all along, they would not have waited until a day before the holidays arrived to move in the matter. The Minister had the assurance of Mr. Carpenter, a very old member of the society, who was present at all the conferences with the Commissioner and who communicated with the Commissioner as late as Friday last, though unable to get "yes" or "no" from him, that the men were taken unawares. The men wrote to the Commissioner last week and asked him for information as to whether the statement unofficially made at the work-

shops that they were not to get their holidays and passes, was true; and the Commissioner wrote in reply that the matter would receive consideration. Now, had the Commissioner given the men the information at the various conferences, where did the necessity come in for considering the matter? The men were not asked by the Commissioner to sacrifice a penny of their wages. They were asked to remain on under agreement at the existing wage *plus* the privileges, and all they asked now was what the Commissioner asked them to accept at the conferences. The Commissioner said he was willing to do so if the men would agree that future employees should start work at 6d. per day lower than the existing rate. The men did not think this a fair thing; and no body of men holding an opinion that a certain ruling rate of wage was fair, would be justified in sacrificing the interests of those not yet appointed by accepting a lower rate for future employees. All the circumstances pointed to the correctness of the statement that Mr. Carpenter and other offiers of the Boilermakers' Union had no definite information until yesterday evening, when they interviewed Mr. George, that they were to be refused these holidays and passes.

Amendment (to reduce) put, and a division taken with the following result:—

Ayes	...	...	...	11
Noes	...	...	...	11
A tie	...	...	...	0

AYES.	NOES.
Mr. Bath	Mr. Burges
Mr. Hastie	Mr. Ewing
Mr. Johnson	Mr. Gordon
Mr. Moran	Mr. Gregory
Mr. Oats	Mr. Hayward
Mr. Pigott	Mr. Hopkins
Mr. Purkiss	Mr. James
Mr. Reid	Mr. Quinlan
Mr. Taylor	Mr. Rason
Mr. Thomas	Mr. Walter
Mr. Daglish (*Teller.*)	Mr. Higham (*Teller*).

THE CHAIRMAN gave his casting vote with the Noes. He understood it was the practice for the Chairman of Committees in such circumstances to vote for the item as printed.

Amendment thus negatived.

Item — Chief Locomotive Inspector, £700:

MR. REID: Why this new appointment at such a large salary?

THE MINISTER: No appointment had yet been made; but it was considered necessary to obtain a highly qualified man to act as an understudy to the Chief Mechanical Engineer.

Item—Railway Storekeeper, £350:

MR. JOHNSON: Why this increase of £50? A new officer did not deserve an increase before he had proved himself capable. He (Mr. Johnson) moved:

That the item be reduced by £50.

THE MINISTER: The salary, even if increased, was not large; and the officer, by his excellent work, had fully justified the appointment, and would at £350 be somewhat underpaid.

MR. MORAN: It was almost amusing to hear "excellent work" stated as a reason for this increase, when Mr. Abbott, whose work was admittedly excellent, had been dismissed from a similar position after holding it for eight years. The Committee ought to signify their disapproval of this appointment by reducing the item.

THE MINISTER: Mr. Loveridge had effected marked improvements in the working of the stores.

MR. MORAN: How did the Minister get that information?

THE MINISTER: By comparing notes with the Treasurer, who, if here, could speak from personal experience of the great improvement made by Mr. Loveridge.

MR. HIGHAM: That an injustice had been done to Mr. Abbott was no reason for not recognising the merits of Mr. Loveridge. Deal with Mr. Abbott's case on the Government Railways Bill.

MR. MORAN: Mr. Loveridge was to get this increase on the recommendation of his late partner, to whom he owed his appointment.

MR. GORDON disapproved of interfering with the internal working of the department. Mr. Loveridge had been a storekeeper almost from his infancy, and was the right man in the right place; yet the Commissioner was to be censured for appointing him. The Commissioner should be given a free hand, and these continual accusations of favouritism be dropped.

MR. DAGLISH could not altogether agree with either side; but as far as he could judge from limited oppor-

tunities for forming an opinion, Mr. Loveridge was a fairly good man. But this position had been assessed as worth £300 a year when Mr. Loveridge was appointed three or four months ago. He received the appointment at that rate, and within two or three months it was proposed to give him an increase of £50. It was unreasonable to make an assessment this month of a position, and within less than half a year to say the position had increased in value by £50. He knew subordinate officers in this department who had given seven or eight years' service, and their merit was recognised by having an hour or an hour and a-half put on to their daily time. What was good for a man low down in the service might not be a bad thing for the heads of branches. We were too fond of recognising the merit of those in the higher positions, but with subordinate officers merit was recognised by increasing their work, responsibilities, and hours. He would vote for the amendment.

MR. MORAN: The amendment had been moved to signify disapproval of the action of the Commissioner, and this was the only way to do it. A specious argument had been dragged into the debate. The Minister led members to believe that Mr. Loveridge was responsible for the improvement which had taken place in the stores department, but it was nothing of the kind, for the Treasurer had done the whole of the work. Mr. Abbott never had an opportunity of making any improvement. The work Mr. Loveridge was doing under the present system Mr. Abbott never had an opportunity of carrying out. We were dealing with the principle of Mr. George doing away with a good officer for no reason.

MR. PIGOTT: The opinion of the Committee could be taken on this matter without damaging the present storekeeper. He (Mr. Pigott) had given his word that he would not vote to reduce any officer's salary, no matter how much it was increased. We could get an expression of opinion against the way Mr. Abbottt had been treated on condition that the amendment if carried would not have the effect of striking off the amount.

MR. GORDON objected to the construction placed on an interjection which he had made to the member for West Perth. He had only spoken of Mr. Abbott in connection with the railway stores department, and he knew that for years the department had been mismanaged and Mr. Abbott was in that department, which was quite sufficient for him.

MR. MORAN: We all knew that the government of the country was mismanaged, and as the member for South Perth was on the Government side, that was enough for him.

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

Ayes	...	...	9
Noes	...	..	13
Majority against		...	4

AYES.	NOES.
Mr. Hastie	Mr. Bath
Mr. Johnson	Mr. Burges
Mr. Moran	Mr. Ewing
Mr. Oats	Mr. Gardiner
Mr. Pigott	Mr. Gordon
Mr. Reid	Mr. Gregory
Mr. Taylor	Mr. Hayward
Mr. Thomas	Mr. Hopkins
Mr. Daglish (*Teller*).	Mr. James
	Mr. Purkiss
	Mr. Rason
	Mr. Walter
	Mr. Higham (*Teller*).

Amendment thus negatived.

Item—New works and improvements, £25,000:

MR. DAGLISH: Had the Minister any schedule of the new works and improvements to be carried out? In the district he represented there were two railway stations which it was almost impossible to walk across at night-time owing to the bad light. It had been suggested to the Commissioner that he should provide electric light at the moderate price which the municipality of Subiaco was prepared to charge for it, and the railway stations could then be lighted in a proper manner. The Minister might impress on the Commissioner the desirability of this. As far as West Perth on one side and Claremont on the other side, the stations were efficiently lighted, but the two stations in his electorate were very badly lighted. It was quite impossible to find one's way on the ordinary station platform, much less over the footbridge connecting one platform with another. Subiaco and Leederville

had a population of about 9,000 individuals, and connection was desired at the Leederville station between the two municipalities by means of a subway. All the school children had to use the present level crossing, which was very dangerous. The line ran at an awkward angle, and just at this spot the train passed through a deep cutting. There had been some narrow escapes from accidents, and there was a great liability of serious injury being done. There were less important works in other parts of the country which might wait a reasonable time until the important and pressing needs of the State were carried out.

MR. BATH: In the past the Government and Parliament made a very foolish deal when committing the country to the railway between Kalgoorlie and Kamballie. There was a tram line to the Boulder Block which came into competition with the Government railways, and there was a line which went to Golden Gate and took a sweep to Boulder. Naturally the people took the tram to the Boulder Block, with the result that the Government lost a good deal of revenue on this line. A train for freight purposes ran from the Fimiston Area to the Horseshoe mine. Could the department build a station at Fimiston and run a train there to secure the traffic round that district to the railway? Some few months ago the Government gave a much better service of trains on the Boulder line at reduced fares. Had the result been beneficial? If so it would justify the Government in making a similar departure with regard to the Brown Hill loop line. There would be an increased passenger traffic on that line if a more frequent service were run. At present there were one or two hours between each train.

At 1 o'clock, midday, the CHAIRMAN left the Chair.

At 2·15, Chair resumed.

MR. JOHNSON: The loop known as the Horseshoe loop on the Boulder line was used for goods traffic only. People patronised trams because they would have to walk half a mile to a train, and it would be an advantage to the State if the Government would run passenger trains over that line for the convenience of those travelling so much on the Hannans Belt, even if only on Saturday evenings and holidays. He would not advocate that an expensive station should be erected, but a platform. We did a bad thing in granting the tramway concession, and our next duty was to get as much of the traffic away from the trams as possible. He was pleased the Government had put more trains on the Boulder line and had reduced the fares. There had, he felt sure, been a big increase in traffic.

[MR. QUINLAN took the Chair.]

THE MINISTER: The sum of £25,000 was not a very large amount for new works and improvements over 1,500 miles of railway. It was intended to erect new shunting sheds at different places where they were required, and to carry out other works of that kind. He had made a note of the suggestion by the member for Subiaco, and also of the suggestions of the members for Hannans and Kalgoorlie, which were well worthy of consideration.

MR. MORAN did not like talking about his own constituency; but he hoped the Minister would not neglect the West Perth railway station. There were 7,000 people in that locality; yet this station was a disgrace. The other stations between Midland Junction and Fremantle were nicely built, but at West Perth there was a shanty; and the last work done there made the station worse than it was before. Was it not possible for an arrangement to be made whereby tickets could be issued on both sides of the platform? There were one or two little footbridges required in connection with those loco. yards between Melbourne Road and William Street. As to the Boulder Block, he recommended the Minister to be very careful before starting to run traffic through that block without making due inquiry. It was a mass of sidings running into mines. That country had been better served by the Government than any other part of Western Australia, the amount that had been spent there in railways being marvellous.

MR. HAYWARD suggested the erection of a platform at Wokalup. There was a great mass of traffic, and he thought this was the only station along

the line at present where there was not a platform.

MR. GORDON wished to bring Woodlupine under the notice of the Minister. He hoped the hon. gentleman would see that justice was done to it.

Item—Replacing obsolete rolling-stock, locomotives, etc., £33,787:

MR. HASTIE: Presumably some portion of the amount would be expended at the new Junction Workshops. It had been mentioned that we were in the fortunate or unfortunate position of having at least 50 or 60 locomotives in this State that needed some little repair, and could not be repaired. Presumably when the Junction Workshops were set going these locomotives would be repaired and be able to be used. Of this vote, £16,000 had to be devoted to the purchase of four new locomotives for the Upper Darling Railway—a little ornamental railway which was not expected to do much work, and which so far as he could learn could be easily served by some of the small locomotives we had at the present time, if those locomotives were repaired. If the order had not been sent for these four locomotives, he would wish the Minister to take into consideration whether it was wise that so much money should be devoted to that purpose.

MR. DAGLISH: Recently he had occasion to draw the attention of the Commissioner to the very great need that existed for a better train service as far as his constituency (Subiaco) was concerned. Whilst not denying there was such a demand, as the trains were continually overcrowded, especially during certain hours of the day, the Commissioner told him the trouble was that the department had not sufficient rolling-stock to increase the travelling facilities. There was a tramline competing with the railway, and the tram had all the advantage of a far more frequent service, and always would have that advantage. The Railway Department was losing a large amount of traffic simply because there were not adequate facilities provided for the travelling public. It seemed that the people living a little farther along the railway were unduly catered for by expresses running as far as Claremont; but the most effective system of economising our rolling-stock was to run certain trains as far as Subiaco and back again. Certainly Subiaco and Leederville required more carriage accommodation, and he hoped an adequate supply of rolling-stock would be provided so that traffic, which otherwise might be secured, would not be lost to the department.

MR. TAYLOR had counted 35 engines out of repair at one spot, and an engine-driver who had driven a number of these locomotives had informed him that with very little expense they could be put on the roads again. Though some of them were small engines not suitable for the Eastern Railway, with very little repair they could be put on roads with easy grades. At present these engines were rusting because they were not looked after.

THE MINISTER: It was anticipated that a start would be made with the Midland Junction Workshops so as to repair locomotives and rolling-stock early in the new year, and that would bring about a better state of affairs. No doubt a number of engines were awaiting repairs, but that was because we had no place where we could repair them. None of the engines referred to in the Commissioner's report would be ordered. The item on the Estimates was to scientifically adjust the upkeep of the rolling-stock at a certain standard, and the amount represented one twenty-fifth of the value of the existing rolling-stock and locomotives, which sum was set aside year by year for keeping up the condition of rolling-stock.

Vote put and passed.

This concluded the Estimates for the year. [2·30 o'clock, afternoon.]

Grand total of Estimates (reduced to £3,059,254 9s. 4d.) put and passed.

Resolutions as passed in Committee of Supply reported.

RECOMMITTAL.

THE ATTORNEY GENERAL moved that the Estimates be recommitted for the purpose of reinstating the item *Crown Law Offices*, Under Secretary, £550. Members had taken this item for a test vote, and as there was a slight misapprehension the item was reduced by £100. It was the opinion of the House that the £100 struck off should be reinstated, and he had promised to do so on recommittal.

MR. REID: Could the Estimates also be recommitted for the purpose of reducing the item "Registrar of Friendly Societies, £500?"

THE SPEAKER: As that item had not been interfered with the Estimates could not be recommitted for the purpose.

Question passed, the Estimates recommitted.

ATTORNEY GENERAL'S DEPARTMENT (Hon. Walter James, Minister).

Crown Law Offices—Under Secretary, £550:

THE ATTORNEY GENERAL moved that the item be reinstated at £550. As this was the first salaried item on the Estimates it was attacked to affirm a principle. Some misapprehension arose on it, and the item was reduced and the principle affirmed; but the opinion was expressed by the leader of the Opposition that the item should be reinstated. The increase to the officer's salary was most deserving, and the officer was a most capable man.

MR. MORAN: It was impossible to move this in Committee without a Message from the Governor.

THE ATTORNEY GENERAL: This was not an increase. It was only moving to reinstate.

THE MINISTER FOR LANDS: The same step was taken previously in the case of Eliot last year.

MR. MORAN: The Premier promised to have a Message brought down. The Premier could not play ducks and drakes with the Estimates.

THE MINISTER FOR MINES: The procedure was correct, so long as the amount was not increased.

THE CHAIRMAN: The original amount came down by Message from the Governor. It was now for the Committee to decide whether it would reinstate the item.

MR. MORAN: As it now appeared the original amount was £450, the salary the Committee agreed to give to this officer, the item should not be increased. If we cut down the Estimates by £100,000 the Government could not reinstate the amount, and the same principle must apply to £100.

THE CHAIRMAN: The Governor had already recommended the amount as it originally appeared on the Estimates. The question now before the Committee was to reinstate that amount. It was for the Committee to say "aye" or "no." The motion was in order.

Motion put and passed, the item reinstated at £550.

Farther resolution reported, and the report adopted.

IN COMMITTEE OF WAYS AND MEANS.

Resolution passed, giving effect to the votes of supply already agreed to, and granting the required amount out of the Consolidated Revenue Fund.

Resolution reported, and the report adopted.

COLLIE-NARROGIN RAILWAY BILL.

COUNCIL'S AMENDMENTS.

Schedule of two amendments made by the Legislative Council now considered, in Committee; Mr. QUINLAN in the Chair.

No. 1—Clause 4, line 5, before the word "stated" insert the words "not being less than one thousand acres in extent, and the property af one owner":

THE PREMIER: In dealing with this Bill, we passed clauses giving compulsory power of purchase. The Council now suggested that the power of purchase should not be less than an area of 1,000 acres. That was perfectly fair, for one could hardly imagine a case where we would buy less than a thousand acres for closer settlement. In our Land Act we gave a man the right to hold a thousand acres. [MR. BURGES: Of first-class land.] We were not likely to buy third-class land for closer settlement purposes. While he agreed with the substance of the amendment, its wording was open to misconstruction, for the clause now might limit the Government's purchasing power to 1,000 acres on the whole line. He now moved that the words "not being less than 1,000 acres in extent and the property of one owner" be struck out, and "in parcels of not less than 1,000 acres, each parcel being the property of one person, or two or more persons jointly or in common, and" be inserted in lieu. The effect would be that the Crown could not compulsorily purchase

any area less than 1,000 acres from any one person, or from any joint tenants or tenants in common.

MR. MORAN: This was tinkering with the principle of compulsory purchase, and would prevent the Government from buying a desirable piece of land 990 acres in area.

THE MINISTER FOR LANDS: No areas of less than 1,000 acres were repurchased for closer settlement.

Question passed, the amendment as now amended agreed to.

No. 2—Clause 4, line 9, before "reported" insert "favourably":

THE PREMIER: This amendment seemed unnecessary; for surely the Minister would not purchase after receiving an unfavourable report from the board. But by way of abundant caution, he moved that the amendment be agreed to.

Question passed.

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

JANDAKOT RAILWAY BILL.

COUNCIL'S AMENDMENTS.

Schedule of two amendments made by Legislative Council now considered in Committee. MR. QUINLAN in the Chair; the PREMIER in charge of the Bill.

THE PREMIER: These amendments were exactly the same as those we had just considered in the Collie-Narrogin Railway Bill. He therefore moved that No. 1 be amended similarly to the first amendment in that Bill, and that No. 2 be agreed to.

Question passed.

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

GOVERNMENT RAILWAYS BILL.

IN COMMITTEE.

Resumed from 17th November. MR. QUINLAN in the Chair; the MINISTER FOR RAILWAYS in charge of the Bill.

MR. DAGLISH: Clause 24 had, apparently in error, been allowed to pass without discussion. He desired an opportunity of amending it on recommittal.

Clause 25—agreed to.

Clause 26—Special agreements:

MR. HASTIE: What difference did this make to the Commissioner's position regarding insurances?

THE MINISTER: No difference. A similar clause was in every Railways Act.

Clause passed.

Clause 27—agreed to.

Clause 28 — Power to collect and deliver goods outside limits of railway:

MR. ATKINS: Had the Commissioner the right to fix railway rates?

THE MINISTER: By Clause 22 he could fix charges; but these were subject to Ministerial control.

Clause passed.

Clauses 29 to 34—agreed to.

Clause 35—Actions by the Commissioner:

MR. HASTIE: This and the next clause seemed to alter the Commissioner's position. Under the existing law the Commissioner was a corporation sole, and could be sued quite apart from the Government; but Clause 35 was differently worded from the corresponding section in the existing Act, and Clause 36 mentioned suits, claims, etcetera, against the Crown, evidently meaning that whereas the Commissioner could now be sued as a common carrier, in future plaintiffs would have to proceed by petition.

THE PREMIER: Clauses 35 and 36 did not affect that question at all. At present, the Commissioner could be sued as a common carrier for loss of goods, and for similar claims in respect of a common carrier's functions; but a person claiming for personal injuries must sue the Crown. The Bill sought to make the Commissioner the sole defendant in any action for damages in relation to the Government railways. We fixed one person against whom actions could be brought instead of having two.

MR. HASTIE: That was the law at present.

THE PREMIER: No. If a person was run over by a train the Crown had to be sued, but if an action was brought for breach of contract over the carriage of goods the Commissioner of Railways was sued.

Clause passed.

Clause 36—agreed to.

Clause 37—Notice and commencement of action:

MR. HASTIE: This clause limited the liability of the Commissioner for loss or

damage. Would the Premier explain the difference between this clause and the section of the existing Act?

THE PREMIER: The present Act provided that the Commissioner of Railways was liable as a common carrier, and the liability of a common carrier was a very extensive one. It was supposed in days gone by when highway robbers infested the old country that if the liability was not cast on a carrier, there might be collusion with a highway robber, and the carrier find himself robbed; therefore a special obligation was cast on a common carrier, making him an insurer. He had to deliver the goods unless an act of God or the King's enemies prevented him from doing so. Goods might be handed over to a wharfinger, or a bailee, or a warehouseman, who were not subject to that liability. In practice the law did not exist, because all common carriers such as steamship owners, and in the old country railway companies, imposed restrictions by regulations and conditions of contract; the conditions being indorsed on the bill of lading. To avoid the expensive liability as a common carrier there were special regulations which limited the right of the carrier and placed him in the position of not being liable for negligence very frequently. Under the law to-day the liability of the Commissioner as a common carrier was subject to the same conditions as those indorsed on the contract. Clause 37 provided that the liability of the Commissioner should be a liability for negligence. That was a fair share of liability, and persons could not go beyond that. The Commissioner would not be liable if there was not negligence. The Commissioner had to deliver the goods unless through the act of God or the King's enemies he was prevented from doing so.

MR. HASTIE: If the goods were lost what happened? Goods were always being lost on the railways.

THE PREMIER: It depended on the regulations; there were different regulations for different companies in the old country. The Commissioner of Railways would be a common carrier quite apart from the Bill. In the old country it was found that there were so many restrictions and conditions imposed by railway companies that they became unreasonable, and a special law was passed saying that where the conditions imposed by the contract of the company were unreasonable the conditions should not hold good; but despite that condition by Parliament at present companies limited their liability in an astonishing way. In the old country people who wished to sue a railway company had no way of succeeding unless they established negligence, and very often if they established negligence they could not succeed. If the conditions were unreasonable the carrier could be attacked. A special section of the Act was required in the old country dealing with unreasonable conditions, but that related only to railways. The conditions would not apply to shipowners.

MR. BUTCHER: Could any private firm make regulations overriding the law of common carriers?

THE PREMIER: A private firm would say, "I cannot accept the liability of common carriers; I will make a contract with you," and a contract was held by the courts of law to be made by the signing of the consignment note which contained the conditions on the back of the note, very often in print so small that it required a magnifying glass to read them.

MR. ATKINS: The clause in every way took away the liability of the Commissioner. Goods were sent to the Railway Department for delivery, but the Commissioner did not deliver them. If the clause was passed no satisfaction could be got out of the Railway Department. Supposing goods were stolen, unless negligence was proved (and the man who lost the goods had to prove negligence), damages could not be recovered.

THE PREMIER: There were insurance rates under Clause 26.

MR. ATKINS: Unless an action was commenced within three months a person would be out of court, and no action could be commenced against the Commissioner until one month after notice had been given. Supposing goods to the value of £1 or £2 were lost, notice had to be given of a claim for damages, and then the person had to wait one month before proceedings could be taken. If

the person waited three months, then he was out of court.

MR. BURGES: There were lots of sidings at country places where there was no one in charge to receive goods, and the Government officers threw articles out of the train on the ground, and frequently they were lost. If the Commissioner was made so independent, no one would be able to get any satisfaction.

MR. HASTIE moved as an amendment:

That the clause be struck out.

It had been inserted for the special purpose of saying that if a person could not prove negligence, the Commissioner was not responsible for goods carried unless people paid a special insurance rate. He was not aware of the exact difference between this provision and that in the present law, but as the Premier was quiet in that respect he took it that this clause was a reversal of the present law on the subject. A large number of people in this country had to depend absolutely on the railways; in many instances they would have no redress if a clause of this kind were passed. There must always be a certain percentage of stealing and pilfering in a big railway system, also a risk of some goods going to the wrong place. A considerable quantity of goods sent to the goldfields had found their way to York and other places of that kind, and it was little satisfaction to people on the goldfields that their loss was York's gain. Instead of making it much more difficult for people to get satisfaction from the railways, we ought to enforce the present law as strongly as possible, so that the Railway Department should make good anything it did not deliver at the destination. The railway people took a certain liability by undertaking to send goods from one part of the country to the other, and if they did not deliver the goods, the department ought to lose. If we passed this clause, it would not put down pilfering, but it would practically say to the railway people, "It does not matter whether you steal or not, or what you do, the Railway Department is not liable." He would vote against the clause, unless the Minister was prepared to very considerably modify it.

MR. MORAN: There was no reason to suspect that a railway servant was any more dishonest than the ordinary working miner. We must not put pains and penalties on the railways, and make them lose all their profits. In what States of Australia was the present clause the law? [MEMBER: It was not the law anywhere.] If this was something new, he would like to hear the matter farther explained.

THE MINISTER: The law in every Australian State was the same as it was here at present, that being that the railways were common carriers. If this clause did not pass, there would be nothing to prevent the Commissioner from doing what the Premier pointed out—obtaining all the effect of this clause by making provision on his consignment notes that goods sent from so and so would only be carried subject to the following conditions, those conditions appearing on the back of the consignment note.

MR. MORAN: The Minister would have to approve of anything like that.

THE MINISTER: Yes.

MR. MORAN: The Minister would not do it against the wish of the House.

THE MINISTER: Certainly not. In certain cases already common carriers contracted themselves out of their liabilities by the regulations and conditions which they put upon their consignment notes and bills of lading. What was sought here was that the liability of the State should be a fair and reasonable one.

MR. HASTIE: There was no liability here.

THE MINISTER: There was a great deal of liability. One sent goods to be carried from Perth to Kalgoorlie for which he was charged so much, and the charge was a fair and reasonable one for the carriage of the goods. Over and above that we imposed a liability that there should be reasonable care, no negligence, no misconduct on the part of any officer or servant, and every care was to be taken to see that the goods arrived at their destination in good order and condition.

MR. MORGANS: But one had to adduce proof; that was the trouble.

THE MINISTER: That liability was manifest. As regarded loss, he thought it an open question whether a loss, pilfering for instance, would not in

itself be evidence of want of care. In regard to passengers no claim for damages or injury to a passenger arose unless one could prove negligence. A mere accident was not in itself enough to entitle the injured person to damages. Why should there be a greater liability on the Commissioner with regard to the carriage of goods than in relation to the carriage of human beings?

MR. ATKINS: No one could steal a human being.

THE MINISTER: It was hardly likely to occur. It seemed rather a contradiction that one could carry human beings and only be liable in respect of an injury to them in the case of negligence, and yet in the case of goods be liable whether there was negligence or not.

MR. ATKINS: Because goods were stolen.

THE MINISTER had already said it might be argued that the mere fact of their being stolen showed want of care on the part of the carrier. He was asked whether a similar condition existed in the other Australian States, and he was bound to say it did not. He believed it existed in Ceylon.

THE PREMIER: Provisions in this clause appeared elsewhere. The question was as to Subclause 1.

MR. HASTIE moved that Subclause 1 be struck out.

MR. PIGOTT: The whole clause was to his mind inserted in order to relieve the Commissioner of the ordinary liability which every common carrier had to bear. We understood from the Minister that the Commissioner had the right to make conditions on the consignment note which would have precisely the same effect as this clause if passed. He (Mr. Pigott) joined issue with the hon. gentleman in that matter, because many cases had been tried in which shipping companies put certain conditions on their bills of lading which were contrary to the ordinary law.

THE PREMIER: No such cases were in existence. He was a lawyer, and spoke with authority.

MR. PIGOTT: There were, he thought he could vouch, many cases.

THE PREMIER: Absolutely none.

MR. PIGOTT: A big case in Victoria, in which he was interested, came on in the Supreme Court, lasting something like four days, and notwithstanding the conditions on their bills of lading the company were forced by the Court to pay.

THE PREMIER: What was the point the Court had to determine?

MR. PIGOTT: If we passed this clause as it stood to-day, the Government would relieve themselves practically of all liability, unless the complainant could prove there had been negligence.

THE PREMIER: If we struck Subclause 1 out, we reinstated the present law.

MR. HASTIE: Would the hon. gentleman approve of a Bill whereby the Commissioner would contract himself out of liability?

THE PREMIER: We would leave the law as it stood.

MR. PIGOTT: A number of members were, he thought, under a mistaken idea, and might think that if this clause were not inserted in the Bill the railways would be responsible for any goods such as a hand-bag or anything of that kind left by a passenger.

THE PREMIER: That would not be the case.

MR. PIGOTT did not think it would. It would be most unfair to make the Commissioner liable. A great many complaints had been made lately about goods having been left in the carriages. The management of the railways should be brought to such a state of perfection as to almost guarantee the return of any goods left in a train.

MR. ATKINS: It was not so now.

MR. PIGOTT: There must be a screw loose somewhere, because he did not see how a railway servant could march off with any goods left in a carriage.

MR. MORGANS: What about goods consigned?

MR. PIGOTT: We should not treat the Commissioner in any way but as an ordinary carrier, and the railways should not be relieved of their responsibility. As this was such a contentious clause it might be left out of the Bill, and an amending Bill might be brought down next session. It was too late to argue the matter now.

MR. MORGANS admired the skill and wisdom of the Premier in fighting on behalf of the State; but the clause meant that the railways were to be relieved from every sense of responsibility with

regard to the loss of goods. It was true there was a saving clause, and a legal mind like the Premier's could point out that it was a splendid clause, providing for losses caused by negligence; but one might as well try to prove there was an emperor of Mars as to prove negligence against the railways.

THE PREMIER: Did the hon. member think it was impossible to conceive negligence?

MR. MORGANS: It was one of the easiest things in the world to conceive negligence. This was a dangerous clause, and as the Government had an absolute monopoly of the railways, a far more dangerous clause than it would be if railways were in the hands of private capitalists, because 99 people of 100 would prefer to lose an article rather than commence an action against the Commissioner. The Premier might just as well put in a clause to say that one could not bring an action against the Commissioner without a petition of right. Cases had been brought in English courts against railway companies on the question of by-laws, and in every case the companies had gone down, because the courts naturally said that the railway companies had no right to establish laws, and that the law of England would not recogise any companies' laws in opposition to the common law of the country. It would be far better in the interests of the country if the clause were removed from the Bill, as it would be absolutely impossible for anybody to prove a loss against the Government.

THE PREMIER: If the clause were struck out the old law making the Commissioner a common carrier would be reinserted.

MR. MORGANS thought the old law far more reasonable. Although members should protect the State, there was a duty to protect the public also.

MR. FERGUSON: Was it not a fact that, if the Commissioner of Railways received goods in good order and failed to deliver them, or delivered them in bad order, it was *primâ facie* evidence of negligence on the part of the railways?

THE PREMIER: Unless the bad order was due to some inherent defect. If we said that a person was liable for negligence, and that certain facts were *primâ facie* evidence of it, it did not affect the measure of liability of the person concerned. The difficulty mostly arose on things not delivered. Unless direct evidence could be given to say there was neglect on the Commissioner's part, the onus would be on the private individual. If it were a case of a mere loss of an article, and if the Commissioner refused to say anything, the Court would call upon him to make an explanation; but if the Commissioner said that he kept a watchman to look after the goods, it would exonerate him at once, because his explanation would have to be received, or the person would have to indicate where the negligence existed. In the case of a common carrier, whether there was negligence or no negligence he was bound to deliver the goods. This was the obligation accepted by no other person than a common carrier. If this subclause were struck out we would have to put in a new subclause containing the words of the old Act.

MR. HASTIE: Would a clause be required to limit the time in which an action could be brought.

THE PREMIER: There should be a time limit in which an action could be brought?

MR. PIGOTT: The State would protect all goods of any person who liked to send them over the railways. The railways should give a receipt for the goods, charge for them, and deliver them and accept responsibility for not giving delivery; but the Commissioner could make by-laws with regard to the carriage of goods, and with regard to their delivery within a certain number of hours, providing that storage must be paid in event of a person not taking delivery. But the clause as it stood was objectionable, for if there were pilferers on the railways it would encourage them to pilfer.

MR. DIAMOND: Again and again steamship companies had tried to contract themselves out of their liability as common carriers, and had failed on every appeal to the Privy Council. The principal clauses in the ordinary bill of lading were by English law *ultra vires*. We should not allow the Commissioner of Railways, who was a common carrier, to contract himself out of his liability as a carrier.

MR. CONNOR: Though the member for Kanowna (Mr. Hastie) frequently spoke at inordinate length, he at once cried "question" when a member on the Opposition side rose to speak. The opening words of the clause "No action shall be maintainable against the Commissioner," showed how dangerous was the provision. We knew that pilfering went on in the department. The majority of packages sent in guards' vans arrived nearly empty. Cases of fruit put in certain vans arrived wholly empty. What remedy had the owner if on him rested the onus of proving that the guard stole the fruit? Sheep were carried inland in sealed trucks; but the railway officials, or people in collusion with them, unscrewed the tops of the trucks and stole the sheep. To his (Mr. Connor's) absolute knowledge that had occurred again and again. We must be careful to prevent the Commissioner from contracting himself out of his liability for such thefts. No attention was paid to complaints. The Premier stated he had no objection to striking out the clause; but his servile following would nevertheless vote for its retention.

MR. THOMAS: Some Labour members, after speaking on the clause, objected to any Opposition members speaking. He had suffered in the past from pilferings on the railways, he and properties he managed being fairly good customers of the department; but the clause would greatly aggravate the evil. When on the goldfields he had never yet received a case of spirits intact; and it was unfair that the whole onus of proof of stealing should be thrown on the consignee. The sub-paragraph should be struck out.

Amendment put and passed, and the sub-paragraph struck out.

[Sitting suspended for 10 minutes.]

THE PREMIER: In accordance with the wish of the Committee, as indicated by the striking out of the subclause, he moved that the following stand as Subclause 3:—

> The Commissioner shall be deemed to be a common carrier, and except as herein provided, shall be subject to the obligations and entitled to the privileges of such carrier.

MR. HASTIE: These obligations and privileges were not specified.

THE PREMIER: The Commissioner would be a common carrier.

Amendment passed, and the clause as amended agreed to.

Clause 38—agreed to.

Clause 29 — Limit of liability for personal injuries:

MR. HASTIE: This clause limited the liability to £1,000; at present the limit was £2,000. What was the usual rule in other parts of Australia?

THE PREMIER: When the section of the present Act was introduced in the Assembly the amount was fixed at £1,000, but the Council raised the amount to £2,000. If a person wished to recover more than £1,000, it was open to that person to insure. If any member thought the limit should be £2,000 he could move that the amount be fixed at that figure. In New South Wales and New Zealand the limit was £2,000.

MR. THOMAS: What was the limit that could be recovered in an action against any ordinary firm, such as a shipping company or mining company, for injury or for loss of life?

THE PREMIER: For loss of life there was no limit except under the Workers' Compensation Act.

MR. THOMAS: Then why should the Government have a protection which private persons did not enjoy?

THE PREMIER: The law at present limited the liability of the Crown to the amount of £2,000.

MR. THOMAS: There should be no limitation for damages at all. If a man had an action against the Crown the jury should assess the damages. If a man were injured or lost his life in working for a shipping company or a mining company, or in driving a horse and cart, those dependent on him could sue the employer for injuries and the jury would assess the damages. The Government should not be granted any privilege that was refused to private individuals.

THE PREMIER: We did not refuse it.

MR. THOMAS: What could be done?

THE PREMIER: Vote against the clause.

MR. THOMAS: It was desirable there should be an expression of opinion from members. It seemed unfair that the Government should be protected when private individuals carrying on business were unprotected.

THE PREMIER: The principle was covered by existing legislation. If it was thought that £1,000 was too small, it could be increased.

MR. BURGES moved that in line 1 the word "one" be struck out and "two" inserted in lieu.

Amendment passed.

MR. THOMAS: The amount had been increased to £2,000, but he was opposed to the principle. The Government should not take powers to themselves which they would not confer on private people. There should be no limitation of damages unless the Government were prepared to bring in a Bill to say that no individual should have the right to sue anyone else for an amount exceeding £2,000.

Clause as amended agreed to.

Clause 40—No liability in certain cases:

MR. HIGHAM: The Commissioner was protected from damage to goods left at or consigned to any station or siding. What was the meaning of any station at which no officer was in charge?

THE PREMIER: It must be a station where there was no station-master.

MR. HIGHAM: Did the clause mean where there was no permanent officer in charge, or where there was one in charge for the time being?

THE PREMIER: The desire was to discourage the consigning of goods to stations where there was no one to receive them. The word "station" was used because there was a difference between a station and a stopping-place.

MR. BURGES: Many a little stopping place, with no station-master, earned £1,500 or £1,600 a year in freights; and the consignors should have as much protection as consignors in towns. The department were now responsible in case of proved negligence, and should continue responsible. The guards ought to act as station-masters, or other provision should be made for the protection of settlers.

MR. THOMAS: The subclause seemed to avoid liability for any personal injury suffered in or about such sidings, even if the injury resulted from the carelessness of a railway servant.

THE PREMIER: The idea was to enable such stopping-places to be utilised without fear of actions for damages. These places were for the convenience of scattered neighbourhoods. A person injured while getting out of a train might sue because there was no platform, or because of insufficient lighting. It was desired that persons using such stopping-places should use them at their own risk, thus encouraging the use of such stopping-places by the department, and benefiting settlers.

Clause put and passed.

Clause 41—Penalties for injuries to railways:

MR. HASTIE: Should not a person undermining a railway be penalised? Instances occurred at Collie.

THE PREMIER: The clause covered such offences.

Clause put and passed.

Clause 42—Penalties for grave offences on railways:

MR. THOMAS: It seemed unjust to prevent a man from driving across a railway when a train was within half a mile of the crossing.

THE MINISTER FOR RAILWAYS: The existing Act read, "a quarter of a mile."

MR. THOMAS moved that the word "half," in line 4 of Subclause 3, be struck out, and "quarter of" inserted in lieu.

Amendment passed, and the clause as amended agreed to.

Clauses 43, 44—agreed to.

Clause 45 — Penalties for offences relating to tickets:

MR. ATKINS: The American ticket system should be introduced, by which the tickets were transferable, and were marked as used. Ticket-scalping would then be prevented, and the tickets could be used whenever the holder desired to travel.

Clause passed.

Clause 46—Penalty for travelling without payment of fare:

MR. PIGOTT moved as an amendment that the words "or without," in line 1, be struck out. Before anyone was found guilty of such a charge, intent to defraud should be proved. A person entering a carriage without intent to defraud would be liable to a fine of £10.

THE MINISTER FOR RAILWAYS opposed the amendment. Proof of intent to defraud was often difficult. It was fair to assume the intent if a person

not holding a free pass travelled or attempted to travel without paying his fare. There was little likelihood of the Commissioner seeking to punish anyone unless there were strong reasons for believing that intent to defraud had existed.

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

Ayes	...	...	13
Noes	...	...	17
Majority against	...	...	4

Ayes.	Noes.
Mr. Atkins	Mr. Bath
Mr. Butcher	Mr Daglish
Mr. Connor	Mr. Diamond
Mr. Foulkes	Mr. Ewing
Mr. Hastie	Mr. Ferguson
Mr, Moran	Mr. Gardiner
Mr. Oats	Mr. Gregory
Mr. Piesse	Mr. Hayward
Mr. Pigott	Mr. Hopkins
Mr. Purkiss	Mr. Isdell
Mr. Reid	Mr. James
Mr. Thomas	Mr. Johnson
Mr. Burges (*Teller*).	Mr. Rason
	Mr. Taylor
	Mr. Wallace
	Mr. Walter
	Mr. Higham (*Teller*).

Amendment thus negatived.

MR. THOMAS: Subclause 3 was exceedingly harsh.

THE PREMIER had no sympathy with a man who paid his fare to travel a certain distance on the railway, and went a farther distance with the same ticket. The intention to defraud must be inferred from the action and the circumstances. A person travelling on a railway must know that he or she should have a ticket before getting into the train. For a *bona fide* mistake a prosecution was very unlikely.

MR. PIGOTT: At Cottesloe station, for instance, people travelling by train had to cross from one side the station to the other to get a ticket, and in doing so might lose the next train.

MR. BUTCHER knew that cases occurred frequently where people going to a railway station had not time to get a ticket, but must jump into the train or miss it. This clause would inflict great hardship.

MR. HASTIE: Persons who travelled frequently by railway should be able to purchase a number of tickets at one time, subject to the tickets being used within a month or some definite period.

MR. THOMAS: The Government would save a lot of supervision by acting on this method, as he suggested previously.

THE PREMIER agreed that it was worthy of consideration.

Clause put and passed.

Clauses 47 to 50—agreed to.

Clause 51—Penalty for offences by railway servants:

MR. DAGLISH: Subclauses (*b*) and (*c*) should be struck out. They were too drastic, for they provided that any railway servant who committed an offence against railway regulations or by-laws could be seized by any other railway servant and taken before two justices, without farther authority than this clause. It would give great power to any railway servant to seize any other railway servant whether superior or subordinate. Railway servants had to attend to a mass of regulations, by-laws, and instructions, these being added to by what was known as the weekly notice, which had to be read and studied by every railway employee; and if a railway servant committed a slight neglect in regard to any one of the hundreds of pages of by-laws, regulations, and instructions, no matter how trivial the offence or neglect might be, he would be liable under this clause to be haled before two justices. Subclause (*a*) might be left in, because there was some gravity in the offences there referred to.

MR. ATKINS defended the clause. It meant that if any person employed on a railway was drunk on duty, or did some act or neglected some work which might cause personal injury to any person or cause damage to property, he would be liable to a penalty. Any man who was drunk or committed offences such as the clause referred to, or did what was likely to cause any of the results mentioned, should be taken away from the railway at once. A man who was drunk or in a condition unfit to do his duty should not be allowed first to do damage, and then have to be taken away. He should be removed at once.

MR. DAGLISH: Subclause (*c*) might be modified by striking out the words "or might have caused," also "or might have been."

THE MINISTER FOR WORKS: Wait until the injury was done?

MR. DAGLISH: The clause placed it within the power of anyone to decide

what action, however trivial, might cause an injury, no matter how great. The clause gave great powers of interpretation to incompetent interpreters. He moved that Subclause (*b*) be struck out.

Amendment passed, the subclause struck out.

MR. DAGLISH moved that Subclause (*c*) be struck out.

MR. MORAN: This was a matter of more gravity. The purpose would be the same whether the injury were caused or not. He did not know if the power would be ever used. The man who was so careless as to allow something to happen that would cause loss of life had no right to be on the railways at all.

MR. DAGLISH: Would the Minister allow a modification of the subclause?

THE PREMIER: There was nothing dangerous in the provision. It had been in the New South Wales Act for years.

THE MINISTER FOR RAILWAYS: No injustice was likely to be caused. The clause was founded on the Act of New South Wales of 1901, and no complaint had been made about it. It was inserted to meet special circumstances, and it was a power that would not be exercised perhaps once in half-a-dozen years.

MR. HASTIE: We had already passed Clause 49, which stated that any person could be apprehended either by a police constable or a railway servant if that person did anything to cause injury or damage to property. Was this clause necessary?

THE PREMIER: The provision was placed in the original Act of New South Wales and was re-enacted in the law of 1901.

MR. BATH: Would it not be better to strike out the second paragraph of of Subclause (*c*), as there was sufficient power without it? There was no need to make railway servants police officers.

THE PREMIER: No railway servant would arrest another servant without urgent need for it.

MR. DAGLISH withdrew his farther amendment.

Clause as previously amended agreed to.

Clauses 52 to 56—agreed to.

Clause 57—Commissioner may lease railways:

MR. HASTIE: This was a new departure enabling the Commissioner to lease any portion of the railways subject to the approval of the Minister. He moved as an amendment that the word "Minister," in line 1, be struck out and "Parliament" inserted in lieu.

THE MINISTER: The member need have no fear. If members looked at Subclause (1) they would see that the letting would have to be by public tender, and according to the next clause the terms and conditions of the lease must be laid before Parliament not less than 30 days before tenders were called.

MR. DAGLISH: Why imply by the clause that it was the intention or desire of the State to lease any of the railways? If there came a time when we wished to lease any particular railway, why not pass a special Bill for the purpose? He moved that the clause be struck out.

MR. MORAN: There was not the slightest danger in the clause, which was to be found in other Acts of Parliament. In Queensland one or two railways were shut up. Subsequently one of these lines was taken off the hands of the Government. In cases like that we should lease a railway to anybody rather than leave it unused. There was full power and protection by the matter being brought before Parliament.

MR. HASTIE withdrew his amendment.

Clause put and passed.

Clause 58—Unused land or buildings may be leased:

MR. ATKINS: This gave power to let land with a railway on it.

THE MINISTER moved that the words "with the approval of the Minister" be inserted after "may," in line 1.

Amendment passed, and the clause as amended agreed to.

Clause 59—Restaurant cars, refreshment rooms, bookstalls, etc., may be leased:

MR. THOMAS moved that the words "with the approval of the Minister" be inserted after "may," in line 1.

THE MINISTER: It was not right that the Minister should have control of these matters, which should be left entirely to the Commissioner.

MR. DAGLISH: We should provide that the Commissioner must call for tenders before granting such leases.

Amendment withdrawn.

MR. THOMAS moved that the words "after calling for tenders" be inserted at the beginning of Subclause (1).

Amendment passed, and the clause as amended agreed to.

On motion by MR. THOMAS, Clauses 60, 61, 62 amended consequentially.

Clause 63—agreed to.

Clause 64—Commissioner may make agreements for running powers:

MR. ATKINS: This seemed to give the Commissioner considerable latitude.

THE MINISTER: This was the New Zealand law and the existing law here.

Clause put and passed.

Clause 65—Power to close bridges, etc.:

MR. THOMAS: Could the Commissioner close for all time a public right-of-way? Owners of land adjoining Pell's Crossing, recently closed, alleged that an easement for which they had paid had been forfeited.

THE MINISTER: The clause was sufficiently safeguarded, the power to close being subject to by-laws which had to be approved by the Minister and the Governor, and laid before Parliament. A right-of-way might be closed during repairs, or in the interest of public safety. It might be necessary to close a bridge temporarily and promptly. This was the existing law.

Clause put and passed.

Clause 67—agreed to.

Clause 68—Power to clear land:

MR. BURGES: Apparently the Commissioner sought power to burn off his land, regardless of the Bush Fires Act.

MR. THOMAS pressed for an explanation as to the meaning of the clause.

MR. ATKINS: This clause might be amended by inserting the words "subject to the provisions of the Bush Fires Act." A fair meaning would be that the Railway Commissioner should have a right to clear the land. An unfair meaning would be that the Commissioner should have power to burn off whenever he liked.

HON. F. H. PIESSE: If that were done, the Commissioner would be liable for any damage caused by the fire.

MR. ATKINS moved that the clause be amended by inserting the words "subject to the provisions of the Bush Fires Act."

THE MINISTER: The intention of the clause was that the Commissioner should have power to clear the railway within the boundaries at any time, notwithstanding the provisions of the Bush Fires Act of 1901. It was said, with some degree of justice, that weeds were allowed to grow along the railway line, and that sparks falling on them set fire to the weeds, and the fire might extend to adjoining land. The railway people were prevented by the Bush Fires Act from clearing by burning along the railway at times other than those allowed in the Bush Fires Act. The effect was that the Commissioner, if he wanted to burn off along any part of the railway, would have to give four days' notice and have four men present to prevent fire from spreading beyond the railway. The best way of avoiding damage by fire from railway engines was to clear the line, and the Commissioner could not be expected to do that with existing restrictions. If the power were given in this clause as proposed, and the Commissioner's men attempted to clear by burning off within the prohibited time, then if damage resulted from it the Commissioner would be liable for the damage. This clause did not seek to evade responsibility for any damage done as the result of burning off along the railway line.

MR. ATKINS: Was it clear that the Railway Commissioner would be responsible?

THE MINISTER: Undoubtedly he was liable.

MR. ATKINS recognised that if the Commissioner of Railways was to prevent fires resulting from sparks off railway engines, he must have power to get rid of the rubbish by burning or otherwise removing it before the month of March, or it would be impossible to keep the fires down, especially fires caused by sparks from engines. The Commissioner should not have the right to burn at any time, unless it was clear that he would be properly liable for damage caused by such burning.

MR. BURGES: It was evidently the intention of the clause that the Commissioner should have power to burn along the railway whenever he liked, and this being the last Act passed on the subject its provision in this respect would override any previous Act. What was the Bush Fires Act for but to stop damage from being done by the spread of fires?

People newly settled on the land, and especially young settlers, would say the railway people were burning off and why should not settlers burn off? He knew from experience that this was the way settlers were inclined to look at the matter. In one case he succeeded in stopping a fire near his place when there was great danger of its spreading, and the young settler's excuse was that he had seen railway people burning off a short time before. There was ground for believing that this provision was worded in such a vague way that it would not be understood by people generally. The Minister for Lands was trying to induce people to settle on the land, and here was a great risk that young settlers would follow the example of the Government in burning off during prohibited months. He, as an old settler, had lost heavily from this cause, and not got a penny in compensation.

MR. ATKINS: Would the Minister add to the clause words to the effect that the fact of any fire coming from the railway line should be *primâ facie* evidence of the liabllity of the Commissioner?

MR. BURGES: This year the season was late, and settlers could not burn off so early as usual. Now the railway people wanted power to burn off at any time.

MR. HAYWARD could not agree with the member for York. The Government would be liable for any damage caused by a fire spreading during the operation of burning off; but there was a greater danger to the farmer through the grass and rubbish not being burnt off, and being set on fire accidentally.

THE MINISTER: There was no attempt to avoid responsibility for damage caused by any action taken under the provisions of the clause. If any damage was done to people in the neighbourhood of the line through fires spreading from the growth on the lines, no doubt the railway department would be responsible. There was a very heavy growth during the present season, and it was found impossible to burn it off at the prescribed time. It might also be impossible to burn off at the prescribed time in years to come, and we should not have the hands of the department tied down to burn off during a certain period. The clause would operate to protect the farmer. It gave power to the railway department to clear the grass off at any time of the year notwithstanding the Bush Fires Act.

MR. MORAN: Would a private person burning outside the specified period be liable?

MR. BURGES: The man would be liable to imprisonment.

THE MINISTER: A private person would be liable for damages, also to imprisonment.

MR. BURGES: It would be better to have the burning off done under a proclamation under the Bush Fires Act. The railway department might meet the farmers in this respect, as they had done three years ago when an inspector went round and entered into an agreement with all the farmers. The wording of the clause could be twisted to suit the Commissioner, and would not operate fairly on the farmer. The original blunder was made when only one chain width was reserved alongside railways running through cleared land. At least three chains should be reserved along future railways. Collie coal could then be used with safety. There were few fires in the old days when only Newcastle coal was used except in stormy weather; but fires were frequently caused by sparks from engines using Collie coal. If a wider space were resumed along railways the farmers could live at peace, and would not have the prospect of seeing their homesteads burned out by careless railway servants. It was hard to replace what the farmer worked so many years to get together. Farmers could get no sympathy because they had received high prices last year for their produce, and now, because the farmers were in a minority in this House, the wording of the clause was to be forced upon them by an arbitrary man.

MR. PIGOTT was surprised at the length of the debate. The Bill had been before the House for a long time, and this matter must have been well considered. The Premier should deal out to those gentlemen sitting behind him the treatment which he dealt out to the Opposition, and in order that there might be no farther waste of time, should move "that the question be now put." We had already been one hour discussing

this clause, but as the Government supporters were doing the talking, the discussion was allowed to proceed so that there was now little chance of closing the session.

MR. TAYLOR: It was refreshing to hear the member for York finding fault with the Commissioner of Railways on matters affecting the farmer, but the clause only gave power to the Commissioner to carry out arrangements which would be of advantage to the farmer, and a safeguard to the finances of the State. The railway authorities should know the safest time for clearing the line. As the farming section of the Chamber took exception to the unlimited powers of the Commissioner in this regard and did not trust him, they should not trust him in matters regarding railway employees in which the Labour party took exception to the same unlimited powers.

MR. MORAN: As the member for York pointed out, if the clause was passed there would be fires lit by the railway men, and if the clause was not passed there might not be fires. It was better to accept the risk of accidental fires, than to accept the risk of men burning off along the railways. By clearing up the rubbish and stacking it there would not be so much danger, and he preferred to follow the guidance of the farmers in this case. It was right in an exceptional time to take exceptional precautions, but we should not pass an exceptional law for all time. Even if clearing entailed a little more expense than burning off, there was not so much liability of burning out the unfortunate settler. We were liable to make too little of the trouble of the farmers on these serious matters. Moreover, the farmers did not get one-tenth of the redress from the Government that they should, the Government shirking the matter in every possible way. How could the farmer prove his case? He agreed with the suggestion of the member for York as to resuming three chains of country.

MR. THOMAS protested against the proposal that to counteract these fires and encourage the Collie industry, bolstering it up to a farther extent than at present, the Government should buy three chains of country.

MR. BURGES: They would not buy it.

MR. THOMAS: Resume it. With regard to the statement by Mr. Burges, that if the session were not coming to its end he would move for certain returns, why did not the hon. member do his duty in moving for these returns earlier?

MR. BURGES: Because he himself was concerned.

MR. THOMAS: If he (Mr. Thomas) were concerned in anything in connection with his own constituency, he would take care to move for returns at the beginning of the session. He entered his protest against the hon. member finding fault as he had done on scores of occasions with members in different parts of the House, especially on that (Opposition) side, who spoke on a subject with which they were undoubtedly acquainted, and trying to hound them down.

THE CHAIRMAN: There was no necessity to discuss the conduct of any other member.

MR. THOMAS: Others discussed the conduct of members on that (Opposition) side pretty frequently, and the moment members on that side retorted or attempted to defend themselves, then, and rightly so, they were called to order.

MR. MORAN: Let the hon. member get on with bush fires.

MR. THOMAS: The question of bush fires could be discussed again under Clause 69.

MR. ATKINS suggested that the amendment he had already moved might be withdrawn and the following words inserted:—"Nothing within contained shall absolve the Government from liability for damage done to any person owing to such clearing, and fire coming from the railway land shall be *primâ facie* evidence of the liability of the Government."

MR. BURGES: The hon. member had better leave that alone.

MR. ATKINS: Then he would withdraw his original amendment.

Amendment by leave withdrawn.

MR. BUTCHER: There would be infinitely less risk to the country adjoining the railway side if we allowed the Government to do burning and clear up the rubbish on their reserve than if we refused to allow them to do so. He moved that the following be added to the clause:—"Provided that three days'

notice of such clearing be first given to the adjoining occupiers."

MR. BURGES: If the men were to go at night or early in the morning to do the work, there would be some chance of getting it done without danger. The inspector gave them certain days to do it, and they commenced. No man in his senses would burn when there was a strong easterly wind. He had seen places burnt before men's very eyes. We were improving the country all we possibly could, and now prices were coming down we wanted our grass. The Minister was taking every chance of throwing dust in people's eyes. The Government took money and made people carry out the provisions, making them clear the land, and causing them to spend on improvements the money they obtained, and then they came along and set two or three men to sweep them all out in about five minutes. It was all very well to say that one could get a remedy, but he asserted that no man could get a remedy for fire, even if he insured. He (Mr. Burges) had gained his experience with hard work, and was not afraid to go to any constituency and talk on questions of this sort. The producers of this country would have to come together and fight their battle.

MR. THOMAS: Let not the hon. member waste time.

MR. BURGES: That had not been done by him. He had not taken up so much time as the hon. member. He was fighting his cause, and he had a right to do so.

MR. GORDON supported the striking out of the clause.

HON. F. H. PIESSE said he did not previously notice that the clause was quite so dangerous as it now appeared to be. The member for York complained of the method the Commissioner of Railways might adopt in clearing the reserves. Many people might not understand the dangers to country like the member for York occupied. It was as dry as tinder in some periods of the year, and notwithstanding all the precautions that might be taken there was a danger from fires. There should be some provision to protect those persons holding land adjoining the railway line. The clause gave greater powers to the Commissioner than were enjoyed previously, and rather than see the clause enacted he would agree to it being struck out.

THE MINISTER FOR LANDS: Were we to allow a crop of wild oats to grow along the railway reserves until the 31st March, when the Commissioner for Railways would then be able to deal with it. The member for York and other members might view the clause in a different light from what he did. The Commissioner and his officers would have to burn the annual crop, for there was no stock to eat it down. A crop of wild oats might be growing four or five feet high, and if it was a late season it would not burn and the crop would have to stand until March, with the result that every engine that went by would start a bush fire and there would be any quantity of fuel to keep the fire going. It was absurd to say that the clause placed in the hands of the Commissioner a power which was a menace to the people in the district.

MR. J. R. WALTER (Nelson) differed from the member for York. The clause was for the protection of the farmers, and the railway authorities in making a fire-break did so to protect the farmers, for the railway authorities would not deliberately set fire to the country. The clause was about the best provision that could be inserted in the Bill. As far as the Bush Fires Act was concerned it was absolutely useless. The precautions taken by the Bill were far superior.

HON. F. H. PIESSE: The Government for the last ten years had spoken about taking precautions to prevent the spread of fire through country such as the member for York had described, and so far the action taken had been fairly satisfactory; but if the Commissioner was permitted to burn at certain periods of the year it would tend to carelessness. Why not continue the present system, which had proved satisfactory? There seemed to be no difficulty in dealing with the matter as it had been dealt with previously.

MR. CONNOR: It seemed that there was a power in the clause which should not be given to the Commissioner. If it was lawful for the Commissioner to burn grass and stubble at certain periods, it should be lawful for any individual to do the same. It was extraordinary that the member for York, who was an authority

on these matters, should disagree with the member for Nelson.

MR. BURGES: The member for Nelson lived in different country.

MR. CONNOR: We had been told that the bush fires were caused by the use of Collie coal on the engines. If that was so we should take into consideration whether or not Collie coal should be used by the Railway Department. If the clause was passed as it stood a power would be given to the Commissioner which no other individual possessed. It was a wrong position to take up. If Collie coal would fire the grass, what was the use of the clause, because fires would take place in any event? He asked the member for York to vote according to his convictions.

At 6·30, the CHAIRMAN left the Chair.
At 7·30, Chair resumed.

THE MINISTER FOR RAILWAYS: Seeing that the provisions of Clause 68 were very debatable, the Government would agree to its elimination. He moved that the clause be struck out.

MR. BUTCHER withdrew his amendment.

Clause put and negatived.

Clause 69—Claim for damage caused by sparks:

THE MINISTER: This also contained debatable matter, and the Government would drop the clause on the understanding that agricultural members would assist in making some provision of the kind in a future Bill. He moved that the clause be struck out.

Clause put and negatived.

On motion by the MINISTER, Clause 70 struck out.

Clauses 71 to 76—agreed to.

Clause 77—Application of 1 and 2 Edw. VII., No. 21:

THE MINISTER moved that the following be added:—

Subsection 6 of Section 109 of the Industrial Conciliation and Arbitration Act of 1902 is amended by omitting the words "shall have jurisdiction to hear and determine the same accordingly and to make award thereon," and by inserting in place thereof "shall have jurisdiction to and shall hear and determine the same accordingly and make its award thereon."

This would empower the court to hear any appeals submitted to it, the proposal being to make the Commissioner subject to the Arbitration Court. The Court had held that it had no power to make awards as against the Commissioner, and the clause would give it such power, and would direct it to hear, determine, and make awards upon questions submitted to it for determination.

THE PREMIER: Questions had been raised as to whether it was the duty of the Court to hear questions submitted as between the Minister and the Commissioner on the one hand and the railway servants on the other; and the Court had decided that as it had not power to enforce an award it would not hear a dispute. The amendment, as would be observed from the wording, directed that the Court should hear, determine, and make its award on any dispute submitted; for the section as amended would read, "and the Court shall have jurisdiction to and shall hear and determine the same accordingly, and make its award thereon."

MR. BATH: Were we amending a clause in the Arbitration Act?

THE PREMIER: Yes.

MR. BATH: Could we do it in a Bill like this?

THE PREMIER: Yes; because Section 109 of the Arbitration Act referred to the Minister for Railways. The amendment was in relation to the Commissioner of Railways.

MR. TAYLOR: Did the Bill bring the railway employees under the Arbitration Act?

THE PREMIER: Yes; and it went farther by saying that, in relation to disputes between the Commissioner of Railways and the Government railway servants, the Court should not only have jurisdiction to hear, but should hear disputes.

MR. HASTIE: The Acting President of the Arbitration Court was reported to have said that the Court was resolved not to hear any cases where it had no power to enforce its awards. Was the Premier certain that the clause would meet the objection of the Judge, and that in future the Court would hear these cases?

THE PREMIER: There could be no stronger word used than "shall."

MR. DAGLISH: Would the clause direct the Court to deal with the matter of privileges? According to the Railway

Department privileges were equivalent to pay, and, if so, the Court should undoubtedly have jurisdiction over the matter.

THE PREMIER: Any industrial dispute that arose between the Commissioner of Railways and the men was dealt with under Section 109. The definition of an industrial dispute was contained in Section 2 of the Act, and applied to disputes in every industry between employers and workers. Whether the matter of privileges was an industrial dispute or not was for the Court to determine. *Primâ facie* he (the Premier) thought it was a matter for an industrial dispute; but why should we say in relation to one organisation only that a certain matter was an industrial dispute? The Court might decide that this matter did not come within the definition of an industrial dispute, but would the hon. member suggest that it was an industrial dispute in relation to one association only?

MR. JOHNSON: Labour members wanted to be certain that the railway employees would come under the jurisdiction of the Court as outside organisations would.

THE PREMIER: Yes; they would. The definition of an industrial dispute would apply to the railway associations as it applied to other associations.

MR. DAGLISH: If the matter of privileges were beyond the jurisdiction of the Court, the Commissioner of Railways might at any time withdraw them, which would be equivalent to a reduction in pay, and the men would have no right of appeal, not even to Parliament, because Parliament, like the Minister, had only power to recommend. The men should not be handed over to the control of the Commissioner without some right of appeal, and it should be settled beyond all dispute that the Court should have power to deal with this matter of privileges if either party desired to refer the matter to the Court.

THE PREMIER: If privileges were an element of wages they must come under the jurisdiction of the Court.

MR. DAGLISH: The matter had not yet been dealt with by the Court.

MR. MORAN: Not in the recent printers' case?

THE PREMIER: In the printers' case the wages were fixed on the assumption that there were no internal privileges. The point was that if the matter was an industrial dispute the Act would operate, if not the Act would not operate.

MR. DAGLISH: The clause should be amended so as to include the privileges and put the matter beyond dispute. So far legislation with regard to the railway employees and the Arbitration Court had failed.

THE PREMIER: No; it had not failed. The trouble was that there was a change brought about by the appointment of a Commissioner of Railways.

MR. DAGLISH: When we brought the railway employees under the Arbitration Court we should put beyond issue the matter of privileges, and that would save a lot of trouble in the future. By settling the point in this way we would confer an advantage on the whole of the public service.

THE PREMIER: The Bill should remain as it stood. It was clear enough, for he could not imagine that the Court would fix wages without regard to the privileges or rights enjoyed by persons whose employment was being dealt with. An industrial dispute was a dispute relating to industrial matters, and industrial matters meant all matters relating to work done or to privileges, rights, and duties of employees in any industry, and without limiting the nature of the definition, included wages, allowances, and remuneration of employees in any industry, and the prices to be paid in such employment.

MR. JOHNSON: Having received the Premier's assurance that the railway employees would come under exactly the same provisions as other unions outside the department, he was satisfied with the clause, because there would be no future trouble. The clause gave the Court ample power to deal with all disputes that might arise between the men and the Commissioner. He would oppose any clause to enumerate all the differences that might arise between the men and the Commissioner, because no one could imagine all the disputes that might arise between employees and an employer in any industry.

MR. MORAN: It was desired to reach finality in regard to the method of settling disputes in the public service, and we should go the whole hog so as to close

the mouths of both sides once and for all. He was inclined to think with the Premier that if the Court took a reasonable view it would be impossible to separate privileges from wages; but he had a clause prepared enumerating what the possible points of dispute might be, amongst them being the appointment of a permanent staff. Would that come under the head of rights and privileges? He was doubtful. The appointment of a permanent staff was a big subject. Supposing Mr. George said, "I will not go to the Court on the question of the permanent staff," they would force him to do so. In this matter he would be guided by the majority of the labour members, who he was sure had the best interests of the workers at heart.

MR. HOLMES: There was a possibility that if we made the provision general we should attain the object in view; whereas if we attempted to limit it some point might arise as to whether the Court had jurisdiction. If we made it general, the Court would have power to deal with everything that came up.

MR. TAYLOR: If we passed the clause as altered, would it bring the Commissioner into the same position as any other employer as far as the Arbitration Act was concerned?

THE PREMIER: There were two differences. First of all the difference provided by Subsection 6, which stipulated that before we could bring the Commissioner before the Court we must apply to the Court and satisfy the Court that the position was sufficiently grave for their intervention. The only other difference was that although the Court could make an award, they could not enforce it. For instance, they could not fine the Commissioner of Railways or the Minister for Railways. The enforcement of the award must be left, the same as in the case of any other Crown suit, to the Government of the day.

MR. HASTIE: Probably all agreed that the Court should decide every dispute, provided it was not a trivial one, between the Commissioner and the employees. If that were done, it would give satisfaction to the service, and also to the State. As to specifying what different things the Court should take into consideration, it would be most unwise to do so, because many things would come up which it would be impossible for us to specify here. The best way would be to have a general term, and leave the matter to the Court to decide absolutely. Whatever the Court decided, not only the Government but all members would do their best to see it carried through. That had been so in the past, and doubtless it would be so in the future. He hoped the amendment suggested by the Minister would be accepted.

Amendment passed, and the clause as amended agreed to.

Clause 78—Quarterly reports to Minister:

MR. BURGES: Alterations should be made in these traffic returns to show that some of these small railways which people were always condemning did not get credit for what they actually earned. He would mention the Greenhills Railway, which sent 2,000 tons of hay to the goldfields, and that meant £3,000 of revenue. If that railway were not there, that stuff would not be grown, and the railways would not get the extra revenue.

MR. MORAN; Was there not a big output from Greenhills before the railway was constructed?

MR. BURGES: Nothing like so big an output as at present.

MR. MORAN: A very rosy tale was at that time told as to the number of wagon loads, it being stated that there were some thousands of tons coming in.

MR. BURGES: Men had sent 500 or 600 loads this year off one farm alone. All these branch railways should be credited with the stuff grown and sent to the terminus of the line.

MR. CONNOR: Would the hon. member state the increased percentage since the railway had been built?

MR. BURGES: The quantity was three or four hundred per cent. greater.

MR. CONNOR: No.

MR. BURGES: Yes.

MR. MORAN: If the contention of the member for York was correct, the goldfields railway running from Northam to the goldfields would not show a penny. We ought not to take out one little railway line and attempt to deal with it on its own merits, for it was impossible to do so with justice. We must consider our railway proposition as a whole. For instance, where we had the zone system it was impossible to segregate railways.

We had a modified kind of zone system here. What we had to look at in relation to our railways was whether they were justified as a whole. To his mind the Greenhills line was justified, and he agreed there was something to be said on behalf of branch lines. He hoped that the Collie-Narrogin line also would be justified. So far we had kept clear from constructing lines which had not justified themselves.

MR. BURGES: It had often been stated by him that the Greenhills railway had paid and had been justified.

Clause put and passed.

Clause 79—agreed to.

Postponed Clause 19—Gates and cattle stops:

MR. BURGES moved: that in line 4 of Subclause 2 the word "five" be struck out and "two" inserted in lieu.

THE MINISTER accepted the amendment.

Amendment passed.

MR. BURGES: It was far safer to have gates at crossings now that the distance was made two chains wide. Very often cattle and horses got on the line and accidents occurred; but if gates were erected, these accidents could not happen.

MR. CONNOR moved that Subclause 4 be struck out. Gates would be preferable especially now that Subclause 2 had been amended providing that the distance from the railway line was to be two chains.

THE MINISTER FOR WORKS: There was no question as to doing away with cattle stops. The clause was not compulsory. It merely gave the Commissioner power to require, for the safety of the public, that were cattle stops were provided gates should be removed. It was a reasonable proposition.

Amendment negatived.

MR. ATKINS: According to Subclause 5, persons could not put up a gate to make a continuous fence without the consent in writing of the Commissioner. If a railway was fenced as far as a cattle stop why should not the owner of the adjoining land fence along by the cattle stop? If a man owned the land on both sides of the railway line he should have the right of putting up a gate at the crossing.

MR. BURGES: It was far better for the safety of the travelling public to have gates than cattle stops at crossings. He moved that Subclause 5 be struck out.

THE MINISTER FOR WORKS: Although the Government were not desirous of killing more cattle than could be helped, their desire was the safety of the travelling public. There would be no difficulty in obtaining the consent of the Commissioner where gates were erected and the safety of the public was not interferred with. The Commissioner would not be unreasonable, but the Commissioner should be able to prevent the erection of gates where, from a reasonable standpoint, gates could not be erected without endangering the safety of the travelling public. It was possible to erect gates in such a position so that when open they would swing across the railway line.

MR. ATKINS: Would it not be possible to have the gates erected so that they would not open across the line?

THE MINISTER FOR WORKS: The provision was in the Railway Act of every State. There was nothing to prevent gates being erected where it could be done with safety to the travelling public.

MR. CONNOR: It was hoped it would not go forth to the country that from three o'clock this afternoon until now the time had been wasted over a few twopenny-halfpenny clauses, and the arguments had been confined to the Government supporters and the Ministry. It was not fair on an occasion when the business of the country was being forced through, and important items were to be dealt with, that the Government should allow their servile supporters to waste the time.

MR. BURGES asked the hon. member to withdraw the word "servile."

MR. CONNOR: No reference was made to the member for York.

THE CHAIRMAN: The hon. member must confine himself to Subclause 5.

MR. CONNOR: As a private member he entered his protest against the position taken up by the Government, especially as we were within a few hours of the prorogation and important matters had to come before the House.

Amendment negatived, and the clause as previously amended agreed to.

New Clause—Appeal:

THE MINISTER moved that the following be inserted as Clause 72:—

Any person who, being permanently employed on a Government railway, is for alleged misconduct—(1.) Fined a sum exceeding one pound; (2.) Reduced to a lower class or grade; or (3.) Dismissed by the Commissioner or any person acting with his authority, may in the prescribed manner appeal to an Appeal Board constituted as hereinafter provided. No person shall be deemed "permanently employed" within the meaning of this section unless he has been continuously employed for two years.

The object of the new clause was to provide an appeal board for all Government railway employees, to which anyone who had been fined not less than £1, or who had been reduced in grade or dismissed, could submit his case.

[MR. QUINLAN took the Chair.]

MR. MORAN: To enlarge the scope of the appeal board, he moved as an amendment that the words "for alleged misconduct," in line 1 of the new clause, be struck out. A man might be dismissed without being charged with misconduct, and would then have no right of appeal.

THE MINISTER accepted the amendment, though not agreeing with the striking out of the words. The position would be impossible if the Commissioner could not for the purpose of retrenchment discharge an officer after due notice given. The amendment was accepted with the proviso that if it worked badly and the board were overloaded with appeals against retrenchment, etcetera, the hon. member would assist in striking it out in a future Parliament.

Amendment put and passed.

MR. MORAN farther moved as an amendment:

That the words "a sum exceeding one pound," in Subclause 1, be struck out, and "reprimanded or otherwise punished" inserted in lieu.

A man might be repeatedly fined 19s. 11d., and worried out of the service. A fine of £1 was a heavy punishment for a man earning 6s. 6d. a day.

THE MINISTER: This amendment could not be accepted. If no limit were provided, the appeal board would be constantly sitting. We were led to this conclusion by the history of the drivers and firemen's conduct appeal board.

MR. JOHNSON: But such appeals were compulsory. The men had to go to the board when they did not want to go.

THE MINISTER: Appeals should be allowed in serious cases only. In a large service there must be discipline, and prompt action in dealing with men. What would be the position if men could appeal against reprimands or cautions?

MR. DAGLISH: Were reprimands recorded?

THE MINISTER: Some; not all.

MR. ATKINS: Make the minimum fine to be appealed against 10s.—a large sum to a man earning 6s. 6d. a day.

MR. MORAN: The history of all such reforms showed concessions were at first given grudgingly but were afterwards amplified. Better be liberal from the start as to the right of appeal; for the men knew that the country would not tolerate an abuse of the privilege. If the Minister would omit the amount of the fine, he (Mr. Moran) would omit the words "reprimanded or punished." Was a question of right or wrong to be determined by the sum of money at stake? If the board were overloaded with appeals, the power which made it could unmake. Later he would move that the secretaries of railway employees' unions should always conduct such appeals. This would shorten the cases.

MR. ATKINS: The Opposition seemed to be fighting this battle, while the Labour party, the most interested, were saying nothing.

MR. PIGOTT: If it were right to grant an appeal against a fine of £1, it was equally right against 10s. or 1s. But should there be any appeal? Should it be in the power of a subordinate, perhaps an apprentice, to defy his superiors?

MR. DAGLISH: To get justice.

MR. PIGOTT: Then the superiors could not distinguish between right and wrong. The clause went a long way too far. He would give a man the right to appeal, but no matter what the decision that man should not reenter or continue in the service. If a subordinate were dimissed and the appeal board found in his favour, perhaps on a technicality, what would be his position when reinstated, and the position of the superior who had dismissed him? Why carry the right of

appeal to such a ridiculous extent? Surely if the two departmental unions of workers discussed this matter, they would not be long in arriving at a decision.

MR. BATH: They were practically agreed.

MR. PIGOTT: But not definitely agreed. Let Labour members state their opinions.

MR. HASTIE: Had not the member for West Perth moved his amendments he (Mr. Hastie) would have moved similar amendments. The hon. member had expressed correctly the opinions of most members of the House. Appeal boards were not entirely new, as the wages men in the locomotive branch had already a conduct board, whilst those in the traffic branch could appeal to the Commissioner; so the new clause was not an entire innovation, but a slight alteration in the court of appeal. However high Mr. George's attainments, he would be unable to hear all the appeals brought before him, yet if a conscientious man he must consider every case. The only method of satisfying the service and the Commissioner was to provide for an appeal in case of every dispute. True, in cases of dismissal, a reinstated man would be uncomfortable, as would his superiors; but it was impossible to make any enactment perfect, and although this was a great difficulty, the difficulties in the event of no appeals being provided would be still greater. If the Court decided against the man, no member of this House would be likely to take up his case nor would any association support him. He looked at this question not from the interests of the workers, but from the interests of the State. We had affirmed that all industrial disputes should be decided by a legal tribunal; and if in this instance we declared every question in dispute should be submitted to an independent board, there would be greater satisfaction amongst those employed on our railways. He hoped the Minister and the member for West Perth would be able to compromise on this matter, so that the Bill might be at once passed, and might be treated quickly and tenderly in another place.

MR. FERGUSON: If we admitted the principle of appeal, it should be within the reach of every man. Some persons might say that appeals would in some cases be trivial. If the appeal board was rightly constituted and did its duty, we should soon put down trivial appeals, and the men would themselves not waste their time by making trivial appeals.

MR. PIGOTT: If we passed this clause, the board must hear every appeal, however trivial.

MR. FERGUSON: In a great business like that of the Railway Department the penalties in small matters would be inflicted by the Commissioner or his representatives, and these small matters would not come before the Court at all. Miscarriage of justice must occur; and if one person was called on to adjudicate in all cases, the men would think they were not justly dealt with. In such cases a board of appeal would give justice. An appeal board would tend to make the Commissioner and his representatives more careful in imposing penalties which might be unjust or unduly severe; and if the board reversed the penalty, it would be unpleasant for the person who inflicted that penalty in not having his decision sustained. If the right of appeal was granted, it should be within the reach of every man in the service.

THE PREMIER: It was to be hoped the Committee would not agree to the amendment. The Government had endeavoured in the new clause to meet the urgent representations made to them by the Labour party. The fact that the clauses appeared on the Notice Paper was due in a large measure to the Labour party, and in making the amendment mentioned by the Minister for Railways to strike out the words "for alleged misconduct" the Government were endeavouring to meet the representations made to them. In dealing with the question of fine it was said there was no logical justification for giving an appeal from a fine of a certain amount. If an appeal was given from a fine, that argument would hold good, but we should take the fine as an indication of the nature of the offence. A fine of 10s. indicated that the offence was of such a nature that justified an appeal, but if the fine was only 1s. that did not justify an appeal. There should be an appeal where the fine exceeded a certain amount.

MR. PIGOTT: Who was to judge of the severity of the offences?

THE PREMIER: That was judged by the fine inflicted. It would be a travesty to have an appeal because a man was fined 1s. or 2s. 6d. It had been said that if there were trivial appeals they would work their own result. If there was a desire to have an appeal on all possible points there might be an appeal on a question of reprimand, and one might suggest that if a person did not speak civilly to a civil servant there would have to be an appeal. In dealing with the first suggestion, although the Minister had agreed to a reduction of 10s. it was to be hoped the Committee would not go farther than that. All desired to see these clauses placed on the statute book this session.

MR. DAGLISH: Within the last month the Commissioner of Railways had signed a draft of an industrial agreement with some of the men, and he would like to read one or two extracts from it.

THE PREMIER: The hon. member knew that it replaced an agreement in existence before.

MR. DAGLISH: That did not affect the question.

THE PREMIER: It entirely affected it.

MR. DAGLISH: Perhaps the agreement had not been found to work satisfactorily. This agreement contained the following:—"The Chief Mechanical Engineer shall have power to reprimand, fine, suspend from duty, reduce in grade, or dismiss an employee, to remove any driver or fireman from a locomotive footplate. Provided always that the notification to an employee of such actions shall be in writing and shall state the reason of same being taken. Any employee feeling dissatisfied with the actions of the Chief Mechanical Engineer may, if he so desire, appeal to the Conduct Appeal Board." Then it provided that a Conduct Appeal Board should hear and investigate and give decision on all questions, and later on it stated that the applicant should, if he desired, obtain the services of another employee, or the general secretary of his union, to represent the facts of his case, and the appellant or his nominee should be at liberty to examine witnesses. That was all we were asking. The Minister for Works had referred to the number of cases that had gone before the board in the past. The Minister was referring to the conduct board and not the appeal board. The conduct board was appointed to hear cases in the first instance, and in every case where a charge was made before a penalty was inflicted the case had to go before the conduct board. In regard to the question of appeal for a certain fine he had enough experience of the Government service to know that officers had very different ways of apportioning punishment. One officer got the notoriety in the service of a tendency to fine heavily, and another officer was noted for a tendency to fine lightly. One officer might apportion a fine of 2s. 6d., while another officer for the same offence might apportion the fine at eight or nine times that amount. He had known men dismissed on charges of misconduct largely on account of the number of entries on the records, although some of the entries were very trivial. The number of trivial cases recorded against a man had a tendency to influence the decision of an officer or appeal board when finally a grave charge was considered. He felt satisfied we ought to provide an appeal in any case. A series of reprimands if recorded was likely to tell disastrously in the career of an individual if he appealed and put the appeal board to the expense of a sitting. If it was only a trivial case, one did not see why a man should be mulcted in the cost of the sitting. Those who had bad cases should not be encouraged to go forward, but those who had good cases should have protection against any injustice no matter how low the pay might be, or the financial penalty or the individual offence might appear. After all it was not so much the amount of the pecuniary penalty one suffered but the injury in the blackening of the records. He hoped the amendment would be carried.

MR. HOLMES agreed with the necessity for on appeal board, and if we were to have an appeal board to deal with a man who was fined £1; then the man who was fined a lesser amount should also have the opportunity of appealing. If a man appealed, and the appeal turned out to be a frivolous one, when before the Court the appellant should certainly pay the costs. A proviso should be inserted that if a man put forward a trivial appeal he should pay

the cost of the appeal if he failed. Every man should have the right of appeal against any decision of a superior officer. With that proviso he thought the clause a reasonable and workable one. As to the necessity for an appeal board he did not think there was any question. We had an appeal board in existence for two or three years, and it had done good work. He (Mr. Holmes) claimed to have taken the initiative in the formation of that board. He found that if the Commissioner had to deal with appeals in all cases he would have no time to attend to matters of importance in his department. There were dozens of cases hanging over for months, and these cases required final decision, and it was decided that a conduct board should be appointed to go into all the outstanding cases in order that they would be brought up to date and settled successfully. The conduct board did good work in clearing up all arrears. It was now thought that an appeal board would be better. He was inclined to think that if a man was fined 1s., and that man thought he was wrongly fined, he had just as much justification in appealing as the man who was fined £1. The appeal board was to consist of a police or resident magistrate and an officer appointed by the Commissioner, and an officer appointed by the men. This appeal board would deal with all cases, and every men would have the right of appeal. There should be a proviso that if a man failed in his appeal and the appeal was a trivial one the man should pay the penalty and the cost.

MR. HIGHAM: There was no necessity for limiting the fines which could be appealed against. The grievance of the appellant would not be the amount of the fine but the record against him in the books. Proposed Clause 78 would give the court sufficient power to discourage frivolous appeals by increasing fines or by orders as to costs.

MR. JACOBY: The appeal board as proposed was at present necessary; and we might safely leave the men to decide on the advisableness of appealing, for they must recognise that the right if abused would be withdrawn. But that a board of this sort was necessary was the strongest condemnation of the railway management. If our public departments were to be successful, there must be a due apportionment of responsibility. Heads of departments should be capable of selecting men, and responsible for their selection. The necessity for appealing from Cæsar to an appeal board would not then exist. The Commissioner should dismiss heads of departments if they did not engage proper men. From the men the appeal would be to the Commissioner; and heads of branches, if dismissed by the Commissioner, would appeal to the Governor. In larger organisations than this comparatively small department, that system existed.

MR. JOHNSON: The opposition of the Minister to the amendments in the new clause evidently arose from his experience of the conduct board; but it must be recollected that every reprimand had to be dealt with by that board. A man at Kalgoorlie who was fined half a crown and admitted the justice of the fine had nevertheless to come unwillingly to Fremantle to have the case determined, and to lose four or five days' pay besides the fine. The proposal of the amendment was different. No man was forced to appeal, nor would any appeal who felt that the fine was justified. When men made frivolous appeals let them be fined for doing so, on the principle provided by the Arbitration Act.

MR. PIGOTT: Suppose the Commissioner considered it good for the department to get rid of a certain man; how could that be done?

MR. JOHNSON: If the Commissioner were given unqualified power of dismissal, the appeal board would be useless; instance the accident at Broad Arrow, when men were unjustly dismissed. They had no right of appeal; for they were simply told that their services were dispensed with. Sometimes the best men were retrenched.

MR. PIGOTT: Had not a good man sometimes to suffer for the community?

MR. JOHNSON: No. If a good man had to suffer at the hands of the Commissioner, give the man the right to appeal. The Commissioner had already agreed to appeal boards; but these would be useless were he given absolute power to dismiss. When the Commissioner went to the Arbitration Court, he was satisfied that an appeal board would assist him in the working of the railways, and he agreed to give the men the right of appeal on every

point. He did not limit it as the Minister now proposed to do. There being now an appeal board in connection with the locomotive drivers, why not have an appeal board in connection with the traffic men? He did not see how the Minister could expect this House to accept a provision which applied only to some of the men.

THE PREMIER: The present board represented a distinct advance on the old conduct board.

MR. JOHNSON: The men in other branches wanted the same thing, and it would satisfy them. He could not understand why the Minister objected to applying it all round.

MR. TAYLOR: While members here were almost unanimous that an appeal board was necessary, he did not think the amount of the fine should limit the right of appeal. A man might be harassed by being fined a small sum below the limit that would give them the right of appeal, or he might be harassed in various ways by persons who wanted to get him out of the way. Any man who thought he was unfairly treated either by censure or fine should have the right of appeal even if the fine were only sixpence. There was this protection against frivolous appeals, that before a man in any branch of railway labour that was organised could carry his appeal forward with the support of his union, the executive of that union must be satisfied that there were reasonable grounds for the appeal. It was desirable if it could possibly be arranged that those members in this House who had heard the debate should decide the question, and the decision should not be determined by other members resurrected from the Refreshment Room.

THE PREMIER: It was well that this matter was in the hands of other than the member for Mount Margaret, whose truculent manner of treating a subject rather provoked opposition. He (the Premier) did not like the idea of men appealing on small fines, as this practice would tend to interfere with the working of the department. In Queensland the right of appeal did not apply for fines less than £2, all such fines being disposed of by the Minister as the executive head. In New South Wales there was a full right of appeal for any fine. Unless appeals were to be checked by some limitation as to the amount or by some practical restriction, there would be numberless appeals, and the utility of the board would be, to a large extent, destroyed. Not sufficient consideration was given to the fact that an appeal board might act in such a way as to interfere unduly with the administration of the department; and to avoid this we should prevent needless appeals by the limitation of the amount to £1, or even to 10s. He would rather suggest that a proviso be inserted that the board should award costs against an appellant in cases where they considered the appeal frivolous. If the Committee would accept that suggestion, he would not object then to the right of appeal without any limit as to amount.

Amendment (Mr. Moran's) put, and the words struck out.

MR. MORAN: As to inserting other words in lieu, he—in deference to the conciliatory policy—would keep to the bargain, and would not move the words he had suggested. He now moved as a farther amendment that the word "two" (two years) be struck out, and "one" (one year) inserted in lieu.

Amendment passed, and the clause as amended agreed to.

New Clause 74—Elections (of appeal board):

THE MINISTER moved that a new clause (in Notice Paper) be added to the Bill.

MR. DAGLISH: The time for the first election was too short.

On motion by the MINISTER, the words "on or before the first Monday in February" were inserted in lieu of "January."

Clause as amended agreed to.

New Clauses 75 (notice of appeal), 76 (quorum)—agreed to.

New Clause 77—Procedure on appeals:

THE MINISTER moved that a new clause be added as follows:—

With respect to the procedure on appeals, the following provisions shall apply:—1, The board may admit evidence taken at any departmental inquiry at which the appellant was present and had an opportunity of hearing the evidence and giving evidence. 2. Evidence of witnesses resident more than twenty miles from the place of the sitting of the board may be taken by affidavit or otherwise as prescribed. 3, Any member of the board may administer an oath to any witness, and the appellant shall be entitled to have the witnesses examined on oath. 4, No solicitor,

counsel, or agent, other than an employee of the department shall appear or be heard on any appeal; but the appellant shall appear in person or by another employee of the department, and the department by the Commissioner or some officer appointed by him in that behalf. 5, The board may, subject to the regulations, regulate its own procedure.

MR. MORAN moved as an amendment in Subclause 4 that the following words be inserted, "or the recognised secretary of the union to which the appellant belongs." This amendment would simplify the appeals; and he believed the time might with advantage be reduced 50 per cent., because the authorised secretaries of unions would be those persons to whom the Government should write in regard to appeals. Indeed the existence of unions in connection with the employees in the Railway Department would be the strongest force against trivialities going before the appeal board. The Commissioner might choose from his large staff some officer to appear before the board on his behalf.

MR. HOLMES: The employee would have the same right.

THE PREMIER: Let the men conduct their own case.

MR. MORAN: If the man was not a member of a union, he would choose whom he liked. Those who belonged to the union should be enabled to choose the secretary if they so desired.

THE MINISTER could not see his way to agree to the amendment. The clause set out that an appellant should appear in person or by another employee of the department, and that the department should be represented by the Commissioner or some other officer appointed on his behalf. The Commissioner was to be represented by an officer in the service; why should not the servant also appear himself or by some other servant of the department? What we wanted in appeals of this kind was to have practical persons on either side who were acquainted with the working, and who would not deal with outside matters, but would be content to give to the board their *bona fide* opinion on the practical work. This was far preferable in the interests of the men and the department; and there should be no quibbling, no sparring, and no points, but actual evidence by practical men on practical subjects. With all respect to the secretaries of the unions, we could get far better justice if the persons to appear on either side were men who knew the actual working of the department.

MR. MORAN: It was a blow against the secretaries.

THE MINISTER: It was not a blow against the secretaries. If a man was a member of a union and wished to appeal, the appeal would be arranged for by the secretary of the union. Why should the secretary of a union appear, when he did not of necessity have any practical knowledge of the subject on which the appeal was being made? Let us lay it down that persons appearing before the board, whether for the Commissioner or the appellant, should be practical men. In New Zealand no solicitor, counsel, or agent, other than a member of the department, could be heard on an appeal; but the appellant could appear in person or by another employee, and the Commissioner could appear by some one in the department. Members would see that the action on the part of the Government was not any disrespect to the secretary of a union, and was not intended as such.

MR. HASTIE: The Minister had assumed that the secretaries of unions were not practical men. It stood to reason that if an agent represented a man before the board and the agent had not practical railway knowledge and was not a practical man, in most instances the appellant would be unsuccessful. If the union found the agent had no practical knowledge they would not appoint him. The Minister wanted practical men to decide the case. There seemed to be no danger whatever in allowing the men to choose between a fellow employee and the secretary of the union. There had been over 300 cases before the conduct board, and in each case the secretary of the union had acted as agent. Although having heard criticisms against Mr. Cartwright, one had not heard it stated that he was not competent to discuss these cases. As to Mr. Casson, he would be as able to act as an agent as any practical man. It would be of benefit to the Railway Department not to have an employee taken from his work. The Minister should agree that the secretary of a union should conduct the cases for an appellant if it was so desired. Cases

would be considerably shortened and greater satisfaction given to the men and the department if secretaries were allowed to appear.

MR. JOHNSON: Already one of the secretaries of a recognised union was allowed to appear. Mr. Cartwright had the right to appear on behalf of the loco. drivers. He represented the men at the present time. Mr. Casson might look on it as a reflection on him if he were not allowed to appear. Under the present system in vogue Mr. Casson conducted most of the cases before the Commissioner on behalf of the men employed in the traffic branch of the railways.

MR. MORAN: The argument was complete for the inclusion of the secretary.

MR. HOLMES: Would not the Bill take the right to appear from Mr. Cartwright?

MR. MORAN: That would be worse. It was to be hoped the Minister would not refuse to allow the secretary to appear. He remembered the time when the very name of Mr. Cartwright was sufficient to turn the noses of certain members in the air. One Minister resigned his position in a Ministry rather than recognise these unions. There appeared to be a desire to have a last kick at the secretaries of unions. Unless the secretaries thoroughly understood the working of the unions they would not be chosen to appear. If this permission were not allowed, a grievance would still remain, for it would be said the Government would be preventing the men getting the best advice.

THE MINISTER: There was no such thing as having a last kick at any secretary, whether Mr. Casson or Mr. Cartwright. So far as he (the Minister) was concerned, both these gentlemen knew there had been no attempt at kicking on his part nor on the part of the Government. These secretaries had been treated with the utmost respect at his hands, and always would be. He had attempted to meet the wishes of those representing labour and also the wishes of the member for West Perth to the utmost of his power. It was said that not to give power to the secretary of a union to appear would be to limit the choice of the appellant to handicap him. He (the Minister) took quite the reverse opinion. If the secretary of a union had the right to appear, that gentleman would be the man to appear whether it was the wish of the appellant or not. The secretary of the union would arrange the case up to the hearing of the appeal, and no member of a union would like to say that he did not want the secretary to appear for him, although the man would sooner have someone else. Thus the power of choice would be limited, for the secretary would appear every time, even if he were unwilling; and though the appearance of either of the present secretaries would not work injustice, none knew what sort of secretaries might appear in future. The branches affected—Ways and Works, Traffic, and Loco—would be represented by the secretary of the Traffic branch. [MR. MORAN: Not necessarily.] Justice would not thus be expedited. The Government took this stand not out of any disrespect for the present union secretaries, but because in other countries none but Government railway employees were allowed to appear in such cases.

MR. MORAN: The Minister had shifted his ground, and now appeared as a defender of the men against the tyranny of their unions. [THE MINISTER: No.] The Minister said the men would be forced to enlist the services of the union secretary. The amendment enlarged the choice by giving the right to select any agent. The Government had not been too anxious to recognise these railway unions; and this was the last effort at non-recognition of union secretaries. If as agent in each appeal a servant of the department were taken from his work, his wages must be paid; whereas the wages of the secretary were paid by the union.

MR. BATH: Only with considerable reluctance would any fellow employee appear as agent for the appellant, for his appearing might work to his disadvantage; so the Minister's proposal would prevent the appellant from getting an agent, and frequently a good workman might from lack of argumentative power be utterly unable to conduct his own case. The Minister would surely reconsider his decision, and give the union secretaries, who were practical men, the right to appear on behalf of their members.

MR. HASTIE supported the amendment. The Minister's idea seemed to be that the appellant should have a wide choice of agents. But if a man appealed against the decision of a departmental head, and if unable to conduct his own case had to appoint a fellow employee as agent, he would practically be compelled to choose as agent a man under the same departmental head, and not an agent in the independent position of a lawyer in a court of justice. By allowing union secretaries to appear, comparatively little if anything would be heard of complaints from railway employees.

MR. TAYLOR supported the amendment. Advocacy by the union secretaries would facilitate matters, each of them being the recognised representative of his association in regard to matters of detail; and no man could be so careful in guarding the interests of the body. It was unfair to compel a working man unaccustomed to discussion to defend his own case; for the appeal board would then be valueless to at least 60 or 70 per cent. of the workers. The opposition to the amendment seemed to be the last blow at the recognition of railway unions. The secretary of the engine-drivers' union now appeared before the conduct board, and the secretaries and delegates of other unions appeared for those unions before the Arbitration Court.

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

Ayes	...	...	17
Noes	...	...	11
Majority for	...	...	6

AYES.	NOES.
Mr. Bath	Mr. Atkins
Mr. Butcher	Mr. Burges
Mr. Connor	Mr. Gordon
Mr. Daglish	Mr. Gregory
Mr. Diamond	Mr. Hayward
Mr. Ewing	Mr. Hopkins
Mr. Ferguson	Mr. James
Mr. Hastie	Mr. Piesse
Mr. Jacoby	Mr. Rason
Mr. Johnson	Mr. Walter
Mr. Moran	Mr. Higham (*Teller*).
Mr. Nanson	
Mr. Pigott	
Mr. Reid	
Mr. Taylor	
Mr. Wallace	
Mr. Thomas (*Teller*).	

Amendment thus passed, and the clause as amended agreed to.

New Clause 78—Powers of board:

THE PREMIER (in the absence of the Minister for Railways) moved that a new clause be added to the Bill, as follows:—

The board may confirm, modify, or reverse any decision appealed against, or make such other order thereon as they think fit, and the decision of the board shall be final. The board may fix the costs of any appeal and direct by whom and in what proportions they shall be payable, and in every case costs shall be awarded against an appellant whose appeal is considered frivolous. All costs awarded against an appellant shall be recoverable as a debt due to the Crown. All costs awarded to an appellant shall be payable by the Commissioner.

MR. MORAN: Out of what Act of the other States had the Minister copied this?

THE PREMIER: In no Act in the Eastern States did they allow a secretary of the union to appear before an appeal board unless he was an employee of the department.

MR. MORAN: This was only a little spite on the Premier's part. It was a matter of temper, and he would ask the Premier not to insist upon it. That clause made it mandatory that the Court should fix costs. He was not going to consent to that clause becoming law, if he could help it. He asked the Premier from what State he copied this, and the Premier said none, and that in no other State was a representative of a union allowed to appear.

THE PREMIER: It had not been said by him that he copied it from no other State.

MR. MORAN: Then he repeated his question, in what other State did this clause appear?

THE PREMIER: The clause was word by word the same as in New Zealand, except that part which said that where an appeal was frivolous the costs should be paid by the appellant.

MR. MORAN asked the Premier to produce the New Zealand clause without the addendum.

MR. BATH: When we agreed to some such provision as this we urged that the board should have power; and we should be content with giving the board power to do this.

THE MINISTER FOR RAILWAYS: It had been suggested that this clause was only introduced because of the last amendment by the member for West Perth; but the Committee would know

better than that. Notice of this amendment was given when "a sum exceeding one pound" was struck out of the first amendment on the Notice Paper. When the limit of the fine was reduced, it was agreed by the Committee that there should be a clause giving the board power to order costs, and that where the appeal was frivolous they should order costs to be paid by the appellant.

MR. MORAN: No such understanding was heard of by him as that the board should fix costs. He was willing that this clause should go in, but he was not willing to make it mandatory on the board always.

THE PREMIER: Where the appeal was frivolous it should be mandatory.

MR. MORAN: We must not tie the hands of the board any more than the hands of an Arbitration Court, the Supreme Court, magistrates' court, or any other bench. He would not consent to go farther than giving the board power to inflict punishment upon those who brought frivolous appeals.

MR. PIGOTT: It was, he thought, thoroughly understood by most members of the Committee, when the amendment by the member for West Perth was agreed to, it was fixed definitely that in any frivolous cases the costs of the appeal would be drawn from our pockets.

MR. BATH: That the board should have the power.

MR. PIGOTT: That was a quibble. If it was necessary for us to give the board power, we should make the board exercise it. It was for the board to decide if the appeal was frivolous, and if they decided it was frivolous the appellant should be made to pay. He hoped the member for West Perth would agree to the suggestion made. He (Mr. Pigott) fully understood that a clause of this description was to be brought in.

MR. BATH: When the other clause was passd we agreed to the proposal that this clause should be inserted at the end; but in no legislation would we see a clause drafted like this. If drafted in the usual manner it would appear that the board should have power in cases they considered frivolous to order costs to be paid.

THE PREMIER: We went farther by providing that where any appeal was frivolous the costs should be paid by the appellant.

MR. BATH: Had the hon. gentleman ever seen a clause drafted like that?

THE PREMIER: How could he say at a moment's notice? He had seen lots of clauses providing that where an appeal was frivolous costs should be paid, or should not be paid, by one side or the other. Under this Bill it would rest with the board to say whether an appeal was or was not frivolous, and if the board came to the conclusion that the appeal was frivolous, should not the costs be paid by the appellant?

MR. CONNOR: This question was settled definitely by 17 votes to 11, and the decision ought to be accepted by the Premier. If it was not accepted by the hon. gentleman, it was because the Premier simply said, "I defy what the majority of this House state."

MR. DAGLISH did not agree with the criticism by the member for West Perth regarding the motive of the Premier in drafting the amendment, for the amendment was drafted before the last division took place.

THE PREMIER: Long before.

MR. MORAN said he never mentioned the last division in his speech. It was the member for East Kimberley. If there was a misapprehension, he wished to come to an understanding. He did not desire to deceive the Premier. The hon. member said there was an understanding that a clause of this kind should be introduced. Certainly there was, but he joined issue with the Premier when the hon. gentleman gave us to understand that the infliction of costs should be mandatory.

MR. DAGLISH: The Premier, he believed, submitted this in good faith. He (Mr. Daglish) agreed with the member for West Perth in saying the clause was different from that which he had in mind when he suggested an amendment. In fact he thought he was the first to suggest it. He agreed with the principle the Premier laid down, but did not agree with the drafting of the clause. It should be drafted in a style in which clauses having the same object were usually drafted. He understood the opinion of the Committee to be that, when a man brought a frivolous appeal he should be mulcted in the costs of it.

We should provide that the board might order costs. In our Court procedure it was provided that a man who did a certain thing should be liable to punishment. The Premier might make the clause read that the appellant should be liable to pay costs, or that the board might order costs, as suggested by the member for West Perth. It should not be mandatory on the board. The Government would have two representatives on the board.

MR. PIGOTT: A most unfair statement.

MR. DAGLISH: The magistrate, who would be chairman, was appointed by the Government. There was a distinction between a chairman mutually agreed upon by either side, and a police magistrate. The former would be perfectly free from bias towards one party or the other. Certainly a police magistrate would be free from bias, but the fact could not be overlooked that he was appointed by the Government and not selected by mutual agreement of the two parties. One was justified in saying that the Government would have two representatives on the board. Therefore if the representative of the employees might not be trusted, the two Government representatives would not unduly favour the appellant if his case were frivolous. The Premier should make it optional on the board to order costs. A case might occur in which the board would not feel that it was warranted in ordering costs.

MR. BATH: There was no desire to go back on the statement made by hon. members that such a clause as that proposed would be supported, but it was desired to have the clause worded as ordinary clauses of this character were worded elsewhere. Clause 8 of the Arbitration Act dealing with appeals provided that the Court should dismiss any matter referred to it which it thought frivolous, and that in such a case the Court might order the party bringing the matter before it to pay costs. The Premier should adopt the same wording in his clause.

THE PREMIER: The clause in the Arbitration Act was wrong. Frivolous cases should be dismissed with costs.

MR. DAGLISH: Members had the wording of the clause in the Arbitration Act in view in making the suggestion.

MR. TAYLOR was sorry the Premier was so firm in regard to this clause. No member anticipated the clause as drafted by the Premier.

MR. HOLMES: The understanding was clear.

MR. BATH: The understanding was clear so far as he was concerned.

MR. MORAN: And so far as he was concerned.

MR. TAYLOR: The understanding was not that a clause should be adopted as worded by the Premier, but that the board might punish frivolous appeals by inflicting costs.

THE PREMIER: The board would have that power in any case.

MR. TAYLOR: No alternative was left to the board.

THE PREMIER: Not where, in the opinion of the board, it was a frivolous appeal.

MR. TAYLOR: The Premier pointed out there was no board before which the secretary of a union was allowed to appear, thus showing that the Premier was desirous of aiming a blow at the secretaries of unions.

THE MINISTER FOR WORKS: The clause was framed when the suggestion was made.

MR. TAYLOR: No member on the Opposition side knew that the clause was to take its present form.

MEMBER: The leader of the Opposition did.

MR. TAYLOR: That gentleman was not taking much interest in the Bill. There was no clause in any of our Acts by which we compelled the Supreme Court Judges to do a certain thing, and there should be no special legislation in regard to this matter between employees. The board should be free to decide whether a case was frivolous or not, so long as they had power to inflict punishment, and they should not be brutally compelled to do so.

MR. HASTIE: When the Premier read out the clause, all on the Labour bench were simultaneously pleased, thinking it the best way out of the difficulty. The idea of Labour members was to leave the Court to have absolute power in everything they might do. So far as the effect of one wording or another went, he did not think for a moment that in the majority of cases it would matter, because

it was inconceivable that any board, if it did not wish to levy costs, would say that a case was frivolous. According to the wording of this clause the board would consider it mandatory to order a man to pay costs for frivolous appeals, but in many laws passed by this House the Premier was anxious that we should use the word "may" and not "shall."

THE PREMIER: As applying to the Supreme Court.

MR. HASTIE: Yes; and for every other Court. The object of the Premier would be attained by using the word "may." If we could not trust the board to carry out punishment for frivolous appeals, we could not trust the board in any other way. No good case was made out for a special exemption in this matter.

MR. MORAN: The Premier would defeat his own object by binding the hands of the Court to inflict a fine if an appeal was frivolous.

THE PREMIER: It was to be a refund of the money wasted by the State over the frivolous appeal.

MR. MORAN: We proposed to depart from every law in this regard. In police courts the infliction of costs was entirely optional with the bench, and first offenders were provided for; but in this case the board would have to deem a charge not frivolous which, with optional powers, it might otherwise deem frivolous; and it would give the benefit of the doubt in almost all cases to the man who brought on the appeal, so that the object of the Government would be defeated. It was a bad departure; but if the Labour party were agreed to accept the clause he would not oppose it.

MR. BATH: The Labour party could not give way on a compact made; but they must be more explicit in their compacts in the future.

MR. MORAN regretted that the Premier should have thought members would go back on their words, but no one understood the Premier to say that it would be obligatory on the board to inflict costs. Was it right that the Premier threw out the threat to drop the Bill if this clause was not passed?

THE PREMIER: That was correct.

MR. MORAN recognised the mailed fist and would bow to it rather than lose the Bill.

MR. TAYLOR was not aware of any compact being entered into or that the Bill would be lost if the clause was not to go through. He did not like compromising in a matter of this kind. The appeal board might consider a case was a frivolous one and the cost might amount to two or three pounds. In such a case the appeal board might reduce the fine to 5s. or 10s. to avoid the costs. It was to be hoped the clause would not be pressed to a division.

Question passed, and the clause added to the Bill.

New Clause 81—Regulations:

On motion by the MINISTER, new clause as in Notice Paper added to the Bill.

Resolutions reported.

RECOMMITTAL.

On motion by MR. DAGLISH, Bill recommitted for amendment of Clause 24.

Clause 24—Provision as to by-laws:

MR. DAGLISH: In regard to the fines mentioned in Subclause 7, the maximum was too great. It was an administration fine, and was used at the workshops in regard to trivial errors or omissions, such as the breach of ticket regulations. A fine of £5 for an offence which ought to be met by a fine of 2s. 6d. was not right, and a man who was fined might not be justified in appealing against the punishment because there had been a breach of regulation. He moved

That the word "pounds" in line 3 of Subclause 7 be struck out, and "shillings" inserted in lieu.

It was wrong to have a lot of penalties of a high character, and because a man committed a trivial offence it was not right to take away from him a large portion of his wage, which might be little enough to support his family.

THE MINISTER: In the police court, where a maximum fine of say 40s. might be inflicted, how often was that penalty imposed? Generally, a fine of 5s. or 2s. 6d. met the case. How often would the maximum penalty be imposed under the clause? Against the infliction of a fine there was the opportunity to appeal. To argue the point farther was playing with the Bill. One could imagine offences committed which were sheeted home and upheld by the appeal board in which a fine of £5 would not be too great. A

railway servant might destroy property to the extent of £100; it might be deliberately done, in which case the maximum penalty would not be too much. Before the fine was carried into effect there could be an appeal.

MR. CONNOR moved as an amendment,

That the word "five" be struck out and "one" (one pound) inserted in lieu.

MR. ATKINS: Were the by-laws subject to the appeal board?

THE MINISTER: Any fine inflicted would be subject to the appeal board. Supposing a man was fined £1, he would be able to appeal against that fine.

MR. ATKINS: Private companies did not deal with their men in this manner. If a contractor was not satisfied with a man he was discharged. If there was an appeal against a fine, then no sum would be too great.

MR. DAGLISH withdrew his amendment.

Amendment (Mr. Connor's) put, and a division taken with the following result:—

Ayes	...	...	...	9
Noes	...	...	...	19
Majority against			...	10

AYES.	NOES.
Mr. Bath	Mr. Atkins
Mr. Daglish	Mr. Butcher
Mr. Diamond	Mr. Ewing
Mr. Hastie	Mr. Ferguson
Mr. Johnson	Mr. Gardiner
Mr. Moran	Mr. Gordon
Mr. Reid	Mr. Gregory
Mr. Taylor	Mr. Hayward
Mr. Connor (*Teller*).	Mr. Holmes
	Mr. Hopkins
	Mr. Jacoby
	Mr. James
	Mr. Nanson
	Mr. Piesse
	Mr. Quinlan
	Mr. Rason
	Mr. Wallace
	Mr. Walter
	Mr. Higham (*Teller*).

Amendment thus negatived.

Bill reported without farther amendment, and the report adopted.

ADJOURNMENT—REMARKS ON BUSINESS.

THE PREMIER moved that the House at its rising do adjourn till 11 a.m. to-morrow. He hoped the work on the Notice Paper would be disposed of by the afternoon, and that we should then receive from the Legislative Council the Redistribution of Seats Bill. Members would agree that we should deal with the three Constitution Bills as forming part of one scheme; and he proposed to wait here till the matter was decided in another place. He hoped the energies of the Council would soon be directed to the subject, because the points of difference between the two Houses, on the Redistribution of Seats Bill at all events, were not so serious that they could not be disposed of in one sitting. He hoped to have the Bill returned to this House to-morrow afternoon.

The House adjourned at nine minutes past 11 o'clock, until the next forenoon.

Legislative Council,

Wednesday, 23rd December, 1903.

THE PRESIDENT took the Chair at 4·30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Return (asked for by Hon. C. A. Piesse), showing particulars of estates under Lands Purchase Act. Regulations under Goldfields Act.

Ordered, to lie on the table.

REDISTRIBUTION OF SEATS BILL.

AMENDMENTS, FARTHER POSTPONEMENT.

Order read for consideration of the Assembly's message relating to amendments.

HON. J. W. HACKETT said he would like to put a question to the Colonial Secretary, as to whether the hon. gentleman had any statement to make with