

MR. HALL: No one thought the member for West Kimberley had that influence in the House. He objected to the Bill going to a select committee, because he felt the object of the member for the Murray was to shelve the Bill.

MR. GEORGE: Nothing of the kind.

MR. HALL said he was giving his opinion.

MR. GEORGE: Then the opinion was wrong.

MR. HALL: The Bill had been considered by delegates from all the municipalities of the colony; it had been well threshed out, and the municipal bodies were desirous that the Bill should become law. The statement was made by an hon. member, but it had been withdrawn, as to the worthlessness of municipal conferences. He (Mr. Hall) had had the honour and pleasure of being president of two municipal conferences, and he could assure hon. members that a vast amount of work was done at these conferences. A little pleasure, naturally, took place after the work of the conference was done, but he was sure a great deal of valuable work was done, and it was not right that the hon. member should endeavour to belittle the work done by those gentlemen who took upon themselves public duties for which they received no recompense whatever, except plenty of abuse.

MR. GEORGE said he did not belittle the conferences.

MR. HALL: The hon. member stated that municipal conferences were only "guzzling matches."

MR. GEORGE: That was so.

MR. HALL: It did not seem that the hon. member found much wrong with the Bill; and surely in this House we could amend any clause we thought necessary, or strike it out. He hoped the House would consider the Bill, and that it would not be referred to any select committee to be thereby shelved.

Motion (Mr. George's) put and negatived.

ADJOURNMENT.

The House adjourned at 11:11 p.m. until the next day.

Legislative Assembly,

Thursday, 7th September, 1899.

Papers presented—Question: Attendances of Delegates at Federal Convention Question: Loading Vessels at Fremantle—Question: Harbour Dues, Concessions to Mail Steamers—Question: Albany Harbour (Princess Royal)—Question: Boring for Coal near Albany—Question: Kimberley Stock Returns Municipal Loans Validation Bill, first reading—Land Act Amendment Bill, first reading—Roads and Streets Closure Bill, third reading—Industrial Conciliation and Arbitration Bill, second reading; renewed and concluded—Electoral Bill, Re-committed; reported—Constitution Acts Consolidation Bill, in Committee, Clauses 1 to 8, Divisions; progress—Patents, Designs, and Trade Marks Bill, second reading (moved)—Municipal Institutions Bill, in Committee, Clauses 210 to 276; progress—Adjournment.

THE SPEAKER took the Chair at 4:30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the PREMIER: 1, Correspondence between Premiers, etc., re construction of railway from South Australia to Western Australia; 2, Correspondence as to Mail Service, Yalgoo, Yuin, etc., on motion by Mr. Wallace.

Ordered to lie on the table.

QUESTION—ATTENDANCES OF DELEGATES AT FEDERAL CONVENTION.

MR. JAMES, without notice, asked the Premier when it was proposed to complete the return moved for by the member for the Murray (Mr. George), as to the attendances of Western Australian delegates at the Federal Convention.

THE PREMIER: The return has been laid on the table.

MR. JAMES: Part of the return was laid on the table, but the Premier said at the time that there had not been time to prepare the full return.

THE PREMIER: A telegram has been sent to Melbourne, but no reply has as yet been received.

MR. JAMES: The right hon. gentleman has been able to find out the number of my attendances at the Convention.

THE PREMIER: I went through the records myself, in order to get the attendances of the member for East Perth.

MR. JAMES: Then the Premier ought to go through the records and get the attendances of the other delegates.

QUESTION—LOADING VESSELS AT FREMANTLE.

MR. HIGHAM asked the Premier: What provision is being made for double-banking timber vessels when loading at the South Quay, Fremantle, and providing stagings to facilitate their working.

THE PREMIER replied: The Chief Harbour Master is prepared to double-bank timber vessels when requested to do so, and as soon as the necessary staging is constructed to enable the vessels to load at an outside berth.

QUESTION—HARBOUR DUES, CONCESSIONS TO MAIL STEAMERS.

MR. LEAKE asked the Premier: Whether it is the intention of the Government to make concessions with regard to harbour dues, and the use of tugs, in favour of the mail steamers, in the event of Fremantle being made a port of call.

THE PREMIER replied: No promise to do so has yet been given.

MR. LEAKE: That is hardly an answer to the question, which is not as to whether any promise has been given.

THE PREMIER: The reply given is an answer to the question.

MR. LEAKE: I ask you, Mr. Speaker, has the reply given to be taken as an answer to the question on the Notice Paper.

THE SPEAKER: If the Government say it is an answer, I suppose it must be taken as such.

MR. LEAKE: Then I must take what I can get.

THE SPEAKER: Certainly.

QUESTION—ALBANY HARBOUR (PRINCESS ROYAL).

MR. LEAKE asked the Premier: 1, Whether it is proposed to have a survey made of the entrance channel and the anchorage in Princess Royal harbour. 2, Whether it is a fact that the harbour master at Albany has been instructed not to bring into Princess Royal harbour vessels drawing more than 26ft. 6in. 3, What depth of water there is in the channel.

THE PREMIER replied: 1, No; as the present survey is considered accurate; 2, Yes; on 12th August, 1898, as the Chief Harbour Master was of opinion that it would not be safe to do so; 3, Thirty feet.

QUESTION—BORING FOR COAL NEAR ALBANY.

MR. LEAKE asked the Director of Public Works: 1, Whether it is proposed to bore for coal near Albany, and whether the work will be done by the Government or private persons. 2, Whether the Government propose to lend boring machinery for the purpose. 3, Whether any examination or report has been made upon the locality by the Government Geologist.

THE DIRECTOR OF PUBLIC WORKS replied: 1, It is not proposed by the Government to bore for coal near Albany, but a private company has been formed for that purpose; 2, The Government have promised to lend a boring plant for the purpose, and will pay the wages of foreman in charge. The plant is ready for despatch, and will be forwarded immediately all preliminaries are arranged; 3, A report has been made by the Government Geologist to the Minister of Mines.

QUESTION—KIMBERLEY STOCK RETURNS.

MR. CONNOR asked the Premier: 1, How the stock returns for the Kimberleys for last year were compiled; 2, Whether they were correct; 3, If not, whether the Minister will have corrected returns prepared.

THE PREMIER replied: The Registrar General reports as follows:—1, From particulars which have to be supplied under the Industrial Statistics Act, 1897, by the owners or managers of the various stations in the three Kimberley Magisterial Districts; 2, so far as the information supplied allows; 3, answered by No. 2.

MUNICIPAL LOANS VALIDATION BILL.

Introduced by the PREMIER, and read a first time.

LAND ACT AMENDMENT BILL.

Introduced by MR. JAMES, and read a first time.

ROADS AND STREETS CLOSURE BILL

Read a third time, and transmitted to the Legislative Council.

INDUSTRIAL CONCILIATION AND ARBITRATION BILL.

SECOND READING—DEBATE RESUMED.

Debate resumed on motion for second reading, moved 29th August.

MR. VOSPER (North-East Coolgardie): After perusing the Bill carefully and comparing it with the legislation in the other colonies on the same subject, I find the task of speaking on the Bill is a light one. I give my entire approval to the Bill, and I congratulate the Government for having adopted it. The slight changes which have been made from the New Zealand Act, I think, will be more advantageous than otherwise. The great advantage of having a measure of this kind lies in the moral effect it will have in connection with future labour disputes. All labour disputes depend to a large extent on public opinion; and if public opinion sets in against one party to the dispute, that leads to surrender by that party to the dispute, in the long run. We have had an example of that in this colony, and there have been examples all over the world. If an idea once takes root in the public mind that one party to a dispute is in the wrong, that party will have to surrender. The way in which the Bill will have the effect of facilitating that expression of public opinion lies in the first part of the measure, which I may term the voluntary conciliation. If two bodies of persons are engaged in a dispute, facilities are given under a Bill of this nature for conciliation, and if one party is perfectly willing to avail themselves of the provisions of this Bill and the other party refuse, that is sufficient to show the public that the party refusing are more or less in the wrong, and the refusal will have the effect of setting public feeling against that party, which feeling in the long run will become overwhelming. Therefore the first part of the Bill is likely to provide a good effect. In New Zealand, where the Bill came from, it has had a good effect and seldom have the compulsory clauses of the Act been brought into force. All the years the Act has been in operation in New Zealand, only twice have disputes been settled by compulsory arbitration; the parties to disputes in all other cases have taken advantage of the first portion of the Bill and have settled their disputes by conciliation. Public opinion becomes so strong and so vital a force that it is absolutely impossible for any party in the wrong to combat with public opinion. When we come to the question of compulsory

arbitration I must admit, and I think everyone who has considered the question must admit, that it is extremely difficult to enforce the compulsory clauses, and no person can disguise that fact from himself, however much he may be in favour of the Bill as a whole. We cannot hope to compel a workman to work for less wages than he is inclined to take, nor can we compel an employer to give more wages than he thinks right to give. If a harsh and severe decision is given by the board of compulsory arbitration, and the employer finds himself heavily penalised by the terms of that decision, he would no doubt find a remedy by going out of business or changing the form of his business, and if a labour union were placed in the same position no doubt the body would dissolve the union and the object of the Bill would not be met. Whenever a labour dispute arises I think it is reasonable to suppose that both parties would be very unwilling to allow the dispute to go to that stage, which would mean in the event of the decision being given the destruction of the employer or the union. Workmen would be very chary of acting in an obstinate manner to compel the board to sit, because if the decision were given against them it would mean the breaking up of the union; on the other hand an employer is not likely to be harsh and tyrannical with the risk before him of perhaps having to go out of business and losing a large quantity of the capital he had invested in that business. That is exactly the risk the Bill provides, consequently on the one side the Bill gives facilities for a peaceful settlement of disputes, and on the other hand there are the compulsory clauses which are not likely to be placed in force, as there is the alternative, which people were not likely to risk. I shall certainly vote for the Bill; I have not discovered that it requires material amendment, and I shall give my support to the second reading, and shall support it in Committee. I hope the Bill will have a speedy passage in both Houses, so that in the future, if disputes occur, as they have in the past, the trouble and loss to the colony will be prevented. Labour disputes will cause trouble and loss if we have no legislation of this kind. I congratulate the Government, and I hope the Bill will speedily become a part of our statute.

MR. RASON (South Murchison): I shall support the Bill, in the hope that it may prove of some use in the settlement of trade disputes. We know unfortunately that industrial disputes do arise, and are becoming more frequent and extensive as time passes by. All are anxious to provide some means of dealing with disputes of this kind, so that the loss and misery that will follow labour strikes may be obviated as far as possible. We know that the distress which follows upon strikes is year by year becoming more widespread, inasmuch with the march of progress our industrial bodies are becoming so complicated in their nature that the actions of a few very often materially affect the welfare of the many. For instance, although the parties directly interested in a strike, or a lock-out, may be very few, those parties indirectly interested, but directly affected, may be very many. I am afraid the machinery provided by the Bill is not likely to prove effective in disputes of any great magnitude. As the member for North-East Coolgardie (Mr. Vosper) has pointed out, there will be considerable difficulty in enforcing any award made by the court of arbitration. There is an old adage that says, "You can lead a horse to the water, but you cannot make him drink"; so you can take the disputing parties to the court of arbitration, but you cannot make them abide by the award of the court. I think we may hope more from the board of conciliation than from the board of arbitration. The services of that board will be available in the earlier stages of the dispute. The board will be able to intervene before the dispute has reached an acute stage, and may, by friendly counsel, induce one or both of the parties to the dispute to abandon a position which at a more bitter period of the strike they could not abandon without admitting defeat. I think also we may look more for the moral effect of the board of conciliation than any actual award. As a member who has already spoken has pointed out, we know public opinion is a very important factor in disputes of this nature—a factor which has to be reckoned with on both sides—and I think the public will be guided to a large extent by the decision of an impartial tribunal, such as we intend to constitute. There is one point that occurs to me—

whether the Bill will apply to associations in the Civil Service; railway servants, for instance. I do not know whether that is intended, but, as one having some experience of railways, I can easily foresee that if it be so, the Bill is not likely to prove altogether an unmixed blessing. Unfortunately we know that wherever legislation of this kind has been introduced, it has not on the whole met the necessities of the case; but, as the Right hon. the Premier has pointed out, we are following in this Bill the lead of New Zealand. It is admitted in that colony that although the Bill there has not altogether surmounted the difficulties, it has nevertheless done much good. It has minimised the evils of these disputes to a very large extent, and I hope that such results will follow the introduction of the same legislation in this colony.

MR. LEAKE (Albany): I do not see there is any power in this Bill for the court, or any other body, to fix wages in the event of a dispute. After all, the member for North-East Coolgardie about summed up the Bill when he said the effect it would have would be a moral effect. I do not think it would have any other.

THE PREMIER: The penalties and costs may amount to £500.

MR. LEAKE: That is in Clause 81.

MR. VOSPER: See Clause 78.

MR. LEAKE: There is some provision in Clause 78. I rise not to object to the second reading of the Bill, but to point out there is no mention whatever of free labour throughout the measure, and I have always understood that in all these industrial disputes the free labour element is an important one. No provision is made for the representation of free labour before the board or the court, and it becomes necessary to consider whether provision should not be made in that direction. I know it is difficult to say free labour shall be represented, because free labour is represented as a rule by one man only as against an association or union, and no doubt it will be difficult to give these people representation when we find that the dispute is between the employer and the employees.

THE PREMIER: It has always been between the employer and the registered society.

MR. LEAKE: A dispute very frequently arises from the fact that the employer will insist upon employing free labour.

THE PREMIER: No; that is illegal.

MR. LEAKE: Does the Bill go to the extent of saying every labourer must be a member of a union?

THE ATTORNEY GENERAL: Oh no; it does not do that.

MR. LEAKE: It seems to me that would be interfering too much with freedom of contract.

THE ATTORNEY GENERAL: Yes; but the Bill only recognises members of unions.

MR. LEAKE: That is what I say; it only recognises members of unions, and there is a difficulty in recognising anyone else, because the free labourer is an individual.

THE ATTORNEY GENERAL: Yes; you cannot do that.

MR. LEAKE: There should be a power for the free labourer, or a certain number of free labourers, to come in and be heard at these inquiries.

MR. VOSPER: The employer can call them as witnesses.

MR. LEAKE: It may be so. The scales of justice, or what are meant to be the scales of justice, are held between the employer and the unions, and between them only, and the decision goes forth as between those parties. It is not until we get to Clause 81 that there is really much in the Bill.

THE PREMIER: Clause 29 is an important one. It says that the men cannot strike.

MR. LEAKE: You can say they cannot strike, but they will strike.

THE PREMIER: They will put themselves in the wrong, then.

MR. LEAKE: There is always a defiance more or less of the law of contract in all these cases of strike, and it is because people on one side or the other, either the employer or the wage earners, go to the extreme and exceed the limits, these disputes become so intense. Unless there is some efficient way of enforcing the awards made as between these parties, I do not think the Bill can be of any great avail, unless it be that it will have the effect the hon. member mentions, namely, a moral effect. If we could rule people by morals, it would be an excellent

idea. It would be absolutely novel, but we would hail such a consummation with the greatest delight possible. I only rise to mention these matters for the consideration of those who are in charge of the Bill, and if we can by any possibility have any effective means of settling these trade disputes, it must be to the advantage of the whole community. We have only to remember the dispute that occurred in Fremantle a short time ago. I did not happen to be here at the moment, but I read a great deal about it in the newspapers, and I could see how terribly that dispute disturbed the whole trade and business of the community. If a union is sufficiently strong to fight, or if its cause is so just as to enable it to embark in a dispute with the employers; or if, on the other hand, an employer is sufficiently strong to fight these unions, each party should be forced to put up a very considerable sum by way of security for the expenses which the other side may be put to. As has been pointed out, paragraph 6 of Clause 81 says each member of a union is liable to the extent of £10. There is always a difficulty in collecting sums of this sort, and whether practical effect will be given to this clause remains to be seen. I shall support the second reading, but when we are in Committee I shall certainly ask for explanation of the points I have referred to.

MR. JAMES (East Perth): I do not share the misgivings of the hon. member for Albany (Mr. Leake). I think this Bill promises to be a very valuable piece of legislation, and I shall do my utmost to assist the Government in having it carried. If we attempt to introduce something that is going to remove every possible evil that can arise owing to a strike or lock-out, we shall be endeavouring to do what is an impossibility. This Bill is recognised to be the most advanced measure existing for the purpose of dealing with these disputes by legislative machinery. There is one part of an Act which, perhaps, goes further than this Bill in the direction desired, namely, a section of the Victorian Shops and Factories Act, which, to a certain extent, enables the Government or board to fix a minimum wage, and I do not ask the Government to go to that extent. The Act in New Zealand has been a success. Always the greatest difficulty in con-

nection with strikes is to get the disputants together. The first part of the Bill, dealing as it does with conciliation, and providing machinery by which the two parties shall be brought together, will secure a satisfactory settlement of the majority of these strikes and lock-outs. It has been the experience in New Zealand, and I think it has been the experience of the old country, that as soon as you get the parties together and make them realise that they cannot keep one another at arm's length, an agreement is arrived at and the matter settled. The conciliation part of the Bill will, I think, meet most difficulties that will arise. If there should be some obstinate employers or workmen who will not avail themselves of it, the provisions of the Bill would be found amply sufficient in the great majority of cases. I have great pleasure in strongly supporting the Bill.

MR. OLDHAM (North Perth): It is certainly a difficult matter for any legislature to realise how far it is advisable for the Government of a country to step in between employer and employee for the purpose of settling disputes. I desire to congratulate the Government upon attempting this most difficult task. I see no measure the Government can bring forward which is likely to do so much good and to so advance the industries of Western Australia as this one. Every member who has given this difficult problem any study at all will recognise how strikes and lock-outs of various descriptions have interfered with the development of the industries of different countries; and the House will agree with me that this young country cannot afford to have its industries upset if it can be possibly avoided. I do not look so much to the moral effect of this Bill as to its compulsory effect. In fact my experience of the moral effects of strikes and lock-outs is that they are of no value whatever. We may say what we like about the effect of public opinion on the two parties to a dispute, but the party which is winning cares nothing at all for public opinion; and this is proved conclusively by the last great maritime strike in Australia; which extended to a small extent to this colony. The men who were fighting in that strike had the sympathy of a large proportion of the people of Australia, and yet they were beaten to a

standstill. The great principle of this Bill is that it forces a combination amongst workmen, and it also forces a combination amongst employers; and to my mind that is absolutely the best assurance we can have that no dispute will arise. It is not necessary at this stage to say anything further about the Bill. I desire again to congratulate the Government for even attempting this most difficult task, and I can assure them that so far as I am concerned I will endeavour to give them every possible support.

MR. ILLINGWORTH (Central Murchison): I congratulate the Government on the introduction of this Bill, which will operate probably as a preventive rather than a cure; and I look mainly in that direction for whatever good it may do. Prevention is proverbially better than cure. The disputes that arise, that have arisen in the past, and that may arise in the future, might frequently have been prevented if the parties could have come together before the heat of the strike arose and became acute; but there was no provision in this colony, nor until recently in the other colonies—no means by which the disputants could bring in disinterested parties to discuss the existing difficulties and to endeavour to minimise them; and as a result, feeling became heated, thus increasing the difficulty and exaggerating its extent. To my mind the principal source of effect in the Bill will be this board of conciliation. On the Continent this system has been tried, as most members are aware, in ordinary courts of law. In two or three European countries, but more particularly in Denmark, there are courts of conciliation established to deal with ordinary disputes, such as in this colony are usually brought into the law courts. These courts of conciliation are at the command of people who like to seek their aid, for almost nominal fees; and it is on record that the cases which come before the ordinary law courts have, since the establishment of these courts of conciliation, greatly decreased. I look forward with very great pleasure to the prospect of the difficulties which have hitherto arisen being almost entirely prevented by this Bill. I hope the compulsory clauses will not be required. The conciliatory clauses, I think and hope, will be of very great value. I have had put in

my hand a book by Mr. Webb called "Industrial Democracy," and the author says, speaking of the Act in New Zealand, on which this Bill is founded:—

During the three years that this Act has been in force there have been altogether 16 labour disputes, and it has been successfully applied to every one of them, half being settled by the boards of conciliation and half by the court of arbitration. The awards have been uniformly well received by the parties, and appear to have been generally obeyed. Several of them were filed in the Supreme Court, and have thus obtained the force of law. So far the Act has been entirely successful in preventing the dislocation of industry.

If such be the report upon the operation of this legislation elsewhere, we may receive the Bill with confidence in this colony. I always notice when these disputes arise that the workmen generally get the worst of it; for even though they gain a nominal victory, the poorest people have to suffer the greatest loss. It is a lamentable state of things that the whole community should be disturbed by such disputes; and the most lamentable feature of all is that the people least able to suffer are those who have to endure the greatest suffering. I hope this Bill will be effective, especially in its conciliatory clauses, in preventing labour disputes in this colony; and feeling that it will, and strongly desiring that it should, I have the greatest pleasure in congratulating the Government on their bringing before the House such needful legislation.

MR. DOHERTY (North Fremantle): I rise to support the second reading of this Bill, which is practically the outcome of the recent maritime strike at Fremantle, in which I took some interest. I congratulate the Government on the prompt action they have taken by introducing this Bill to the House. But there is one principle in the Bill which I do not understand, namely, the appointment of the chairman of the conciliation board. He is to be elected, and there is a danger that he may be elected entirely by the operatives or entirely by the employers. The chairman of the board will have a casting vote, and that such vote should be practically in the hands of one of the parties to the dispute is a very serious difficulty. I take it that we should consider the advisableness of appointing a resident magistrate or a police magistrate

as the chairman of the board of conciliation. This matter should be looked to. One member of the board being elected by the operatives and another by the employers, the vote of the chairman should be absolutely impartial, and should be given in virtue of the equity of the cause. The late strike at Fremantle exemplified the fact that the bad feeling grew in intensity day by day. At first the feeling did not seem to be bitter; both parties took matters in rather a friendly way; but day by day we saw bad feeling increase, until it came almost to bloodshed.

MR. VOSPER: The temperature suddenly went up.

MR. DOHERTY: The temperature suddenly went up. And the attempt to settle the dispute then was as difficult as to try to put out a fire after it had possession of the premises. I think this Act will probably prevent the necessity for the workers going out on strike. It is often very difficult for the Government to judge between the strikers and the employers; this was exemplified at Fremantle, where the Government thought fit to protect the shipowners as against the men, and thus caused a great deal of bitterness. Besides the defect regarding the appointment of the chairman, I see no provision for the trades unions themselves suing the members of a union to cause those members to return to work, or to enforce in court any fines that may be imposed upon the workmen. This matter might also be looked into. Apart from those points, I think we can congratulate the Government on introducing such a fine piece of legislation.

MR. MORGANS (Coolgardie): I endorse the views of hon. members who have spoken concerning the great importance of this Bill. The measure is divided into two parts, one providing for conciliation and the other for arbitration. I think no one in this House can raise any objection to a board of conciliation in the case of a labour dispute, because I think in the first place that such a board would, in nine cases out of ten, have the effect of arranging the difficulty; and in the second place it seems a very just and proper way of attempting to settle disputes. But when it comes to the arbitration provisions of this very important measure, then I think this House should

look carefully into the merits of the case, because it presents to my mind, and I know it does to the minds of many men in this country, very serious difficulties. I do not wish to appear as in any way opposing this measure on principle; but at the same time it must be acknowledged by all that, in the event of arbitration in a dispute, it is easy to enforce submission to a decision of the court so far as employers are concerned, but it is very different to do the same thing as regards the employed. Under the provisions of this Bill I take it that the court has the power to enforce a penalty to the extent of £500. To that limit it can enforce its decisions like a superior court; but the limit is only placed upon one case, and the case may be brought forward again, and another £500 penalty inflicted; in fact, the process may go on *ad libitum*. In the event of a dispute between employer and employed under this compulsory arbitration, I should like to ask how the Government propose to deal with a body of 1,000 men, for example, who lay their case before this court of arbitration. Suppose the court to decide against the men, what machinery is it possible for this or any other Government to introduce to force those men to comply with the terms of the award? The court could impose a penalty of £500, but how could it make the men pay the fine? It seems to me that in this part of the Bill are matters requiring grave consideration, and I would respectfully suggest that considerable time should be given, not only to hon. members, but to the community at large, in order to study what the effects of this Bill will be if brought into operation. Speaking for the people on the goldfields generally, as far as my knowledge goes I believe that the workers are in favour of this Bill, and that a large section of employers also are in favour of some Bill which would, if possible, prevent labour disputes; but I certainly feel that in such an important measure as this, the public, who are vitally interested in the Bill, have not had sufficient opportunities for studying its merits, and what its effects will be when adopted. I do not know what procedure should be adopted in this case, but we are now on the second reading of the Bill, and although I do not wish to oppose the second reading, I desire most earnestly to

ask the Premier that he should give a sufficient time between the second reading and the discussion in Committee, to enable those who are directly and indirectly interested in this measure to give it due consideration. In view of the important issues raised, issues as important to the working men as to the employers, I hope no attempt will be made to force this measure through the House, but that time will be given for full consideration on the part of all parties concerned.

Question put and passed.

Bill read a second time.

ELECTORAL BILL.

RECOMMITTAL.

On motion by the PREMIER, Bill re-committed for verbal amendment.

THE PREMIER moved that in Clause 33, line 3, before "witness," the word "adult" be inserted; further, that similar amendments be made in Clauses 37 and 41.

MR. KINGSMILL asked what the procedure would be, supposing the Bill were to pass its third reading, and clauses were altered in the Constitution Bill. Would not the House be placed in a somewhat anomalous position?

THE PREMIER: Good care would be taken to prevent such a condition of affairs arising.

Amendments put and passed.

Bill reported with further amendments.

CONSTITUTION ACTS CONSOLIDATION BILL.

Bill, as amended *pro forma*, further considered.

IN COMMITTEE.

Clause 1—agreed to.

Clause 2—Repeal:

MR. ILLINGWORTH: The clause repealed all the Constitution enactments mentioned in Schedule 2, and by Clause 48 the Bill commenced to take effect from the date of the proclamation by the Governor, which had to be made as soon as the notification of the royal assent had been received.

THE PREMIER: Some amendment would be needed in Clause 48, because the notification of the royal assent might be received in the middle of the session.

Clause put and passed.

Clause 3—Interpretation:

MR. ILLINGWORTH moved that in lines 14 and 15 the words, "individual of either sex," be struck out, with a view of inserting the words "adult male." He desired to have a test vote taken on this question.

THE PREMIER: Had it not been decided in both Houses that women should be entitled to vote? He asked whether it was competent for the Committee to reverse that decision.

THE CHAIRMAN: There was nothing out of order in the amendment, so far as he could see. A resolution and a Bill were two different things; one dealing with a number of separate questions, and the other dealing with one question as a whole; and decisions arrived at by resolution were frequently reversed in Bills.

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

Ayes...	2
Noes...	18

Majority against...	...	16
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AYES.
Mr. Kingsmill
Mr. Illingworth (Teller).

NOES.
Mr. Conolly
Mr. Doherty
Sir John Forrest
Mr. A. Forrest
Mr. James
Mr. Leake
Mr. Lefroy
Mr. Mitchell
Mr. Morgans
Mr. Oats
Mr. Oldham
Mr. Pennefather
Mr. Piesse
Mr. Robson
Mr. Solomon
Mr. Vosper
Mr. Wood
Mr. Rason (Teller).

Amendment thus negatived, and the clause passed.

Clause 4—agreed to.

Clause 5—Legislative Council to consist of 24 members:

MR. JAMES asked the Premier if it were not desirable to increase the number of members of the Upper House, having regard to the increase in the population since the number of 24 members was decided on; there ought to be one new province, if not two. He noticed the Metropolitan Province as now fixed had really an increased population, because in the Metropolitan Province had been included certain portions of another district. The Metropolitan Province now consisted of Claremont, Perth, East Perth, North

Perth, South Perth, West Perth, and Subiaco.

THE PREMIER: It was proposed to add Guildford also.

MR. JAMES: That would give room for another province.

THE PREMIER: When framing our Constitution Act in 1889, provision was made for 15 members of the Legislative Council, and he thought, 30 members of the Lower House. Afterwards the Upper House was increased to 21 members, and subsequently to 24, and at present the proportion was 24 members in the Council to 44 in the Assembly. It had generally been understood that the Legislative Council should have one-half of the number of members of the Legislative Assembly, but at the present time there was more than that proportion. If the Assembly had an increase in members to 48, the Legislative Council having 24 members, that was exactly one-half, which was about the proportion that was generally thought advisable between the two Houses. In the Commonwealth Bill the proportion was one-half, which was a good precedent to follow. He was aware that the population of the various provinces was very dissimilar. The Metropolitan Province, the West Province, and the North-East Province, had much larger populations than the other provinces. The Legislative Council would better represent the whole of the colony by representing the various interests of the colony, and with that object he had tried to keep the provinces as distinct as possible. For instance, the Metropolitan Province included all the people living within a radius of 10 miles of Perth, except those living towards Fremantle. Then the West Province took in all the people who had anything to do with Fremantle, and whose interests were there. The South-West Province took in all the country along the coast from Canning to Bunbury and Bridgetown, away to Cape Leeuwin and beyond that. The South-East Province took in the country from the Williams to the Plantagenet and round Albany, and the East Province included the Avon Valley, and it took in the Murray up to Mount Lesurier and the long sand bank towards Geraldton. Then there was the Central Province, which took in Geraldton and all the Murchison goldfields, and all the country

about there. Then the Northern Province took in the Gascoyne northwards, so that the country was well divided, as to the interests concerned, into eight provinces, and if we divided the colony into nine provinces we would have to give three more members to the Metropolitan or goldfields province, and perhaps more dissatisfaction would be created then than if we left the provinces alone. The North-East Province would want three members, and Perth and Guildford would want another three; therefore we would have 30 members in the Council instead of 24; because each province had three members who retired periodically, one every two years. The position was not so easy as it at first looked; therefore he thought it would be better to leave the matter alone at present. Although the populations were not equal in the various provinces, still as regards the Legislative Council he did not think population mattered so much, as the members represented the property interests to a larger extent perhaps than the Legislative Assembly did. He felt that if we increased the number at all he would have to increase it to six members, and he did not think the Legislative Council should have six more members at the present time.

MR. VOSPER: Notwithstanding what had fallen from the Premier he must enter a protest against the arrangement in the Bill in connection more especially with the North-Eastern Province. He did not intend to urge on the Committee the creation of a new province in the North-East, on the ground that there was a large population there, because he recognised the Legislative Council represented property interests, and we should treat the Council on that basis.

MR. GEORGE: Did not this House represent property?

MR. VOSPER: Yes; but not to the same extent or degree. Dealing with the question of population first there were over 3,000 electors on the roll for the North-East Province.

THE PREMIER: They need not be owners of property themselves.

MR. VOSPER: But they represented property. There were over 3,000 on the roll, and he was informed that there were 1,700 ratepayers on the Kalgoorlie Roads Board. According to the Electoral Act

these persons had the right to vote for members of the Legislative Council, and in a short time these persons would be added to the already congested roll of the North-East Province. There were a vast number of lessees living in the North-East Province and the Electoral Act laid down that one of the qualifications that a voter should possess was that he should be a ground lessee to the extent of £10. There were hundreds of persons on the goldfields who had that qualification, but they had not taken the trouble, for the most part, to get on the roll. If everybody on the goldfields took the trouble to get enrolled there would be 6,000 or 7,000 persons on the roll for the North-East province. It would be as many almost as the total of the electorates now for the whole of the colony. That was a serious matter, and he thought the goldfields were entitled to some consideration. We were giving them an increase of representation in the Lower House, and the mere fact that such an increase was deserved and desired was a proof that it was deserved also in the other branch of the Legislature. He did not want to dictate to the Government, but he thought a new province should be created, to comprise the Boulder, Hannans, Kalgoorlie, Kanowna, Menzies, and Mt. Magnet, leaving the other goldfields province to consist of Mt. Burges, Coolgardie, Dundas, and Yilgarn. Even if we took the property value alone we should find the goldfields would be entitled to more representation than they had at the present time. There should be two goldfields provinces, and, if necessary, one metropolitan province.

MR. MORAN: The policy he advocated in this matter was that there should be two more provinces, one being for the metropolitan area, which perhaps contained the largest portion of the property, and the other on the Eastern goldfields, where also there was a large quantity of property. The Legislative Council were not an Upper House in the exact sense in which people were accustomed to consider the term in other parts of the world, for there was a semi sort of representation of people based upon a certain value. The large centres of population in Western Australia were the metropolitan area, and the area around the goldfields, with Kalgoorlie as a radiating point. It was

impossible to adhere to a population basis, for we had a large colony widely scattered, in which it was hard to get about, and we must endeavour to give fair representation. Still we must not sacrifice the question of population, and he moved that the word "twenty-four" be struck out, and "thirty" inserted in lieu thereof.

MR. A. FORREST: The Government in their wisdom had thought fit to reduce the electorates in the North, and, if they were consistent, there was no reason why they should not reduce the provinces in the North by one half.

MR. MORGANS: That could not be done.

MR. A. FORREST: It could be done by altering the Bill.

THE PREMIER: It would not be easy to do that.

MR. MORAN: It would interfere with the present arrangements.

MR. A. FORREST: Perhaps it would be a good thing if we could get rid of the whole of the members of the Upper House, and have a new lot. There was no reason why the North should have three representatives in the Upper House if it would have only three in the Lower.

THE PREMIER: There would be four in the Lower.

MR. A. FORREST: Practically three. Federation was in the air, and when we got federation and our leading men went from here to the other colonies, it would not be necessary to have such a big House as at present, because we should not have the power we now possessed. In his opinion the Parliament of this country would grow very much less under Federation, and would practically be a city council asking powers from other parts of the world. There was no reason why we should increase representation in either House. If we were to increase representation in Parliament, it should be in the Lower House and not the Upper.

MR. GEORGE: What ground had the hon. member for saying we were going in for federation?

MR. A. FORREST: The hon. member knew we were going to have it.

MR. GEORGE: Such was not known to him.

MR. A. FORREST: No one knew it better than the hon. member.

MR. GEORGE: It was not known to him that we should have federation.

MR. A. FORREST: The members for East Perth (Mr. James), Albany (Mr. Leake) and Central Murchison (Mr. Illingworth) said that we should have federation.

MR. GEORGE: We should have nothing of the sort, and if those three gentlemen were weighed against the member for the Murray, they would be found wanting.

MR. A. FORREST: As to the amendment moved by the member for East Coolgardie (Mr. Moran) no doubt those who represented small constituencies must look on and say practically nothing. The metropolitan, Coolgardie, and Kalgoorlie areas would monopolise the whole of the colony in a few years.

THE PREMIER: That was about it.

MR. A. FORREST: There would be no representation outside Perth, Fremantle, Coolgardie, Kalgoorlie, Kanowna, and other goldfields. He hoped the people who lived here, and had to live here whether they liked it or not, would pause before giving this great representation to those places with large populations. Those places were fairly well represented in the House at present. Looking a bit ahead, it appeared to him that there would be a compromise with regard to federation. No doubt the thing would be fixed up, and we would go headlong into it and never get out.

MR. LEAKE: The statement by the hon. member (Mr. A. Forrest) that there was no necessity to increase the members of the Legislative Council met with his approval, and he was going to move that the number of members of the Legislative Assembly, in the Bill, be reduced, because, as the hon. member said, we should almost immediately have federation. And he was with the hon. member on another point. He did not think there was any necessity to give so many members to the North. The idea of the hon. member was an excellent one, and we could give effect to it by combining the Central Province and the North Province, giving them three members, and introducing a new province for the goldfields. He thought that would meet the view of all members.

MR. JAMES: The member for West Kimberley (Mr. A. Forrest) and any other gentleman who desired we should

not make the Upper House unduly large, met with his sympathy.

THE PREMIER: There were 24 members in the Upper House in South Australia.

MR. JAMES: If we did not increase the numbers, we must alter the electorates, if we were going to have representation based upon property or anything which justified representation. If members looked through the existing list they would find there were three purely country provinces, these being the East Province, the South-East Province, and the South-West Province, and there was one purely pastoral province, namely, the North Province. Then there were the Metropolitan, the West, and the Central Provinces. The Central Province was somewhat mixed, comprising Cue, Geraldton, Greenough, Irwin, Mount Magnet, Moore, Murchison, and North Murchison electoral districts. He supposed the controlling vote would be at Geraldton. There was one purely goldfields electorate, the North-East Province. Surely that distribution of representation was not fair, whether with regard to industries, value of property, or number of people? One of the agricultural provinces should make way for a goldfields province.

THE PREMIER: Which one?

MR. JAMES: That might be left to the Government.

THE PREMIER: Oh no.

MR. JAMES: The objection to making the Upper House too large was comprehensible, but that House at present represented electorates by no means liberal, and this circumstance would render it difficult to pass liberal legislation in another place, unless with the aid of the great personal influence of the Premier.

THE PREMIER: To adhere to the Bill would be wiser. He had carefully considered the matter with a view to the requirements of the metropolitan district as well as of the goldfields. He could not forget that this amendment to the Constitution was not the final effort of the present Parliament in the direction of redistribution or of increasing the number of seats. If the present rate of progress continued, depend upon it before the three years of the next Parliament had elapsed, or perhaps within a few weeks after the next general election, there would be a cry, possibly a howl, from the

disappointed and discontented that the Parliament did not represent the people of the colony, and that there must at once be another redistribution. If that cry were kept up for two years people would begin to think it had some justification, and the question of redistribution would then become of vital importance. Better go on a little longer with 24 members rather than increase the number to 30. He could not be a party to adding only one electorate. That was impossible, for claims for increased representation for various districts were about equal. The Upper House could not be said to be parochial, either in the ideas of its members or in view of the extensive areas they represented, which, for the most part, were provinces thickly populated, or at all events well settled. Hon. members in another place took a broad view of public questions, quite as broad a view as members in this House. All members of Parliament were somewhat parochial. When the interests of their constituencies were involved, few would be found voting or speaking against those interests. All had to look to their constituents, and no doubt the same was done in the Upper House, following the example set by the Lower. While one was sometimes inclined to find fault with the Upper House when they would not do exactly what this Chamber desired, still taking the eight or nine years since the establishment of responsible Government, no reasonable person could justly find fault with the action of another place. The other Chamber had never blocked any Bill of importance, though they might have amended some, and they had done good service to the country, and would continue to do as good and better service as years rolled on. He would have no personal objection to increasing the number of members in another place if the Assembly were a little larger; but why increase the number of members in the Legislature further than was absolutely necessary? He regretted the necessity for increasing the number of members in the Assembly by four, but with regard to the Upper House there was no such necessity. The metropolitan districts did not ask for an increase. Regarding the goldfields, it was hard to ascertain their wants, for those could only be gathered through their Press, which was hostile to everything that was best

in this country and to every public man who had any reputation.

MR. MORGANS: A section of the Press.

THE PREMIER: That being so, he would not be guided too much by what he read in the goldfields newspapers, and it was difficult to ascertain whether the people on the goldfields were dissatisfied. He thought they were very well satisfied. He did not think anything had been done against their interests either by the Upper or the Lower House. Hon. members in both Chambers represented the goldfields. Every man in this House had interests on the fields, had probably spent large amounts of money there; and some hon. members might have lost money and some might have gained, but all were interested in the fields, not only in matters of sentiment and opinion but by reason, in many cases, of pecuniary obligations. How then could it be said that Parliament was unmindful of the interests of the goldfields? He would be glad to do anything to make the lives of the people in those districts more pleasant and prosperous; but he was held up almost daily by the goldfields Press as some terrible monster whose only object was to rob the goldfields. He would not speak warmly; still, when he noticed that such newspapers were publishing broadcast statements of that kind about himself and other hon. members, he could not and would not believe that such a Press represented the feelings of the goldfields people, who must know that Parliament and himself individually had done the best through long years to promote the interests of the fields, and would continue to do so in the future. Therefore the opinions of insulting newspapers could not be representative of the masses of the people, who surely had sufficient common sense to know whether the Legislature was trying to do right or to do wrong.

MR. VOSPER: None could doubt the sincerity of the Premier's remarks, or his desire to do everything possible for the goldfields; but this was not a matter of Press clamour. The clause before the Committee had not been mentioned in the goldfields Press.

THE PREMIER: The hon. member was mistaken.

MR. VOSPER: It had not been the subject of popular agitation, nor did it affect

the masses of the people; but the leaseholders and property holders, who might be termed the more solid section of the goldfields community, were affected, and it was for them he would appeal. The map just placed before the Committee showed that not only was the North-East Province denied any extra representation in the Council, but that its area was double that of the other provinces.

THE PREMIER: There was not much within the area.

MR. VOSPER: But the area would fill up. The new area included settlements beyond the boundaries of the old province, such as Lake Way, and beyond the reach of the Central Province. These had been taken out of the Central and put into the North-East Province, the result being to make the contrast between the representation of the fields and of the other provinces in the Council more disproportionate than before.

THE PREMIER: Very little more disproportionate. The metropolitan area was much worse off.

MR. VOSPER said he would be the last to propose to do an injustice to the metropolitan area, and was quite prepared to vote for removing that injustice. He appealed to hon. members representing metropolitan electorates to treat the goldfields fairly. There were large proprietary interests on the fields, which were represented in the Legislative Council, and the Bill, which purported to be a Reform Bill, instead of making matters better made them worse.

At 6-30, the **CHAIRMAN** left the Chair.

At 7-30, Chair resumed.

MR. WOOD: While inclined to support the amendment, he thought that 30 members for the Upper House were too many. He would support a proposal to make the number of members 27, if the municipality of Perth were created a province, and he made this suggestion as a compromise between electoral representation on a population basis and representation of interests. The population of Perth certainly warranted the municipality being created into a new province, and a proposal to that effect had been carried with one dissentient at an important public meeting held

in Perth. He was inclined, however, to give way on that point, seeing that Perth could not be created a province without also creating a new province in the North-East. He rather agreed in the opinion expressed by other hon. members that legislation should be in the direction of reducing the number of members, more than of increasing the number. The Premier that afternoon had expressed the opinion that, in the course of two or three years, there would be proposals for another redistribution of seats; and the question of increased representation in the Council might wait until then. Under the circumstances, he felt he would be justified in voting against the amendment.

MR. JAMES: If the Committee did not agree to increase the number of members of the Council, the old boundaries should be reverted to. The Eastern Province was very largely controlled by the votes of the electors in Victoria Park and South Perth, and these were the electors who were going to be put into the metropolitan district. The effect of the alteration of the boundaries would be to take away from the Metropolitan Province a representation they had at present, and instead of things being left as they were, an injustice would be committed on that province. So in connection with the Central Province, the old boundary of which included a larger area of the goldfields than was included now, and the effect of including Lawlers made the Central Province more distinctly a goldfields province than at present. But some goldfields influence would be taken away, leaving other influences as represented by Geraldton and the Irwin. The two most important of the goldfields provinces were omitted by the Bill, although they were the most populous and the most wealthy, and the Metropolitan Province was being increased in area, while the power of the metropolitan provincial voters was being limited, although there had been an enormous increase of the number of electors and in the wealth of the district. He urged that if the members were not increased, the old boundaries should be retained.

THE PREMIER: The alteration in the Central Province was the excision of Lawlers, which was more in touch with the Mount Margaret goldfield now, being

on the same belt of country. It was proposed to give Mount Margaret a member in the Assembly, and it was not possible to put a portion of an electorate into one province, and leave the remainder in another province. No one would contend that the Mount Margaret electoral district should go into the Central Province. It must remain in the North-East Province, so there the difficulty arose. He did not think the question of the population was so very important in regard to representation in the Upper House. The time might come when we would desire that the provinces should be divided somewhat in accordance with the population, but that time had not arrived, and we had not followed that rule in the past at all. The Government had tried to divide the colony into sections with different interests as far as possible. The South-Western division, for instance, down to Cape Leeuwin, was not in touch with the South-Eastern Province. There was quite a different class of country from Beverley to Albany. He thought the divisions, although the population were not at all similar, would be found to work better than the proposal of the member for East Perth. To put South Perth into the Eastern division seemed to him not a good arrangement: there would be a lot of town people, who were not producers, influencing an election in an agricultural portion of the country. It was better to throw those persons' votes into the Metropolitan Province. It was not well to have two interests mixed up.

MR. JAMES: The South Perth people might say they would be the province.

THE PREMIER: The Geraldton, Irwin, and Greenough were mixed up with the Murchison goldfields, which was not a good arrangement, because if so we would have too many members, and the object had been to limit the number of provinces to eight, returning 24 members, and to place the electoral provinces in such groups that one portion of the group would have some sympathy with another portion. He admitted it was not easy to do that; it had not worked out altogether right; but the arrangement of the Bill, with one or two alterations which he proposed to make, was good. He proposed to ask that the Moore should be removed from the Central

Province and inserted where it had always been, in the Eastern Province. It had been inserted in the Central Province by some inadvertence. Guildford, which would be a residential place, and a manufacturing place, should be comprised in the Metropolitan Province.

MR. JAMES : It would be a fearfully big Metropolitan Province.

THE PREMIER : That did not matter much. The Metropolitan Province would not have so much representation in the other House, but it had a good deal of representation in the Assembly. The members of the Upper House did not vote in the same manner as the members in the Legislative Assembly did.

MR. ILLINGWORTH : There were no parties in the Upper House.

THE PREMIER : No ; there were not so many parties, and the question of the provinces did not come before the Upper House in the same manner as the electorates did in the Lower House.

MR. VOSPER : The South-East Province contained only two electorates, the Williams and Plantagenet.

THE PREMIER : And Albany.

MR. VOSPER : Three altogether. From the general tone of the discussion, he did not think we could obtain an extra province for the goldfields ; therefore, he would like to suggest that the southern half of Yilgarn and the whole of the Dundas electorate be included in the South-Eastern Province, the whole coast from Denmark or near that to Eucla, and the whole of the Dundas goldfields. In this way Esperance and half the Yilgarn goldfields would be included. At present it was a long distance to travel from Southern Cross to Lake Way on one side, and down to Esperance on the other. The province at present included one-half of the whole colony. What he suggested was, he thought, a reasonable compromise. We would have to strike Dundas and one-half of Yilgarn out of the South-East Province. The portion of Yilgarn which he proposed to add contained very little population ; it was only a matter of area. What he suggested might go a long way to remove the evil.

MR. A. FORREST : The suggestion just made was a good one. The South-East Province was rather small, and the interests were identical ; and Southern

Cross was a district which could well be put into the Eastern Province, as the interests would be identical. The enlargement of the North-East Province, by taking in Lawlers and the northern portion of the Eastern goldfields, was a move in the right direction.

THE PREMIER : The agricultural and goldfields interests could not be mixed up.

MR. A. FORREST : That was done in the North. He did not see why the whole of the coast should not be one province : the North-East Province was too big at present. Although he did not want to give all the representation to the goldfields, the compromise suggested was a good one. Southern Cross would not object to going into the Eastern Province, as the interests of that district was identical with the Avon Valley.

MR. GREGORY : It was not wise to increase the number of representatives in the Upper House. It was a good thing to have half the number of members in the Upper House that there were in the Lower ; that would make the representation more equal. The agricultural districts claimed about 16 members in the Upper House, which was hardly fair. The way the provinces should be cut up was to put all the goldfields districts together. The South-Eastern and the South-Western Provinces might be joined together, as their interests were identical. By placing Menzies and Mount Margaret districts with Cue, Mount Magnet and North Murchison district, that would make a very large province. He hoped the Committee would give some extra representation to the goldfields without increasing the number of members of the Upper House.

MR. HIGHAM : The number of representatives in the Legislative Council should not be increased ; and, with one or two small amendments which had been suggested, the disposition of the seats was all we could desire. On looking through the constitution of the several provinces, we found all the interests of this colony fairly well represented in the Legislative Council, and he saw no necessity to make any alteration, except that the Moore should be removed from the Central Province, and Dundas added to the South-Eastern Province ; that was the best possible arrangement that could be made.

MR. MORAN: The amendment he had moved went to increase the popular representation in the Upper House by six members, and what but good could eventuate from sending to the Upper House three more representatives from the goldfields, and three more from the democratic and populous province of Perth? He was at a loss to understand the position taken up by goldfields members on this question, and he claimed their votes, because he wished to increase the popular element in the Chamber. No Upper House in Australia had studied the wishes of the people more than our own Upper House, and no goldfields member could say the Upper Chamber did not help the goldfields on every possible occasion. All our great public works undertaken up there had been cheerfully supported in the Upper House, but it might not always be thus, and he claimed the votes of those who were supposed to be democrats.

THE PREMIER: The proposal made by the member for East Coolgardie, on the face of it, looked somewhat reasonable, but when analysed it was found it would not be likely to work well. In the case of the Central Province, Geraldton was the port of that province, and there was a good deal of sympathy between the port and all parts of the district. The people of Geraldton traded with the goldfields, and there was a good deal of fellowship and friendship. On the other hand, if we included the Dundas field in the South-East Province we should have associated together people who did not know one another, who had not seen one another, and whose interests were not identical; one being an agricultural, pastoral and horticultural district, and the other a goldfield. There would be a contest between the goldfields nominee and the agricultural nominee, and their votes would be neutralised in fighting one another. He did not think that would be a good thing at all. What we wanted was to try to knit the interests together. He was prepared to admit, as he said at the beginning, that the population would be larger in the North-East Province and the Metropolitan Province. Their interests would be the same, and we ought to aim at that in these divisions, otherwise we should make it almost impossible

for a member to do justice to his constituents.

MR. VOSPER: If the proposal regarding the South-East Province were carried into effect, it would probably turn out that one would be elected by the people in the eastern portion of the province, and two for the other. In that way the goldfields would get one extra member in the Upper House, and the farmers in the Williams district would be seriously hampered. Could we not take the boundary at a point south of Dundas, so as to bring in the whole of the coast line? He urged the House to pass the amendment.

THE COMMISSIONER OF RAILWAYS (Hon. F. H. Piesse): It would hardly be fair for Dundas and Esperance to be joined to the South-East Province. Their interests were not identical. In the one case the district was entirely agricultural, whilst in the other the district was purely a goldfields one, and if it came to a question of sending a representative, the number of votes in the agricultural district would overwhelm a candidate who came forward in the Dundas district in the interests of the goldfields. To-day there were 812 electors on the provincial roll, with a population of only something like 3,000 for Dundas and Esperance. The number who would get on the roll would probably be about 300.

MR. VOSPER: Dundas was in a worse position in the North-East Province. It would be absolutely swamped.

THE COMMISSIONER OF RAILWAYS: It would do no good, so far as he knew, to connect it with a province quite different in regard to its interests. It would not do any good to the people of Dundas.

MR. JAMES: Why should not the division be carried out in the following way: have a province that would include Wellington, Nelson, Sussex, Williams, Albany and Plantagenet. Those six electorates were entirely agricultural, except Albany, but they would include part of the South-East and part of the South-West. If we were preparing boundaries for new provinces, doubtless those places would be put together.

THE PREMIER: Such was not his opinion. The people did not know one another, and never had any communication with one another.

MR. JAMES : In the North-East Province people did not make visits from one part to another. Nearly the whole of the places he had mentioned, with the exception of Albany, were agricultural constituencies, and, as the Premier pointed out, we wanted, as far as possible, to keep agricultural constituencies separate from metropolitan and goldfields constituencies. That separation, so far, had been carried out entirely at the expense of the goldfields and the metropolitan provinces. There should be a fair amount of give and take.

THE PREMIER : Perth and Fremantle had a quarter of the whole lot.

MR. OLDHAM supported the amendment (Mr. Moran's). Regarding the alleged unfairness of amalgamating conflicting interests in one constituency, it might fairly be urged that there were only two interests to be considered in this country requiring representation, namely, the interests of the agriculturists and of the centres of population.

MR. MORGANS : What about goldfields interests ?

MR. OLDHAM : They were exactly identical with those of Perth and Fremantle. By the proposed redistribution the predominance of power was given to the agricultural and pastoral constituencies, the Central, East, North, and South-Western Provinces representing either agricultural or pastoral interests.

MR. JAMES : The Central was mixed.

MR. A. FORREST : What about the timber trade ?

MR. OLDHAM : There was a large pastoral influence in the Central Province. The Metropolitan, West, and North-East Provinces would return nine members to the Upper House as against the 15 of the remaining provinces. There could be no danger in increasing the representation of the Metropolitan and of the goldfields provinces to exactly the same extent. What could be the objection ?

MR. A. FORREST : There would be payment of members next year, and increased membership meant increased expenditure.

MR. OLDHAM : If the members were worth paying for, that would be to the country's advantage. The amendment could not be detrimental to the agricultural and pastoral provinces, because the franchise for the Upper House was not a

popular franchise, and metropolitan voters would take good care that their representatives in the Council would be, as at present, decidedly conservative.

MR. CONOLLY supported the amendment. To increase the Upper House by six members would meet with approval both on the goldfields and on the coast. The proposal to include the Dundas district in the South-East Province would, however, lead to difficulty and discontent. Dundas had greater affinity with the neighbouring goldfields than with a distant agricultural centre. On the other hand, to give the goldfields provinces three extra members and a similar number to the Metropolitan districts could do no possible harm.

MR. LEAKE : It was difficult to discuss this clause without discussing the proposed increase in the members of the Assembly. He was opposed to an increase in the Lower House if an increased goldfields representation could be effected, but if that could not be attained without an increase of members, he would vote for the amendment. It would be noticed that the only strictly representative goldfields district was the North-East Province, embracing the most populous centres in the goldfields.

MR. GREGORY : A third of the colony.

THE PREMIER : In area only; not in population.

MR. LEAKE : The province included Southern Cross, Coolgardie, Kalgoorlie, Menzies, and Mount Margaret.

THE PREMIER : Yes; the eastern goldfields.

MR. LEAKE : And yet that district was put on the same footing as the South-West Province, which was not exactly fair.

MR. VOSPER : No; very unjust.

THE PREMIER : Compare that province with the Metropolitan.

MR. LEAKE : There was much force in the observation of the member for North Perth (Mr. Oldham), that the interests of the goldfields and metropolitan provinces were identical; and doubtless they had more in common than had the Metropolitan Province with the agricultural districts.

MR. MORAN (in reply as mover) : The amendment was the fairest proposal before the Committee. It was not fair to bind together an agricultural centre

like Sussex with the Dundas goldfield, for to do so would disfranchise one or other of the conflicting interests. The disproportion in representation of the great goldfields province and the metropolitan centres was becoming very evident, and his proposal was to give the former district three members in the Upper House. That province included Southern Cross, Coolgardie, Kalgoorlie, and Kambourna.

MR. VOSPER: Better make the dividing line run north and south.

MR. MORAN: No; let it follow the track of the railway and of civilisation. As for the great goldfield of the North, including Menzies and Mt. Margaret, it should also have three members.

THE PREMIER: It would not be entitled to such representation.

MR. MORAN said he was just in receipt of a written proposal to include Cue in the last mentioned province, and to allow the agricultural population of Geraldton to be represented by three members. He would remind hon. members representing Perth that this was a move in the right direction, which would liberalise the Upper House, if that were necessary, and would place that House in the future perhaps more in touch with popular feeling. The other proposals made to-night would have the effect of robbing some political party of three seats, and let the Government beware that they did not lose three supporters.

MR. ILLINGWORTH: On the question of population he was disposed to support the amendment, but other principles had to be considered. On the second reading he had intimated his intention of moving that the present number of seats should not be increased, because for 170,000 people 44 members in the Lower House were sufficient. If the suggestion of the Government to increase the membership to 48 were accepted, then 24 members in the Upper House would be as many as there ought to be. In Queensland there were 42 members in the Council and 72 in the Assembly; in New South Wales, 69 in the Council and 125 in the Assembly.

MR. VOSPER: There is no legal limit in New South Wales or in Queensland.

MR. ILLINGWORTH: In Victoria there was such a limit, the Upper House being elected on a £10 franchise. In South

Australia, with a franchise almost identical, there were only 24 members in the Legislative Council, and 54 members in the Legislative Assembly, with a population of 360,000, and a territory almost as large as that of Western Australia. Whatever the anxiety might be to give representation, some regard must be paid to futurity, and he did not know a case in which a Parliament had ever reduced the number of members. We all hoped and expected the country was going to progress and develop, and new centres would be opened up; and when was this cry for increased representation to cease? What kind of House would there be by-and-by, if new representation were granted in anything like the same ratio as was now proposed? The result would be a House of 100 members, before there was a population of a quarter of a million. The discrepancy in the representation, it must be admitted, was a serious one. The Northern Province, with something like 170 voters, was returning three members; while the district which was the subject of the debate had over 2,000 electors; and there was also a difficulty presented by a large number of electors in the South. A Legislative Council did not, and ought not, to divide themselves into supporters of Government or Opposition, their very constitution being supposed to keep them free from that class of politics; and so long as there was fair representation all round, the membership did not leave itself open to the same kind of objection as did the membership of the Legislative Assembly. There was no other way of getting out of the difficulty than by blending two of the provinces, though he was not prepared to suggest which. Taking the Central Province as an illustration, that might be blended with the Northern Province and given three members, and the three members taken from those provinces might be given to a goldfields province. He could not see how a Legislative Council of 30 members could be justified, with a Legislative Assembly of 48 members.

MR. MORAN: Why?

MR. ILLINGWORTH: The member for East Coolgardie had himself admitted the powerfulness of the representation in the Legislative Council.

MR. MORAN: The greater the number, the more liberality.

MR. ILLINGWORTH: But if the second Chamber were made as powerful as the first, difficulty of a serious character must arise.

MR. JAMES: What was the proportion between the two Houses in Queensland?

MR. ILLINGWORTH: In the Legislative Council 42 members, as against 72 in the Legislative Assembly.

MR. MORAN: That was about the proportion desired here.

MR. VOSPER: There was no legal limit to the number of members of the Legislative Council in Queensland.

MR. ILLINGWORTH repeated the suggestion he had made as to the amalgamation of two provinces, and the construction of a new province in the goldfields district, which was justly entitled to increased representation in the Legislative Council.

MR. KINGSMILL: There was a consensus of opinion that it was impossible to take a population basis for representation in the Lower Chamber, and how much more was it impossible to take such a basis in connection with the Upper Chamber? The Northern Province had interests peculiar to itself, and could not possibly be blended with any other part of the colony. One objection he had to supporting the proposal of the member for East Coolgardie was the complicated scramble which had arisen over the division of the electorates. In his opinion, it would be far better to leave Clause 6, and therefore Clause 5, practically as they appeared in the Bill. No one had a better idea of the interests of the localities concerned than had the Premier, and it would be very hard to improve on the groups of constituencies provided in the Bill.

MR. LEAKE: Nine members represented the three agricultural districts of York, Bunbury, and Albany, and he suggested that three members might be taken away from those provinces and given to the goldfields, the three districts being made into two, and a line drawn east and west somewhere between Coolgardie and Kalgoorlie. The North-East Province would then be divided into two, and represented by six members.

THE PREMIER: How many electors were there in the North-East Province?

MR. VOSPER: Between 2,000 and 3,000.

MR. LEAKE: There were more people entitled to vote than were actually on the roll, and when the rolls were completed the number of the electors in the North-East Province would be found much larger.

THE PREMIER: The freeholders and the leaseholders, who really represent the companies, were on the roll.

MR. LEAKE: There was no occasion to give three members each to York, Bunbury, and Albany.

THE PREMIER: York extended to the Swan.

THE DIRECTOR OF PUBLIC WORKS: There were 16,900 people in the York district.

MR. LEAKE: But how many were there in the North-East Province?

MR. VOSPER: Forty or 50 thousand.

THE DIRECTOR OF PUBLIC WORKS: But they are not all entitled to be voters.

MR. VOSPER: The proportion of people entitled to be voters and not on the roll was decidedly larger in the North-East Province than in the York district.

THE PREMIER: There were more people in the South-Western district entitled to votes than in all North-East Coolgardie.

MR. MITCHELL expressed his surprise at the suggestion of the member for Central Murchison (Mr. Illingworth) that the Northern Province should be joined to the Central Province. Under the Bill, the northern portion of the colony would lose four members in the Legislative Assembly; and now it was suggested that the province should also lose three members in the Upper House. The Committee might as well wipe out the North altogether; and there was no fairness in the suggestion.

MR. VOSPER asked the Commissioner of Railways what were the numbers of electors in the North-East, South-West, and the South-East Provinces.

THE COMMISSIONER OF RAILWAYS: There were 1,854 in the North-East Province, 712 in the South-West Province, and 1,574 in the South-East Province.

MR. VOSPER: On the population basis we had 3,062 electors returning nine members, and 1,854 electors returning three members. Be it remembered that in the North-East Province there were hundreds and hundreds of small leaseholders who never took the trouble to get on the roll.

THE PREMIER: It was the same in other provinces.

MR. VOSPER: These electors generally got on through the roads boards roll. He was creditably informed that the Kalgoorlie roads board had 1,700 names on the electoral roll, and all these would of course be added to the Legislative Council roll. He was sorry the Government were averse to accepting any suggestions. He would have to support the member for East Coolgardie in the proposal he had made, and perhaps it might be necessary to contest the Bill right through.

THE PREMIER: The House would get no Bill then.

MR. VOSPER: Then we could do without it.

MR. WOOD said he did not feel inclined to give three members to the North-East Province, unless three additional members were given to the Metropolitan Province; therefore the best way out of the difficulty was to support the member for East Coolgardie. To do away with the disparity between the Upper and Lower Houses the best way would be to increase the number of members in the Lower House to 50; that idea has been in his mind for some time. We could retain the two Kimberleys then; with 50 members in the Assembly and 30 members in the Upper House, we would have 80 representatives.

MR. MORGANS: There was no doubt the goldfields must have more representatives. The figures which had been quoted by the member for North-East Coolgardie made clear the conviction in the minds of all members that the goldfields had a right to expect the Committee to give them more representation in the Upper House. There appeared to be some objection to increasing the number of members to 30, and, in the face of that, perhaps it would appear that 30 members in the Upper House was rather disproportionate to 48 members in the Lower House; but he did not see that there was any great objection on that ground. We were going to add four members to the Lower House, and perhaps no harm would be done by increasing the membership of the Upper House. The suggestion of the member for Albany—amalgamating three provinces and dividing them into two, and then transferring three of the mem-

bers to the goldfields—was a reasonable solution of the difficulty; but if that could not be carried out in view of the fact that representation on the goldfields was small, he would be obliged to give his support to the member for East Coolgardie, and vote for the amendment.

MR. GREGORY: We had been anticipating that the Premier would tell us that he would give extra representation to the goldfields in the Upper House. The representations which had been made showed that the goldfields deserved more representation. The goldfields had made the whole wealth of Western Australia, and yet the goldfields only had three representatives in the Upper House. Twenty-four members in the Upper House were quite sufficient, but if the Premier would not agree to merge two provinces into one, or divide three provinces up, so as to make two, he would support the amendment. The goldfields must have more representation, and the scheme he proposed, to make Cue, Mount Margaret, Murchison, and Menzies district into one province, was a fair one, and he hoped the Premier would grant his request.

MR. ILLINGWORTH: Three additional seats should be given to the goldfields; but could not some arrangement be made by which two provinces could be merged together to give the necessary number of representatives to the Upper House; if not the members had no choice but to vote against their distinct convictions that the Upper House should not be increased in membership. The suggestion made by the member for North Coolgardie did not fairly increase the representation, but it took a goldfields' constituency and boxed it up with another constituency. It took representation away from the goldfields to give it to another province. If we transferred the Magnet and Murchison goldfields, and tacked them on to the northern portion of Coolgardie, we would be taking the members away from one place and putting them in another. The leader of the Opposition had made out a good case in his suggestion that three constituencies might be amalgamated and divided into two, and a new constituency on the goldfields could be created by the three members thus secured. Then we should be doing justice to the goldfields with-

out increasing the membership of the Council.

MR. ROBSON supported the members for the goldfields in endeavouring to gain increased representation in the Upper House. The suggestion of the member for Albany to amalgamate the South-East and South-West Provinces might meet the case. We might amalgamate Menzies and Mt. Margaret districts, and cut them out from the Coolgardie and Kalgoorlie Province, and the Murchison seats would then be allowed to remain as they were now in the Central Province.

MR. SOLOMON: While at first inclined to agree to the clause as drafted, yet, after he had heard the explanation of members, and seeing that it would be unfair to leave the representation as it now stood, and as the goldfields were represented in the Legislative Council by only three members, he would vote for the amendment. We should try to meet the goldfields' members in every way we could, as we wanted to foster a kindly feeling between the goldfields and the other parts of the colony, as all had interests in common. With that view he would support the member for East Coolgardie.

THE PREMIER: We would be making a mistake in increasing the number of members in the Legislative Council. Of all the proposals made, the one set forth by the member for East Coolgardie was the best. There was no doubt about that being the case; it gave the representation to places where there was the largest population. But he did not know that anyone would be any further advanced when they got three more members for the goldfields. Was it worth while for us to alter the Bill as it stood? We should have the Upper House as big as the Assembly! There would be nearly eighty members between the two Houses parading about the country. These members would each be representing 2,000 people. If ever a country was over-governed, this one would be; there seemed to be no limit to hon. members. We knew, too, that payment of members was in the air; and members did not care twopence how much it cost the country to pay members. Every time we increased the number we increased the expense to the country. We had plenty of members now, namely, 24 in one House and 48 in the other, that

being the ordinary proportion between the two Houses. There was no principle involved in the question whether there should be an increase of six, and there was no reason why he should not agree to it, if it was desired.

MR. LEAKE: Only the question of fair play.

THE PREMIER: The hon. member was very anxious for fair play when it suited him, but he had known him to do things which in his opinion were not fair; however, that was by the way. He was strongly opposed to the amendment, and felt inclined to divide the House in order to see what the feeling of the members was in regard to it. There were three members for the goldfields already, and now we were going to have three more, and whom were they to represent? The only reasonable plan was to give Kanowna, Menzies, and Mount Margaret three members. That was what it would have to be.

A MEMBER: As to the northern country, there were scarcely any people there at all.

MR. MORAN: But a railway was to be built there.

THE PREMIER: There was not a very large number of people, and in his opinion there ought not to be three members for the north-east district.

MR. ILLINGWORTH: There were about ten thousand.

THE PREMIER: They would get representation in the Lower House for their numbers. The property-holders in Menzies and the towns had votes, and also the leaseholders and occupiers of houses worth twenty-five pounds a year. They were the voters for the Upper House. How many people would there be in those three districts? Would there be ten thousand, or would there be one thousand?

MR. GREGORY: Over a thousand.

THE PREMIER: In his opinion they would have more representation than they were entitled to at the present time. He did not see any occasion at all for increasing the number of members. There was no other country which had so many members as we had for the same number of people. The general idea seemed to be to increase even the number the Government proposed, and the Government thought they were going out of the way.

MR. ILLINGWORTH: Redistribute.

THE PREMIER: It was not so easy to redistribute; it was very easy to give, but not easy to take away.

MR. HOLMES: The most reasonable suggestion was to amalgamate the East Province, South-East Province, and South-West Province, and make two of them, and then divide the North-East Province into two, and continue the twenty-four members we now had. Twenty-four members were quite sufficient. If we amalgamated the three provinces, which were all agricultural, and if the three members we took away were added to the North-East Province, we should have practically six goldfields representatives and six agricultural representatives, instead of three goldfields representatives and nine agricultural representatives.

Amendment--that the word "twenty-four" be struck out, with the view of inserting "thirty" in lieu thereof--put, and a division being called for by Mr. Moran, it was taken with the following result:—

Ayes...	16
Noes...	15
Majority for				1

AYES.	NOES.
Mr. Connor	Sir John Forrest
Mr. Doherty	Mr. A. Forrest
Mr. Gregory	Mr. Higham
Mr. Holmes	Mr. Hubble
Mr. Illingworth	Mr. Lefroy
Mr. James	Mr. Locke
Mr. Kingsmill	Mr. Mitchell
Mr. Leake	Mr. Monger
Mr. Moran	Mr. Pennefather
Mr. Morgans	Mr. Piesse
Mr. Oldham	Mr. Quinlan
Mr. Robson	Mr. Rasou
Mr. Solomon	Mr. Throssell
Mr. Wallace	Mr. Venn
Mr. Wood	Mr. George (Teller).
Mr. Vosper (Teller).	

Amendment thus passed, and the word "twenty-four" struck out.

MR. MORAN further moved that the word "thirty" be inserted in lieu of the word struck out.

THE PREMIER moved that progress be reported.

Progress reported, and leave given to sit again.

PATENTS, DESIGNS, AND TRADE MARKS BILL.

SECOND READING.

THE ATTORNEY GENERAL (Hon. R. W. Pennefather), in moving the second reading, said: The object of this Bill is to

amend and consolidate the laws relating to the subject of patents for inventions, and registration of designs and trade marks. The law on these subjects, as it at present stands, is scattered over six different Acts of Parliament. The main object of the Bill is to consolidate the laws into one Bill. At the same time advantage had been taken of this consolidation to make certain amendments, more particularly in the law as regards the registration of patents. Under the present law a patent once registered gives, of course, a right to the patentee, but before he gets his registration, there is practically no examination made by the Patents Office as to whether or not the invention is original. One of the main provisions of the Bill is to impose the duty on the examiner of patents to investigate that subject, and satisfy himself, as far as he reasonably can, that the patent is original, and that the description given of it is reasonable, and compares with the patent sought to be obtained. At present a patentee who obtains a patent, takes it practically at the risk of having afterwards to fight anybody who may challenge it on the ground of want of novelty, or previous use; and the object now is, to a certain extent, to protect the patentee, but mainly to protect the public, so that it shall not be a matter of course that a person can get a patent registered and then float it on the market, or sell it to people who may unsuspectingly purchase it and find, when they have paid a large sum of money, that the thing is practically worthless, not having really been entitled to patent rights. The object of this Bill is mainly portrayed in Clause 14, and that clause provides as follows:—

It shall be the duty of every examiner to whom an application or a complete specification is referred, to report, in addition to the matters in the tenth and thirteenth sections respectively mentioned, whether to the best of his knowledge, any of the following conditions exist with respect to the invention, that is to say:—

- That it is not novel;
- That the invention is already in the possession of the public, with the consent or allowance of the inventor;
- That the invention has been described in a book or other printed publication, published in Western Australia.

In Queensland the patent law has this provision, which, however, has not yet been adopted, I believe, in any of the

other colonies ; but it is a provision which finds a place in nearly all of the United States of America and in Germany. England has not proceeded so far as to require its examiners to make this report, but there is no doubt it is only a matter of time when, in order to bring this class of legislation up to date, it will be absolutely necessary, not only in the colonies, but in the mother country, to adopt this proviso. By Clause 17 the grounds of opposition to the granting of a patent are widened in the following respects :—

On the ground that the complete specification describes or claims an invention other than that described in the provisional specification.

In almost every case it happens that, before the patent right can be obtained, it is absolutely necessary that a provisional specification, describing the patent in general but fairly accurate language, should be lodged. After a lapse of some time, that provisional specification is followed by a complete specification, which gives in detail all essential particulars of the invention. According to this clause, if the complete specification is not, so to speak, covered by the provisional specification, the patent will not be registered ; and the object of the proviso is to make the applicant particular and careful in first giving notice to the Registrar, and through him to the public, so that an applicant must not attempt, by a side wind, to obtain a patent for a contrivance which has not been fairly described in the very first application. Then there is this further ground for opposition to the granting of a patent : "On the ground that the invention is not novel." These are other new grounds :

On the ground that the invention is already in the possession of the public, with the consent or allowance of the inventor.

If it be shown that the patent has been used by anyone else, that is at once a bar to the application for registration. The patent may also be opposed on the further ground—

That the invention has been described in a book or other printed publication published in Western Australia before the date of the application, or is otherwise in the possession of the public.

That state of affairs, of course, would have the same effect as user ; for if an invention has been within the knowledge

of the general public, no particular person should be allowed to claim a monopoly of its advantages. A further provision is also made with reference to the registration of patent agents. At present, patent agents undergo practically no examination, and one of the provisions of this Bill is that all agents who are to be registered must pass an examination, which will be the subject of regulations framed by a board, who will examine them more especially in respect of the enactment we are now seeking to put on the statute book, and all the provisions surrounding it. There are some minor alterations, but these can be discussed in committee. As regards Part II. of this Bill, relating to the registration of designs, there is no alteration in the existing law in reference to trade marks ; the only significant alteration is an attempt to put in statutory form a fair and clear exposition of what a trade mark is. The Lords Justices of England, by a series of decisions which has since been adopted by the Imperial Parliament, have laid down what the essential particulars are. In this Bill we have adopted these particulars, and made them the test of whether or not a trade mark is original and therefore to be registered. There is one provision to which I desire to call attention, namely, that under the present law, anyone seeking to challenge a patent has to make a deposit of £25. Under the Bill it is proposed to abolish that deposit in order to encourage to a certain extent any reasonable opposition that may be made to the registration of a patent. But at the same time, there is protection for the patentee if he be successful ; that is to say, if the opponent of the patent is unsuccessful in his contest, the law officer to whom the matter may be referred on appeal has the right to mulct the unsuccessful party in costs. That is done by an order, which may be made a rule of the court.

MR. LEAKE : Which clause is that ?

THE ATTORNEY GENERAL : Clause 45. These are the main provisions of this Bill. The amendments, as will be seen, are somewhat important, and I think they are necessary ; and while making these amendments I think it is only right, it is the duty of the Government, and I am sure every member of this House will appreciate the principle, that,

whenever we can get an opportunity of consolidating the law upon any particular subject, that ought to be done when an attempt is made to amend the law. I am sure this Bill will also be a means of helping people when they have to refer to the bulky legislation on the subject of patents, seeing that all such legislation will be contained in one Act; and that is the main feature for which I claim the support of this House. I now beg to move the second reading of this Bill.

MR. JAMES: Which is the clause that makes the finding of the examiners conclusive?

THE ATTORNEY GENERAL: Clause 14.

MR. JAMES: That does not make the finding conclusive.

MR. LEAKE (Albany): The Attorney General has not told us in so many words whether or not this Bill is taken absolutely from the English Act.

THE ATTORNEY GENERAL: It is not.

MR. LEAKE: No; I was afraid it was not, and it is a pity that it has not been taken from that Statute, because the administration of the patent laws is difficult enough, in ordinary circumstances; there are plenty of technicalities always cropping up whenever anything has to be considered under these patent laws; and I think it is a great pity that the Government have not adopted the English Act, because had they done so we should have had all the English decisions to assist us in the administration of the Statute. The Attorney General specially referred to Clause 14, which appears to have been taken from the Queensland Act; and that clause throws upon the examiner the duty of ascertaining practically whether the invention is a novel one. If hon. members can possibly realise what that means I shall be rather astonished. Remember that we have not a trained staff, or a staff of experts, in this colony. I do not know whether it is intended to have special examiners in addition to the Registrar.

THE ATTORNEY GENERAL: Yes.

MR. LEAKE: Another officer?

THE ATTORNEY GENERAL: Not necessarily another officer; but an officer specially for that purpose.

MR. LEAKE: The examiner can hardly be the Registrar, because the

Registrar acts upon what the examiner does.

THE ATTORNEY GENERAL: The present staff can do the work.

MR. LEAKE: I do not know enough about the Patents Office to challenge that statement. I know who the Registrar of Patents is; but I do not think there is anyone in the Patents Office capable of examining every application for a patent that is made in this country. We must remember that the patent laws travel over every known branch of science, and we cannot expect an ordinary civil service clerk to master every scientific detail that will crop up in the course of his duties. That would be asking too much of him, and to do so is only ensuring that the administration of these patent laws will not be good or satisfactory. How can anybody but an expert, and an expert, too, in the particular branch of science which comes before him, determine whether or not an invention, for which a patent is claimed, is novel? It seems to me to be absurd, and I am satisfied that if we pass this Bill, and particularly if we allow Clause 14 to stand, the new law will be a dead letter. The Attorney General knows that there is a case before the Courts on a question of a cyanide patent. I do not think the judgment has been delivered; but that dispute arose largely owing to the action taken by the Registrar. I am not for a moment saying whether the Registrar acted rightly or wrongly; but upon him was cast a very difficult duty. That case turns on the question of amending the specification. When we come to think that we have had all the best minds in the United Kingdom directed to this question of patent law, we shall perceive that we cannot do better than adopt the English law, if we adopt any; and we shall thus have for our guidance all the decisions of the different courts in the United Kingdom. Why we should go to Queensland and pick out from their law a section such as this, I really do not know; and I ask hon. members to hesitate before they pass the clause. If the Attorney General could have come down to the House and said, "We have taken this patent law and the law relating to trade marks absolutely from the English Act," I do not think any objection could have been made. I sincerely ask the Government to pause before requesting

the House to pass this Bill as drafted, and to accept my suggestion that they adopt almost "holus bolus" the English legislation upon the subject.

MR. JAMES (East Perth): The difficulty in connection with legislation dealing with patents, and involving a new and important principle, is that the patent law will be dealt with in the Federal Parliament, and, whether we enter or not, it is highly desirable such legislation in this colony should be on the same lines as federal legislation. Even if we remain outside the federated colonies, it would be desirable for us to adopt almost word for word the patent legislation of the Commonwealth. There is a great deal of force in the remarks of the member for Albany (Mr. Leake) when he says it would be risky and dangerous to interfere with the patent law, and adopt new principles in a matter which rests so much on English decisions. When we, in this colony, or in any part of Australia, are called on to consider the patent law, we must have recourse to the text-books of English writers and the decisions of English Judges; and any variation, however slight, between the legislation of this country and the mother country, gives rise to litigation, the dangers of which every lawyer can appreciate. By Clause 9 the patent is given to the "true and first inventor," and that I take it, is adopting the American law, and giving the patent to the first inventor in any part of the world; but under the English law it is sufficient that you are the "true and first inventor in the realm." The earliest Act here, of 1874 or thereabouts, was on the American principle, and the only person entitled to the patent was the first inventor in any part of the world; and as to whether the present Act of 1888 modifies that old Act is somewhat of a question. But it should be made clear, if this Bill be passed, that when the expression the "true and first inventor" is used, in Clause 9, we mean the first inventor in Western Australia, and not the first inventor in any part of the world. If we adopt the contention that the patent is simply given to the person who is absolutely the first inventor, then Clause 14 will certainly require amendment, even if the clause be allowed to stand. That clause provides that the examiner shall inquire into the matters

dealt with in the sub-clause, and when that inquiry has been held, if the examiner be satisfied that the patent has none of the defects suggested by the clause, he may grant a certificate. The Attorney General will correct me if I am wrong, but so far as I see, the clause in no part says that the finding of the examiner shall be conclusive?

THE ATTORNEY-GENERAL: Quite right.

MR. JAMES: Then the finding is not intended; it is conclusive?

THE ATTORNEY-GENERAL: No.

MR. JAMES: If the finding of the examiner is not to be conclusive, the examination suggested by Clause 14, so far as it adds to the examination under the present law, is of very little, if any, use. The present examination has always struck me as a waste of time; because, although the examiner makes inquiries and reports, there is no effect of those inquiries and reports. Certainly, if the examiner reports that the patent is not novel, and that report is maintained, the patent cannot be registered; but it, on the other hand, he report that the patent is novel, that is not conclusive, and no one gets the benefit of the finding. It would be extremely difficult for a local examiner in this colony or anywhere else to say a patent is absolutely novel in every part of the world, although he might certainly be competent to say whether or not it was novel so far as the particular colony or country is concerned. It is desirable more protection should be given to a patentee than is given at the present time. To me it appears not altogether honest that a patentee should be required to pay examiners' fees, advertising fees, and other charges, on the assumption that he has a patent, and based on the need of the wildest publicity, and then be given a piece of paper, which is, after all, valueless. I look on this as like obtaining money under false pretences, and if it be desired to have legislation outside that passed in the mother country, there is much to be said in favour of legislation, which, while not making a patent absolutely good against all objections, would, at all events, make it good against a number of objections raised now. If it be contended that the patent is not novel, or that it has been previously published in Western Australia, or that somebody has used it, then I submit these

objections should always be raised on petition to the official who granted the patent. A person who holds a patent and who goes into a court of law, relying on the *prima facie* validity of that patent, should not be open to attacks by persons who do not for a moment suffer. Under the present law, when a patentee sues for an infringement, the defendant may say "this patent is not novel, because it has been disclosed in books a, b, c, and d," and that defence may be raised by one person after another. There seems to be no finality to the trouble of a patentee who has a valuable patent, and who has to fight persons who have means, or persons who by infringements earn sufficient money to make it worth while to harass by constant fighting, a person who receives a document for money, and which document should have some efficacy. The law should provide that if once an objection is taken against a patent and has not been maintained, it should not thereafter be held as a good objection against the patent; one trial in a court of law ought to be sufficient. A provision should, I think, be made in dealing with foreign patents. I take it this Bill copies existing legislation, which enables a foreign patentee to obtain a local patent, if he apply in six or nine months from the time when the foreign patent was granted. If the law is to be as shown in Clause 9, the only person who can obtain a patent is absolutely the first patentee in any part of the world; and the result would be a local patentee might be open to an attack by any person who said that the particular patent registered here, and held may be for 10 years, had been anticipated at Timbuctoo, and therefore it was necessary for a commission to go to Timbuctoo and take evidence. Under those circumstances delay and harassment might go on for two or three years. There is also the further objection that a person who had a foreign patent, perfectly good on the face of it, and had obtained local registration, if he sued for infringement in this colony, might, under Clause 9, be met with the objection that the patent had been anticipated in England, and was therefore bad. Such an objection, I submit, should only be available in an English court of justice; that is, in the country, and before the tribunal where the patent was

granted. If we are going to have new legislation—and I agree with the Attorney General that it is advisable to bring all the patent legislation into one consolidation Bill—it would be advisable to follow as closely as possible on the lines of the legislation of the mother country until there be the newer legislation we anticipate under the Federal Parliament.

On motion by MR. GEORGE, the debate was adjourned.

MUNICIPAL INSTITUTIONS BILL.

IN COMMITTEE.

Consideration in Committee resumed from 30th August.

Clause 210—Agreed to.

Clause 211—Compensation and breaches of Contract:

MR. LEAKE: Where was the necessity for this provision? Councils under the Act had power to sue, and consequently must have power to compound actions.

MR. A. FORREST: There were many disputes under contracts, and the question had been raised whether municipalities had the power to settle these disputes. If the clause were passed, and an action were brought against a municipality by a contractor, the municipality would have power to settle the case in the way they thought proper.

THE ATTORNEY GENERAL: A corporation could only do that which it was expressly authorised to do, and there had always been a doubt whether, without express power, a corporation could settle an action. So much was this the case that in Victoria a similar provision had been placed in the Municipal Act to protect ratepayers.

Clause put and passed.

Clause 212—agreed to.

Clause 213—Power to take land compulsory:

MR. GEORGE asked whether, in the opinion of the Attorney General, the rights of private individuals, who might be effected by this clause, were sufficiently safeguarded in the clauses which followed.

THE ATTORNEY GENERAL: The rights of those individuals were protected.

Clause put and passed.

Clause 214.—Plans, etc., to be prepared:

MR. LEAKE: Would not Clause 221 meet the object embodied in all the clauses

down to that clause, and including Clause 214?

THE ATTORNEY GENERAL: No; additional notices were required by the Act in order to safeguard persons whose land was affected.

Clause put and passed.

Clauses 215 to 233 inclusive—agreed to.

Clause 234.—Council to have certain power as to public places, streets, roads, drains, wharves, etc.:

MR. LEAKE: This clause contained the same provision as Clause 109 of the old Act.

THE ATTORNEY GENERAL: The word "improved" had been inserted; that was the only difference.

MR. LEAKE: Where was the necessity for Clause 235 then?

THE ATTORNEY GENERAL: That dealt with new streets.

MR. LEAKE: Did not that clause practically repeat what was contained in Clause 234?

THE ATTORNEY GENERAL: No; Clause 234 dealt with the opening of new streets.

MR. LEAKE: It appeared as if there were a great deal of repetition.

MR. A. FORREST: We wanted to make the provision clear.

MR. LEAKE: There was no clause, so far as he could see, authorising anyone to claim compensation as to damage done by the exercise of this power. It was a very important matter; the point was going to be raised in the courts.

THE ATTORNEY GENERAL: Clauses 238 and 239 limited the liability.

MR. LEAKE said he did not want to see the liability of municipalities limited unnecessarily. One municipality had been levelling a street, and left a man's house 12 feet above the street level, so that the man could not get into his house without a ladder. In such a case the injured party should have the right to claim compensation. It was not necessary to have a clause in the Bill to meet the case he suggested.

THE ATTORNEY GENERAL: The Common law liability, so to speak, of corporations was only limited as to Clauses 238 and 239; beyond that, if there were not protection under this Bill, the municipality would not be protected.

In the case the hon. member referred to the man was fairly entitled to damages.

Clause put and passed.

Clauses 235 to 239 inclusive—agreed to.

Clause 240—Power to close roads for repairs:

MR. GEORGE moved that in line 4, the words "or town clerk" be struck out. He did not wish to reflect on any town clerk, or any number of town clerks; but if we allowed these words to remain in the clause, we should be relieving the mayor in many municipalities of a certain amount of responsibility.

MR. A. FORREST: The mayor might be out of town.

MR. GEORGE: The mayor might be dead; and he wished some mayors were dead. This power was no doubt a right power to give, but it should be given under the direct authority of the mayor himself. It might happen, and perhaps would happen, that an important matter might never come before the mayor. It might be possible that the mayor was out of town, but in well-regulated municipalities the mayor usually appointed a deputy when he went out of town. He did not think the town clerk would use the power which was given him in this clause in an arbitrary manner, but the mayor, or his deputy, should be fully alive to their responsibilities. Mayors were becoming more alive to their responsibilities, which was due to irresponsible members like himself pegging away at them.

THE ATTORNEY GENERAL: This Bill was not framed alone for Perth and Fremantle; we had to consider a lot of country municipalities, and very frequently the mayor went away for a lengthy period. Must the closing of a street during repairs be delayed until the mayor's return?

MR. GEORGE: The mayor should appoint a deputy.

THE ATTORNEY GENERAL: That could not be done unless power was given in the Bill.

MR. A. FORREST: In many municipalities the mayor often was absent for a month on business of his own; was it necessary to wait, to close a particular street for repairs, until the mayor returned? Surely the town clerk knew as much about the closing of a street as the

mayor. There was nothing in closing a street for repairs; it was done every day. He was never asked, when the municipality wished to close a street, to give his signature to the authority.

MR. GEORGE: It was right that someone should be appointed to act as a deputy. The power should be kept in the hands of the mayor or his deputy, and not be placed in those of a permanent official of the council. As to the reference by the Attorney General to Perth, he (Mr. George) studiously avoided mentioning Perth.

MR. A. FORREST: For five years he had been mayor of Perth, and never once had he appointed a deputy to act during his absence. When the meeting of the council took place they elected their own acting chairman. Powers were given by memorandum addressed to the bank, and the acting chairman was authorised to sign cheques.

MR. GEORGE: It was a matter of common knowledge that Councillor Molloy had been acting Mayor of Perth, and he believed that he had documents signed by that gentleman as acting mayor.

Amendment put and negatived, and the clause passed.

Clauses 241 to 247 inclusive—agreed to.

Clause 248: Power to plant trees:

MR. GEORGE: Was this clause absolutely needed? It gave power to the council to plant trees, and erect guards, but under Clause 234 they could plant trees. How was it possible to maintain fruit trees in the streets of Perth without tree guards?

THE ATTORNEY GENERAL: It all depended on the class of tree. That was why express power was wanted to do what was referred to.

Clause put and passed.

Clauses 249 to 264 inclusive—agreed to.

Clause 265: Council may compel owner to clear and fence land:

MR. A. FORREST: At the request of the member for South Fremantle (Mr. Solomon), he moved that after the word "be," in line 7, "cleared or" be inserted; also that after the word "cost," line 16, "clear or" be inserted.

Amendments put and passed, and the clause as amended agreed to.

Clause 266: In default of owner clearing, etc., council may do so at his expense:

MR. A. FORREST: At the request of the member for South Fremantle, he moved that after the word "council," line 8, the following be inserted: "may lodge a caveat with the Registrar of Titles against the transfer of such land until payment is made and."

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

Clauses 267 to 272 inclusive—agreed to.

Clause 273: Alteration of water or gas pipes on notice from council:

MR. GEORGE: There was a desire on his part to move that the following words be added to the clause: "Provided that, in case where the alignment or levels shall have been previously given by the council, such alteration shall be carried out at the council's expense." The previous clauses insisted, and properly so, that any one who intended to lay out or make a street should give written notice, and the level of the street should be fixed by the council. In a municipality, not far from this Chamber, there had been a great number of instances where alignments and levels had been given by officers of the council, and afterwards it had been found necessary to raise or lower them, and to make other alterations. After levels had been fixed by the council, and owners, trusting to those levels, had done work, the council should be compelled to pay the expenses resulting from alterations in the levels. He hoped the partnership of members in charge of the Bill would offer no opposition to this reasonable proposal.

MR. A. FORREST: There was no objection.

MR. JAMES: If, after the council had fixed the alignment of a street, a person laid pipes without troubling to find out the proper levels, there was no reason why the council should pay the cost of altering the pipes to suit the levels.

MR. GEORGE: No one could lay water or gas pipes without submitting a plan to the municipal authorities, showing the levels proposed to be adopted.

THE ATTORNEY GENERAL: Insert in the proposed amendment the word "and" before "levels."

MR. GEORGE: No; the alignment of an allotment was fixed by the Government surveyors; the levels were fixed by the council.

THE ATTORNEY GENERAL: Let the hon. member strike out the words "alignment or," and limit the amendment to levels.

MR. OLDHAM disagreed with the proposal to alter the amendment.

MR. JAMES: The amendment was wider than the clause, as the latter dealt with levels only, and the amendment with alignment and levels.

MR. GEORGE moved that the words "alignment or" be inserted after the word "the," in line 2.

Amendment put and passed.

MR. GEORGE moved that the following words be added to the clause, "Provided that in cases where the alignment or level shall have been previously given by the council such alteration shall be carried out at the council's expense."

Put and passed, and clause as amended agreed to.

Clauses 274 and 275—agreed to.

Clause 276—Low ground to be filled up:

MR. LEAKE: The clause was new.

MR. A. FORREST: And necessary.

MR. LEAKE: But it was dangerous as drawn, for the words apparently did not carry out the intentions of the draftsman, as they authorised levels to be filled up, and the council might call on the owner of any land adjoining any street, and being on a lower level than that street, to fill up his land. On refusal, the council might do the work and charge the expense to the owner. The draftsman evidently intended that, in the event of a road being constructed through a low-lying property, the land should, to a reasonable extent, be filled up to the level of the street; but, if the land sloped away from the street, the council, by the clause, might compel the owner to raise to the street level the whole of the area.

MR. A. FORREST: The council would not do anything so unreasonable.

MR. LEAKE: Oh, no! Under Clauses 234 and 235 the council could raise the level of an existing street, and might compel the owners of contiguous ground to raise their land accordingly.

MR. JAMES: The owner benefited by the improvement.

MR. LEAKE: But the clause gave an enormous power to the council, and seemed to be a repetition of previous clauses, such as Clause 234. However, the legal members could not be expected to strike out many of such conflicting clauses, which would probably be a fruitful source of expensive litigation.

MR. A. FORREST: Many pieces of land in Perth and other cities had been used for brick-making, and it was absolutely necessary the excavations should be filled up. Close to the recreation ground in East Perth there was such a piece of land, which was considered to be a danger, and the council should have power to compel the owner to fill it up.

MR. QUINLAN said he had given notice of an amendment to add the words, "upon which no dwellinghouse, store, or other substantial building has been erected," after the word "ground," in line 5; and that amendment was much more to his taste than an amendment he had substituted later, on the assurance of the representatives of the city council that they would not go so far as to impose such a tax as was proposed on the owners of property. The latter amendment, of which he had given notice, was that, after the word "expense," in line 12, the following be inserted: "or such proportion thereof as the council may think fit." This amendment would give a sort of discretionary power, which the former amendment did not. Cases in point could be seen in property in Wellington street, and at the corner of Hay and Lord streets. The raising of the road in consequence of the tramways having erected what was practically a wall in front of the latter property, and there was no doubt that many cases of hardship would arise if the clause were allowed to pass as framed. He would like to take the sense of the House on the question, and having heard the expression of opinion by the member for Albany (Mr. Leake), he would much prefer to now move an amendment that after the word "ground," in line 5, the words, "on which no dwellinghouse, store, or other substantial building has been erected," be inserted. Before moving the amendment, however, he would like to hear expressions of opinion from hon. members.

MR. OLDHAM: The power proposed in the clause might be the means of inflicting hardships on owners of low-lying lands. The owner of such land might desire to use the natural level of the ground for basement purposes in building, but if he were not prepared just now to build, he would be compelled to fill the land up, and then afterwards would have to excavate, in order to carry out his original intention. The object of the clause was a good one, but surely it was a matter which could be dealt with under the Health Act, because it could only be desirable to compel low-lying land to be filled up when it had become a menace to the public health of the city.

MR. A. FORREST: The City Council had that power under the Health Act.

MR. OLDHAM: Then it was not desirable the clause should pass.

SIR JAMES G. LEE STEERE: The member in charge of the Bill did not seem to have any idea as to what the effect of the clause would be. The hon. member was, perhaps, aware that between Irwin street and Lord street, on the south side of Hay street, Perth, the whole of the allotments were three feet below the level of the road. Did the hon. member in charge of the Bill propose that the City Council should have power to order the whole of that land to be filled up?

MR. A. FORREST: Power was desired in certain cases.

SIR JAMES G. LEE STEERE: And no doubt the power would be exercised if the municipality had it, but he hoped the power would not be given.

MR. A. FORREST: There seemed to be an impression that, if a municipality got certain power, everything possible would be done to ruin the ratepayers. But members of a municipal council dare not do anything against the wishes of their constituents; and all that was required was power to compel people to fill up low-lying land.

MR. GEORGE: Insanitary land.

MR. A. FORREST: The power was desired to protect the public health.

SIR JAMES G. LEE STEERE: Then why not say so in the clause?

MR. A. FORREST: Municipalities endeavoured to get power to do good work, and he did not think it would be said that such powers had been abused. He would be sorry to think any municipal council

would take advantage of their position to compel ratepayers to do anything against the wishes of the whole of the inhabitants. The second amendment given notice of by the member for Toodyay (Mr. Quinlan) was acceptable; but now the hon. member wished to submit another amendment. Everyone knew there were many black spots in Perth which required looking to, and unless the clause was passed, the council would not have power to do the work that really lay within their province.

MR. GEORGE: The addition of the following words would meet the case: "Provided such land has been proved to be a menace to the public health."

MR. A. FORREST: That could be done under the Health Act, although personally he had no objection to the suggested amendment. But the Attorney General had better be asked as to what the legal effect of the amendment would be.

MR. GEORGE: If a person had a piece of low-lying land which was not a menace to the public health, that person should not be compelled to fill in the land; the expense of doing so might ruin him. He knew of low-lying land in the city of Perth which would take 500 loads of material to fill the land up which would cost £25. If the low-lying land was filled up with loose sand the owner of the land would not be able to build on the land for years, as a good foundation could not be obtained. There was some low-lying land in Wellington street which the Government had filled up; had the Government not done the work, the council would have had to make the owner fill up the land. Since the land had been filled up typhoid and other fevers which were very rampant in that locality had disappeared. It would not be necessary to put the provisions of the Bill in force if low-lying land was not unsanitary.

MR. A. FORREST moved that progress be reported.

Progress reported, and leave given to sit again.

ADJOURNMENT.

The House adjourned at 10.45 p.m., until the next Tuesday.