alone have the power to carry it out. Private members have not the power to increase the amount to £400, and I am leaving it open so that if the House is not anxious to carry £400 they will not strike out the £300, but if they strike out the "three" with the object of inserting "two," the Premier can bring down the Message from the Governor, which is necessary before "four" can be inserted. I leave the onus of carrying into effect the wishes of congress on those who have the power in this House to carry them out.

On motion by Mr. Heitmann, debate adjourned.

House adjourned at 11.20 p.m.

Legislative Council,

Wednesday, 13th December, 1911.

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

PAPERS PRESENTED.

By the Colonial Secretary: 1, Map showing the centre line of proposed Hotham-Crossman Railway, with limits of deviation; 2, Map showing the centre line of the proposed railway from Yilliminning to Kondinin; 3, Annual report of Commissioner of Taxation; 4, Report of fisheries and oyster fisheries, Shark Bay; 5, Land and Surveys Department, report by Surveyor General.

BILL—DIVORCE AMENDMENT.

Select Committee Extension.

Hon. J. D. CONNOLLY (North-East) moved—

That the time for bringing up the report be extended until Tuesday, the 19th December.

The committee had held three sittings and had examined five witnesses. It was proposed to sit practically all day to-morrow, four witnesses having been set down for that day, and up till now three for Friday. It was hoped that would be all the witnesses necessary to be examined. The committee had restricted the witnesses as much as possible. Half a dozen letters or more had been received from societies, branches, and kindred societies, and in writing a reply to these societies they were informed that they would have to meet and decide on one common witness. If witnesses from each society were allowed there would be dozens to be examined; therefore, the witnesses had been restricted considerably. The four witnesses to-morrow would in the ordinary course have been 16 witnesses. The Committee was appointed this day week and held the first meeting on the same day. Mr. McKenzie and himself had to go into the country the next day, but in order that there should be no delay in the proceedings two other members were added to the committee, so that there would be a quorum to sit and take evidence, and the sittings of the committee went on in the absence of himself and Mr. McKenzie. It was only in the mornings the committee could meet, as *Hansard*, through the other House sitting early in the afternoon, could not attend with any degree of convenience in the afternoon; but the committee would be practically sitting all day to-morrow, or as long as the House would permit, and on Friday. The committee would be able, therefore, to report on Tuesday.

Hon. Sir E. H. WITTENOOM (North) seconded the motion.

Hon. A. G. JENKINS (Metropolitan): It was to be hoped that the House would not extend the time until Tuesday, and he intended to move that the time be ex-

ended until Friday. When the committee was appointed it was distinctly understood that the report would be available on Wednesday, so that the House would have ample time to discuss the measure and any amendments likely to be moved in Committee. If the House extended the time till Tuesday next we could not take the report into consideration until Wednesday, and there would be a great deal of Government business undoubtedly on the Notice Paper on Wednesday and Thursday, and he understood that the House was to prorogue on Friday. There would be less than three afternoons and evenings to consider this important Bill, as well as any other work that might come before the House. If the Committee had met——

Hon. J. D. Connolly: Why did the hon. member not go on the committee then?

Hon. A. G. JENKINS: Because the time was not at his disposal, and because he did not think the committee would get any evidence which would be of the slightest advantage to the House, and every argument for and against the measure had been used. If members voted for the extension of time they would be voting for the shelving of the Bill; it would amount to nothing else. If members considered the position they would see they could not give the Bill proper consideration if there were only two days to devote to it. If the committee had met earlier they would have had ample time to call all the witnesses necessary. Now we had the committee calling witnesses for Friday next. This amendment was not sprung on the chairman of the select committee, because he (Hon. A. G. Jenkins) had told the chairman that he intended to oppose any adjournment beyond next Friday, 15th December. If he could see any good reason why the time should be extended until Tuesday he would give that time, that was if the Bill could be dealt with in the time available, but if the Bill was left over until Tuesday for report there was not the slightest chance of dealing with it this session. He moved an amendment—

That the time for bringing up the report be extended until Friday, the 15th December.

Hon. C. SOMMERS (Metropolitan) seconded the amendment.

Hon. M. L. MOSS (West): As the member in charge of the Bill, and therefore sincerely desirous of seeing it on the statute-book, he would go with Mr. Jenkins if he thought an extension of the time until Tuesday would have the effect of shelving the Bill, but it would not have any such effect. He had conferred with the leader of the House (Hon. J. M. Drew) who had promised that if the committee reported on Tuesday next he would place the consideration of the report as the first business for Wednesday next. The matter would not take long. There was a concensus of opinion in the House that the Bill should be placed on the statute-book, for on the second reading the vote was 20 members for and four against it.

Hon. A. G. Jenkins: The hon. member did not seem anxious to help the Bill, then.

Hon. M. L. MOSS: The hon. member had no right to make that statement.

Hon. A. G. Jenkins: One was judging by the actions of the hon. member in the House.

Hon. M. L. MOSS: There was the undertaking of the Colonial Secretary that the Bill would be set down for consideration on Wednesday next, and the Bill could be placed on the statute-book before Parliament prorogued. Although Mr. Connolly was a strong opponent of the Bill, there were three other members on the committee who were strong supporters of the measure, and these members were anxious to see the Bill placed on the statute-book. He (Hon. M. L. Moss) was just as anxious as the member to see the Bill become law, and he did not think Mr. Connolly was asking too much. The difference betwen Friday and Tuesday was not very great, one busines day. He did not think there could be the slightest suggestion on the part of those who voted against the measure that they were likely to stonewall the Bill. He hoped the concession asked for would be granted.

Hon. C. SOMMERS (Metropolitan): It was to be hoped the amendment would be carried. It was felt when the Bill was referred to a select committee that it

would be practically shelved for the rest of the session, and it seemed as if that would be the result now.

Hon. J. D. Connolly: The majority of the House voted in favour of a select committee.

Hon. C. SOMMERS: The mapority on the second reading showed the temper of the House, and it was distinctly understood when the committee was appointed that they would report on the 13th. In asking for an extension until the 19th the committee were now asking too much, and although he did not approve of the compromise, namely, the 15th, he would vote for that. Members knew well when the committee was formed that the only evidence they would be able to take would be the evidence which was already before the House, and he could not help thinking that the members of the committee hoped that the Bill would be shelved.

Hon. J. D. Connolly: On a point of order, was the hon. member in order in attributing motives ?

The PRESIDENT: The hon. member is not in order, and he must withdraw that imputation.

Hon. C. SOMMERS: In obedience to the ruling of the Chair he would withdraw. The committee could go on taking evidence for a month, if necessary, and the House would have no guarantee that even on the 19th the report would be presented. Seeing that there was only next week for the House to sit before the termination of the session he felt even now that the result would be that the Bill would be shelved.

Hon. J. D. CONNOLLY (in reply): If the amendment was carried it would be equivalent to discharging the committee. The other members of the committee would agree with him that it would be impossible to bring the report in on the 15th instant, because they would not be finished taking evidence. Moreover the committee were restricted in their work from 11 a.m. to 1 p.m. It was not able to sit in the afternoon.

Hon. C. Sommers: There are plenty of shorthand writers besides *Hansard*.

Hon. J. D. CONNOLLY: Hon. members on his left had spoken in an ungenerous way because he was opposed to the Bill. Personally, he did not care whether the committee was discharged or not. The Bill was going to be carried, therefore it did not matter a rap so far as he was concerned, but he would point out that he had been a member of the Legislative Council for 10 years, and he had never known in that time instances where a select committee had been refused an extension of time, and he had never known a committee bring in their report in a shorter period than a fortnight or three weeks. It should be pointed out too that the Bill had been referred by the House to the select committee ; the select committee had not taken the matter on themselves.

Hon. R. D. McKENZIE (North-East): Amongst the witnesses the committee had yet to examine were Mr. Roe, the police magistrate, and Dr Montgomery, Inspector-General of the Insane. These two gentlemen were being called, because the committee thought they would be able to give valuable evidence on the amendments Mr. Jenkins had put on the Notice Paper. Mr. Jenkins was of opinion that further grounds for divorce should be habitual drunkenness, and also confinement in an asylum or an institution in accordance with the provisions of the Lunacy Act of one person or the other, as well as other reasons. The committee could not have better witnesses than Mr. Roe and Dr. Montgomery, and they were anxious to hear the evidence of these gentlemen before coming to a conclusion. Another reason was that the *Hansard* staff had not been able to give the committee their services in the afternoon, and also most of the members of the committee were busy men. It was reasonable to ask for an adjournment until the 19th. After all, what was asked was an extension of only one sitting day. It would be a very bad precedent if the amendment proposed by Mr. Jenkins were carried.

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

Ayes	11
Noes	14
Majority against ..	3

AYES.

Hon. F. Davis	Hon. B. C. O'Brien
Hon. J. A. Doland	Hon. W. Patrick
Hon. D. G. Gawler	Hon. R. W. Pennefather
Hon. V. Hamersley	Hon. C. Sommers
Hon. A. G. Jenkins	Hon. T. F. O. Brimage (*Teller*).
Hon. C. McKenzie	

NOES.

Hon. J. D. Connolly	Hon. E. McLarty
Hon. J. F. Cullen	Hon. M. L. Moss
Hon. J. E. Dodd	Hon. C. A. Piesse
Hon. J. M. Drew	Hon. T. H. Wilding
Hon. J. W. Hackett	Hon. Sir E. H. Wittenoom
Hon. W. Kingsmill	Hon. E. M. Clarke (*Teller*).
Hon. J. W. Kirwan	
Hon. R. D. McKenzie	

Amendment thus negatived.

Question put and passed.

BILLS (3)—FIRST READING.

1, Agricultural Bank Act Amendment.

2, Shearers' Accommodation.

3, Totalisator Regulation.

Received from the Legislative Assembly and read a first time.

SITTING DAY, ADDITIONAL.

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

That for the remainder of the session the House do meet on Fridays at 3 o'clock p.m. in addition to the sitting days fixed by Standing Order No. 48 and by resolution passed on the 28th November last.

Hon. W. KINGSMILL: I should like to ask the Colonial Secretary if, in the event of the motion being carried, the House will continue to meet at 3 o'clock on Thursday.

The COLONIAL SECRETARY: Yes, I think it is very necessary. We may have to make arrangements to meet at 3 o'clock on Tuesday and Wednesday. We can sit late to get through the business, but it is absolutely necessary that we should take one course or the other.

Question put and Passed.

MINING COMPANIES AND LOCAL SHAREHOLDERS.

Notice of motion by the Hon. J. D. Connolly, that the Mining Act, 1904, and the Companies Act, 1893, should be amended to safeguard the interests of local shareholders in mining companies, called on.

Hon. J. D. CONNOLLY: On account of the lateness of the session, and considering the importance of the Bills on the Notice Paper, I do not feel that I would be justified in taking up the time of the House by moving this motion, although it is of very great importance, and no doubt it would be adopted by the House. However, I feel certain it could not be given effect to by the Government this session, and therefore it would only be wasting time that could be better spent on public Bills. I, therefore, do not intend to move the motion.

PERSONAL EXPLANATION.

Sir J. W. Hackett and the Public Works Committee Bill.

Hon. Sir J. W. HACKETT: I desire to make a personal explanation. I was, unfortunately, unable to be present at last night's division on the Public Works Committee Bill. I desire to state that if I had been present I should have heartily supported the Hon. Mr. Moss.

BILL—INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 7th December.

Hon. Sir E. H. WITTENOOM (North): When the Divorce Bill was brought before this House, I think every speaker who rose on that occasion prefaced his remarks by saying that he considered it the most important Bill that could possibly be brought before the Chamber, because it affected, to a large extent, the domestic and family life of nearly everyone. Now, I consider that the Bill we have before us now, which was submitted to us the other night by Mr. Dodd, is equally important, as it touches the whole of the commercial and financial

position of the people, not only in this State but in the other States also. The whole success of the working of the commercial and financial institutions depends upon harmonious relations existing between labor and capital, between employer and employee, and if these are in any way strained, and are not harmonious, I contend that the success of those institutions will be comparatively little, if any at all. Therefore a great deal of importance attaches as to the way in which this amending Bill will emerge from the Parliament of this country. The Honorary Minister, in introducing the Bill, said that he felt certain that if it is carried in its present form it will do away with all the present trouble; it will abolish all strained relations, and will be the means of settling any disputes that may arise, and, if I never agreed with him on any other point, I would agree with him on that, for I feel certain that it would settle every dispute; but, he forgot to give the reason, viz., that it would be entirely at the expense of the one side, who are giving up everything for the good of the other side, who in turn are asked to give up nothing. It must be borne in mind, and I say it without prejudice and without bitterness, that the present Government of this country practically represent one class, and the majority of those supporting them represent that class also. During the late election a great many platform pledges were made, and all those platform pledges are, to a large extent, being carried out. These pledges, made on the platform, at the elections, are responsible for this amending Bill, and will be responsible, no doubt, for amendments to a great many other of our laws. Now, pledges like these are made at election time, which is an occasion of great party excitement, a time when everyone tries to do his best to get a vote for himself or his party, and, therefore, these pledges are not always made with a sense of the full responsibility that attaches to them. Indeed, I am certain that, at times, members are induced to make pledges that will please the voters when even they themselves do not altogether believe in them.

Hon. J. W. Kirwan: Notwithstanding that they ought to be carried out.

Hon. Sir E. H. WITTENOOM: I am coming to that. I say that many of these are brought forward because they are platform pledges, although those who made them may not believe in them altogether. Of course, a good deal of latitude must be made for these, and it is possible that some of the pledges are brought forward in Bills in the hope that they will not become law. I do not say that that is the case in the present instance. At any rate, as I have said, the present Government represent one class in the community, and the majority behind them also represent that class, and therefore they only bring forward measures in accordance with the views of that class, and for the improvement of that class whom they promised to improve when they were on the hustings. On the other hand, the representation of another class, which we will call capital, is so small in another place that it is difficult for its views to be heard, and, in consequence, most of the legislation that is brought forward is only the legislation which the Government seem to think the best. It has, of course, the support of the majority of the people's representatives in Parliament; it comes down with the brand of the Government and the support of this majority, but, on the other hand, we must remember that those who represent the minority and the other classes of the community do not see eye to eye with the Government, and do not consider that this legislation is altogether in accord with the best interests of the country. Moreover, that Opposition, numerically small, is well supported by a very large section of the community in the State, a very important section, including the capitalists and the employers. Therefore, in those circumstances, it behoves the members of the House to consider very carefully and impartially all legislation that is submitted to them, and not only in the present circumstances; I will take another case in which they should exercise that consideration equally as much. Suppose there were a very strong Liberal Government in power, backed up by an equally large majority, and they sub-

mitted a lot of amending measures that had for their object a lowering of the price of labour, the lengthening of hours, and other changes of that kind; it would then be equally the duty of this House to stop that legislation and give it impartial consideration, as it is their duty to look carefully at this legislation which is going almost to the other extreme. The greatest amount of interest aand importance centres in that portion of the Bill which proposes to alter the character of the president of the Arbitration Court. The existing law limits the choice of a president of the Arbitration Court to judges of the Supreme Court, and this has been done for the best of all reasons, viz., that we have in a judge of the Supreme Court a man of recognised ability, of good behaviour, and impartial, and one who is removed, by the very nature of his avocation, from being mixed up either with commercial or social circles in which he might form strong prejudices. That is the reason why the choice of a president hitherto has been limited to a judge of the Supreme Court. Now it is proposed to amend the law, and leave it open to the Government to appoint any person they think fit. There are so many obvious objections to this procedure that it seems almost superfluous to weary the House by bringing them forward, but I will just mention two or three which will apply when the Government who are in power appoint a president of this court who is not a judge of the Supreme Court. We all know the important position that the president of the Arbitration Court occupies: we see in the Act certain powers referred to the court; the court does this, that, and the other: but we know perfectly well that the court means the president, for the simple reason that though the court is made up of a president, a representative of the employers, and a representative of the employees, it is rarely, if ever, that the two representatives agree, and consequently the president must be supreme judge of every question that is decided. Therefore, under those circumstances, there are many obvious objections to this amendment—(1) It gives the Government who have power to make the appointment the opportunity of exercising favour or patronage; I do not say that this Government will, and I do not say that any Government will, but I say that they might; the power is there; (2) any Government who have strong views in a given direction would, naturally, select some person at least not hostile to their views, and therefore there would be some kind of favouritism in this; and (3) the president cannot be removed if he is not satisfactory. I will be at once met with the answer that there is provision in the Bill to remove any president who proves unsatisfactory by a vote of the two Houses of Parliament. We know perfectly well that if anybody is to be removed by a vote of the two Houses of Parliament it is exceedingly difficult any time it is put in motion, and I do not think anyone can point out where any person has been removed in these conditions. Therefore, I say that, unless anyone occupying this position were a glaring failure, there would not be the slightest chance of his being removed, so that, practically, whoever is appointed is appointed there for life. Of course, many would not have confidence in a layman. It has been said that a layman would be better because his everyday life and profession probably give him better knowledge of the details of the working of any industrial disputes that may come forward; but on the other hand, he would probably have leanings, and, as I have said before, as the last decision is invariably left in the hands of the president, he would exercise these leanings. A judge is not swayed by these views at all. He is brought up to be impartial and is trained to hear evidence and weigh it; and, though he may not be a practical man in life, though he may not be a practical timber man, or a practical merchant, or a practical railway man, or anything of that kind, still he has on the one hand a representative of the employers and on the other hand a representative of the employees, and they are able to furnish him with information he may want on any question; and I contend a judge is better able to weigh

evidence than anyone else, and that it would be better to have a judge. Another reason why the provision should be retained appointing a judge is that many additional and important powers are placed in this Bill, if it be carried, in the hands of the president of the court, very important powers indeed, which should only be exercised by one who has the full confidence of all the people, one who at all events is trained and in a position to give judgment. I will just give some of the proposed powers. Firstly, the president is to be empowered to decide appeals from the registrar. Any union of society dissatisfied with what the registrar my decide has the right to appeal to the judge. Secondly, he has the power to make an award binding on all parties in the district concerned. That is a great power. A decision is given in part of a district, and he has the power to make it apply to the whole district. Thirdly, he has the power to decide as to what is an industrial dispute. There again is a power placed in one man in whom the people may have no confidence. It is almost unlimited power to raise up commotion or trouble. Fourthy, he has power to amend or revise an award after one year. Again trouble might be caused by this. Fifthly, he has power to prescribe what he thinks will facilitate the carrying out of any industry advantageously. These are all great powers to place in the hands of the president of the court, who I maintain is nearly always the sole judge, and no power is greater than the fifth I have mentioned, to prescribe what he thinks will facilitate the carrying out of any industry advantageously. Under that he may prescribe any rules he thinks fit. I think he could almost prescribe that preference to unionists would be advantageous for carrying out an industry, and many other similar things could be prescribed. It is a very great power indeed. I am certain that the results of this legislation will be the success or failure of a number of commercial enterprises in this State; because if all these additions are made, it will add very largely to the expense of many of those industries that are already in struggling positions. I think, and I hope members will agree with me, that, though every man wishes to place the employees of this country in the very best possible condition with the best pay that any of these commercial enterprises can give, justice should be done to the other side as well; and under the circumstances, I do not think it would be wise if we were to depart from the present condition of affairs, which restricts the selection and appointment of the Government to a judge of the Supreme Court. Now, having said so much in a general way, I shall refer to some of the clauses of the Bill. The amendments are very wide and far-reaching, in particular the one as to the appointment of the president. We have many other powers; firstly, the widening of the causes of dispute by the introduction of an amendment so as to include practically every possibility; secondly, the widening of the term "industry," and omitting the words "in which the workers are employed"; thirdly, the appeal by any society or council from the registrar to the president of the Arbitration Court; fourthly, the power of the court to make an agreement binding on all unions and associations; fifthly, the power of appointing any person other than a Supreme Court judge to be president of the court; sixthly, the power to decide what is an industrial dispute and its effect on anyone even if he is not employed by any party to the dispute; seventhly, the power to amend or revise an award after one year, and eighthly, the passing of resolutions at meetings of unions.

Hon. D. G. Gawler: And the minimum wage?

Hon. Sir E. H. WITTENOOM: That is important, but there are so many important things I could not include them all, and I did not wish to weary the House by enumerating more than I have already given. I think anyone who has had experience in commercial enterprise, and experience of what affects employers and employees, must say that, although these amendments do not seem perhaps so important, they will have a very wide and far-reaching effect, and that a Bill of this

description will need the greatest care. We find now this widening of the causes of dispute will leave every thing open to be brought before the court. It does not matter what crops up, or what dispute arises, we shall have power to bring it before the court. Then in regard to the widening of the term "industry," many industries are not included now, and cannot go before the Arbitration Court. I am quite agreeable that all industries should be treated alike, and that they should have fair facilities, as long as the awards to be made are in keeping with what the industries can afford; but if some of the awards made in the past are extended to some of the industries not yet included, I am certain it will mean that these industries, to a large extent, will have to be abandoned. No one can make farming pay now unless it is done in the family; no one can make a great success of it if he has to pay wages; but if the hours are shortened and wages are increased, I have no hesitation in saying from experience, and not from assertion, that farming would be curtailed to a very large extent; and then there would be some reason for saying the cost of living will be higher. I am only putting forward this as one of the dangers by leaving such a great deal to the discretion of the Arbitration Court, so that the constitution of the court will require to be very carefully considered. The appeals by any society or council from the registrar is a matter I do not know much about. Those who have had experience will perhaps be able to say something about it. Then I come to the widening of the powers of the court by making an agreement binding on all unions and associations. Everyone must see this is very far-reaching, and it is hard to know how it will affect people. Again, the court has to decide what is an industrial dispute. This gives the court almost supreme power to say what is a dispute. Another power is to amend or revise awards after one year. This is absolutely mischievous. No enterprise could do business under such conditions. If a flour mill should wish to take some contracts for next year they cannot tender if they have an award for twelve months only. Take a timber company. How would it be possible for a timber company to tender two years ahead with an award that might be revised at the end of 12 months? Would any commercial man in this Chamber undertake to make a contract 18 months ahead knowing there was this power to revise the conditions of his wages? Mr. Dodd did not tell us much in introducing the Bill, though he said a good deal in its favour, a good deal of what was true, but he might have been a little more clear on some things. It, however, is clear to everybody, that this is a most mischievous extension of power. I would even go to the extent of saying that if an award is made for three years, at the end of one year the court can be asked to revise it.

Hon. J. E. Dodd (Honorary Minister): That is so.

Hon. Sir E. H. WITTENOOM: So a firm may make contracts for three years ahead at so much a day and then the rates are revised? One could not carry on contracts. Some will say "Oh, yes, you can put a clause in your agreement providing for that," but if a firm did that no one would buy from it. Any hon. member with experience in commerce or business would say it is a very dangerous innovation. I am not clear about the question of passing resolutions by unions with regard to strikes. I understood Mr. Dodd to say that at the first meeting of a union with regard to any dispute a resolution was to be carried by a majority of those present, and then that at the subsequent meeting which was to affirm it, it had to be carried by a majority of the members of the union. I am quite agreeable that whatever resolution is carried at the first meeting should be carried by a majority of those present; but it must be confirmed by a majority of those belonging to the union; otherwise you would have a minority rushing them into all sorts of things, because they might be absent on some important duty and could not attend. I would not vote for anything that did not provide for a majority of the union at either the second ballot or the second meeting. As to making the court the sole arbiters of what shall be a strike, and an industrial dispute, we

know there have been times when certain sections of the unions have wished to get up, perhaps, a mischievous strike. It proves how careful one must be in regard to the court. In giving an award they have power to make rules for the regulation of an industry. "Industry" is a very wide term. It means that they may make any rules at all. In my opinion it ought to be limited. It should be "regulations for wages, hours, and conditions." These are the matters being dealt with; not every possible conceivable subject in connection with an industry. The duties of a court should stop at wages, hours, and conditions, and I am certain this would be sufficient to enable them to arrive at a just award.

Hon. J. E. Dodd (Honorary Minister): Does not the word "conditions" cover everything?

Hon. Sir E. H. WITTENOOM: No, not necessarily. This other makes it much more clear. I shall reserve to myself the right to criticise any clause as we go along in Committee. I would like to impress upon the House the importance of this amending Bill. It may not seem much. It is said there is very little innovation in it, but it means the extension of great powers indeed. It is leaving it to the discretion of practically one man to ruin commercial enterprises if his judgment happens to be defective. Under these circumstances we must give it our most careful consideration, and whilst I believe that every member is actuated with a desire to do justice to those working in the industry, let us hope that the same measure of justice will be extended to those who have to find the capital and work these industries. If this were so everything would go on satisfactorily. It is an old axiom to say that capital and labour should go hand in hand; but the difficulty many people have been trying for years to overcome is that of getting those hands together. This is a very great difficulty. I believe many have tried conscientiously to bring the two together. At the same time there are many elements on both sides whose interest it is to see that they do not come together and work too smoothly; therefore difficulties are brought about which are hard to get over. Under the circumstances without saying anything further I shall support the second reading of the Bill.

Hon. M. L. MOSS (West): I could wish that somebody else who views this Bill more favourably than I had seen fit to rise. There seems to be a disinclination to do so, but I am not prepared to give an altogether silent vote on the question. If a law to deal with industrial disputes could be made really effective it would be one of the best things that could be done for the community. I was one of the strongest advocates in Western Australia of the Act of 1902. I thought then, and my speeches reported in *Hansard* for the session of 1901 will indicate clearly the views I held, that if something could be done to secure industrial peace, to put an end to strikes, and prevent lock-outs, it would be the best thing that could happen. I remained a strong advocate of this scheme of industrial conciliation and arbitration for a number of years while the measure, in my opinion, had a fair trial in this community. But for the last five or six years from my place in the House I have contended in season and out that the Industrial Conciliation and Arbitration Act has been a signal failure, and I did my best when my friend Mr. Connolly led the House to induce him to get his Government to repeal that Act. It has absolutely broken down because while awards were enforcible as against the employers of labour they were absolutely unenforcible as against the man who had clamoured for legislation of this kind, but who, when he did not get all he required from the court, resorted to the old barbarous method of striking, and so far as he and his like were concerned the Act remained a dead letter. I candidly admit that this was a burning question at the last general election. It was a question prominently before the country as to whether the Arbitration Act should remain and be improved, or whether it should be rescinded. The Labour party had it as a foremost plank that they were going to retain the Act and amend it into a more workable form. On the other hand the Liberal party, headed by Mr. Frank Wil-

son, were determined to repeal it and replace the existing tribunal with a wages board. Therefore there is certainly a strong mandate from the people of the country to keep this measure on the statute book, and so I have to sink my individual opinion as a member of the Chamber, and in deference to that mandate to say that for the present the Act has to remain on the statute book. I recognise that we have to deal with the Bill on its merits, and therefore I am going to vote for its second reading, although I believe there are mischievous principles in it. As far as I can I shall endeavour to make them as little mischievous as possible when we go into Committee. I have already said, in fact Mr. Dodd in the speech he made the other day practically agreed, that the failure of the law up to the present has been due to the impossibility of enforcing the performance of awards. It does not require very many illustrations to show how the men have played at top ropes with this measure. Within twelve months in Western Australia we have had two tramway strikes, a coal strike, a brickmakers' strike, a plumbers' strike—I cannot on the spur of the moment remember them all, but it is sufficient that I have indicated strikes in five or six different branches of industry, and all within twelve months. What nonsense it is to talk of a measure designed with the object of securing industrial peace, when the men will neither resort to the court unless it suits them, or, when they resort to the court and do not get the award they desire they fall back upon the barbarous method of striking. I have looked in the Bill to ascertain what it proposes to do to prevent a strike or a lock-out. There are two methods which I think may be resorted to which would compel men to obey the awards to a greater extent than has obtained in the past. Section 98 of the present Act makes it an offence to do anything in the nature of a lock-out or a strike. But Section 98 has been practically a dead letter. It was intended to punish persons guilty of striking or locking out; but when you are dealing with a body of men whom you have fined, but who will not pay and who have no assets which you can take under a distress warrant, the alternative is imprisonment. It is neither desirable nor is it practicable to put large bodies of men into prison; for the reason, first of all, that you would require a prison as big as a military barracks; and, secondly, to herd men with a lot of criminals merely because those men think they have a legitimate cause of complaint with their conditions of labour or amount of wages would produce an indescribable affect upon the community at large. You have only to mention it to show its utter impossibility, and how impracticable it is, and, if practicable, how undesirable.

Hon. F. Davis: Why?

Hon. M. L. MOSS: The whole community would rise against it.

Hon. F. Davis: Why?

Hon. M. L. MOSS: I have given my reasons. The hon. member may think it a desirable reason to herd hundreds of men in prison if he likes.

Hon. F. Davis: I did not say so.

Hon. W. Patrick: It could not be done.

Hon. M. L. MOSS: I believe there is another method. It cannot be done by way of an amendment to the Bill because it would be foreign to its title. I do not know if the Government are prepared, as a proof of their bona fides in this matter, to introduce the scheme for discussion, but it is this: if after an award is given, either by a Supreme Court judge, by assessors, or the court constituted under the Bill if it becomes law, and when a strike ties an industry up, I would penalise the men by striking them off the electoral roll for six years.

Hon. J. F. Cullen: There is nothing in that.

Hon. M. L. MOSS: There is everything in it, for this reason. The fact of driving everyone into these unions makes these unions a great political organisation in this country.

Hon. F. Davis: You would disfranchise them?

Hon. M. L. MOSS: I would disfranchise the men who asked for legislation of this kind, and when you put it on the statute-book inflict injury not only on themselves and on their wives and chil-

dren, but on the wives and children of thousands of others, and possibly hang up the business of the country—I would take the vote from these men, they are unfit for it; I want to find some punishment. Section 98 is a dead letter, but I do not say my suggestion is the best. I want to set members the task—if it is proper to have a measure of this kind on the statute-book—of trying to discover some scheme whereby the award of the court, fairly made, shall be observed by all the parties. I am not referring only to the striker but also to the man who locks out. He should be punished in the same way. The fact remains, Mr. Dodd admitted it the other evening, that the Act, from the point of view of compelling obedience to an award, is a failure. It is a matter of absolutely fair criticism, where is this legitimate attempt in the Bill to remove the blot that exists? While we keep Section 98 on the statute-book, which is incapable of being enforced—it was mentioned, by way of interjection by Mr. Davis the other night while Mr. Dodd was speaking, when he said, "you have the funds of the union." Section 92 is the hon. member's authority for that, and I will allude to it in a moment, but let me say that strikes that take place in connection with industries are not strikes as authorised by a union as a union, but the constituent parts of the union go out on strike and the union knows nothing about the strike. They are not parties to it, they are not parties to instigate it, and they are not aiding it in any way; even if they are it is almost a physical impossibility to prove it. In Section 92 of the Act there is this provision—

> For the purpose of enforcing any award or order of the court (not being an order under section ninety-four hereof), whether made before or after the commencement of this Act, the following provisions shall apply :—

Then I go to Subsection 6, which says—

> All property belonging to the judgment debtor (including therein, in the case of an industrial union or industrial association, all property held by trustees for the judgment debtor) shall be available in or towards satisfaction of the judgment debt, and if the judgment debtor is an industrial union or an industrial association, and its property is insufficient to fully satisfy the judgment debt, its members shall be liable for the deficiency: Provided that no member shall be liable for more than ten pounds under this subsection.

I will tell hon. members what that means. That is where the union holds funds which are ear-marked as belonging to certain members who strike; you can get at those funds to enforce obedience to the award. If the union is a party to the strike you can get at those funds. As I have already said, it is a practical impossibility to prove a union instigates a strike. I do not believe a union, as an official body does; it is its constituent elements.

Hon. F. Davis: But do not the members make up the union?

Hon. M. L. MOSS: While the members may make up the union, you cannot visit on the union a penalty for the disobedience of one constituent part of it. I have already said I would disfranchise these people. I think there is another method. Will the Government agree to a proposal to alter Section 92 of the original Act and make the union liable to pay the penalty which may be awarded against an individual member, in case the individual member strikes?

Hon. J. E. Dodd (Honorary Minister): Do you think that a fair proposition?

Hon. M. L. MOSS: Mr. Davis says that is what the Act means, but I say it does not. Mr. Dodd asks, is it a fair proposition. I do not say whether it is fair or whether it is not. There has not been in the Bill a legitimate attempt made to enforce obedience to an award. I have drawn attention to Sections 98 and 92 of the Act; they are dead failures, and no legitimate attempt has been made in the Bill to alter these serious defects. Mr. Dodd has admitted that, because he admits the weak spot is the inability to enforce obedience.

Hon. J. E. Dodd (Honorary Minister): Is it a fair proposal to make the unions responsible for the individual Acts of its members?

Hon. M. L. MOSS: I would do that, or I would do another thing, and it is a fair matter for consideration. If you do not think it is a fair thing to make the unions responsible for the carrying out of an award, arrived at in a fair manner by the court; as the preference to unionists is written on the wall plainly in the Bill, it is worthy of consideration whether men should be prevented from becoming members of a union.

Hon. J. E. Dodd (Honorary Minister): We would require a medical inspection of members.

Hon. M. L. MOSS: I say these are vital points submitted for the consideration of the Government for there has been no attempt made in the Bill to cope with this important aspect of the question.

Hon. W. Kingsmill: Did you expect it?

Hon. M. L. MOSS: When we are told this is an attempt to make the law operate more fairly, and to ensure obedience to awards, I think it is right to look for some reasonable effort to carry out what, from past history, has been a failure. There is no attempt here. Under the principal Act there is a definition of the words "industrial matters." It would not be fair for me to read that definition, it is the best part of three-quarters of a page of print, but I commend it to members and I ask them to peruse the original Act, to consider the wider definition of industrial matters. It is intended by Clause 2 of the Bill to extend that definition. This law should only exist for certain definite purposes; if permitted to exist at all. It should exist for fixing wages, allowances, or the remuneration of workers in an industry, fixing the hours of employment and defining the qualification and status of workers, and the other matters referred to in the definition in the Act. I strongly object to the extension contained in Clause 2 of the Bill. But the great fight on the Bill will range around Clause 7, that is the clause that Sir Edward Wittenoom has spoken on at some considerable length. In the first place, there is a most unconstitutional principle contained in Clause 7 of the Bill. When you appoint a judge of the Supreme Court, or any other officer, and I will give examples presently, who hold office during good behaviour, the corollary is the fixing of the salary by the statute that creates the office, the intention being that during the time the person occupies the position he shall not be dependent on a Parliamentary vote for passing his salary. I am saying nothing at present as to whether the position should be filled by a judge or by some other person. Members know in regard to a judge of the Supreme Court, that judges are appointed under an Act, the salary is fixed by the Constitution Act in the first instance, and for other judges by subsequent statutes, and these fixed salaries are provided in the statute, and the salary cannot be diminished while they hold office. They are not dependent on the passing of the Estimates in any year for the payment of their salaries. That principle applies in regard to the Auditor General. Under the Audit Act of 1904 the Auditor General's salary is fixed by Section 6 of the Act at £800 a year. Under Section 9 he holds office during good behaviour and he cannot be removed unless an address praying for his removal is presented by the Governor to the Legislative Council and the Legislative Assembly, and is carried in the same session. Again, the Public Service Commissioner holds office for seven years; his salary is fixed by statute at £700 per annum. He can only be suspended from office by the Governor, which suspension must be laid before each House of Parliament within seven days of the House meeting, so that Parliament can have an opportunity of dealing with it. With regard to men holding the positions of Auditor General, Public Service Commissioner, and the judges of the Supreme Court, all the salaries are fixed by the statute creating the office, and here it is intended that the principle of appointing someone, notwithstanding the undertaking Mr. Dodd has given, will have a certain political colour, for he will be dependent on the passage of the Estimates every year for his salary. It may be £800 this year, and £600 next year, if he does not perform the duties according

to the satisfaction of a majority of members of the Legislative Assembly. That principle is connected with Clause 7 of the Bill and it is a very bad one indeed. Let us look at it for a moment. In connection with the administration of these industrial laws throughout Australasia, the work has always been performed by a Supreme Court judge. A Supreme Court judge is specially marked out as a person of whose independence there is no doubt whatever. He has a fixed salary, can only be removed from office for misbehaviour, and, as Sir Edward Wittenoom has said, it is the rarest thing in the world for a judge to be removed from his position. There is only one instance of it in Australia. Mr. Justice Boothby, in South Australia, was removed on an address from both Houses. Practically, therefore, every gentleman who has filled the position of judge of the Supreme Court in this Commonwealth from the earliest times, and in New Zealand, and I think I may say in the old country, are absolute fixtures. In New Zealnad we have an arbitration court presided over by a judge. In New South Wales the same thing has prevailed. In South Australia the same law exists, and the Commonwealth of Australia, having the experience of the three places I have named, and Western Australia in addition, decided that their tribunal should be presided over by a judge, and Mr. Justice Higgins was appointed to the position. I could have understood some provision being made to do away with assessors who are partisans. I have stated repeatedly in connection with the Workers' Compensation Act that the assessors should be on the floor of the Court as advocates. They are partisans in every sense of the word, and there is no doubt that the partisanship of these assessors largely actuated the Commonwealth in disposing of that fifth wheel of the coach when they passed their Act. We are told that judges object. Judges have no right to object to carry out any work which an Act of Parliament throws upon them. They are in receipt of their salaries, their positions are secure, and personally I am not so certain that the judges do object, but it is not a matter of concern to me where they do object or not. It is not the first occasion that they have objected to duties being thrust upon them. When it was determined that instead of election disputes having to be decided by a Committee of Parliament they should be heard by a judge of the Supreme Court, that step was greatly resented at the time. The judges were called upon to perform those duties and they have performed them satisfactorily, and the judges have performed the duties under the Arbitration Act since it became law also very satisfactorily. It is because employers of labour on the one hand, or the workers on the other hand are dissatisfied with an award that that system is to be condemned? In every kind of litigation the man who loses his case is always dissatisfied. The man who wins his case goes away pleased with himself, but the man who loses is dissatisfied with the judge and with his advocate who may have put forth his best efforts to win the case. There is no reason, therefore, because the workers on the one hand, or the employers on the other hand have not got all they thought they were entitled to, why the system should be condemned. We are told we shall appoint to the court someone who can make a study of the various industries of the State. Is it possible for any one human being to make himself familiar with the ramifications of every industry in Western Australia, and that he will be able to sit on the bench and be so familiar with everything as to understand how he shall decide all these things? If this is a judicial tribunal, as it is intended to be, a judge has to decide these cases upon the evidence brought before him, and not by his own special knowledge. I really cannot follow any of the arguments which have justified the insertion of the principle contained in the clause for the appointment of some person other than a Supreme Court judge. Even the wages boards that are in operation in some portions of Australia —I speak on this matter subject to correction—whatever these wages boards do is subject to an appeal to a Supreme Court judge. We know that during the greater part of 1911 one of our judges

has been on leave of absence. We, therefore, have had in Western Australia three judges carrying out the duties incidental to their offices in the Supreme Court, and also the Arbitration Court work. There are no arrears of work in the Supreme Court to-day, and there are no arrears in connection with industrial disputes. When the fourth judge comes back and the bench is fully manned, then the Supreme Court will have its proper strength, and I speak knowing something about the matter when I say that the judges, to say the least of it, are not going to be over-worked. Up to a year or two ago the whole of the Chamber work was carried out by the Master of the Supreme Court under certain rules, and litigation, as my friends, Mr. Jenkins and Mr. Pennefather, will bear me out, became so small in comparison to what it was that that jurisdiction was taken away from the Master and the judges have since been doing Aribtration tion work, circuit work, their Supreme Court work and Chamber work, and there are no arrears to-day. When the fourth judge comes back next year there will be absolutely no difficulty in performing the work under the Arbitration Act, as well as the work of the Supreme Court. It is clear, therefore, that to put a person there, even if we give him the independence proposed in this clause, if he is to be a layman—and according to Mr. Dodd, not a politician—a person whose salary is not fixed by the Bill, he must be in a position of great dependence and not in a position of independence as we have been led to suppose. I do not know whether it is intended that he shall be an officer under the Public Service Act, but if that is so that would secure his dependence to a certain extent, but if this principle is to pass the House and some other person than a Supreme Court judge is to perform these duties, the salary should be provided in the Bill, so as to secure that that person shall have the greatest amount of independence. I want hon. members to understand before the Bill reaches Committee the direction in which I intend to vote on the question. There are one or two other principles in the Bill that I think are worth mentioning even on the second reading stage. What does Sub-clause 3 of Clause 8 mean? It reads—

> When an industrial union of workers is party to an industrial dispute the jurisdiction of the Court to deal with the dispute shall not be affected by reason merely that no member of the union is employed by any party to the dispute or is personally concerned in the dispute.

Is this to open the door to allow busybodies to come between employers and employees and make disputes? Is that the intention of it? So far as I can see that is the only object such a clause as this can have. It may be that in running an industry I may be employing non-union labour, but while I am doing so I may be paying union rates and observing every condition of the award, and some busy-body can come along and create a dispute between me and my men, although they have nothing to do with the inside working of my establishment. If that is what the sub-clause means, I shall want some information about it when we get into Committee. Sir Edward Wittenoom has referred to Clause 9, which I think is an exceedingly mischievous clause. Mr. Dodd says that we need not be alarmed about it, that there is nothing bad in it. I want to go back to the principal Act for a minute. If the definition of industrial matters contained in the original Act remains, the Court will have full power to deal with all matters relating to wages, allowances, remuneration, hours of employment, conditions of employment, employment of children, claims of members of industrial unions, preference of service, etc., surely wide enough for all purposes. The new sub-clause is to be added, and in every award the Court may make it will be provided—

> The Court may by any award prescribe such rules for the regulation of any industry to which the award applies as may appear to the Court to be necessary to secure the peaceful carrying on of such industry.

It is intended that if an award has been made and the conditions of labour laid

down that then the Court is to interfere and take the management of the business out of the hands of the man running it? The words seem to be quite wide enough. If that is the meaning of it, it is a nice state of affairs for the man who has his capital embarked in any particular industry. It is quite obvious that persons employed in an industry are entitled to see that they get a fair rate of wages; and they are entitled to demand that there shall be a tribunal to lay down proper conditions of labour. When that is done, a man should be allowed to be master of his own preserves. I will take an illustration, and it will be an extravagant one, which in all probability no sane Court would agree to, the case of an industry in connection with which machinery is being used. In a provision of this kind it would be competent for the Court to say "You must not employ machinery; you must use manual labour." I will admit that the illustration is extravagant, but I use it only to make my point that in less ridiculous things you have the Court coming along and taking charge of a man's business and saying what he shall do. One has to take extravagant illustrations in order to show the extent we are being asked to legislate. No man should want more than this. Give him his wages; if you like fix the award in such a way that, to use the provisions of Clause 11, it shall be sufficient to enable him to live in reasonable comfort, having regard to any domestic obligations to which a worker would be ordinarily subject. I do not propose with regard to that clause to say one word against it. There may be objections to that clause, but I am of opinion that an industry that will not enable people to live in reasonable comfort is an industry that the country can do without. If you have on top of that proper conditions of labour prescribed by the award, what more do you want? Why should the Court have the right to take charge of a man's industry, an industry in which he has embarked his capital, and say, "You are not to manage it." I am not going to agree to a clause like that.

Hon. J. E. Dodd: Take it from the other point of view, where the union is doing something wrong.

Hon. M. L. MOSS: I am not so blind as not to know that it is intended to apply to both, but I have given enough reasons to show that so far as the employee is concerned the legislation has not been a failure. I am only discussing it, therefore, from the point of view of giving the Court greater powers to inflict these conditions on the employer of labour, when, as far as the employee is concerned, there is no way of making him observe what the Court may direct against him. It is, therefore, an argument that before you give these wide and extensive powers for the court to interfere with the internal management of a man's business, you should remember all the time that the worker up to date has had a fair deal out of the Conciliation and Arbitration Act.

Sitting suspended from 6.18 to 7.30 p.m.

Hon. M. L. MOSS: There is one observation I want to make in reference to the dependence of the judge upon Parliament unless his salary is fixed by the Bill, and it is with regard to the position which arose in New Zealand some 20 years ago, when one of the Governments there appointed a Supreme Court judge whose salary was not previously fixed by Act of Parliament. At that time I think they had five judges in New Zealand, and they appointed a sixth judge without any salary having been fixed by Act of Parliament. That judge was Mr. W. B. Edwards. His position was attacked at first by some criminal who had been sentenced to a term of imprisonment for the commission of a crime, and he cast upon the Government the obligation of defending him. The matter went to the court of appeal, and whilst these judges held that he was rightly appointed, two of them held that he had been improperly appointed. His case was taken to the Privy Council, and that body upheld the minority of the judges in New Zealand, and laid it down that a judge of the Supreme Court could not hold office unless his salary had been previously fixed. The Privy Council contended that there was a great constitutional principle involved in this case, because the independence of a judge could only be secured by an Act

of Parliament itself. I am only giving that illustration to show the necessity of fixing the judge's salary in this Bill, and in order that the Ministry might have before them what was regarded as a great constitutional case in New Zealand. Mr. Edwards was put off the bench as a result of his salary not having been previously provided, and he remained off the bench for about 12 months, until a Bill was passed giving him a fixed salary, the same as the other judges. I only mention this instance to supplement the observations that I previously made in regard to Clause 7. Now I come to Clause 10. It is quite correct, as Sir Edward Wittenoom has pointed out, that this clause might have a serious effect upon pending contracts. Persons will take contracts for the performance of works and services, and they will do so on the assumption that an award of the Arbitration Court in a particular industry will operate for the period for which that award is made, until they find out that under a mischievous provision such as is contained in this clause, the prices made up in connection with the contract will be altogether useless, because the Arbitration Court will have stepped in and altered the existing award, thus upsetting the whole of the contracting calculations. There is no doubt that the policy which dictates such a clause as this is to force the carrying out of all kinds of work by means of day labour. It might be a very good policy indeed. Day labour for some classes of work is a very good method, but it is quite impracticable when large undertakings are being dealt with in respect of which there are a variety of trades, such as the construction of a huge building. It might be not altogether desirable from the point of view of the person who is undertaking the work that he should be bound to do it by day labour. It is absolutely necessary, in my judgment, that if this clause is passed there should be an addition made to it. In the Customs Act, one of the statutes in force in the Commonwealth, there is provision made for something of a similar nature. Section 152 sets out—

> If after any agreement is made for the sale or delivery of goods duty paid, any alteration takes place in the duty collected affecting such goods before they are entered for home consumption, then in the absence of express written provision to the contrary the agreement shall be altered as follows:—
>
> (a.) In the event of the alteration being a new or increased duty, the seller after payment of the new or increased duty may add the difference caused by the alteration to the agreed price. (b.) In the event of the alteration being the abolition or reduction of duty the purchaser may deduct the difference caused by the alteration from the agreed price. (c.) Any refund or payment of increased duty resulting from the alteration not being finally adopted shall be allowed between the parties as the case may require.

It has been regarded by the Federal Parliament as a fair thing that where duties are increased or decreased, the amount of payment in respect of the sale of goods, a contract for which has been entered into before the alteration of the tariff, should be added to or taken from, as the case might be. But in this Bill we have a one-sided business, because here we may increase or decrease the amount of wages, or lessen or increase the beneficial conditions of labour so far as the worker is concerned, and yet with regard to pending contracts there is no provision here to add to or take from the price when these alterations take place. An award that is made, or an alteration of an award, is equivalent to a piece of legislation, for it is something done pursuant to delegated powers from the Legislature, and if this is an expedient provision, and I have very grave doubts about it, it can only be expedient if some provision such as is contained in Section 152 of the Customs Act is embodied in the Bill. I have a few words to say with regard to the principle contained in Clause 11. The principle of dealing with these industrial troubles has been to fix a minimum wage and to lay down fair conditions of labour. By Clause 11 of this Bill that minimum wage is to be so altered that to be consistent with the definition they are placing upon

it, it must be sufficient to enable the average worker to live in reasonable comfort, having regard to any domestic obligations to which such worker would be ordinarily subject. I do not know what that means, but that will be one of the nuts which the judge exercising jurisdiction under the Act will have to crack, and I hope he will be successful in doing it to the satisfaction of employer and employee. Now, while I can understand that it is reasonable and justifiable, and perhaps necessary, that in connection with the employment of labour we should fix a minimum wage and provide the conditions of labour, it is a different thing when we find the court interfering with the internal arrangements of a man's business to the tremendous extent allowed in Clause 11 of this Bill. So far as I can see the court may have fixed by its award the minimum rate of wage, and has had in view the fact that the minimum rate of wage shall be sufficient to enable the average worker to live in reasonable comfort, having regard to his domestic obligations. Then under Clause 11 the court is coming in to interfere with the internal arrangements of a business, and in the case of an employer of 40 or 50 men, the court is going to say not only that the men shall receive a minimum wage in accordance with Clause 10, but is going to put a price on every man. The second 10 men will be superior to the first 10, and their remuneration will be greater, and so it will go on. Who is going to control the business? It is the business of the Legislature to say no more than that an employer shall not so work a man as to sweat him, and that he shall pay him wages enough to allow of his living in reasonable comfort. Fancy the work that is going to be given to the court! Take, for instance, the timber industry, in which hundreds of men are employed, and the court are going to take all these men, and hold all sorts of nice inquiries into their ability to perform the work allotted to them, and the quantity of work they can get through! The power of managing and controlling a man's business is going to be taken entirely out of his hands. I think it is a monstrous proposition! If all this goes through and this jurisdiction is exercised, what a nice country Western Australia will be for the investment of capital in industries; how well calculated this class of legislation is going to be to induce people to bring their money to this country! Have the Government considered that, with an exacting law like this in Western Australia, with nothing else like it in any other part of Australia, our industries are going to be handicapped against other parts of Australia? Captain Laurie will bear witness to me that in connection with a certain class of work credible persons have informed us that they can get the work manufactured in Eastern Australia cheaper than they can get it manufactured in Western Australia to-day, even after paying the cost of bringing it here. And now what is it going to be with these exacting conditions, with conditions like those contained in Clause 12? The workers' representatives may think they are doing the worker a very good turn by putting in provisions like this, but as a matter of fact they are going to act very sadly to his detriment. If the end of this legislation means the grading of employees to such an extent that they will be unfairly competed with by workmen in other parts of Australia, who, needless to say, bring all their commodities into Western Australia without any protective duties against them, is it designed to do the worker good; or are they not considerably over-stretching themselves in their desire to do the worker a good turn, and really doing him the greatest injury imaginable. This is the worst of a good many pernicious principles contained in this Bill. I have one thing more to say, and it is repetition. We have the right—I have the right, at any rate, as one of those who thought compulsory arbitration had broken down—to demand at the hands of any Government who set out to amend the law that in regard to the great principle that has been the failure of the measure up to date there should have been some attempt to deal with it, that is, some attempt to deal with those who break an

award and compel them to observe it by some arrangement other than that contained in Section 98, namely, imprisonment for striking or locking-out. Some provision should be embodied in the measure; but in no provision of the Bill is there any attempt to deal with this most serious blot on compulsory arbitration. When I refer to imprisonment I allude to the fact that the party is liable to pay a pecuniary penalty, and there is imprisonment in default of non-payment; but it is all impracticable and undesirable, and we have a right to demand that, when an attempt is made to deal with this measure, there should be some effort to deal with the point on which it has broken down so signally. Mr. Dodd, in a temperate and able speech from his point of view, has been compelled to admit that this is the weak spot in arbitration.

Hon. J. E. Dodd (Honorary Minister): Do you not think the remedying of the technicalities will do a large amount of good in bringing about industrial peace?

Hon. M. L. MOSS: My point is—let us be fair about it—have there not been existing awards in operation—I do not want to mention any particular class of workers, though I can do it if I am asked—in spite of which awards the workers have declined to be bound by them? And has not the law been practically powerless to get at them? Is that not a fact?

Hon. J. E. Dodd (Honorary Minister): I will not dispute it.

Hon. M. L. MOSS: The hon. member is honourable and fair-minded in regard to it.

Hon. J. E. Dodd (Honorary Minister): Employers as well as employees.

Hon. M. L. MOSS: I admit it, but with regard to the employers with this reservation, that, when we are dealing with employers, they are a small number compared with the large number of persons in any large industry, such as coal mining, or the timber industry, or gold mining, and we are dealing with people who have a certain amount of property, have something tangible that can be got at.

Hon. J. E. Dodd (Honorary Minister): But you are not going to get over the victimisation of a man who belongs to a union.

Hon. M. L. MOSS: There can be no victimisation in this sense: There is an award. We must start with the assumption that this independent tribunal that makes an award makes a fair award. Of course if it is contended for one moment that the awards are unfair or biased, the whole scheme of compulsory arbitration is gone. We must say the tribunal we create is a tribunal we have confidence in, and one that will do that which is right in the circumstances.

Hon. F. Davis: You are looking at it from one side only.

Hon. J. E. Dodd (Honorary Minister): But how are you going to get over the victimisation?

Hon. M. L. MOSS: In regard to the interjection by Mr. Davis I have not a threepenny bit invested in any industry. My great desire in making the speech I have made this evening is not to wreck the Bill, but it is to point out what I consider are serious defects in connection with the problem this Bill and the principal Act are intended to deal with.

Hon. J. E. Dodd (Honorary Minister): That does not answer my question.

Hon. M. L. MOSS: I am answering Mr. Davis at present. To suggest in any way that I am biased is unfair. I have attempted—and I think I have backed it up by fair argument and illustration—to show that, up to date, the Act is a failure in regard to the observance of these awards; and my corroboration is the speech of Mr. Dodd, in which he admitted this particular point. It is the essence of the Act to get industrial peace in the community and to prevent striking; that is the essence of compulsory arbitration; and when the gentleman who introduced this amending Bill agrees with me that the great defect is the inability to force these awards, it is fair comment then, I think, for any member to say that the Bill itself makes no attempt whatever, not the slightest attempt, to deal with that which admittedly is the weak spot in compulsory arbitration. Now, if Mr. Dodd will

be kind enough to interject I will not object to answering any question he submits.

Hon. J. E. Dodd (Honorary Minister): You are only referring to one side. You say you cannot make the employee obey the award. I say it applies both ways, and that the employer can victimise a man.

Hon. M. L. MOSS: My opinion in regard to the employer is that in the large percentage of cases, if not in all, the employer has a certain amount of capital embarked in his industry, which is generally tangible, generally something that can be got at easily by way of a distress warrant;, and when we are dealing with half a dozen men in an industry, it is different altogether from dealing with hundreds of men who may be employed in the industry. While there may have been one, or perhaps two, lock-outs since compulsory arbitration came into force in Western Australia, unfortunately for the State at large there have been a very large number of strikes; and while there are no instances of the penalties imposed upon the persons locking-out having been unpaid, there are instances in connection with the penalising of people in regard to strikes where the fines have not been enforced. As I say, the existing provision is quite impracticable; and even if it were practicable it is highly undesirable that we should resort to the expedient of herding hundreds of men into prison for not paying the fines imposed on them under Section 98. I shall wait with some curiosity to hear the speech in reply by Mr. Dodd. I will ask him whether he will not confer with his colleagues to see if they cannot remedy that defect which he, himself, has admitted, compulsory arbitration to date has carried with it, the defect of awards not being enforcible. I ask Mr. Dodd will he not make some effort, though not, perhaps, in the direction I have indicated. I have indicated three which may not suit, though I would not hesitate to do it if I were in the position. I would take away the vote of every man convicted of striking; I would reject him from the unions, and I would make the funds of the unions responsible for the observance of the award by members of the union. The policy of the Industrial Conciliation and Arbitration Act is that it forces every man who desires to take advantage of its provisions into a union, because the persons setting the law in motion under the Act must either be a union of workers or a union of employers; and we know, and Mr. Dodd knows, as well as Mr. Davis and Mr. Doland, that the fact of forcing people into these unions has been to create the unions nothing more nor less than political organisations. In fact, in the rules of some of these organisations there have been provisions for utilising their funds for political purposes, and it has formed a subject of a good deal of contention between the registrar, I presume acting under the direction of the responsible Minister, and the members of the unions; and I say, as we know these unions are political organisations, is it too much to ask of them, that if their constituent parts are instrumental in causing these strikes which do so much to unhinge business in the community, they should be deprived of their votes? It would probably be the biggest punishment that could be inflicted on them. The sum and substance of the Bill boiled down is this: it is putting hampering conditions on the employers and industries of the State, and the ultimate result of it must be that it will operate to the detriment of the worker. We cannot keep on adding all these conditions without increasing the cost of living; and, as we know well, there is no philanthrophy about the people who can get the work done cheaper elsewhere. I know, and Captain Laurie knows, wher large contracts went out of the State in view of the fact that work could be done cheaper elsewhere. What is to happen under this Bill? With these greater imposts on the cost of production, these great increases, the obvious result will be it must operate in the end against the working man; and those who think they are endeavouring to do the working man a good turn are not to him a blessing at all but quite the reverse. I have said it is my intention to vote for the second reading of the Bill.

Although I have put up a strong protest against many of its provisions, as the Government say this measure is part of the policy they were directed by the country to put into execution, I am not going to take the very strong part of cutting the Bill about so as to make the whole thing nugatory. There are certain things I shall attempt to resist to the best of my ability; but as for the bulk of the Bill, I shall be satisfied with the protest I have put up, though if other hon. members chose to divide the House on these questions, it will be my bounden duty to vote as I think I should vote in the best interests of the country and its industries. But there is no doubt this was a very prominent plank in the platform of the Ministry when they were before the country. The party in opposition went on a different scheme, that of wages boards, and they were rejected. I do not think the House would be well advised to so mutilate the Bill that none of it is left at all. I believe the Bill will be fraught with grave disaster to our industries, and particularly so in respect to Clauses 7 and 12, which I will do my best to defeat. In the meantime, I hope the Bill will be taken through the second reading.

Hon. J. F. CULLEN (South-East): I shall not traverse the ground so well covered by Sir Edward Wittenoom and Mr. Moss. I only regret that the introducer of the Bill here did not show a little foresight as to the reception the Bill would get. He contented himself largely with assuring the House that there was nothing to fear, that the Bill was innocent, non-revolutionary, and that the House could accept it. In doing that he read his own good intentions into the Bill. If it were Mr. Dodd's Bill, I would not be afraid of it; if it were Mr. Dodd's administration I would not be afraid of it; but the Bill and the proposed administration are as different from Mr. Dodd as night is from day. I was struck with the remark that fell from Mr. Moss to the effect that having made the amendment of the Conciliation and Arbitration Act a plank in their platform, the Government were bound to bring in the Bill. The only trouble about it is that there is no connection between the Bill and the defect in the Act. As Mr. Moss has pointed out, the one grave defect in the Act is that the awards of the Court cannot be enforced. If the employer chooses to keep them, all right; if he do not so chose, he can be compelled. If the employee get an advantage, all right, it is a grand court; but if he do not get an advantage it is a biased court, or, at all events, if the court is not denounced the employee snaps his fingers at its award. Now, I watched the working of an arbitration court in a certain State. It came in when the affairs of the country were on the up grade, and union after union went to the court and got an advance in wages; and the labour leader said "See what we have done for the workers; we have insisted upon getting this court, and we have carried the employers to the court, and every time we have got an advance in the wages. It is a splendid court." But, in the nature of things, that came to a pause, and the first union that went for an award after the level had been reached, and failed to get what it wanted, denounced the court as biased and only fit to be swept away. The employer cannot do that, because he is bound to pay.

Hon. J. E. Dodd (Honorary Minister): They all denounced the Act.

Hon. J. F. CULLEN: But the employer is bound to pay. You cannot force your men either to obey an order of the court or to pay the penalty. It simply means that compulsory arbitration must break down at a certain point. As a matter of fact the main use and advantage of the court is not in making awards, or in attempting to enforce them; its main advantage is in forcing a dispute into the light of public opinion. That is the main advantage of an arbitration court. Both parties are brought before the public, and after all public opinion is a strongly compelling factor. Now I say the Government have not touched the defect in the Act. What they have done is this: they have said, in effect, two things; the first is, "We will make it all right by giving the employees all they want, and there will then be no more trouble; give them all they want; they must have a wage that

will enable them to live in reasonable comfort for an average family, and so on; give them all they want." Another thing they have said is, "Hamper the employer all you can and it will be good for the employee." That is the plain English of the terms of the Bill. How does it start off? By enlarging the scope of disputes, enlarging the definition of "industry," enlarging the definition of "dispute." Actually the Bill says the court may be invoked for a difference of opinion between a union and an employer. A difference of opinion! Why, bless me, there is not a husband and wife in the country but would be open to be dragged before the court if differences of opinion were a cause for a court's investigation. The happiest families in the world have differences of opinion, and the happiest and most prosperous industries have differences of opinion. The point I am making is this: that in framing the Bill the Government, instead of laying their finger on the one great trouble and honestly trying to deal with it, have said "The trouble is all with the employees; if we can give them all they want there will be no more trouble, and if we can gratify the litigious part of them by dragging employers into all sorts of litigation, well, it must be good for the employees." Some people may say this is rather extravagant talk; unfortunately, it is a true reflection of the attitude of a great many people on this question of conciliation and arbitration, namely, that whatever is severe on the employer must be good for the employee. I know that Mr. Dodd, and a great many more, think differently. They know that the employer and the employee are bound to come together; that one can do nothing without the other, and that everything which tends to harmony will tend to the betterment of both parties. The Bill goes on to say, "We will enlarge the scope of the court; we will bring the rural worker under it, and we will go to the court on mere differences of opinion, and, further, the court will interpose and make rules and regulations for any industry." Furthermore, it will not be left only to the unions whose members are in trouble, but any union may go to the court, whether any of its members are concerned or not. We will imagine a union with a live secretary, who has secured a number of victories to his credit. That agitating officer can open a dispute and carry the case to the court, even though not one member of his union is concerned in it. That could not have been the intention of Mr. Dodd. Then the crowning trouble is that the Bill says "At present we have two partisans, and one independent judge; now we shall have three partisans."

Hon. F. Davis: Are you sure of that?

Hon. J. F. CULLEN: Certainly. It cannot be otherwise. The Government reserve the right to appoint "some other person." Who would that person be but a person of their own views? Is it likely they would appoint a person of other views? I have made my point. The Bill provides three things, namely, give the employees all they want, and there will be no more trouble; hamper the employer all you can and the employee will get the benefit; reconstitute the court, making it one of three partisans, two on one side, and one on the other.

Hon. J. E. Dodd (Honorary Minister): That is a wrong impression.

Hon. J. F. CULLEN: It is not only possible, but it is probable; because, I ask any hon. member, are the Government likely to select a man not in sympathy with their views? The Bill, if it is passed at all, must be altered in these particulars, and, above all, there must be a Supreme Court judge as an independent, impartial and strong president of the court. I have only one more point to urge. I live in the country, and I know some of the risks of mischief to the primary industry of the country. I know it is quite possible in connection with the secondary industries to have a conspiracy between the heads of the industry and the employees of the industry, a conspiracy against the customer. That is the policy of new protection, which the Federal Parliament enacted, but enacted with a flaw in it, which compelled its throwing out by the courts. The new protection in connection with the secondary industries would enable a Government to say, "If you will

pay what we count good wages we will allow you to write up your prices as you like, by putting heavier duties on the goods you manufacture; we will prevent competition from outside by heavy protective duties, and you can sell at what price you like." That is new protection. However, I am not arguing protection now. I want to show that you cannot do that with regard to the primary industries. You cannot protect primary industries. And suppose we let loose half a dozen agitators on our rural industries, and run pretty well every settler into the court, what will be the consequences? It may be answered "Oh, the Bill only asks for wages that will give the employees reasonable comfort, and surely you have no objection to that"? Certainly not; I believe in good wages, and I try to pay them. But I want to point out that at least 75 per cent. of the new settlers of this country, the backbone of the country, and the real foundation of its wealth and progress, 75 per cent. at least of the settlers who are bringing the country into production are not living in comfortable circumstances. They say, "We are quite content to have our time of hard battling because we hope to get better times by and by." I know these settlers pay higher wages to their men than they are drawing themselves out of their concerns, and it would be disastrous if we passed a law that these men can be dragged to the court to pay what is considered in town a nice comfortable wage for a man with a big family. I want to impress on members that you cannot protect a man engaged in the primary industries. There is no protection for him, new or old. His market is in London and the rest of the world and you cannot protect him. Be careful how you leave it in the power of agitators to worry him off the land. I shall of course vote for the second reading of the Bill but with the object of amending it in Committee as urged by members who have already spoken.

Hon. E. M. CLARKE (South-West): I have very little to say on this matter. When the original Act was introduced some years ago I had my doubts whether it would be a success or not, and I based my conclusions firstly on my own thoughts, and secondly on the report of an eminent judge of the working of the Act in New Zealand. There it was pointed out that it was next to impossible to enforce an award against the employee. We are bound to admit that whilst the existing Act in Western Australia has done a certain amount of good it has certainly failed in the direction of enforcing the award against the employee. That I consider is one of the weakest features in the Act. We are faced with this position, so long as the award is against the employer the Act is right enough, it can be enforced and has been enforced unless by some mischance there is a flaw in the Act by which the employer gets out of it, but I have no knowledge of such a case occurring. But the contrary has been the case with the men. In some instances they have observed the awards, but in others they have violated them. There is nothing in the amending Bill that rectifies that defect in the Act. The next thing is that as the law stands at present we have a judge of the Supreme Court sitting there, and we believe that that judge has the confidence of all sides, that is after making allowance for the man who has got the worst of the award; he is always dissatisfied and always will be. But we find this, that in this Bill we have a clause that does away with the appointment of the judge of the Supreme Court as arbitrator. I put it this way, which I think will carry conviction to anybody: we want a man as president of the Arbitration Court who will administer the Act as he finds it, who will hold the balance of justice between one and the other, who neither favours one nor the other, but carries out the Act to the best of his judgment and ability, and, on the other hand we do not want a man who may possibly sit there as a barracker for one side or the other. The president should be a man above suspicion, and a judge of the Supreme Court is above suspicion. I want to say right here that there is nothing further from my thoughts than to wreck the Bill. We should be doing good work if we sat here for a month debating this Bill if we could bring about

a measure which will prevent industrial strikes, for they are the curse of any community, and if we can devise some scheme to get over that so as to remedy the evil, we should be doing good work. Understand, I shall vote for the second reading and try to amend it in such a way as will make it workable and bring about a state of affiairs that I am sure everyone desires to see, and that is industrial peace in Western Australia.

Hon. F. DAVIS (Metropolitan-Suburban): There can be no question but that there is a wide divergence of opinion as to the merits and demerits of the Bill before the House. Nearly all the speakers who have preceded me have taken an adverse view, or are inclined to regard the Bill as having serious defects, and in fact are just a little inclined to fear the object of the Bill as drawn up by the party with which I am associated will not have the effect we hope it will, but that it will have a very serious effect in just the reverse way. Every member is entitled to his opinion and it is equally true that there are two sides to every question. I presume the majority of members view the question from a totally different view point from myself, but I sincerely trust, even though I may express decided opinions, I shall be credited with a desire to help forward a solution of the difficulty. One member stated that the Bill was a good one for one side because it meant that one side would have to give up nearly everything. That, to my mind, is not a fair presentation of the case and my reason for saying so is—I will give a concrete illustration.

Hon. Sir E. H. Wittenoom: I want the hon. member to say what the other side of the question is.

Hon. F. DAVIS: I will give an illustration which I think will show what I wish to convey. Some few weeks ago there was in this State a difference of opinion between the master brickmakers and the employees in the brickmaking trade as to the value of the labour employed in the yards. When the employers and employees met in conference the employers stated distinctly that for some time previously they had been losing money in their business of making bricks. The employees accepted the statement with a good deal of doubt. Subsequently, two or three weeks ago, when one of the master brickmakers wished to sell a piece of ground to the Government for railway purposes, it was stated on sworn evidence that the brickmakers were not losing money but were making a profit of 7s. per thousand, and when it is remembered that many thousands of bricks pass through their hands in a week it will be easily seen that they were not losing money but making a substantial profit. That shows that we are not giving up everything by giving the employee a fair rate of wage.

Hon. M. L. Moss: Did you pay attention to the settlement of the case, did you see the figures? It was settled for a very much smaller amount than claimed.

Hon. F. DAVIS: That is apart altogether from my contention. It was contended this afternoon that the employers were giving up almost everything. It will be seen by the illustration I have used that the employers are not giving up everything but making a good deal more than they are giving to the employee. The employers would not be giving up everything under the Bill. The inference was also made that the Government are bringing forward the measure for one class only. In this connection it would be interesting to ask what percentage of the population that one class represents. We are charged with class legislation, but if it is recognised, as I think it ought to be, that the one class represents a larger part of the population, I scarcely think we can be charged with something in the nature of a crime in making provision for that class. We believe in majority rule, and the welfare and convenience of the majority should be given, to my mind, some consideration.

Hon. J. F. Cullen: Not one class, one side of the question.

Hon. F. DAVIS: I took a note of it at the time, it was one class.

Hon. Sir E. H. Wittenoom: I said one class, that the Government should not legislate for one class only.

Hon. F. DAVIS: It was also stated in converse to that that the minority was a larger and important part of the community, if I understand Sir Edward Wittenoom aright, that is that the employer was a large part of the community. I think it is reasonable to assume, seeing there must be many men compared to one employer in an industry the employers must be very considerably less than the employees as a class and the employers are undoubtedly a very small minority numerically.

Hon. M. L. Moss: Is that a reason why you should kill any industry?

Hon. Sir E. H. Wittenoom: I said an important part of the community.

Hon. F. DAVIS: I quite agree, but it is a question whether they are. I say numerically they are not a large portion of the community. Seeing that labour applied to land and manufacture creates wealth the man who provides the capital only is not the most important section of the community.

Hon. Sir E. H. Wittenoom: I did not say they were important numerically.

Hon. F. DAVIS: A good deal of criticism of the Bill is centred round the appointment of someone other than a judge to be the president of the court. I think you will find the clause makes it permissive. It does not state that the president shall not be a judge of the Supreme Court, but it makes provision for someone else to be appointed if the Government think fit.

Hon. M. L. Moss: Mr. Dodd said it was the intention to appoint a layman.

The PRESIDENT: Order; Mr. Davis has the audience.

Hon. F. DAVIS: It has also been stated that a judge of the Supreme Court is a better man for the position, better than any other member of the community. I disagree with that. I do not see that it follows that he must necessarily be the best man for the position. True, he may be accustomed to weigh evidence, but every man can do that, not only as a Supreme Court judge. It does not necessarily follow, because some man other than a judge is appointed to the position, he will be interested, or biased, or prejudiced. Quite recently I was connected with a dispute, or an appeal, or a request for better conditions in wages in connection with an industrial union, and eventually the dispute was referred to a man who was not connected with either body, and he gave a decision which was satisfactory and was accepted by both parties. He was not a Supreme Court judge either, not even connected with the legal fraternity. A fear has been expressed by some hon. members that it would be unwise to bring all workers within the scope of this Bill. I fail to see that there could be any objection to bringing any section of workers under the provisions of the Bill. If one section of the community are entitled to protection or assistance to obtain reasonable wages and hours and conditions, then every section are equally entitled to the same consideration. Rural workers have been specially mentioned as those who should be outside the scope of the measure. I cannot see why that should be so, I quite admit that settlers in their early stages may have difficulties, I have experienced some myself when starting to clear land. They may have difficulties in securing a profit, or even making both ends meet, but it does not follow, because that happens, that those they employ should suffer equally with them, because we have to take this into account, that while one who works for a farmer may get a certain wage, the farmer may not get a higher rate of remuneration, but in the long run he will do so by getting the benefit of the profit which ensues on the business, and in which the employee will not share. I fail to see why employees should be called upon to suffer in the way I have pointed out.

Hon. M. L. Moss: That is a fine theory.

Hon. F. DAVIS: The thing cuts both ways and I fail to see why the rural workers should not come under the provisions of the Bill.

Hon. Sir E. H. Wittenoom: You ought to be a farmer and then try it.

Hon. F. DAVIS: I have been a farmer. One of the remarks made was also the question as to how to bring the hands of capital and labour together, so that

they may work in harmony. There is another side even to that query. Is it necessary, or wise, that the hands should be brought together if they are not on the same plane? If, by bringing them together, unfair conditions are imposed in one case, is it fair to ask that they shall work in harmony, when one knows he is being treated unfairly by the other? Referring to some contentions made by Mr. Moss, one of the first things he spoke on was that the Act avowedly should prevent the occurrence of industrial disputes. I think every hon. member will agree that should be the object of the measure. Those of us who have had experience of industrial disputes in this State will know of the untold suffering and bitterness caused by them. I have vivid recollections of some difficulties which have occurred in parts of the State, and I venture to say that if the Act has done nothing else than to lessen the bitterness invariably caused by these disputes, it has done a wonderful amount of good. A debatable point raised, not only by Mr. Moss but by other speakers, is with regard to the enforcement of the awards. It is contended that while the employers can be easily compelled to obey the awards of the court, it is not so easy, in fact it is contended it is almost impossible, to compel the employees to obey the awards. While it might not be right to compel the officers of the union to be responsible for any act of a member of the union, if that union officially enters into a dispute, certainly the members of the union, according to the Act, are liable. Mr. Moss also contended that it was impossible to enforce an award, because to compel a large number of men to either pay a fine or else be imprisoned, was impracticable. Such is not the case. Underlying that statement we have to seek for other causes and not the ostensible ones that appear on the surface. Why is it undesirable? The question has been answered by a statement that it would cause an outcry of public opinion against the Act, if we were to imprison a large number of men. There must be some reason for it. Why should public opinion feel outraged at the imprisonment of a large number of men?

Hon. D. G. Gawler: It has never been done in any of the States.

Hon. F. DAVIS: I want to know why that should be the case? I think if we looked under the surface we would find it was because the public considered the thing was not fair. Again, there is this phase of the question: while it has been stated it might be possible to make an award of that kind to embrace a large number of men, and, while public opinion might be expressed through the Press or on the platform, there is one point of view which has not yet been touched upon which certainly would have the effect which possibly members might not foresee, and it is that it might cause such a revulsion of feeling, and such an amount of thought to be brought into play, that would create in no small way a change industrially and politically. I venture to say that a large number of workers at the present time do not think consecutively and logically, as they would do if they felt keenly some injustice. A new definition has been placed in the Bill dealing with the rates of wages to be paid to various workers. Previously the term generally used in connection with the payment a man should receive for his labour has been that a minimum wage should be paid, but in very few instances has that minimum wage been departed from. The original idea of those who specified the minimum wage was that it should be a wage paid to the average worker, and that any workman who displayed skill above that stage should be paid a higher rate of wages, but in comparatively few cases has that been done. The cases are rare where there has been any appreciable departure from the minimum wage, and the minimum wage in too many instances has been fixed at what we sometimes think, or some section of the workers think, too low a rate. I believe this definition was largely brought about because of a decision given by a judge in Victoria in connection with either a wages board or an arbitration court there. He fixed the rate of wages which would not support a man and his wife and family in comfort, and the judge said that he had nothing to do with the wife and family, and that he was only concerned with the

man who worked, and he was only awarding him wages which would keep him and not the wife and family. I think that would seem to be an inhumane and unreasonable award, and yet it stood good in connection with the particular industry in connection with which it was given. Fortunately other judges of the Arbitration Court have given a more reasonable and a more humane decision by recognising the fact that a worker has to provide for a wife and family. Following on that, the present Bill endeavours to define what is considered to be the standard which provides for frugal comfort for a man and those dependent upon him. I scarcely think any hon. member would take any serious objection to such a definition. Mr. Moss, in dealing with this question, also expressed the opinion that if the provisions of the Bill were carried out in their entirety, the cost of production would so increase that workers in other States would be able to send their goods here and displace many workers in this State. I am sorry Mr. Moss is out of the Chamber. I wish to point out that Mr. Moss admitted some time ago that he fought against the proposals contained in the Federal referenda, whereby it would have been possible to make uniform conditions throughout Australia, and so prevent that kind of thing taking place in this or any other State. Unfortunately Mr. Moss, with many others, is not consistent in that respect. Perhaps, sometimes in debate one is tempted to say things in the heat of the moment which on calmer reflection he will agree might better have been left unsaid. In this connection, I feel a certain amount of compunction at having, when Mr. Moss was speaking, followed up an interjection by Mr. Dodd that the speaker was taking a one-sided view, by saying "naturally." Perhaps that may appear to some members an unfair and one-sided view of things, but when I made the interjection I had in view the fact that every member's personality is the result of his environment throughout life. We are all what we are by reason of the circumstances which have surrounded us all our lives, and it is reasonable to assume that Mr. Moss, having been all his life, in boyhood and in manhood, in one set of circumstances and meeting the one class of people day after day, would look at things from the standpoint of that section of the community without having any regard to other sections of the community. That is why it occurred to me to say that naturally he would look at it from a one-sided point of view. Mr. Cullen, when speaking, suggested that one of the conditions of the Bill would be that of hampering the employer, and that the workers would regard that as one of the best results of the measure. Now, the hon. member will admit that that was a very unwise and unfair remark to make. I do not think any section of the workers would gloat over any misfortunes that might be caused to the employers through this measure coming into force. Surely even the workers can be given credit for having some degree of consideration for those for whom they have worked for a number of years. It is also unfair to say that any union could go to the court, whether the members wanted to go or not, if some particular individual in the union did certain acts, which would compel the union in effect to go before that tribunal. The union is made up of its members, and no union could be compelled or urged to go beyond what the members themselves desired, and no one man could sway a union to do just what he wanted it to do. In those circumstances the statement that was made cannot be borne out by fact. Then the question was raised as to whether it would be likely that the Government would appoint as president of the court a man who would not be in accord with their views. It is possible. I will again instance the case of a union to which I have previously referred, who, when they had a dispute, preferred not to go to the Arbitration Court but to settle it between themselves and the employers without the aid of the court. The matters in dispute were settled with the exception of one point, and when the deadlock occurred they referred the matter to one gentleman, who though not a legal man had a

fair knowledge of the industry, and he gave a decision which was accepted readily by both parties to the dispute.

Hon. C. Sommers: That happens in business circles every day.

Hon. F. DAVIS: Then why could it not happen in connection with the Arbitration Court? I confess that I feel a certain amount of fear on account of the number of legal men who obtain these positions. They may have a better knowledge of the law of evidence, but I contend that there are plenty of men in the community who, by reason of their occupations and experience, have formed habits of thought which make them equally competent with any judge of the Supreme Court to decide fairly an issue between employer and employee. No doubt there are other phases of the Bill which will be brought out in discussion in Committee, but as it stands the Bill is, to my mind, an honest attempt to solve many of the deficiencies which experience has shown to exist in the Act. Those matters can be better dealt with when the clauses are considered seriatim, and reasons given in detail why the clauses are put in the Bill. I notice that at the present time the Arbitration Court is not viewed with favour by men connected with various industries, and for different reasons. I know that in one industry with which I have been connected for some time that when a dispute arose and it was proposed that it should be taken to the Arbitration Court, the men absolutely refused to have anything to do with the court in any shape or form.

Hon. Sir E. H. Wittenoom: Why?

Hon. F. DAVIS: Because there would be too long a delay, and they were afraid that with the hampered conditions with which the court is surrounded, they would not get the justice which an understanding of the peculiar conditions of their case warranted. That view in regard to the Arbitration Court is not confined to a few people, and under those circumstances I think it is our duty to endeavour to improve the conditions under which the court sits and works, in order to have it viewed with more favour by the whole of the community instead of one section only. That I take to be the reason why the Government have brought in a Bill which, to my mind, makes an honest effort to deal with the problems which have arisen in connection with the parent Act. I sincerely trust that the Bill will not be mutilated to any extent, but that as near as possible in its present form will be carried through the House.

On motion by Hon. C. A. Piesse, debate adjourned.

BILL—HEALTH ACT AMENDMENT.

In Committee.

Resumed from the previous day.

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

Clause 6—Amendment of Section 256 (2):

The CHAIRMAN: An amendment had been proposed in line five to strike out "an approved institution or institutions" and insert "a public hospital of 40 or more occupied beds or four years' training in a public hospital of 20 or more occupied beds."

The COLONIAL SECRETARY. There seemed to be an impression that the object of the Bill was to lower the standard of general nursing, but there was no such intention, and he did not see why an effort should be made to give a definition of general nursing; the clause simply dealt wtih midwifery nurses. If the amendment were carried it would mean that there would be only three institutions in the State at which general nurses could be trained who would be able to avail themselves of the Bill. In Perth the average daily number of occupied beds last year was 191, in Fremantle 47, and in Coolgardie 70. Kalgoorlie would be out of it because there the average number of occupied beds was only 37, although that hospital had been recognised as a training institution in the past. Consequently, Perth, Fremantle, and Coolgardie only could be recognised. Mr. Jenkins had stated that the nurses would be given certificates without having any qualification. That was not the case, for not only must they put in 12 months' training, but they must have attended a prescribed number of cases and must pass a prescribed examination.

Hon. A. G. Jenkins: That is for midwifery ; I am talking of general nursing.

The COLONIAL SECRETARY: The Bill did not deal with general nursing. Surely the Committee could trust the board, which would comprise three medical men and two nurses, to deal with this matter.

Hon. C. A. PIESSE: The amendment, if carried, would preclude the possibility of nurses getting training in country hospitals, where, perhaps, they could get just as good training as in an institution with 40 beds.

Hon. T. F. O. BRIMAGE: We should have the status of hospitals where the training was to take place inserted in the Bill. He would support the amendment.

Hon. A. G. JENKINS: The test of the clause was the holder of a general nursing certificate. Any nurse with a general nursing certificate, which could only be obtained by attending a proper hospital, and going through the proper course, attending lectures, and passing the necessary examinations, could get a midwifery certificate by an additional six months' training ; but the clause as it stood gave power to incompetent people to become registered. They might never pass examinations, or even attend lectures, and might get their training in places where there were only three beds, yet the board had power to accept them. The present board might not do so, but a future board might. No better definition could be obtained than that which obtained throughout Australia. The best course was to strike out the clause, and have a proper maternity hospital built, and then deal with the whole matter in a general nursing Bill; but if the clause was to go on the statute-book it should only be passed in such a form as would protect the rights of those persons who had to undergo the severe test, and the severe course of training, which was the standard in the other States.

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

Ayes	8
Noes	12
Majority against ..	4

AYES.

Hon. T. F. O. Brimage	Hon. W. Patrick
Hon. J. F. Cullen	Hon. C. Sommers
Hon. A. G. Jenkins	Hon. Sir E. H. Wittenoom
Hon. R. Laurie	(*Teller*).
Hon. M. L. Moss	

NOES.

Hon. E. M. Clarke	Hon. R. D. McKenzie
Hon. J. E. Dodd	Hon. E. McLarty
Hon. J. A. Doland	Hon. B. C. O'Brien
Hon. J. M. Drew	Hon. C. A. Piesse
Hon. Sir J. W. Hackett	Hon. F. Davis
Hon. W. Marwick	(*Teller*).
Hon. C. McKenzie	

Amendment thus negatived.

Hon. J. F. CULLEN: The Minister should let the clause stand over and take its proper place in a general nursing Bill. If the Minister would not consent to that, this and the next clause would be struck out.

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

Ayes	11
Noes	9
Majority for ..	2

AYES.

Hon. E. M. Clarke	Hon. W. Marwick
Hon. F. Davis	Hon. C. McKenzie
Hon. J. E. Dodd	Hon. R. D. McKenzie
Hon. J. A. Doland	Hon. C. A. Piesse
Hon. J. M. Drew	Hon. B. C. O'Brien
Hon. Sir J. W. Hackett	(*Teller*).

NOES.

Hon. T. F. O. Brimage	Hon. M. L. Moss
Hon. J. F. Cullen	Hon. C. Sommers
Hon. A. G. Jenkins	Hon. Sir E. H. Wittenoom
Hon. R. Laurie	Hon. W. Patrick
Hon. E. McLarty	(*Teller*).

Clause thus passed.

Clause 7—Amendment of Section 261:

Hon. A. G. JENKINS moved—

That paragraph (b) be struck out.

The reason was that the paragraph gave far too wide a definition of what certificates or diplomas the board might recognise. We could not be too careful in this regard.

The COLONIAL SECRETARY: The paragraph did give the board a very large amount of discretion. The board could specify any training school whose certificates they were prepared to recognise, and any institution, whether established under

statutory authority or otherwise. The object was to do away with the present necessity of requiring those who came here fully qualified, and who had already had certificates, to undergo another examination. The board intended to specify institutions whose certificates they would recognise. Certainly the paragraph gave the board a very wide discretion.

Hon. Sir J. W. Hackett: Apparently, you do not like it yourself.

Hon. R. LAURIE: It was a pity Mr. Jenkins had not moved to strike out the whole clause. When a qualified Australian nurse went to London she had to pass an examination before she could practise. Why, then, should we leave it to the board to admit a nurse from overseas without any examination at all? If there was one class of nursing that required more looking after than another it was this of midwifery. He would support the amendment.

Hon. W. PATRICK: The amendment was deserving of support. It seemed that the Colonial Secretary himself was rather in favour of it; at any rate, the Colonial Secretary would do well to agree to it. It would be a mad thing to pass the clause as it stood.

Hon. C. SOMMERS: The amendment should be supported by all hon. members. The powers given by paragraph (b) were too wide altogether.

Amendment put and passed.

Clause, as amended, put, and a division taken with the following result:—

Ayes	.. .. ..	13
Noes	.. .. ..	6
Majority for	..	7

AYES.

Hon. T. F. O. Brimage	Hon. W. Marwick
Hon. E. M. Clarke	Hon. C. McKenzie
Hon. F. Davis	Hon. R. D. McKenzie
Hon. J. E. Dodd	Hon. B. C. O'Brien
Hon. J. A. Doland	Hon. W. Patrick
Hon. J. M. Drew	Hon. C. A. Piesse
Hon. Sir J. W. Hackett	(*Teller*).

NOES.

Hon. J. F. Cullen	Hon. C. Sommers
Hon. A. G. Jenkins	Hon. E. McLarty
Hon. R. Laurie	(*Teller*).
Hon. M. L. Moss	

Clause as amended thus passed.

Clause 8—agreed to.

New clause:

Hon. M. L. MOSS moved—

That the following be added to stand as Clause 2:—"Section 86, Subsection 2, of the principal Act, is hereby amended by striking out the words 'in use,' in the third line of the subsection, and substituting in lieu thereof the word 'provided.'"

He had been asked by the Fremantle municipal council to move this new clause. The Fremantle municipality had municipalised their service, but they found that under Section 86 they could only levy a charge on the owner or occupier of premises in respect to which the pan receptacle was in use; consequently, when houses were empty during any part of the year, the council had the greatest difficulty in collecting the rates, because it was impossible for them to prove that the receptacles were in use. They therefore asked to have the section so amended so that they could collect rates on pans provided.

Hon. J. F. CULLEN: It was to be hoped Mr. Moss would not press this surprise. The amendment was very simple indeed but involved an important principle. The house service was always paid for by the tenant and not by the owner.

Hon. M. L. Moss: That was not the case in Fremantle.

Hon. J. F. CULLEN: It was in the country. It was altogether different from the health rate, it was paid for at so much per removal. If the house was empty for a month or two months the sanitary contractor had not to give any service in such case and the charge was rebated. This amendment would affect the country districts and we should not pass the clause hurriedly; if it was desired to pass it notice should be given so that the country would know.

Hon. M. L. MOSS: There were three different methods under the Health Act of paying for this service, one by a sanitary rate, another per removal, and the third method, which did not come under this section, was per removal. If in country districts the charge was per removal

it was not under this section at all. Payment under Section 186 was not what the hon. member was alluding to. It would be readily seen that when a local authority made an estimate at the beginning of the year for the performance of this service it took into consideration the number of tenants in assessing the annual charge, the result had been that Fremantle up to date had been sadly out in their reckoning on account of the difficulty Subsection 2 placed them in to prove that the pan had been used. It might be correctly said that probably there was not one place in the district represented by Mr. Cullen that worked under Section 186.

Hon. E. McLARTY: One was inclined to agree with Mr. Cullen. From his experience of property in the town Mr. Moss mentioned a charge had been made when there had been no removal. He had paid sanitary rates for two or three years until he protested when it was found the council had been collecting the rate illegally. It was quite sufficient to pay when the service was rendered.

Progress reported.

House adjourned at 9.37 p.m.

Legislative Assembly,

Wednesday, 13th December, 1911.

The SPEAKER took the Chair at 2.30 p.m., and read prayers.

PAPERS PRESENTED.

By the Minister for Works: 1, Map showing centre line of proposed Hotham-Crossman Railway; 2, Map showing centre line and limits of deviation of proposed railway from Yilliminning to Kondinin; 3, Papers in connection with Wickepin-Merriden Railway (asked for by Mr. Monger).

By the Minister for Lands: 1, Report of Fisheries Department on Fisheries and Oyster Hatcheries at Shark Bay; 2, Third annual report of Commissioner of Taxation; 3, Report of Surveyor General for the year ended 30th June, 1911.

By the Minister for Mines: Mineral leases at Phillips River, return (ordered on motion by Mr. Hudson); 2, Calorific values of coals, return (asked for by Mr. O'Loghlen).

By the Attorney General: Papers relating to appointment of University Organiser.