part of the territory to the Federal Government, whose duty it is to defend Australia as a whole.

On motion by Hon. A. Thomson, debate adjourned.

BILL—LOCAL COURTS ACT AMENDMENT.

Received from the Assembly and, on motion by Hon. W. H. Kitson, read a first time.

BILL—GERALDTON SAILORS AND SOLDIERS' MEMORIAL INSTITUTE (TRUST PROPERTY DISPOSITION).

Second Reading.

THE HONORARY MINISTER (Hon. E. H. Gray—West) [6.4] in moving the second reading said: This Bill proposes to authorise the trustees of the Geraldton Sailors and Soldiers' Memorial Institute to extinguish their overdraft with the National Bank by disposing of certain property vested in their trust. Members may recall that the trust was established by statute in 1929, and that in it is vested the control of the Geraldton R.S.L. Memorial Institute. Included amongst its assets are the Esplanade Hostel and a debenture for £1,113 15s. 7d. issued by the Geraldton Municipal Council. On the other hand, the trustees are indebted to the National Bank for an advance of £3,390 made by way of an overdraft.

As the hostel is an old building in constant need of attention, the trustees consider it desirable to dispose of the property and to apply the proceeds of the sale towards the liquidation of their liability to the bank. Should the hostel fail to realise a sum sufficient to extinguish the overdraft, they propose to use as much of the debenture as is necessary to make good the deficiency. Authority is already given to the trustees under Section 6 of the Act, to sell the hostel. The Bill proposes to enable them to apply the proceeds of such sale towards the discharge of the overdraft, and further provides that if the proceeds realised by the sale of the hostel are not sufficient to repay the bank in full, the trust shall be empowered to sell its debenture, or borrow on the security of the debenture, to discharge the balance owing. Any surplus proceeds resulting from the sale of the debenture will have to be invested in trust, and the proceeds therefrom used for the maintenance of the Memorial Institute. I understand that Mr. Drew is fully in accord with the proposal and naturally he is acquainted with the whole of the details. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

House adjourned at 6.9 p.m.

Legislative Assembly,

Thursday, 15th September, 1938.

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

QUESTION—ORCHARD, EXPERIMENTAL.

To Establish in Hills District.

Mr. SAMPSON asked the Minister for Agriculture: 1, Does he intend to arrange for the establishment of an experimental orchard in the hills district? 2, If such is

impossible as a separate project will he endeavour to make arrangements whereby portions of privately-owned hills orchards may be regularly utilised by the department for experimental purposes?

The MINISTER FOR AGRICULTURE replied: 1, The establishment of an experimental orchard is receiving consideration and, if approved, the most suitable site will be chosen. 2, Privately-owned orchards are not always suitable for carrying out research work.

QUESTION—MARKETING, OVERSEAS.

Agent General's Reports, Elgin Gas Process.

Mr. SAMPSON asked the Minister for Agriculture: 1, Does the Government receive regular reports from the Agent General on the marketing of fruit, meat, and other products, both Western Australian and generally? 2, If so, are the reports made available for publication and when? 3, Has the Government received any further reports from the Agent General relative to the condition of Australian fruit sent to London under the Elgin gas process?

The MINISTER FOR AGRICULTURE replied: 1, Reports on fruit are received from the Agent General and on meat from the Commonwealth Veterinary Officer. 2, Any items of interest are published and/or communicated to the persons interested. 3, No.

QUESTION—YOUTH EMPLOYMENT.

New South Wales Scheme.

M. SAMPSON asked the Minister for Employment: 1, Has his attention been directed to an advertisement which appeared in "The Sydney Morning Herald" and other New South Wales newspapers, under the heading "Situations Vacant," on Saturday, 3rd September, whereby the New South Wales Department of Land and Industry, through the State Labour Exchanges, is offering boys of from 15 to 20 years of age a chance to go on the land at Scheyville Training Farm, near Windsor, New South Wales, the offer including free training in all classes of farm, station and orchard work, by expert instructors—personal tuition given to all trainees; excellent accommodation and first-class meals without extra charge, wireless, moving pictures, library, sports—including cricket and swimming; weekly pocket money paid to trainees in residence, employment to be found, on completion of eight weeks' training, at wages averaging 20s. per week, with board and lodging, trainees to have choice of employment with recommended employers? 2, Will he give consideration to the use of some of the funds realised by the Jubilee Appeal for the establishment of a somewhat similar scheme for Western Australian boys?

The MINISTER FOR EMPLOYMENT replied: 1, No. 2, Some time ago the Trustees of the Jubilee Appeal provided £2,700 for additional accommodation to be provided at the Narrogin School of Agriculture. This has enabled an increased number of students to receive training under a Free Scholarship System.

QUESTION—WIRELESS SETS.

To control Interference.

Mr. NORTH asked the Minister for Railways: 1, Has the Government power to control interference with wireless sets? 2, Has the Government notified persons who have not fitted suppressors to their electrical apparatus that they must do so? 3, Is it a fact that the cost of fitting suppressors to electrical apparatus is very small in most instances? 4, Is it possible to immunise motor car engines, trams and trolley buses from causing interference to short wave broadcasting?

The MINISTER FOR RAILWAYS replied: 1, This is being looked into. 2, No. 3, Yes. 4, It is possible, but in respect to trams and trolley buses considerable expenditure would be necessary.

LEAVE OF ABSENCE.

On motion by Mr. Wilson, leave of absence for two weeks granted to Miss Holman (Forrest) on the ground of urgent public business.

BILL—NORTHAM MUNICIPALITY LOAN AUTHORISATION.

Introduced by the Minister for Employment and read a first time.

BILL—LOCAL COURTS ACT AMENDMENT.

Read a third time and transmitted to the Council.

BILL—FAIR RENTS.

In Committee.

Resumed from the previous day. Mr. Sleeman in the Chair; the Minister for Justice in charge of the Bill.

Clause 8—Basis of determination of fair rent (partly considered):

The CHAIRMAN: Progress was reported upon an amendment moved by Mr. Hughes, "That in Subclause 2 the following words be struck out:—'of not less than one and a-half per centum above the rate of interest which is for the time being charged upon overdrafts by the Commonwealth Bank of Australia.'"

The MINISTER FOR JUSTICE: I oppose the striking out of the words. I consider the Bill provides the fairest basis for deciding a fair rent. In my opinion, the rate of interest charged by the Commonwealth Bank is the fairest test. The rate fluctuates in accordance with the demand for money. Banks take advantage of the demand for money, and the credits they extend are responsible for the supply, and the extent of the supply, of the means of payment. When money is dear, rents are usually high, and when it is cheap there is a tendency for them to decrease. The Bill provides that a fair rent shall not be less than 1½ per cent. above the overdraft rate. It is realised that whilst the overdraft rate represents the price of money in a sound commercial proposition, generally speaking, when it comes to an investment by private investors, something more is looked for. We must, therefore, provide a more flexible or elastic sum, and that is represented in the fluctuations of overdraft rates. Provision is made that the court shall fix a fair rent at not less than 1½ per cent. above the interest rate. I agree with the member for West Perth that we should not lay down an arbitrary rate; that would not be fair in all cases. Under the proposals contained in the Bill, the court will be allowed fair latitude, so that justice can be done in individual instances. It will have an opportunity to meet the conditions that may exist in various parts of the State.

Amendment put and negatived.

Clause put and passed.

Clauses 9 to 11—agreed to.

Clause 12—Security of tenure on determination of fair rent:

Mrs. CARDELL-OLIVER: I move an amendment—

That in paragraph (f) of subclause 1 the words "or any part thereof" be struck out.

A tenant, in letting part of a house, might ask what the court would consider was an exorbitant rent, but a rent that, in all the circumstances, was not really exorbitant. The subtenant might be quite ready to pay that sum. A great deal of inconvenience is always suffered by a tenant who sublets part of his or her house, and such tenant should be able to secure a greater rent than in all probability the court would agree to. If the words are left in, considerable injustice will be done to numbers of people.

The MINISTER FOR JUSTICE: It would not be practicable to provide for all the circumstances that would arise in the letting of part of a house. A tenant might let five out of the six rooms in the dwelling, and might be making a profit far above what the court would determine was a fair rent.

Hon. N. Keenan: What is the meaning of the word "unreasonable" in paragraph (f)?

The MINISTER FOR JUSTICE: It means exactly what it says. This question should be left to the discretion of the court.

Hon. N. KEENAN: The clause gives the lessor, in certain eventualities, the right to re-take possession of the house. One of these eventualities arises when the tenant has sublet the dwelling or any part of it, and is making a profit that, having regard to the rent being paid for the whole property, is unreasonable. Could it be said to be unreasonable if a tenant sublet one room out of five for an amount equal to approximately one-fifth of the total rental? The clause sets up a problem, and we should not provide problems in our statutes. The member for Subiaco wants to protect the person who, as often happens, is forced by circumstances to take in a lodger. Persons in distress often sacrifice accommodation, themselves living in the back portion of the house. The paragraph leaves the door open to harsh treatment of a lessor, and also to possible

litigation, because the meaning is so entirely indefinite.

The MINISTER FOR JUSTICE: The member for Nedlands has merely indulged in a piece of special pleading on behalf of a person who lets a back room for an infinitesimal sum of money. This legislation has to be made equitable to both landlord and tenant. The member for Nedlands would leave the tenant free after a fair rent has been fixed, to sublet five rooms out of six at perhaps £1 per week each, and thus to make an unreasonable profit out of the whole proposition. Such a situation must not be set up. The provision is perfectly clear, and the matter can readily be left to the court before which proceedings are taken for repossession.

Mrs. CARDELL-OLIVER: I hope the Minister will reconsider the paragraph and my amendment. In hundreds of houses in the metropolitan area tenants have sublet a few rooms, thereby covering probably the whole of the rent. However, the contract between tenant and subtenant is one to which both parties are quite agreeable. In order to be near the city I might be prepared to pay double the rent that I would be willing to pay in an outer suburb. No court could really decide a case under the paragraph. Because of the shortage of houses people are ready to pay for a couple of rooms what the court might consider an exorbitant rent.

Mr. MARSHALL: I subscribe to the Minister's opinion. The spirit of the Bill is to prevent undue exploitation in rents for dwelling-houses. Seemingly the mover of the amendment has no objection to a tenant exploiting a subtenant, though she is willing to prevent a lessor from exploiting a tenant.

Mrs. Cardell-Oliver: But the subtenant is quite willing.

Mr. MARSHALL: A tenant, if forced by the shortage of houses to pay an undue rent, can apply to the court for the fixing of a fair rent. The owner of a property, whose entire assets may be represented by that property, is forbidden to exploit a tenant; but the amendment permits the tenant of the property to exploit those whom he permits to come in as subtenants.

Amendment put and negatived.

Clause put and passed.

Clauses 13 to 15—agreed to.

Clause 16—Threats against lessee or lessor:

Mr. WATTS: I move an amendment—

That all the words after the word "Act" in line 7 of Subclause 2 be struck out.

Last session many members, including yourself, Mr. Chairman, agreed that there should be no extension of the principle which places upon the accused the onus of proving himself innocent. That complaint applies to paragraph 2 of the clause. The paragraph says that it shall be an offence to refuse, or to procure any person to refuse, to lease a dwelling-house to any other person desirous of leasing and applying to lease the same, by reason of the fact that such other person has made or prosecuted an application for relief under this measure. Then it goes on to say that on a complaint under this provision, upon proof of such refusal, it shall lie upon the defendant to show that the reason for such refusal was other than the making or prosecution of such application. I propose that the words after "shall be guilty of an offence against this Act" to the end of the sentence be struck out.

The MINISTER FOR JUSTICE: Some of our Acts of necessity throw the onus of proof on the defendant because it cannot be done in any other way. In this case it is entirely thrown on the defendant. The claimant has to bring proof of refusal and then the defendant has to show that the reason for such refusal was other than the making of such application. There is no other way in which the clause could function. It would be impossible for a person who had been refused the right to secure a house, because of the reason that he had made or prosecuted an application, to prove that that was the cause of such refusal. No one knows better than the hon. member that that would be impossible. He knows how difficult it is to prove charges in connection with victimisation. It is necessary to prove almost what is in another man's mind, what actuated him in certain circumstances. This is the whole Bill, too—the protection of those who prosecute applications for the determination of a fair rent. There is no other way by which we can prevent them from being boycotted and refused a dwelling house except by a clause such as this, and in the manner in which it has been drafted. In some districts

where two or three landlords would probably own 90 per cent. of the houses, those landlords could easily get their heads together and make application under this particular legislation and inflict a hardship by boycotting people and refusing them houses because they have made application to the Fair Rents Board in respect of some other house for the determination of a fair rent. It would be impossible to prove that that would be the reason for the refusal. Time after time we are told exactly the same story in regard to clauses of this type, and there is no doubt that this is an extension of the principle to which many of us have objected. I admit, for the purpose of convenience, that it is all right from the Minister's point of view, but there are other reasons to be taken into consideration. If the clause is passed, the position will be that the onus of proving innocence will rest on the defendant. All the complainant will have to do will be to say, "I was refused" and then the defendant will reply he was not refused for some unlawful reason.

Amendment put and negatived.

Clause put and passed.

Clauses 17 to 19—agreed to.

Clause 20—Regulations:

Mr. WATTS: I move an amendment—

That in lines 3 and 4 the words "or as may be necessary or convenient to be prescribed" be struck out.

We are getting a good deal of government by regulation at the present time and many of the regulations when they come before this House or another place, in some instances, meet with a fate according to the various opinions held by members. In recent years there has been an inclination to extend the power of the Governor in Council to make regulations beyond what is reasonably required by the Act itself. My amendment will have the effect of providing that the Governor may make regulations on such matters as may be required or permitted. That is about all the power it is necessary to give. If we leave in the clause the words I propose to strike out, there may easily be issued regulations that were never contemplated. Therefore, for the purpose of convenience or necessity, I submit that the words to which I take exception should be struck out. In that way power will be given to make regulations required by the Act itself.

The MINISTER FOR JUSTICE: There is nothing whatever in the contention of the hon. member. The words were placed in the clause to give it greater clarity. Their retention will not, as the hon. member fears, enable regulations to be drafted that will be inconsistent with the provisions of the measure.

Mr. Seward: What about the gun regulation that has been disallowed?

The MINISTER FOR JUSTICE: If a regulation is inconsistent with the provisions of an Act, it is ultra vires. The member for Katanning should be the last to complain about unnecessary words because he belongs to the legal fraternity, the members of which are always generous with the use of words in the drafting of legislation.

Amendment put and negatived.

Clause put and passed.

Schedule, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 8th September.

MR. WATTS (Katanning) [5.14]: If one could find a great deal in the Bill that would ensure better relations between those who have to be covered by awards of the Arbitration Court, or could find anything, if I may use common phraseology, that would induce to some extent increased peace in industry, one might be able to support the second reading with enthusiasm. But when one finds it contains matter that I venture to suggest is controversial not only from the point of view of those outside the industry but equally, and possibly more, controversial from that of those inside and closely related to industrial concerns, it is with considerable half-heartedness that one agrees to support the second reading, and that only because there are some proposals in it, although they do not by any means represent the bulk of the measure, that should be, without much doubt, inserted in the industrial law of this State. The first proposal in the Bill is intended to alter the definition of "employer." The object, if the Bill becomes law, is that an employer shall include not

only the actual proprietor of a particular branch of an industry who is commonly regarded as the employer, but also his steward, agent, bailiff, foreman or manager. There are not lacking a number of instances where foremen and other persons such as those mentioned in the proposed definition, are themselves subject to awards, and it appears to me that the Bill, if it becomes law, is likely to produce a number of anomalous effects. When we look further into the Bill, we find that, unless an order for imprisonment has been issued, there is to be, in certain circumstances, no right of appeal. If a company, as the employer, has been a party to an offence, and an order for imprisonment has been issued and the consequent appeal not upheld, and, further, as it is impossible, and I presume will still be impossible, to imprison a company, then the company's steward, agent, bailiff, foreman or manager, any one of whom probably in the first instance is entirely subject to the orders of his employing company, will it would appear, be able, and may be obliged, to spend a stretch at Fremantle. That, I think, is a perfectly correct statement of the position that may possibly arise, and I suggest anything likely to give rise to any such extraordinary state of affairs as I have indicated, should not be included in our laws. Moreover, I think the inclusion of these various persons under the definition of "employer" is wrong in itself. The Act heretofore has always contemplated two sets of persons—the employers and the workers. The Act contains very clear definitions of both. The employer is the one who is in control—it may be an individual or a company—of the operations of the particular industry or branch of industry with which he is associated, and he must at present be, and will still be a party to any award or agreement that may be in existence with regard to the particular branch of industry in which he is engaged. In those circumstances he must be the person responsible for the penalties he incurs for breaches of the law that he may participate in. As I said, the proposal is unreasonable, just as unreasonable as I believe it would be to say that the president or secretary of a union should be liable, individually and personally, for the acts of members of his union. I shall certainly oppose that particular clause.

The definition of "worker" is also to be amended. The words "for hire or reward" are to be struck out of the definition in the Act, so it would appear that the man or woman who may be a worker within the meaning of the industrial law, may be employed in the ordinary way as we know it without remuneration. The employment may be voluntary, yet the worker is presumed, if the Bill is passed, to be subject to the industrial law as it will then be outlined in the Act. I am unable to understand why that amendment is sought. I can see difficulties that may arise with regard to such an amendment. Persons who at the present time, by virtue of their particular occupation being largely in a voluntary capacity, are excluded from the operations of industrial awards, will, if the Bill be passed in its present form, be included under its provisions. The result in many instances, so far from being of assistance to anyone at all, will be detrimental to all parties concerned.

There is also a proposal in the Bill to include domestic servants under the definition of "worker." Admittedly, from some aspects it may be advisable that some legislation relating to the employment of persons engaged in that particular service should be enacted, but I do not think domestics should be included under the industrial arbitration law as it stands at present. Again, I venture the suggestion that the industrial laws should concern those engaged in industry, and that opens up a vision quite different from domestic service in a private home. If it were proposed to alter the definition of a boarding house, and to prescribe the number of persons that could be boarded and the number of domestics to be engaged on such work, I do not think there would be any objection to that course. But we must consider that a private house is not an industry. We must realise that the home is, in the best sense of the word, a social stronghold, a place where a man, his wife and family are entitled to live in peace and comfort, if they can and are prepared to do so, without any outside interference or any suggestion that they are there carrying on a business. That is the whole basis of the law. The whole trend of the earlier portions of the Bill is to take industrial arbitration out of what are purely industrial matters and extend it into new fields, where, as I say, although there may be some need for legislation, that legis-

lation is not of the type represented by the Bill. Therefore, so far as including domesties under the term "worker" is concerned, I am reluctantly compelled to oppose that provision in the Bill.

Then we come to the portion of the measure that seeks to include partners in any instance where it is shown that the capital holding of the partner is either a small amount or nothing at all, and that the circumstances in which the partner works leads to the inference that he is an employee. It may be possible that the circumstances in which the partner works enable the inference to be drawn that he is an employee, yet at the same time there may be a perfectly bonafide partnership between the individuals concerned. I am personally acquainted with people who have taken others into partnership although those other persons did not have any capital to invest. The idea in those instances was to give the partners who were admitted a suitable opportunity to make some forward move in life. Such partnerships have paid over and over again, although no money was subscribed in connection with the partnership. In ordinary circumstances, partners admittedly do not draw wages, and if wages are paid, it must be quite obvious that, without some such consideration, the partners could not continue to live. In one instance I have in mind, the assistance rendered to the concern has been worth to the individual who took in partners in such circumstances, as much to the undertaking as the money he himself invested in the form of capital, plant and so forth. Other members probably have heard of similar instances where the holding of one partner in a concern, as far as actual capital is concerned, is nothing, or at any rate, a very small amount, yet the fact that he is drawing wages in circumstances such as I have mentioned would lead to the inference that he was an employee, whereas the actual conditions surrounding the partnership are entirely bonafide. I know what the proposal is intended to eradicate, and there may be instances in which it might be desirable that there should be such eradication. The difficulty is that the proposal will cover all partnerships, and unless some more suitable phraseology can be provided so that the clause will apply to those cases where there is need for such eradication, then I shall be unable to support that provision in the Bill.

Another clause to which I shall draw attention is that in which it is proposed to authorise the registration of the Australian Workers' Union. I understand this question has been dealt with by the Arbitration Court on more than one occasion, and to date the registration of that union has been refused, partly because other unions, whose members are engaged in industries that the A.W.U. also covers, have objected to the larger organisation being granted registration. As I understand the position, the A.W.U. covers within the one organisation sections of quite a number of industries. I always understood that the genesis of industrial unionism was the desire of those engaged in a particular industry to associate themselves with persons engaged in that industry, and to obtain, by collaboration between those engaged in that industry, the best terms and working conditions that could be secured.

The Minister for Mines: That is what the A.W.U. is doing.

Mr. WATTS: The A.W.U., on the contrary, has in its branches workers drawn from a great number of industries. Quite a number of the trades affected are covered by other unions, and yet men working in those industries are included in the ranks of the A.W.U.

The Minister for Mines: The trouble is to deal with the casual workers, and the A.W.U. caters for them. There are shearers, miners, and so on.

Mr. WATTS: Despite what the Minister says, I am convinced that the intention underlying this clause is as I have suggested.

The Minister for Mines: As the State President of the A.W.U., I should know something about it.

Mr. WATTS: I am putting forward my convictions, and they can be corrected, if they are inaccurate. My idea is that the registration of the A.W.U. is desired with the idea of destroying a great number of other unions that up to the present have served useful purposes and should continue to do so. That fear is at the bottom of the objection raised by other unions to the registration of the A.W.U.

The Minister for Mines: The Bill provides against that contingency.

Mr. WATTS: I am coming to that point. While I admit there has to be obtained from unions resolutions in favour of the move, and while there is also provision that the assent, or at least the removal of the objection, has to be obtained from the unions con-

cerned, I am of opinion that the better decision would be to allow the existing law to stand. If there are members of the Australian Workers' Union who at present cannot obtain entry to another union, special organisations should be set up to serve their purpose. Until we can be more assured on the matter than we are at present, that clause should not be passed.

The Minister for Mines: The only other course to adopt to obtain recognition is to go on strike. That is what they have to do now.

Mr. WATTS: The Bill also provides that the court may declare that an industrial agreement shall be an award. I have always understood that it is easier to amend an industrial agreement than to amend an award, and the effect of this clause, so far as I can see, will be that, if the court makes such an order, the greater difficulty of amending an award will immediately come into operation. The Act appears to me to be entirely satisfactory at present. The court may now declare that an industrial agreement shall have the effect of an award, and I do not know why it is desired to go beyond that provision at present.

I now come to the provision that deals with vocations, a clause which, as far as I can judge, will enable a carter employed in carting six loaves of bread for a storekeeper in some country place to claim that he should be paid as a bread-carter one minute and as some other sort of carter another minute. Such a provision will make it difficult for the employer to know exactly what wages he should pay. I do not understand why the vocation of a worker and not the trade or industry in which he is engaged should be the criterion for dealing with this matter. I can perceive other difficulties. I understand, for example, that the timber industry has a provision in its award applicable to wagon or coach builders, who are paid at a different rate from the coach or wagon builders employed directly in the wagon-building industry. If wages in the second instance are higher than those in the first—and I believe this is so in certain cases—the Bill will immediately give an opportunity for the workers paid under the lower award to claim that they should be paid the same rate as those working under the higher award. In consequence, the determination of the Arbitration Court, which is at the bottom of the differentiation in wages—and apparently for good and sufficient reasons—will immediately be of no further use, because the lower-paid workers will claim that they should obtain exactly the same rates as those engaged in the wagon-building industry in the metropolitan area.

The Minister for Mines interjected.

Mr. WATTS: The whole point is, what would be the higher rate of pay, because that is what they would claim.

The Minister for Agriculture: The cat had kittens in the oven, but they weren't biscuits.

Mr. WATTS: Quite so, but the cat had nothing to do with the Arbitration Bill before the House. If she had, they might have been biscuits. Another provision of the Bill is that there should be no approach to the Court of Criminal Appeal unless there has been an order for imprisonment. Hitherto it has been requisite for a penalty of £20 to be imposed before such an appeal could be lodged. Whether or not that was reasonable does not enter into the argument; the fact remains that it has been the law for a number of years, and what I am referring to now is a proposal to change the law in that regard. I said at the beginning of my remarks that a company could not be imprisoned. Under this Bill, however, as I see it, the manager of a company may be imprisoned, in which event he possibly might have the right of appeal. However, I believe that is a wrong principle, which brings me back to the point that a company cannot be imprisoned, and therefore a company is deprived altogether under the Bill of its right of appeal. A number of the prosecutions made are largely of a technical character, and in spite of the knowledge and intelligence of the industrial magistrates, not even they, I think, would suggest that they were in a better position to give a final judgment than are the judges of the Supreme Court. In fact, I believe there have been cases in which magistrates have deliberately imposed a penalty of £20 in order that an appeal might be lodged. Now it is proposed that they should have no option, if they wish to have the matter clarified, but to make an order for imprisonment. As I have pointed out, in certain instances I do not see how such an order can be made, so that the right of appeal will be lost altogether. Commonsense must be displayed in these matters. What reason is there for taking away the right of appeal that has so far existed and

that has not been abused over a period of many years? I trust that part of the Bill will be deleted. It can very well be left to the industrial magistrates to impose a penalty of £20 if they consider the circumstances warrant an appeal being lodged. There is no reason to deprive magistrates of the discretion they should properly exercise.

Another provision of the Bill is that the court, in making an award, shall not permit any forfeiture of wages or privileges as a penalty for a breach of that award. I believe, with others, that great benefits have been conferred on the community by and large by industrial arbitration, but I venture to suggest that one of the greatest weaknesses that is likely to arise—if it has not already arisen—is that the observance of awards will be enforced on one section of the community and dishonoured by the other.

Mr. Needham: Enforced on which section?

Mr. WATTS: Enforced on the employers, because that is easy, and dishonoured by the employees because enforcement on them is difficult.

Mr. Needham: Do you know what it costs the employees to secure observance of awards by employers?

Mr. WATTS: I am not worrying about that. Nor did I say that that stage to which I referred had arrived. I said it might arrive; and if we are going to make it harder to deal with breaches of an award by one party to the award it is likely that we shall see industrial arbitration and all the good things that have arisen from it thrown into the melting pot. Instead of making it more difficult to handle breaches of awards, we should strive to improve the operations of the law and to enforce that law, so far as is reasonably possible, against both parties.

An attempt has been made in recent times to prevent the Arbitration Court from inserting in its awards a penalty of a different type from a fine or imprisonment, for which I have no enthusiasm whatever. The idea of that provision has been to prevent as much as possible those minor breaches of awards that are a source of annoyance, probably to both parties, if the truth were told, but certainly to the employers. I was interested to hear the remarks of the member for Kalgoorlie (Mr. Styants) on this matter a few nights ago. While the Arbitration Court may not have arrived at the best method of dealing with industrial disputes, it should not be deprived of the opportunity to insert in awards such reasonable conditions as are likely to result in the enforcement of those awards and to lead to a greater durability and a longer period of respect in this State for the Arbitration Courts of the country, without which respect I can perceive no method of preserving the industrial peace of which I spoke and of keeping employer and employed in a reasonable state of business content. I trust the proposed addition to Section 94 of the Act will not become law and that the Arbitration Court which up to date has exercised its discretion in a reasonable manner, will be able to continue to do so.

The Minister for Mines: This penalty clause makes a present to the employer. The employer gets the benefit of the penalty imposed on the employee.

Mr. WATTS. I do not suggest that the method in operation at present is the best one but by this clause we shall take away from the Court any discretion whatever and it will therefore not be able to invent any better method, however much it might wish to do so. I do not consider it the duty of this Legislature to take away from the Arbitration Court discretion of that nature, a discretion that has been, and I am sure will continue to be, exercised in a most reasonable manner. The clause will also take away the discretionary power of a magistrate to grant wages to a worker whose employer has been prosecuted for a breach of an award. As I understand the clause, it is made mandatory for the court to award to the worker wages that he should have received had the award been observed. Whether it enables the court to grant him the amount that might be due to him over a period of 12 months, or only the amount for the actual period specified in the complaint, is not clear. I do not propose to worry about that at the moment, because my point is that the discretion of the industrial magistrate should not be removed. I venture to suggest that orders are made by industrial magistrates for the payment of wages to employees in every case when the magistrate is of opinion that the employee deserves them. We must not lose sight of the fact that the power that binds the employer to pay certain wages should also bind

the employee who receives the wages, and if they agree between themselves that some other arrangement should be adopted, then both are committing an unlawful act and neither should receive the benefit of that collusion. The employer, when prosecuted, receives no benefit. The court has power to penalise him. The worker, I think, should not receive any benefit. If the court imposed a penalty on the employer equal to the amount of wages that should have been paid, I would have no objection, but I do not think the discretion of the magistrate as to whether he should make an order in that way should be taken away. I consider the court will be empowered to make an order for the whole of the wages due for any time over a period of 12 months or differing from that specified in the complaint, in view of the wording of the last two lines of Clause 15. The paragraph states—

> This section shall apply notwithstanding that the amount claimed is due in respect of a different period from that in respect of which the enforcement is sought.

If we are to take away from the magistrates their discretionary power, the clause surely becomes more objectionable, and my view must be governed by the attitude of members, when in Committee, to the first part of that clause. I have yet to gather any reason why it is necessary to appoint a chief industrial magistrate. I do not think any specific reason has been offered. If we need more industrial magistrates, possibly one could be appointed—we seem to like high-sounding titles—but if there are enough, I cannot see why we need a chief industrial magistrate that will necessitate another appointment to their ranks. I have said enough to show the House that I am not opposed to altering the industrial arbitration law simply for the sake of opposition. I have not mentioned about 12 clauses of the Bill, so I have no objection whatever to them. I propose to support the second reading because the Bill contains clauses that I consider might safely be passed.

MR. SAMPSON (Swan) [5.48]: It has been truthfully said that to the making of amendments to industrial arbitration, there is no end.

The Minister for Mines: You must progress:

Mr. SAMPSON: I am prepared to assist, to some extent. To discuss industrial legislation is a very difficult task. The late Mr. Justice Higgins referred to industrial arbitration as a bog of technicalities, and undoubtedly it is. This Bill seems to have two special objects in view, namely, extensions firstly to include canvassers for life and accident insurance, and secondly to include domestic servants. When legislation of this kind was first introduced in Australia, it related to industrial disputes, but gradually the scope has been extended to include the regulation of most industries where even what is known as a paper dispute does not exist. Doubtless the system of arbitration and conciliation is a great improvement on strikes.

Mr. Seward: But we have both.

Mr. SAMPSON: Unfortunately, we have. The system is not always successful, but I think considerable success has been achieved in the direction of securing peace in industry. Years ago most people scoffed at the idea for instance, of municipal and road board officers banding themselves together and forming a union to secure an award. Yet those things have happened. I do not suggest for a moment that that has not been good for all concerned. From the standpoint of those officers, there is greater encouragement to learn to handle the different problems that local government entails. Anyhow the change has been brought about. Now the Minister suggests that the group of workers covered by the arbitration law should be extended, and the question we have to decide is whether insurance canvassers and domestic servants should be added to the list. I realise the difficulty of including life insurance canvassers. As the Minister pointed out, a Bill to include life insurance canvassers has already been passed by this House, but was lost in another place. I have no wish to be dogmatic on the advisableness of including life insurance canvassers, but I foresee considerable difficulty if they are brought within the scope of the Act. Most of those canvassers work on a small retainer and commission. If they are good salesmen they earn a fairly large cheque each week, whereas if they are poor salesmen, they fare very badly. I know the argument has been advanced that a worker should be able to earn sufficient money on which to live, but it is questionable whether some of the men engaged in the work of canvassing

for life insurance are suited for it. The art of knocking on the door or ringing the bell, and thereafter putting up a good selling talk, does not come easy to everybody. Consequently everybody is not qualified to become a salesman of industrial insurance. The Minister has an easy task in talking to the House under your protection, Mr. Speaker, but he would not enjoy similar protection if he were doing insurance business, and while he is reasonably successful here on odd occasions, he might, under the other circumstances, prove to be completely unsuccessful.

The Minister for Mines: This amendment will improve the status of those canvassers.

Mr. SAMPSON: But is it wise to endeavour to improve the status of any worker if, by so doing, he is ultimately deprived of his job? Certainly no insurance office would adopt a table of payments for canvassers unless it was profitable to the company. A good salesman does not require protection of this kind, and a poor salesman will never be satisfactory, either to himself or his company; so I doubt whether the amendment will get us very far. The Minister is young and enthusiastic. He has not had much experience of knocking at doors, except when engaged in electioneering. When a householder opens the door and listens to the suave and persuasive eloquence of the Minister, there is no cost entailed, but that is a very different proposition from persuading the lady of the house to take another policy on the life of little Willie who will be four next Wednesday. I am doubtful about this amendment.

The Minister for Employment: Do you intend to support it?

Mr. Raphael: Do not be in a hurry. Let him make up his mind.

Mr. SAMPSON: Does the Minister wish to know whether I am supporting his view in respect to industrial insurance?

Mr. Sleeman: Or the Bill as a whole?

Mr. SAMPSON: I propose to support the second reading.

Mr. Tonkin: Then come over to this side.

Mr. SAMPSON: In parts the Bill should be useful.

The Minister for Employment: But you have been talking for 15 minutes about insurance canvassers and I am not sure yet whether you are supporting the provision in the Bill.

Mr. SAMPSON: It is not my responsibility to ensure that the Minister can understand anything. Whether industrial insurance is good or bad, I do not propose to argue, but certainly until the National Insurance scheme comes into force and operates smoothly, considerable economic disturbance is likely to occur in the realm of industrial insurance. That is a point the Minister might well bear in mind. While we ought to assist where possible, we must not do anything that will be liable to injure the workers concerned.

Mr. Needham: Is that an argument in favour of the Bill?

Mr. SAMPSON: It is an argument suggesting thought on the part of the Minister and avoidance of unnecessary interjections. The Bill proposes to bring domestic servants within the scope of the law, and here I find myself in agreement with the Minister. Domestic servants long since should have received the protection that the Arbitration Court can give.

The Minister for Mines: You are coming on.

Mr. SAMPSON: I could never understand why a girl working in a factory should receive the protection of the court, and rightly so, while her sister working in a home, where the work is perhaps equally difficult, should be entirely without that protection. Therefore I intend to support that amendment. There is no cogent reason why domestic servants should not have the benefit of this protection.

Mr. Needham: You are becoming revolutionary.

Mr. SAMPSON: There is nothing revolutionary in that. If there is any recalcitrant member on the Government side a little lopsided in his views, I hope sincerely that before the end of the session he will begin to see the light.

The Minister for Mines: Which light?

Mr. SAMPSON: The light of reason. I understand that in Sydney there is a union of domestic servants. In this State there is none. Yet people who perform practically the same work in hotels, restaurants and clubs have had their pay and working conditions regulated for many years. It is an interesting study to ascertain why Australian girls find domestic service repugnant. I cannot accept the statement, often made, that girls in domestic service are treated unfairly. Most mistresses are, I be-

lieve, considerate in that respect, yet there is no doubt that domestic service is unpopular. For some reason or other, girls avoid this class of work. The daughters of some of my friends are in domestic service and I have great respect for them. Girls in domestic service should receive the same protection by Arbitration Court awards as is afforded to other workers. While the Australian girl has a disinclination for domestic work and people generally have difficulty in obtaining help, that is not so in some other countries. When I was in Canada, I noticed that most of the hotel servants were Japanese. The country seemed to be overrun with them. When one arrives at a hotel in Canada, four or five Japanese are ready to take one's luggage from the car. How they all manage to make a living I cannot say. In the United States, much of this class of work is performed by negroes and, to be fair, one must admit that they do it very well. Probably the reason why the Australian girl desires to work in an office is that she feels she occupies a different status, or is in a different caste, from a girl who works in a home. But the home life is most useful; and if anything is calculated to bring about the millenium so eloquently referred to by the Minister for Lands last night, surely it is the encouragement of domestic service.

The Minister skated slickly over Clause 3 of the Bill, which provides for the registration of the A.W.U. It was in the nature of a very agile piece of introductory explanation. Just why this wealthy, wide-flung, powerful union should be treated differently from the small and relatively insignificant union that has to comply with all the formalities of the law and regulations is difficult for me to understand. The Minister might have taken us into his confidence and given us information on the point. Possibly the Minister has good reason for his viewpoint. Unquestionably, it will be advantageous for workers under unregistered industrial awards and unregistered industrial agreements to have these documents given legal sanction. Yet the question remains, why the distinction between the strong union and the weaker ones?

Very many provisions of the Bill are really machinery clauses. Possibly they are necessary, though to a layman it seems that many of the matters could and should have been provided for in the existing legislation.

I notice that provision is made for the appointment of a chief industrial magistrate. There is something in the nature of an epidemic of appointments lately, or perhaps I should say a mania for the appointment of a number of expensive Government officials. We are justified in thinking that with the recent appointment of a fourth judge, a rearrangement of judicial duties could have been made whereby the selection of another full-time industrial magistrate would have been obviated. We are all anxious to assist in avoiding unnecessary State expenditure. So far as I am able to determine, the present system works satisfactorily and there is no marked congestion of accumulated business. Naturally, a chief industrial magistrate must be a highly qualified man and his salary should be very little less than that of a judge. The Minister's speech introducing the Bill skimmed over this point very rapidly; it was a masterpiece of finesse. He skimmed lightly over the rough places, and unless one was following him carefully, one would have failed to notice this point at all. I am not opposed to the creation of additional offices if such are necessary, even if the officers have to be highly paid, but I contend that the House is entitled to the fullest possible information, and that information has not been vouchsafed by the Minister.

MR. NORTH (Claremont) [6.7]: The only part of the Bill with which I desire to deal is the definition of insurance canvasser. This point has been dealt with by previous speakers, but, unfortunately, I did not hear all that was said on the subject and so perhaps I may repeat some of their remarks. The relationship between an insurance canvasser and a company is that of agent and principal, not that of worker and employer. That is a very important principle in law; because the law differentiates between servant and master and agent and principal. Insurance companies have no great measure of control over their canvassers. Canvassers may work such hours as they please; they may work one day and not the next, and may then work 24 hours on end. I know something of the work performed by these canvassers and so am aware how hard it is to regulate their hours and conditions of labour, particularly if they work for more than one company. If these workers are brought within the purview of the Act, they

will then come under the Workers' Compensation Act, and so a question may arise, if one of them meets with an accident, as to the company from which he shall claim compensation. The difficulty is that in dealing with an insurance canvasser, we are dealing with a worker who is sometimes employed in more than one calling. I understand that 95 per cent. of insurance canvassers are earning more than the basic wage, and so would not be much interested in the attempt to bring them under the provisions of this measure. The remaining five per cent. are not earning the basic wage and if they are brought under the Act they may lose their employment. If they cannot effect sufficient sales of insurance to earn the basic wage, they will not be of much use to the company.

The Minister for Mines: You would not suggest that as a reason why they should not be brought under the Arbitration Act.

Mr. NORTH: No; but here we have an industry where 95 per cent. of the workers are receiving more than the basic wage and the remaining five per cent., who are not earning the basic wage, are likely to lose their employment if they are brought under the Act. I understand that in Queensland some time ago an attempt was made to bring these workers under a similar Act. An award was made to cover them and quite a number lost their employment. This is what might be termed a fringe occupation and one very hard to provide for. If these canvassers are brought under the Act, why should not all canvassers?

The Minister for Mines: Why not?

Mr. NORTH: There are many other canvassers. Members should bear in mind, however, that they are dealing with the question of principal and agent rather than with the question of master and servant. These canvassers work on commission and not for a wage. I see many objections to the proposal. I shall, like the member for Katanning (Mr. Watts), remain open to conviction if the Minister, in his reply, feels inclined to deal with this point again. As to the rest of the Bill, I shall not traverse the ground already covered by the member for West Perth (Mr. McDonald) and the member for Katanning (Mr. Watts).

MR. MARSHALL (Murchison) [6.13]: I desire to make one or two observations on the second reading, although I frankly confess the Bill can be dealt with better in the Committee stage. I respect the opinions held and advocated by those who have contributed to the debate so far, but I positively assure them that the Bill is the outcome of experience gained by close observation of the application of the Act over a period of many years. The amendments of the parent Act are all designed to facilitate the Arbitration Court in the conduct of its business and thus to avoid, as much as possible, industrial strife. If members desire that there should be few and possibly no cessations of operations in industry, they should assist generously and promptly in providing legal facilities by which that particular objective may be achieved. To ask the Arbitration Court to function under an Act that is either obsolete or ineffective is of no use. To achieve peace in industry, the Arbitration Court should be clothed with all necessary power and given all necessary facilities. We either agree with the principle of arbitration or disagree with it, and members should take up a stand on one side or the other and adhere to it.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. MARSHALL: The criticism of members of the Opposition has been most cautious. Nevertheless, those members have revealed the fact that they do not possess sufficient knowledge of Acts of this kind to enable them to offer any criticism that might be accepted as being serious. Evidently, too, the opinion of the members of the Opposition is somewhat divided. That was especially clear when they referred to the question of domestics being permitted to have the protection of the court. For domestics to have the right to approach a court when they have complied with the necessary formalities of the Act, is nothing new. Many States already provide for domestic servants to approach the Arbitration Court. Therefore we are not attempting anything in the way of new legislation. As a matter of fact, for many years Western Australia has been copying the legislation of other States instead of, as formerly, leading the other States in the matter of industrial legislation. Members of the Opposition may imagine that they are submitting a particularly good argument in regard to domestic servants by saying that the privacy of a home will be in danger if those em-

ployed in a home are permitted to take advantage of Arbitration Court law. I can offer a very much more important criticism of the Arbitration Court activities than that. I would refer especially to its lopsided procedure when cases are being heard by it. If members opposite were to follow the procedure adopted in such instances, they would observe that every industrial advocate requires to have his witnesses ranged in the precincts of the court building, and each and every witness has to parade his poverty. He must bring documentary evidence to show that his domestic responsibilities are such that he is entitled to an increase in his income in order to meet the cost of living. On almost every occasion workers have to parade their poverty to the last degree in order to prove that they are entitled to an increase in wages. But seldom do we find the court demanding of those that employ labour that they shall present documentary evidence in the form of their ledgers to show their financial position. As far as I can remember, that was done on only one occasion, and then it was achieved through the medium of a committee agreed upon by the advocates of both sides. Members will thus observe that we have a rather lopsided form of arbitration under which workers—and wives as well as husbands—have to go into court and parade their poverty in order to obtain mere justice.

Mrs. Cardell-Oliver: Men and women have to do that every week in Marquis-street to obtain 7s. a week.

Mr. MARSHALL: That is so, and they are subjected to a most objectionable and inquisitorial examination.

Mrs. Cardell-Oliver: I agree.

Mr. MARSHALL: I strongly object to such a state of affairs in a land of plenty. That, however, is by the way. There are two provisions in the Bill with which I wish to deal. The first is that which provides for the extension—if one can call it that—of the industrial activities of the Australian Workers' Union. Most of the members opposite who have spoken on the measure have made reference to that particular clause. They seem to believe that the Government is anxious to give some concession or preference to the Australian Workers' Union, but such is not and never can be the case. The Australian Workers' Union is an organisation that extends throughout the State to cater under the constitution and rules of the union for fairly big unorganised divisions of labour. In extending its industrial activities it has been obliged to organise at its own expense smaller unions the members of which, under the Arbitration Act or under ordinary conditions, could not be organised to obtain any advantage from an industrial agreement or an Arbitration Court award. Members who have taken any interest in industrial arbitration know that the Australian Workers' Union can never be registered in the court to cover employees that could belong to a union already in existence. Under Sections 19 and 21 of the parent Act the Australian Workers' Union cannot interfere with any organised body of workers. If a union already exists to cater for a certain class of employee, the Australian Workers' Union cannot cater for those particular people. All we desire to do is to alter the rules of the Australian Workers' Union in order to permit it to obtain agreements or awards with a legal standing. To enforce agreements which have been drawn up but which have no legal status, seems to be almost an impossibility. Let me quote a case in point. The Australian Workers' Union organised the domestic workers in some of the towns of the Murchison, and an agreement was drawn up between these particular workers and the employers. That agreement cannot be registered. It has no legal standing. The agreement could be registered only if every employer and every employee were listed. That means that if an employer sold out his business or an employee left, and his place was taken by another worker, the parties to the agreement would have to go back to the court and have it registered once more. That is an utter impossibility.

Mr. Needham: Perpetual motion.

Mr. MARSHALL: Yes, and in the circumstances organisation becomes impossible. If members are honest in their contention that arbitration is right, they should approve of the A.W.U. being registered, so that it might cater for those people and allow them to get what the court considers is just. I do not think the Opposition can complain of the basic wage fixed by the Arbitration Court.

Mr. Thorn: Has not your Government shaken faith in the court?

Mr. MARSHALL: To shake the faith of the hon. member is not difficult. I speak as

one with long experience of industrial matters and Arbitration Court activities and I say there is nothing in the Bill to which anyone can take grave exception. If members believe that the workers are entitled to a fair standard of living, irrespective of the industry in which they are employed, there can be no ground for cavilling at the amendment. The workers will be able to obtain only what the court decides to award them. To challenge any of the provisions of the Bill is to show lack of confidence in the court.

Another matter on which I wish to touch is the penalty clause mentioned by the member for West Perth (Mr. McDonald). Last night the member for Avon (Mr. Boyle), when speaking on a Bill introduced by the member for South Fremantle, stated that what he and his colleagues wanted was justice for all. I have yet to learn that the Labour Party has denied justice to any section of the community. The sincere objective of Labour has been to give justice to all. If the measure of justice meted out appears to be scant, the explanation lies in the fact that the Labour Government, like other Governments, is limited by financial considerations. Without finance, a full measure of justice cannot be granted. If members opposite changed over to the Treasury benches to-morrow, they could not mete out a greater degree of justice. I remind the member for Avon that an arbitration award, as soon as issued, becomes a law in every sense of the word, and if it is unjust in its effects, it must of necessity incite the hostility of those who suffer by it. Revolutions have been fomented by unjust laws, and by unfair attacks on sections of a community. I do not think that Australians have lost that fighting spirit or recognition of their right to justice. The penalty clause is one of the most unjust provisions ever embodied in an Arbitration Court award. If a penalty is to be imposed, it should apply equally to both parties. Under these awards, the employers are not penalised; in fact, they profit while the employees suffer. The freedom of the individual to resist an unjust law is determined under such an award. Members of the Opposition at times object and voice their objections to certain injustices. Therefore they should take a humane view and give to others the right they claim for themselves.

Under the Act a penalty may be imposed for lockouts or strikes. That is fair and just inasmuch as it applies to both parties to an award. The court, in imposing its penalties, however, should not go beyond the Act. The court has full power to deal with strikes and lockouts, and there the penalties should begin and end. In the two awards containing the penalty clause, "unauthorised strike" is defined as a strike not authorised by the employer. Therefore, when any cessation of work occurs that is not authorised by the employer, the penalty clause operates. Thus, there have been handed over to employers particularly drastic powers that should rightly be included in the Act if their retention is desired. That two penalties should be imposed upon the workers, and only one on the employer, can by no stretch of the imagination be described as just. Though the member for West Perth criticised the proposed amendment, I think in his heart he must feel it is not fair or just to impose a penalty on the workers double that imposed on the employer and, at the same time, allow the employer to decide when the penalty shall be imposed. If the advocacy of members in this House is conscientious, they will admit that the time has arrived for Parliament to say to the court, "The imposition of penalties for breaches of an award shall be the duty of Parliament." That has been the attitude of Parliament up to the present. We have imposed penalties under the Industrial Arbitration Act and have set up the precedent, but the court has taken to itself the power to impose penalties, though only on one of the parties concerned. I can quote a penalty clause contained in a gold mining award. This is similar to that which appears in the award governing the industrialists at Collie—

> Any worker who has taken part in a strike (including a slow strike) or a general or sectional stoppage of work unauthorised by the employer—

Members will notice the last three or four words—

> —during the period of service in respect of which the abovementioned annual holidays are granted, shall forfeit one day of such annual holidays for every day or part of a day during which he takes part in a strike or in such unauthorised stoppage of work, including a stoppage because of a fatal accident in the mine, except in the case of those workers working in the same shift and the same level as the deceased who desired to attend the funeral and so notify the employer.

If two brothers are working in a mine but on different shifts and levels, and one

brother is killed, the other may not follow the remains to their last resting place.

Mr. McDonald: That would never be brought into operation.

Mr. Styants: Say it was a case of a close friend.

Mr. MARSHALL: That sort of thing could happen. The member for West Perth (Mr. McDonald) is not fully conversant with what occurs in the life of our industrialists. If the surviving brother desired to attend the funeral, and held an important position in the mine, the mine management might hesitate to permit him to leave because of his value in the general operations, but if leave were refused him, the union would take the matter up, and according to the penalty clause, an authorised stoppage of work would occur. This lopsided method of imposing penalties ought not to appear in any award, or in any of the laws of the land in which we allege there is still left a little freedom. Some people really believe there is a little freedom left to us, but a powerful microscope would be needed to detect it. I respectfully suggest that this is not a fair way to deal with a large section of the workers. Naturally they will resent such treatment, not because of the drastic nature of such treatment, but because of the lopsided way in which it is applied. When an employer has a lock-out, he suffers only one penalty under the Act, but when the worker dares to cease work he suffers two penalties. If members of the Opposition are sincere in their desire to give justice to all, they will not oppose this particular clause of the Bill. The constant pinpricks that the workers suffer will soon convince them that arbitration is no longer of any value to them, especially when they are called upon to pay twice the penalty the employer is called upon to pay. I have nothing more to say in support of the measure. Much that could be dealt with in the Bill has not been included. The Government is merely attempting to facilitate the business of the court, and endeavouring to make the Act more comprehensive so that all sections of the community may enjoy their full rights and privileges. It is an attempt to secure some degree of justice for those who work in the industrial activities of the State. I support the second reading.

MR. SEWARD (Pingelly [7.55]: I do not intend to contribute very much to the debate, and would not have risen but for the last speaker's expressed doubts as to the ability of the Opposition to understand the measure. I have not read the Bill closely, and do not intend to do so, but I will vote against it and against any amendment to the Act that the present Government brings down.

Mr. Cross: Whether it is good, bad or indifferent.

Mr. SEWARD: The present Government has shown a complete disregard for the principles of arbitration.

Mr. Sleeman: How can you say such a thing?

Mr. SEWARD: Evidence of that can be found on all sides. Unionists do not approach the Arbitration Court to-day. They go to Cabinet, and flout the Arbitration Court. Why does the Government bother to bring down an amendment to the Act? Even the Minister for Employment, when making his second reading speech, was laughing most of the time and apparently enjoying himself. He did not treat the matter seriously. Let us glance at the industrial history of Western Australia over the last two or three years. I remind members of the goldfields strike, the Lancefield strike and the Collie strike. Then there is the present upheaval in the Eastern States. Unionists there are going to the Government with their grievances, not to the court. The workers say they will not go to the court. We cannot have a law that binds only one section of the community and not the other. I am a believer in arbitration, and think it is the only proper way in which to settle industrial differences. The Act could be amended so that the judicial body might be brought closer to the men by means of wages boards, such as have been established in Victoria. A genuine grievance on the part of the men arises from the delays that occur in the hearing of their cases. We all sympathise with them. Members have perhaps read the report of the Public Service Commissioner. This also contains complaints concerning the delays in the hearing of cases. That sort of thing must incite the men to protest, and must annoy them considerably. If I thought the Government wanted to amend the law with a view to bringing about more equitable conditions, I would gladly give it my sup-

port. It would, however, take more than the words of the Minister to convince me that the Government really is making a genuine effort to amend the Act and make it a more workable piece of legislation. The history of the State since the Government has been in office is clear proof that this effort is not genuine. I shall vote against the Bill.

THE MINISTER FOR EMPLOYMENT (Hon. A. R. G. Hawke—Northam—in reply) [7.58]: I have no intention of replying at length to the debate, because I feel that most of the points raised can best be discussed in Committee The extraordinary speech made by the member for Pingelly (Mr. Seward) does call for some reply.

Mr. Cross: He has not even read the Bill and does not know what is in it, but he will vote against it.

The MINISTER FOR EMPLOYMENT: He is not in the slightest degree concerned with the merits of any part of the Bill. He has not enough fairness in his make-up to endeavour to understand what any of the provisions of the measure seek to accomplish. He intends to oppose every part of the Bill at every stage of its consideration, because his treacherous imagination has conceived the false and vicious idea that the Government is not in earnest as regards the Bill, and that the workers of the State will have nothing to do with the Arbitration Court, will not approach it nor take any steps to have their claims dealt with by that tribunal. That statement is altogether inaccurate; there is not a grain of truth in it. If the member for Pingelly made the statement seriously, then he has exposed either a peculiar type of mind or absolute ignorance of the practicalities of the situation regarding the industrial laws of Western Australia. If the Bill, or any portion of it, is passed, it, or so much of it, becomes the law of the country, and its operation will be largely under the control of the Arbitration Court authority of the State. But that does not concern the member for Pingelly. He is not concerned whether any part of the Bill is good. He is not concerned with the question whether the passing of any portion of the Bill is likely to facilitate the practice of Arbitration Court law in the State. He is not concerned whether any part of the Bill, if passed into law, would assist towards the better handling of industrial difficulties, would facilitate the establishment of more rapid means of settling any threatened or actual disputes. The hon. member is not concerned with any of those questions. He adopts a blind and vicious point of view, and says that no matter how good the Bill may be, no matter how much it might assist the smooth working of the Arbitration Court, no matter how much it might, in practice, help in the maintenance of industrial peace and the further establishment of industrial fair dealing between workers and employers, he will not have anything to do with the measure at any price.

I have never before heard a speech of the description just delivered by the member for Pingelly. I have not previously been given the opportunity to believe that in these days there could be a man in the public life of any State holding such ideas and expressing such twisted opinions regarding either this or any other proposal. The hon. member's speech was not only an unwarranted and gross reflection upon me and upon the Government, but also a grave reflection upon, and indeed an insult to, the industrial workers of Western Australia. His statement that those workers will not go to the Arbitration Court is false. Either it was deliberately false or it was made out of the fullness of his ignorance regarding the industrial activities carried on between the workers of the State and the Arbitration Court of the State. Every day of every week industrial unions are in the Arbitration Court. The hon. member talks about industrial disputes. He talks about the failure of workers always or at any time to recognise decisions and awards of the Arbitration Court. I am sure there is not another member opposite who would agree to any extent with the charges made by the member for Pingelly against all the industrial workers of Western Australia. This State has had quite a satisfactory experience in regard to its industrial legislation and in regard to peace in its industries. The hon. member seems to have the idea that something ought to be done by someone for the purpose of completely preventing any industrial dispute at any time in any part of Western Australia. We might all desire to reach that position if to reach it were possible. However, it is not possible. Perhaps it will never be possible.

Mr. Marshall: If it were possible, then no Arbitration Act would be needed.

The MINISTER FOR EMPLOYMENT: We know that in industry there do arise at various times serious difficulties and serious differences, and we know that when those difficulties and differences arise we get industrial disputes, just as in the international sphere we get disputes of a military character such as now threatens the peace of the world. I suppose that if the member for Pingelly were to discuss that aspect, he would say that military conflicts are inevitable because they are part of human nature; but he would not follow up his argument in that regard and say that some industrial disputes are to to some extent unavoidable and and that at times certain difficulties influence men to take drastic action in an effort to overcome some injustice which they believe has been inflicted upon them. Therefore I desire to express my disappointment and my disgust that in this year, 1938, in a Parliament of this description there is one member who would so reduce the standard of the legislature, and so reflect upon his own position as a member of it, as to take the opportunity which the member for Pingelly has taken of not only reflecting upon the sincerity and earnestness of the Government in regard to this legislation, but also, without any justification at all, insulting every industrial worker in Western Australia.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Sleeman in the Chair; the Minister for Employment in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 4:

Mr. WATTS: I move an amendment—

That paragraph (a) be struck out.

The Minister has not replied to the points raised by members. The paragraph deals with the definition of "employer." I shall content myself by simply moving the amendment, and will await what the Minister has to say.

The MINISTER FOR EMPLOYMENT: The member for Katanning might have been expected to say something in support of his amendment. The Government considers that the altered definition of "employer" is necessary to meet a situation that has developed in recent times. There have been occasions when it has not been possible to locate the actual employers of men engaged in certain activities, but only managers or agents acting on their behalf. In consequence, the necessary action for the enforcement of the applicable awards could not be launched. The manager, foreman, steward, agent or bailiff would not be prosecuted if the actual employer could be located. The altered definition will affect only those organisations —and they are very few in number—that are so constituted as to make it difficult, if not impossible, to locate the actual employer. There is nothing radical in the proposed definition, and employers have nothing to fear from it if they are prepared to establish their identity and carry on their activities in such a way as to enable those concerned to know that they are the actual employers of the men affected.

Mr. McDONALD: I support the amendment. I follow the reasoning of the Minister in his contention that if the employer cannot be found—he may be out of the State or not otherwise available to the processes of the industrial laws—he should not escape from any penalty he may have incurred, and there should be someone answerable for him. The Minister could fairly meet the weakness in the Act by approaching it in another way. I would be in sympathy with his intention if the definition were extended to provide that employers should register their names and addresses with the Arbitration Court, and in the event of their being outside the State or otherwise not accessible, the names and addresses of their representatives who would be answerable before the law, should also be registered. As it is, all those mentioned in paragraph (a) become equally liable with the actual employer. The machinery of the Industrial Arbitration Act is not set in motion merely by unions. They accept the principle, without being bound to follow it, that where the actual employer is available he shall be the individual proceeded against. From a legal point of view they are equally entitled to proceed against the foreman or agent. Employees also can initiate proceedings before the Arbitration Court, and they may prefer to launch such proceedings against the foreman instead of against the real employer. The member for Perth, for whose opinions I have great respect, replied to some remarks I made during the second reading stage, and said that in New South Wales the definition of "em-

ployer" included directors and managers. That would not be so bad.

Mr. Fox: A foreman is a "director" in another sense.

Mr. McDONALD: The reference was to directors of companies. The paragraph under discussion goes far beyond the definition quoted by the member for Perth, although it does not include directors. A business of any size would require the services of a large number of foremen, managers of several departments, and agents in various places. I presume all will be liable to a sojourn in Fremantle gaol in the event of a breach of the industrial laws being committed in the circumstances indicated. I stand for the implicit observation of our arbitration law and awards by employers, and I will stand for strong legislation to enforce those awards and obligations, but I do not like the idea of civil or quasi-criminal liabilities being imposed upon foremen, bailiffs, agents, or even managers, who may have no say at all in the matter or indeed any power to avert particular circumstances that may give rise to a prosecution. The Minister's view, which I quite recognise, would be met if there were an added alternative liability upon a manager or some other designated person to become liable if the employer himself were not available to be answerable for any dereliction of duty.

The MINISTER FOR EMPLOYMENT: A similar provision, even if it is not exactly the same, appears in the Master and Servant Act. If the provision is likely to inflict hardship or injustice in the way mentioned by the member for West Perth, we should have heard about it during the many years that the Master and Servant Act has been in force. It is not conceivable that action would be taken against a foreman, agent or manager if the employer could be located.

Mr. McDONALD: If that is so, all I ask is that Parliament should say so. People should know clearly from the law whether they are liable or not.

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

Ayes	14
Noes	19
Majority against ..	5

AYES	
Mr. Boyle	Mr. Sampson
Mrs. Cardell-Oliver	Mr. Seward
Mr. Hill	Mr. Thorn
Mr. Latham	Mr. Watts
Mr. McDonald	Mr. Welsh
Mr. McLarty	Mr. Willmott
Mr. North	Mr. Doney
	(Teller.)

NOES.	
Mr. Coverley	Mr. Rodoreda
Mr. Fox	Mr. F. C. L. Smith
Mr. Hawke	Mr. Styants
Mr. Hegney	Mr. Tonkin
Mr. Lambert	Mr. Troy
Mr. Marshall	Mr. Willcock
Mr. Millington	Mr. Wilson
Mr. Needham	Mr. Wise
Mr. Nulsen	Mr. Cross
Mr. Panton	*(Teller.)*

PAIRS.	
AYES.	NOES.
Mr. Collier	Mr. Keenan
Mr. Leahy	Mr. Ferguson
Miss Holman	Mr. Doust
Mr. Raphael	Mr. Shearn
Mr. Withers	Mr. Stubbs

Amendment thus negatived.

Mr. NORTH: I move an amendment—

That in the definition of "worker" the second paragraph (relating to insurance canvassers) be struck out.

Mr. McDONALD: Is Mr. North now entitled to move his amendment?

The CHAIRMAN: Yes.

Mr. NORTH: I stated my reasons for the amendment when speaking on the second reading. The relationship of insurance canvassers to the insurance companies is that of agent and principal, not of employer and employee. Of the men engaged in insurance canvassing, 95 per cent. are earning more than the basic wage. The other 5 per cent., who are earning less than the basic wage, will probably lose their employment if they are brought under the Act.

The MINISTER FOR EMPLOYMENT: The member for Claremont has not made out a case strong enough to convince me that this portion of the clause should be struck out. The present provision dealing with insurance canvassers states that only those insurance canvassers whose activities are devoted to industrial insurance are capable of being provided for under the Act. From inquiries I have made, I have not been able to find one insurance canvasser whose activities are devoted wholly to industrial insurance. The amendment aims at providing for all insurance canvassers. The remarks of the member for Claremont as to the earnings of insurance canvassers are beside the point. If some canvassers are unable to earn the basic wage, they should en-

deavour to find a field of employment where their knowledge and ability can be better applied. I cannot agree to the amendment.

Mr. NORTH: It is almost impossible for an Arbitration Court to define the methods by which canvassers can sell insurance policies. I know of an insurance agent who desired to obtain a commission of £50 by insuring a particular individual. He followed that man to his hotel and lived there for a week and played golf with the man, all with a view to effecting this particular insurance. All sorts of methods have to be adopted by salesmen to secure business and it is impossible to imagine work of that kind being confined to definite hours such as are set down for those employed on basic wage jobs. I repeat, therefore, that it is far better that life insurance canvassers should not be included under the provisions of the Act.

Amendment put and negatived.

Mr. McDONALD: I endeavoured to explain last week some of the reasons for my dissatisfaction with this clause as far as it relates to the definition of "worker." The member for Perth subsequently drew the attention of the House to definitions of "worker" in the industrial laws of New South Wales and Queensland. He claimed that those definitions gave some weight by way of precedent to the definition in the Bill. Having looked at those definitions, however, I consider they do not go nearly as far as the definition of "worker" in this clause.

Mr. Needham: They go further.

Mr. McDONALD: The New South Wales and Queensland legislation refers to a worker always as an employee. It has to deal with employment, and refers to employment at wages or salary. It shows that the employee is working for hire or reward. In one of the definitions the word "industry" is used; the phrase "employment in industry" is adopted. The definition in the Bill goes beyond the word "employed." The worker may be some person "engaged" by an employer and—it may be—in connection with any undertaking or calling, which are words of the widest possible meaning. Whereas the parent Act indicates that the worker is somebody who must be working for hire or reward, the words "hire or reward" have been omitted from the present definition so that a worker may come under the Arbitration Act, although he receives no pay at all. As far as I can judge, if he is working voluntarily, he will come under the provisions of the Act. I repeat that this definition may be wide enough to cover people working in charitable organisations who do not receive salaries or wages. It may cover volunteers and may be wide enough to include those that work as agents not under contract of employment, but under contract of agency. A member indicated to-night that a contract of agency was different from a contract of employment because in a contract of employment, the employer controls the work, but in a contract of agency the agent is his own master. He is merely there to produce a result.

Mr. Needham: Is not the employer responsible for him?

Mr. McDONALD: The employer may be responsible for the agent, but that would not be the test. The agent is there to produce a result and he may work at any hour of the day or night that he likes. He may do the work himself or get someone else to do it for him and he may do a number of other things as well unless he is employed to work as the sole agent. I should like to see the present Act, which works upon well recognised principles and is confined to industry and the relation of employer and employee, retained. We have machinery that is quite capable of doing magnificent work if supported by both employer and employee and our efforts would be better directed to securing and enforcing the smooth working of our existing machinery rather than to embarking upon industrial experiments or trying out new industrial machinery that will upset the community's working life instead of improving it.

The MINISTER FOR EMPLOYMENT: When alterations are proposed that introduce new provisions or extend provisions that have previously operated, it is natural to search everywhere for the purpose of finding out just how far the proposed new provisions or altered provisions may extend. When we allow our minds to indulge in a search of that kind, it is only natural that we should visualise some extreme possibilities. I have no doubt that when the Act was originally passed, many opponents of the legislation visualised some serious dangers arising from the definition of "worker" as it now appears in the Act. They doubtless made some disturbing prophecies about the result upon the industrial life of the defini-

tion of the term "worker" being made as extensive as it was under the Act of 1925. There are two types of volunteer workers, the man who agrees with his employer to work, not as a volunteer, but at wages below those set out in the award, and the complete volunteer worker who may be assisting in the management of a picture show held by some hospital committee in the country, or in some other enterprise of the kind. The former type is dangerous. He constitutes a menace to the general body of industrial employees. The employer of such a man is also a menace to the better type of employers, who take no steps to have men employed at less than the award rates. The new definition will prevent this semi-type of volunteer worker from undermining the industrial conditions, and will protect the more genuine employer from the unfair type of competition he is suffering at the hands of the man who does not observe the award rates. Before a worker can be deemed to be a worker within this definition, he must be employed by an employer in the employer's trade, calling or handicraft. The ordinary type of volunteer worker could not be brought within the definition. Although some members may be able to visualise fears concerning this principle, I assure them they can safely accept it. The provision will be beneficial to many workers who at present are being exploited, and will tend to eradicate the rather serious form of competition employers have suffered at the hands of their less scrupulous competitors. Generally speaking, the alteration will be for the good of all concerned.

Mr. McDONALD: The Minister can get all he wants under the law as it stands. I agree that employers should pay award rates and should be protected from those people who employ what may be called semi-volunteers, those who accept less than the ruling rates. Anyone who is employed for hire or reward comes under the Act. One of the functions of Parliament is to look into these questions. We want to be certain that we know exactly who will be affected by a law of this nature. I have been approached by people who are concerned about the extent to which this definition may apply. It may apply in a direction that neither Parliament nor the Minister intends. As the definition is drawn, it is not sufficiently exact. It is too wide in meaning, and should not be passed in its present form.

The MINISTER FOR EMPLOYMENT: The wage received by the semi-volunteer worker is far below the rate set out in the award governing the industry in which he is working.

Hon. N. Keenan: That is a breach of the award.

The MINISTER FOR EMPLOYMENT: Yes.

Hon. N. Keenan: Then why not prosecute?

The MINISTER FOR EMPLOYMENT: Prosecutions have been launched, but the employer has always successfully set up the defence that the employee has not been employed for hire or reward but has been working in a voluntary capacity. Cases of that type are increasing in number. Under the present definition, it has to be proved that the worker is employed for hire or reward. If the employer is successful in his plea, the employee cannot be brought within the definition, and it is not necessary to pay him according to the award. The workers who work for less than full wages assist the employer to put up a successful defence. We should endeavour to meet that position, as it cannot be met by the existing legislation. We have framed this definition to meet it in an altogether effective way.

Mr. McDONALD: To catch the bogus volunteers we are inserting a definition that will bring in all the genuine volunteers.

The Minister for Employment: No.

Mr. McDONALD: I do not know that any great harm or perhaps good will be done by the clause, which has, I understand, the object of enabling the A.W.U. to register. Registration of the A.W.U., I believe, has always been opposed by the unions themselves. If the other unions were able to persuade the Arbitration Court that registration of the A.W.U. would be undesirable in the interests of the workers, then I do not see that Parliament, which has not heard the evidence of those unions or the arguments advanced on their behalf, should set itself up as a court of appeal. Registration is a matter of proper rules and proper formalities. If the A.W.U. desires to do so, it can register like any other union and on exactly similar terms. It is difficult for me to see why we should interfere to grant the A.W.U. a privilege or a concession not given to other unions under the industrial law.

The MINISTER FOR EMPLOYMENT: It is true that the Australian Workers' Union has in past years applied to the Arbitration Court for the purpose of having those sections of the union registered which up to that time were not registered with the court. It is also true that opposition was offered by other unions to the application of the A.W.U. for registration. The number of unions offering opposition has been small on each occasion, and has been reduced. The clause proposing to grant registration to the A.W.U. in respect of those sections not already registered has been framed in such a way as to meet the objections of practically every other union. The unions almost unanimously agreed to the clause and are prepared to see the A.W.U. registered on this basis. I can safely say that no member has received one protest against the proposal from any industrial union.

Mr. McDONALD: Before other industrial unions withdrew their opposition, there appeared to be no reason why the A.W.U. could not approach the court in the ordinary way.

Clause put and passed.

Clauses 4 to 9—agreed to.

Clause 10—Repeal of Section 83 and insertion of new section: Effect of award:

Mr. McDONALD: This is another matter of principle. The clause proposes to alter fundamentally the basis of our industrial arbitration law. I dealt with the matter on the second reading. Members will realise that the clause, to put it shortly, proposes that when an award is made it shall extend to workers who follow the avocation dealt with by the award in whatever industry they may happen to be. A worker, say a carpenter, follows an avocation which might be covered by a number of awards, each of them conceivably providing a different rate of pay for a carpenter, because carpenters in different industries require different degrees of skill. A carpenter on a sawmill could be a rough carpenter, whereas a carpenter in a joinery establishment might need to be a highly skilled artisan. Men following the same avocation are given different margins because the degree of skill required in different industries means that there shall be differences in the margins according to the amount of skill required. I would like the Minister to give the Committee some idea as to exactly how the clause will operate. For example, I am informed that in the sawmilling award covering the South-West there is a wage for a labourer, a man who does ordinary labouring work and merely gets the basic wage. Is that sawmilling award, as far as the labourer's wage is concerned, to apply to all men who follow the avocation of labourer in the South-West, whether working on farms or stations or in any other capacity? If that is so, is the labourer who works on a farm to be entitled to the hours, the spread of hours, and other terms that are prescribed by the sawmilling award? That seems to be quite possible. If so, there may be a surprise in store for the primary producers. Arbitration has operated throughout the Commonwealth, despite the definitions quoted by the member for Perth, on the basis of separate industries, each having its special award dealing with the respective requirements of the several industries and the employees affected.

Mr. Hegney: You believe in organisation along the lines of industry?

Mr. McDONALD: That has been the basis of arbitration.

Mr. Fox: That suggests one big union.

Mr. McDONALD: The method adopted throughout the Commonwealth has been the most successful and practicable way to deal with organised industry. No adequate reason has been forthcoming for a departure from a tried system with which industry is familiar, and under which those engaged in industry are calculated to receive equitable treatment.

The MINISTER FOR EMPLOYMENT: The alteration is regarded as necessary because at present if a worker leaves an industry covered by an award, in order to carry on his trade in some other industry, the award applicable to the latter industry may not provide for the work he has to undertake. He therefore immediately loses the protection accorded him under the award applying to his trade, seeing that the award covering the industry to which he proceeds embodies no reference to his particular avocation.

Mr. Needham: He would be in an industrial no-man's land.

The MINISTER FOR EMPLOYMENT: That is so. Many instances could be quoted to which such conditions apply. For in-

stance, a carpenter may accept work at the Swan Brewery, but the award covering the Swan Brewery employees makes no provision for carpentry work, and, therefore, that worker will not be covered.

Hon. N. Keenan: Why did not the breweries award contain such a provision?

The MINISTER FOR EMPLOYMENT: Because carpenters are not employed at the Swan Brewery, except occasionally. Foy & Gibson may employ a painter to do some work, but the industrial award governing the employees of that firm makes no provision for painters. The alteration in the Bill will meet with difficulties of that description.

Mr. McDONALD: I do not quite follow the reasoning of the Minister. If a man engages in another industry to exercise his particular avocation, it will be found in almost every instance that his vocation is provided for in the award governing the industry to which he transfers his operations.

Ministerial members: No.

Mr. McDONALD: Notwithstanding the chorus from the Ministerial cross benches, I assert that if such a man engages in his vocation with reasonable frequency, his work will be mentioned in the award applicable to that industry. I appreciate the Minister's desire to cover the worker who occasionally may exercise his vocation in an industry in which his type of work is only occasionally required. On the other hand, in order to deal with a situation that may arise occasionally and temporarily, the clause provides that what is necessary for that purpose shall apply to a great body of other workers covered by a number of other awards. That will make confusion worse confounded. An amendment might be justified to meet temporary cases such as those referred to, but the clause suggests something quite in excess of the necessities of the situation.

The MINISTER FOR MINES: The member for West Perth has not a grip of the position in industry. There are hundreds of instances to cover which the amendment outlined in the clause is essential. The employees of Foy & Gibson are covered by a comprehensive award, but it embodies no provision regarding carpenters or painters. If that firm desired to carry out structural alterations and employed a number of carpenters and painters, they would be working for a firm operating under an award in which no provision was made for carpenters or painters. The Railway Union has members engaged in different classes of work in the railway workshops and has awards covering the different types of work. On the other hand, contractors like Hawkins and Brine employ a lot of tradesmen and the carpenters are covered by the carpenters' award and the painters by the painters' award. If I engage a painter to paint my house, I pay him the wages provided by the award covering the painting industry. Many tradesmen are engaged in work that, in a sense, is casual; this week a painter may be painting a large insurance office; next week he may be painting a cottage. If the clause is passed, then, irrespective of the industry of the employer, the tradesman will be paid the rate prescribed for his particular work.

Clause put and passed.

Clause 11—Amendment of Section 87:

Mr. McDONALD: I support the clause. It is one of the clauses in the Bill which I think will improve the machinery of the Act.

Clause put and passed.

Clause 12—agreed to.

Clause 13—Amendment of Section 90:

Mr. McDONALD: I oppose the clause, on general principles. Section 90 of the Act gives the court power to vary or rescind the provisions of an award after it has been in operation for a period of 12 months. The clause would give the Arbitration Court power not only to vary or rescind, but also to add to an award. An award is binding for three years and both parties know where they stand for that period. That is a principle which should not be departed from.

The MINISTER FOR EMPLOYMENT: The member for West Perth has misinterpreted the clause. The word "vary" has always been interpreted by the court as giving the court power to add to an award after it has operated for a period of 12 months. It is desirable that the court should place this interpretation upon the word, because changes may occur in an industry after an award has been in operation for 12 months and both parties may deem an addition to it necessary. The clause will establish beyond doubt that the Arbitration Court

has the power which it considers it already possesses and which it has used.

Clause put and passed.

Clause 14—Amendment of Section 92:

Hon. N. KEENAN: I should like the Minister to tell the House whether this clause is intended to prevent the court from imposing special conditions to counter-balance special privileges. The court has the right to grant special privileges and to impose conditions governing the granting of those privileges. We had an instance of that in the case of paid holidays. In some industries there were no paid holidays at all. But the court said, "We will not only grant holidays"—which was an innovation of great benefit to the workers—"but we will make it compulsory for you to be paid for them. In return, we will ask you to observe certain conditions. If they are not observed, the special privilege will lapse." Is it intended to take away from the court the power to grant such privileges and make such conditions?

The MINISTER FOR EMPLOYMENT: Clause 14 provides that the court shall not in any of its awards set out that workers shall forfeit as a penalty for any breach of an award or of the Arbitration Act any wages or privileges they have already earned. At present, at least two awards contain provisions that give the employer the right to take from the workers privileges they have already earned. For instance, coal miners or gold miners may have been working at their occupation for six months. By virtue of having so worked, they are entitled to six paid holidays. The two awards I have mentioned provide that if in the seventh month the workers concerned do something that constitutes a breach of the award, the employer has the right to deprive them of the six paid holidays they have earned. If some court had power—and of course the court already has power to punish workers for breaches of awards—to impose this penalty and to cause the benefit derived from the penalty so imposed to come to the State, there might be some justification for the insertion of such provisions in awards. At present, workers are deprived of holiday pay they have actually earned and that becomes the property of the employer, which, in my opinion, is most undesirable. Penalties for breaches of awards are provided for in the Arbitration Act against both workers and employers. We feel that those penalties are equal. Parliament has stipulated the penalties that should be imposed, and the court should not impose additional penalties. The insertion of penalty provisions in awards undoubtedly results in a double penalisation of the workers for breaches they commit, while at the same time no double penalty is imposed upon employers for any breaches committed by them. Provisions of this type in an award can easily have the effect of influencing companies that might be anxious to accumulate profits quickly to adopt irritation tactics in order to create an industrial dispute in the hope that such dispute would be only of short duration. It is easy to conceive that a big company employing a large number of men might, in the eleventh month of employment of most of those men, indulge in irritation tactics that would result in a stop-work meeting lasting for only a few days. In that way the whole, or a considerable proportion of the holiday pay already earned by the men would be taken from them, and would become the absolute property of the company. Therefore Parliament is entirely justified in setting out in the legislation in clear and unmistakable language that the imposition of a double penalty is unjust, and should not continue.

Mr. STYANTS: The principle of providing penalties in industrial awards is a pernicious innovation which should be stamped out immediately by the Legislature of this State. The provision of this penalty was not introduced, as suggested by the member for Nedlands, to counterbalance a concession given in the way of holidays in an industry in respect of which paid leave was not previously in operation. The member for Nedlands might have some justification for his inference so far as the coal miners are concerned, but that does not apply to the gold miners, because they have had paid holidays for a great number of years. The vicious principle of providing a penalty in an Arbitration Court award has been in operation for only a couple of years. I believe it was introduced in the first place by the Arbitration Court as a possible means of securing industrial peace, but it has not had that effect. As a matter of fact, it provokes industrial strife. Further it has the effect of prolonging industrial disputes. The penalties provided in Section 129 of the Act are severe enough, and if members think they are not, then let us amend Section 129

with a view to making the penalties as severe as we think they should be. I am strongly of opinion that Parliament should not allow industrial awards to bristle with penalties. Section 129 of the Act provides all that is necessary in that direction. If we think that a £100 fine in the case of a union or an employer, and a £10 fine in the case of the individual member of the organisation that engages in a strike, is not sufficiently severe, we should see that the amounts are increased. The court should not usurp the functions of this House by setting out what the penalties shall be, more especially when such penalties are imposed in a one-sided manner. If we do not stamp out this principle at the first opportunity all awards will bristle with penalties of various kinds. That would be an undesirable state of affairs. The judiciary in this State has ruled from time to time that in certain circumstances men have a right to call a stop-work meeting to discuss their domestic affairs. The penalty clause, however, does not permit men in any circumstances to decide whether they shall have a stop-work meeting or not. So soon as a stoppage of work occurs the penalty is automatically applied against the men only. For each day the stoppage lasts they lose one day of their annual leave. Nothing is said about the employer, who countenances an illegal stoppage of work, giving the men twice the amount of annual leave due to them. The money saved by the imposition of these penalties goes straight into the pockets of the employers. Members opposite are generally fairminded, and I appeal to them to support this clause. Neither against the employee nor employer should penalties appear in any industrial award. The purpose for which this principle was brought into operation, namely, the maintenance of industrial peace, has not been achieved. It is both unfair and unjust, and should not be tolerated.

Hon. C. G. LATHAM: I have always understood that the Industrial Arbitration Act was brought into existence to prevent strikes, and bring about harmonious relations between employers and employees. The Minister is now seeking to prevent the court from providing any deductions in the event of a stoppage of work. Suppose a strike occurred in some key industry, and affected many other workers than those engaged in it.

Mr. Styants: Section 129 of the Act would cover that.

Hon. C. G. LATHAM: We seem to be encouraging that sort of thing, whereas we should be doing our best to discourage it. If we pass this clause we might have a stop-work meeting once a month. The Minister referred to irritation tactics on the part of employers. Very frequently one man in the union may be the cause of all the trouble that occurs. We ought to leave well alone. The court does not inflict penalties except after most careful consideration of the facts. If the court had the backing of the Government, we would have better industrial conditions than now exist. Actually the Government recently assisted the men to violate the law. I am particularly concerned about the good relationship between employer and employee, and think this clause will place a premium on stop-work meetings with resultant inconvenience to many sections of the community. We know what harm the timber workers on the goldfields could do if they had a stop-work meeting.

Mr. Wilson: They do a lot of good.

Hon. C. G. LATHAM: If the men engaged at the pumping stations between Mundaring and Kalgoorlie went on strike, we can guess what would happen. That is what we should discourage. Yet some members say in this Chamber that those things serve a useful purpose. Penalties should be provided for violation of the law.

Mr. MARSHALL: The Leader of the Opposition wears a returned soldier's badge, which implies that he fought in the last war for fair play and justice.

Hon. C. G. Latham: I fought to defend my country and the people who live in it.

Mr. MARSHALL: There never was previously so much poverty, misery and industrial trouble, so much immorality and tribulation, as there has been since the last war. The Leader of the Opposition says we should stop strikes and take action against strikers, but he always implies that action ought to be taken against one section only.

Hon. C. G. Latham: Do I?

Mr. MARSHALL: Would the Leader of the Opposition adopt the same attitude towards a law imposing a double penalty on wheatgrowers?

Hon. C. G. Latham: They suffer all the penalties to-day.

Mr. MARSHALL: And so does practically every section of the community. I sympathise with the farmer as I sympathise with the industrialist for the deplorable load

each has to carry. I am with the Leader of the Opposition in enacting penalties that will apply to all sections of the community equally and fairly. The amendment contained in the clause proposes a basis of fair play and justice. There is now a double penalty on the unfortunate goldminer, whose occupation is one of the most precarious known, and is accompanied by slow poisoning and torture. For the goldminer it is better to meet with a fatal accident, because then years of anguish and misery will not be his lot. If the goldminer adopts a hostile attitude as the result of injustice inflicted on him by the Arbitration Court, he suffers a double penalty. In most cases the prosecutor for breach of an award does not profit by a conviction, as the amount of the fine goes into Consolidated Revenue. In this instance, however, profit accrues to an individual who quite likely may have provoked the offence. Let us meet the position by amending the Industrial Arbitration Act so as to make the penalty apply to both sides, instead of imposing a double penalty on one side and improving the position of the other side to the dispute. From what one occasionally hears in this Chamber, one might imagine that the employer possessed all the virtues and the worker all the faults. Industrial magistrates deal almost every week with breaches of awards. The unions are continually obliged to force employers to comply with the law, and there is not a word of protest from the Opposition. But when men and women take the law into their own hands to obtain redress, the Leader of the Opposition desires a double penalty for them, together with an incidental profit for the employers. I am the representative of a goldmining constituency and a member of a family which experienced the maximum sacrifice, due to my father having been employed in the goldmining industry. I know the suffering and misery that become the lot of those who remain in that industry long enough. Yet they are to be subjected to a double penalty, while men who with subtlety and guile incite the workers, are to be subjected only to a single penalty. If the Leader of the Opposition desires the Arbitration Court to function smoothly, then the tribunal must act with justice. If he wishes employers and employees to work in harmony there must be some semblance of justice in awards. Nothing will provoke hostility more quickly than non-observance of that requirement. If the Arbitration Court adjudicated upon an issue, imposed a double penalty upon an employer and ordered portion to be returned to the employees, the Leader of the Opposition would sing an entirely different tune. As the member for Kalgoorlie pointed out, if peace and harmony are to prevail in industry, the law applying to industrial activities must be fair, equitable and just and the Arbitration Court, in its decisions, must also be fair and just. If the court fails in that respect, the onus is upon the Legislature to remind the court of its obligation. I shall not support any provision for the imposition of a double penalty.

Hon. C. G. LATHAM: The remarks of the member for Murchison would suggest that I have deliberately taken the part of the employers against the employees. That sort of talk does not impress me at all, nor can it improve the position, but is merely calculated to antagonise those who desire justice to be meted out to the workers. The hon. member referred to my attitude regarding employers who had been before the Arbitration Court. I have never attempted to defend an employer who has violated the law. I will not allow the member for Murchison to level such a charge against me. Paragraph (b) of Subsection 1 of Section 92 of the principal Act sets out that 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.

The clause suggests the addition of a proviso setting out that the court "shall not permit any forfeiture of wages or privileges prescribed by the award as a penalty for the breach of the provisions of the award." Although the member for Murchison will disagree with my contention, I claim that employers generally are men of some substance and the Arbitration Court can therefore insist upon the payment of penalties imposed upon them. On the other hand, a return made available recently showed that in most instances the fines imposed upon the workers are not collected. I am prepared to trust the court, which was established by a Labour Government. The President of that court was at one time a good Labour supporter, while another Labour representative sits on the bench. The workers there-

fore have two as against the one who represents the employer's interests. Naturally I do not know what the politics of the President of the court may be to-day, but at one time he occupied a seat in this House.

The Minister for Mines: Who did?

Hon. C. G. LATHAM: Mr. President Dwyer. Notwithstanding that those gentlemen may differ from me in politics, I am prepared to trust them.

The Minister for Mines: The same thing applies to others who have sat in this House and have been appointed to the judiciary.

Hon. C. G. LATHAM: Of course. I am not afraid that those gentlemen will impose unjust penalties. It is claimed that if the fines were paid into the Treasury, it would not be so bad as if they went into the pockets of the employers. Frequently the employers suffer damage and loss through strikes or stop-work meetings, to a much greater extent than the employees concerned.

Mr. Styants: Not always.

Hon. C. G. LATHAM: I admit that, but strikes and stop-work meetings cause heavy losses.

Mr. Raphael: And empty stomachs for the workers.

Hon. C. G. LATHAM: It is perhaps wiser to ignore the interjection of the hon. member. We have an Act of Parliament that was passed for the settlement of industrial disputes, and our industrial legislation is quite equal to that operating in any other part of Australia. That legislation was introduced by a man who had worked for his living and could claim to be a labourer. The member for Victoria Park knows nothing about it.

Mr. Thorn: He has never done a day's work in his life.

Hon. C. G. LATHAM: Of course not. He knows nothing about manual labour.

Mr. Raphael: That shows how weak your mind is. Judging by your appearance you have not done much work.

Hon. C. G. LATHAM: How can the member for Victoria Park express an opinion on this subject? Of course he cannot do so. I may disagree with the views expressed by the member for Murchison, but I can respect those views because he has had experience. Reference was made to something that I did. I am not concerned whether the hon. member thinks I did right or wrong, but if at any time I did something against Army orders I paid for it. When a fine was imposed I had to pay.

Mr. Fox: Did the officer collect the fine?

Hon. C. G. LATHAM: I do not know who collected it. I know I had to pay.

The CHAIRMAN: Order! This has nothing to do with the Committee.

Hon. C. G. LATHAM: The hon. member referred to it.

The Premier: Do not proceed with it.

The CHAIRMAN: Who referred to the matter?

Hon. C. G. LATHAM: The member for Murchison, and I am replying to his statement.

Mr. Marshall: I did not say that.

Member: What did you do?

Hon. C. G. LATHAM: I was charged on one occasion with neglect of duty.

The CHAIRMAN: I do not think we need discuss that.

Hon. C. G. LATHAM: I do not propose to go any further.

The CHAIRMAN: No, get back to the clause.

Hon. C. G. LATHAM: If penalties are to be imposed, let them be fair. The court will not impose a penalty that is unfair or include in awards provisions that are unjust. Evidently the court considered it was fair that if men deliberately stopped work merely because they disagreed with the terms of an award, a penalty should be imposed upon them. I know the congestion in the Arbitration Court work has occasioned friction, but with the additional judge appointed to assist the Arbitration Court, that difficulty should be obviated in future and the men should gain quicker access to the court. The Act provides that once an award is made it shall not be amended for 12 months. If the employer commits a breach of the award and a penalty is provided in the award, it should be inflicted.

Mr. STYANTS: Had the Leader of the Opposition proceeded a little further, he would have agreed with the member for Murchison and myself. To make my position clear, I agree entirely with the Leader of the Opposition that we should leave the imposition of penalties to industrial courts. I have a distinct objection to awards providing for penalties. If there is a stoppage of work, the matter should be tried in an industrial court, and if that court finds an offence has been committed, it should fix the

penalty. Members must have noticed from time to time some of the frivolous fines imposed on employers for breaches of awards, but there was nothing frivolous about the fines inflicted on the miners at Beria.

Mr. McDONALD: I have listened with interest to the statement of the member for Kalgoorlie. In the first place, penalties do not affect the man who observes the terms of the award. Where he is concerned, the penalties do not exist. In the second place, it is desirable that the court should be allowed to experiment with a view to creating good conditions and promoting industrial peace. Originally, the miners at Collie were not entitled to holidays. The court has since extended to them the privilege of holidays, but on condition that the terms of the award are observed. I am prepared to trust the court to act equitably in this way, because the court is as competent to see that justice is done as are we who sit in this Chamber. The court may be circumscribed in trying to improve conditions for workers. Suppose the court said in a new award, "We will order the employer to pay at the end of each year of service a bonus of £10 per employee over and above his wages, provided he has not been guilty of any breach of the award." That would be a desirable provision for the employee. If no money was paid to him, the employer would not be taking money from the employee, because he did not earn it; he did not fulfil the condition. If the matter is left to the discretion of the court, the court, in whose justice we trust, will probably be able to provide better conditions for employees by inserting in awards provisions under which those who obey the award will receive a privilege that otherwise they would not have. In current awards a clause is now inserted providing that a junior worker who has misrepresented his or her age and so become entitled to a greater wage than he or she would otherwise have received, cannot receive wages higher than those applicable to the age which he or she represented.

The Minister for Employment: The employer can easily protect himself there.

Mr. McDONALD: He may require each junior to produce a birth certificate, or he may obtain the birth certificate himself, but that means trouble and expense. Other conditions might be inserted in awards which would be equally salutary and beneficial to the worker. Under this clause we would cut out all that elasticity and all that discretion and all room for enterprise in that direction that the court now has.

Clause put and passed.

Clause 15—Amendment of Section 97:

Mr. WATTS: I move an amendment—

That paragraph (b) be struck out.

This is another clause that seeks to take away discretion vested in industrial magistrates. It proposes to prevent the industrial magistrate from exercising his discretion in ordering the payment of arrears of wages due, or effecting a compromise as to the amount that should be paid. I do not suggest that in the majority of cases the magistrate should not make an order for the full amount due, but the fact remains that there may be instances where he could reasonably make an order for less than the full amount. If we cannot repose confidence in the industrial magistrates in such matters as this, we should put in their place others in whom we can repose confidence. For those reasons and others that I gave on the second reading, I ask the Committee to delete paragraph (b) and to leave with the magistrates the discretion they at present exercise, a discretion that I do not think has been abused.

Mr. THORN: I move—

That progress be reported.

Motion put and negatived.

The MINISTER FOR EMPLOYMENT: The present section of the Act has been in operation for many years, and it is now considered that the discretion given to the court to make an order for wages unpaid or underpaid should be eliminated. The paragraph consequently provides that in future an industrial court dealing with a breach covering such unpaid or underpaid wages shall, at the same time as it convicts the person concerned in the breach, make an order for the wages due. The practice of not paying or underpaying wages has increased. Magistrates may feel at times that an order for wages should not be made, because the worker himself has to some extent been blameworthy. We should endeavour to prevent employers from arranging with workers for the underpayment of wages. If we make it obligatory upon the court to issue an order for the amount of wages due, we shall take a step in the direction of discouraging the prac-

tice that exists in some quarters of workers agreeing with employers to accept less than the amount provided under the award. If the clause is passed, employers will know that when they are convicted of a breach, the magistrate will, in addition, order payment of the wages due.

Mr. McDONALD: Cases come before the industrial court in which the amount of wages due is a matter of legal interpretation of the award. It may happen that an employer in a small way, after a year, finds that he has underpaid an employee owing to a wrong interpretation of the award. He is prosecuted in the industrial court, and under this clause the magistrate would have to impose upon him an obligation to pay the arrears of wages, which might be considerable. Under another part of the section, the arrears of wages are to be added to the penalty, and are recoverable in the same way as the penalty. That is to say, in default of payment, imprisonment can be ordered. A man came to me and said that owing to circumstances his son was convicted in the industrial court for failing to pay over £100 in wages. He thus become liable to six months' imprisonment in default of payment. We have abolished imprisonment for debt; we have always prided ourselves upon that fact. But under this clause if a man, through circumstances that might be excusable, becomes liable for arrears of wages, the magistrate must order those arrears to be paid. He must add those arrears to the penalty and must subject that man to the liability of a term of imprisonment if he has not the money to pay the amount involved. I hope the discretionary power given to the magistrate by the framers of the Act will be retained.

Mr. RAPHAEL: I hope the Committee will not agree to the striking out of this paragraph. In many instances employers and especially those of foreign labour, particularly in the furniture trade, make a definite practice of paying their employees about £3 a week, when the award rate ranges up to £4 19s. The small penalties imposed by the magistrate for offences of that kind are in no way a deterrent to contracting out of an award. If the paragraph is deleted, one of the most evil practices that have been taking place over a period of years in this State and elsewhere, namely, that of contracting out of Arbitration Court awards, will be permitted to continue. In a particular industry I could mention, within the last three or four months, men were offered continuous employment if they signed for £1 per week more than the employers were prepared to pay them. The same employers, a few months ago, when artisans were difficult to secure, made no attempt to break down the award, but as soon as labour became plentiful they offered employment at less than the award rates. Is the member for Katanning in favour of that practice?

Mr. WATTS: This clause will alter the position so much that an industrial magistrate will be obliged to make an order for the payment of whatever wages are due. In the absence of distress, or sufficient chattels whereon the bailiff may realise to secure payment of the debt, the defendant is liable to imprisonment for three days for every pound he owes. Until now no one has suggested that the man who cannot pay his debts should go to gaol. Members opposite have always set their face against such a thing. If wages are due to an employee, he should take proceedings in the ordinary way before the local court. By the inclusion of the word "shall" in the clause, no proceedings will be taken in the local court, and the only remedy for the recovery of the money due will be the imprisonment of the debtor.

Amendment put and negatived.

Clause put and passed.

Clauses 16 to 25—agreed to.

Clause 26—New sections:

Mr. WATTS: I move an amendment—

That proposed new Section 174A be struck out.

Most awards provide for policing and inspection, and I see no necessity for embodying that provision in this Bill. There may be occasions when the proposed new power would be exercised in an undesirable manner. In many institutions the employees represent a large number of industrial unions. I am told that in certain industrial establishments more than a dozen different unions are represented. This might mean that as many union secretaries have the right to enter the premises and discuss matters with the employees. Under the Factories and Shops Act inspectors are already empowered to visit these places. There should be a limit to interference with private enter-

prise in such matters, and pin pricks of this kind should be avoided.

Mr. RAPHAEL: The member for Katanning exaggerated the position when he said that as many as 12 unions were represented in one industry. That could not be the case in Western Australia. At present it is in many cases impossible for a trade union secretary or trade union representative to go on works even to collect the dues of members or intending members. In a factory situated in West Perth a number of the workers desired to form a union. Representatives of the Trades Hall unsuccessfully attempted to enter the premises and address the workers. Then workers came outside to interview the Trades Hall representatives with a view to establishing an organisation that would ensure reasonable conditions to the workers. The fight went on for some time. This case should enlist the sympathy of the member for Subiaco, because most of the employees were girls who were greatly underpaid. The effort to establish a union proved unsuccessful, because workers who attempted to organise their fellow-workers got the order of the boot. It is going a step too far to suggest that workers should not be interviewed by union representatives during the lunch hour or in the workers' own time. A boss should have no right to prevent employees from using portion of their lunch hour for the purpose of being addressed by a union representative. Moreover, union representatives visit establishments to ensure that employers observe the conditions granted to their employees. Again, an employee residing outside the city has little opportunity to meet his union representative except during the lunch hour. Working conditions are improved when union representatives have the right to police the Act.

Amendment put and negatived.

Clause put and passed.

Clauses 27, 28, Title—agreed to.

Bill reported without amendment, and the report adopted.

House adjourned at 10.36 p.m.

Legislative Council.

Tuesday, 20th September, 1938.

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

QUESTION—ABATTOIRS AND SALE YARDS.

Hon. G. B. WOOD asked the Chief Secretary: What was the profit, if any, derived by the Agricultural Department during last financial year from the operations of—1, the Midland Junction saleyards; 2, the Midland Junction abattoirs?

The CHIEF SECRETARY replied: For the Midland Junction abattoirs and saleyards the profit for last financial year was £4,647 18s. 2d. and the capital expenditure for the same period £3,390. Owing to the expenditure being so interwoven between the abattoirs and saleyards both are treated as one concern.

MOTION—ABATTOIRS ACT.

To Disallow Regulation.

Debate resumed from the 14th September on the following motion by Hon. C. F. Baxter (East)—

That No. 34 of the regulations made under the Abattoirs Act, 1909-1931, as published in the "Government Gazette" on the 14th April, 1938, and laid on the Table of the House on the 9th August, 1938, be and is hereby disallowed.

THE CHIEF SECRETARY (Hon. W. H. Kitson—West) [4.35]: The motion to disallow this particular regulation is a rather