to establish State hotels in the outlying parts of Western Australia, we are justified in considering the amendment, the effect of which will be to correspondingly reduce the right of private people to support these new hotels.

Mr. Speaker: I endorse the Chairman's ruling in this matter. The amendment the hon. member desires to move cannot be added to this measure. It is an amendment which can only be moved to an entirely different measure and not the one under discussion.

Committee resumed.

Mr. McDowall in the Chair.

Title—agreed to.

Bill reported with an amendment.

House adjourned at 11.55 p.m.

Legislative Council,

Thursday, 12th September, 1912.

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

LEAVE OF ABSENCE.

On motion by Hon. Sir E. H. Wittenoom, leave of absence granted for twelve sittings to Hon. R. W. Pennefather on the ground of ill-health.

[59]

BILL — FREMANTLE-KALGOORLIE (MERREDIN-COOLGARDIE SECTION) RAILWAY.

In Committee.

Resumed from the 10th September; Hon. W. Kingsmill in the Chair, the Colonial Secretary in charge of the Bill.

Clause 2—Authority to construct:

The COLONIAL SECRETARY: At the previous sitting the point had been raised as to whether the Bill, in addition to prescribing that the line should be of a 4ft. 8½in. gauge, should not contain some provision for the temporary laying of rails on the 3ft. 6in. gauge. The point had since been referred to the Crown Law Department, and in response the Solicitor General had submitted the following opinion:—

> 1, The construction of this line will not be completed until the gauge is of 4ft. 8½in. In the meantime there is no reason why rails should not be temporarily laid at any lesser gauge. It is not essential to mention the intended gauge of a railway. 2, There is nothing in the Public Works Act requiring the gauge to be stated in the special Act authorising the construction, or to prevent the gauge of the railway being altered during or after construction. 3, In the case of the Merredin-Coolgardie railway, however, the intended gauge is stated, apparently to indicate that it will be a section of the Transcontinental railway. The words "with a gauge of four feet eight and a half inches," however, are not essential, and, if they are omitted, the operation of the Act will be in no way affected, and, on the other hand, if they are retained, it will not affect the temporary use, pending completion of the line, of the narrower gauge for the purposes intended.

Hon. Sir E. H. Wittenoom: Will they guarantee a certificate on the 3ft. 6in. gauge?

The Colonial Secretary: It will not be open to public traffic.

Hon. H. P. COLEBATCH: The present financial position of the State did not justify us in giving the authority

asked for in the clause. On the second reading the Minister, in answer to an interjection, had declared that the financial position to-day was not more stringent than in 1903 when a similar Bill was originally passed. As a matter of fact, in 1903 we had 80,000 people fewer to provide for, and we were receiving from the Commonwealth as our share of the Customs £1,060,000 for the year as against a total of £640,000 received last year. Our revenue per head in 1903 was £15 13s. without any special taxation, while to-day with special taxation it was £13 5s. In 1903 we were able to borrow money at 3½ per cent., whereas to-day the Premier was doubtful about being able to get any more at 4 per cent. Seeing that this was so, could we afford to construct the line when we did not know but that the money would cost us something over 4 per cent.? In 1903, after spending a large amount of revenue on undertakings of a similar character to this, we had finished with a surplus of £230,000, whereas to-day we had a deficit of £280,000. In other words, we were half a million to the bad as compared with 1903. The line was going to cost, in interest and sinking fund, £150,000 per annum, and this to earn nothing at all. The line would give us no direct advantages, would open up no new country, and yet was going to cost the State £150,000 per annum. Moreover, in a Press message on the previous day it was shown that Mr. O'Malley had announced that not for six months would the Federal Government be able to commence their section of the line, and that it could not be expected to be finished in less than three years from that time. In other words, three and a half years was the shortest time in which the Federal Government could finish their section of the line. Surely in view of this the State Government would realise the wisdom of withholding this proposition, if only for 12 months.

Hon. M. L. MOSS: The hon. member's speech had been in the nature of a second reading address on the Bill, the principles of which had already been approved by a large majority of hon. members. The hon. member's views would apply equally well to every public work the Government intended to introduce. It required no hon. member to tell us that the revenue in 1903, when we had not suffered to any extent from the disappearance of Customs duties, was higher than it was to-day when the sliding scale had disappeared. Yet no Government since 1903 had been deterred from embarking on large undertakings to open up the country.

Hon. H. P. Colebatch: This will not do that.

Hon. M. L. MOSS: It would certainly be a crying shame if this line from Fremantle to Merredin was taken alongside the present 3ft. 6in. line, it should open up new country.

The CHAIRMAN: Members would be in order in considering the whole of the line on the second reading, but they were distinctly out of order in considering other than the clause at present.

Hon. M. L. MOSS: While agreeing with the ruling, he was surprised at the latitude allowed the hon. member. The argument would have been valid against the second reading, and against the undertaking of any further public works, if members looked at the matter through the same spectacles as Mr. Colebatch. However, we had agreed to the principle, and if the hon. member wished to persist in that line of argument he could do so on the third reading. Regarding the question whether the Government were on safe ground, he had no more to say after the reply of the Colonial Secretary. The vote on this clause should be formal.

Hon. A. SANDERSON: In agreeing with the preceding speaker, he wished the Minister to inform the Committee whether he had had an opportunity to consider if the Government would have to pay duty on the rails for the line.

The Colonial Secretary: They will.

Hon. A. SANDERSON: It would not be out of place to open up negotiations with the Federal Government with a view to getting the rails in duty free.

Hon. M. L. Moss: I have a proposed clause on that.

Hon. A. SANDERSON: If duty was charged it was obvious that an addi-

tional financial and unnecessary burden would be placed on the country. Could not something be done to get the rails in free, or purchase sufficient for our section from the Federal Government, and thereby avoid the payment of the 15 per cent. duty.

Hon. J. D. CONNOLLY : It was impossible for him to agree with Mr. Moss's statement that the argument used by Mr. Colebatch should apply to other public works. There were works which must be constructed for the development of the country, but this work would not develop the country in the least. It was simply the work of duplicating a railway line. Mr. Colebatch was to be commended, even though he might be accused of having made a second reading speech. The present financial position of the State could not be emphasised too often. There was an urgent necessity for public works, but not for this particular work. The Minister had asked for authority to construct a line on account of the immense amount of traffic which would be involved in carting the material for the Federal Government. There was nothing in the argument, as the line had carried more traffic ten years ago than it would be required to carry even with the added traffic for the Federal Government. If there was no need for the construction of the line for the carriage of this material, there was no other purpose for which it should be built at present. Mr. O'Malley had said it would be six months before the first shovelful of earth was turned at Kalgoorlie, and the line would take three years to build after the first rail was laid. The line from Southern Cross to Coolgardie, 112 miles, had been built in the face of great difficulties in six months and this section could be built in the same time. Therefore, we were authorising the construction of this line three years before it was necessary.

The CHAIRMAN : No time was mentioned in Clause 2.

Hon. J. D. CONNOLLY: The reasons against the authority to construct constituted the matter on which he was speaking.

The CHAIRMAN : There was no desire on his part to rule members out of order, but at the same time it was right that members should not make speeches covering so much ground as had been made on this particular clause. If they dealt with the details of the clause with regard to the construction of the railway they would be in order.

Hon. J. D. CONNOLLY : It was difficult to confine his remarks to the clause, because of the big question involved. This section could be constructed at any rate in twelve months, and we were being asked to authorise a line three years before it was necessary, and at a period when money was dear and when a great amount was required for undertakings about to be and already authorised.

Hon. J. F. CULLEN : It would be undesirable for the members to divide again on the clause. He could imagine the Government devoutly thanking the Committee for slaughtering the Bill. It was not a party measure.

The CHAIRMAN : Was the hon. member referring to Clause 2?

Hon. J. F. CULLEN : Yes. If the Government were not under the pressure of a moral obligation to build the line, he could quite understand them gladly leaving it over if their expert advisers thought that would be good business. Even after the Bill was passed, if the Government discovered that they need not build it for the next two years they would be glad to go on with other works and allow this one to come later. The Bill should not be shelved in view of the moral obligation to the Federal Government.

The COLONIAL SECRETARY : It was a most unusual procedure to make second reading speeches at this stage, a procedure which he had never witnessed before. It seemed that not only had he to fight members opposed to a Bill on the second reading, but also in the Committee stage. If that was continued on an extensive scale it would make his position intolerable.

Hon. J. D. Connolly : You have a very short memory if you think you are badly treated in this House.

The COLONIAL SECRETARY: By some members, but not all, he thought he was badly treated. It would not be wise to insist on a rebate of duty on the rails. In regard to other matters, the Government had insisted on full payment from the Federal Government, and he did not see how we could claim any rebate in this instance.

Hon. M. L. MOSS: It was regrettable that the Colonial Secretary had thought fit to make the observations he had, as they would lead people outside the Chamber and his colleagues in another place to believe that it was intended to make his position intolerable. The Minister must understand that on questions such as this it was quite impossible to burk discussion, or to make his position or that of any other gentleman who was the leader of the House, comfortable. The measures must be subjected to a searching criticism, and no Minister had a right to make any complaint in that direction. He would be the last to make it difficult for the Minister to lead the House, and although he was supporting the clause he could not allow such observations as had fallen from the Colonial Secretary to pass unnoticed, because he and others who led the House must expect the House to do its duty as a Chamber of revision. It was difficult, no doubt, for an hon. member leading the House when he brought forward a Bill to have it subjected to criticism, but he must take it all in good part, and not talk about his position as being intolerable.

Hon. J. D. CONNOLLY: On a personal explanation, he could not allow the remarks of the leader of the House to go forward to the public that because Bills had been criticised and criticised only in a moderate way, members were making his position intolerable. The leader of the House must remember that he (Mr. Connolly) had sat in his place and had had Bills criticised a great deal more than they had ever been criticised since the hon. member had been the leader of the House, and the hon. member would also recollect that he (Mr. Connolly) had sat for four consecutive sittings on one particular Bill, and in that time had only succeeded in getting through two clauses. Yet the Minister now complained that hon. members were making his position intolerable. That aspect of the question should be put right and notwithstanding what the Minister said, he would continue to fully exercise his right to criticise any Bill that might come forward.

Hon. F. CONNOR: It was intolerable that any Bill which was brought down by the Government should be criticised at all.

Clause put and passed.

Clause 3—Deviation:

Hon. M. L. MOSS: It was his desire to prevent, if he could, the trouble that had arisen with other Railway Bills which had been passed. We had been told, and it had been repeated in the Press that the Bill was to serve a two-fold purpose; it was to save an expenditure of £100,000 in connection with the construction of sidings——

Hon. H. P. Colebatch: Seven thousand pounds.

Hon. M. L. MOSS: At any rate, it was to save the expenditure of a sum of money to put sidings along the present line to carry the additional traffic that would go there, because of the necessity to carry the plant and material to construct the federal portion of the Transcontinental railway. His desire was to prevent what had occurred in connection with other lines, and if we were to build sidings as the engineer suggested as an alternative, there would be no need for a deviation of ten miles from the present 3ft. 6in. line. The power was entirely unnecessary, at any rate between Merredin and Coolgardie. Between Fremantle and Merredin, however, he was anxious that the line should be utilised to open up new country, although Mr. Colebatch had not interjected "Where was it"?

Hon. H. P. Colebatch: I have asked you half a dozen times, and you have not been able to tell me.

Hon. M. L. MOSS: The hon. member's patriotism was such that he must have that line going through Northam.

He (Mr. Moss) however wanted it to open up new country. As there was no need for a ten-mile deviation between Merredin and Coolgardie, as was proposed in the clause, he moved an amendment—

That in line 3 the word "ten" be struck out, and "two" inserted in lieu.

The COLONIAL SECRETARY: While there was no necessity for the retention of ten, it might be sufficient if the hon. member would agree to reduce the deviation to five miles. By inserting ten, the Government had only followed what had always been done in the past.

Hon. M. L. Moss: Why do you want five miles?

The COLONIAL SECRETARY: It was necessary to deviate some distance because a one in 80 grade had to be found.

Hon. M. L. Moss: Five miles would satisfy him, and by permission of the House he would alter his amendment in that direction.

Amendment as altered passed; the clause as amended agreed to.

Clause 4—Power to Governor to compulsorily purchase land within 15 miles of railway:

Hon. C. SOMMERS: It was to be hoped the Committee would not agree to this clause. We had settled country within a five miles radius of the railway line, and the compulsory taking of a man's holding that did not exceed one thousand acres so that it might be cut up and disposed of to others would mean confiscation.

Hon. M. L. Moss: There is provision for the payment of full compensation.

Hon. C. SOMMERS: Why should a man have his holding taken from him so that it might be divided amongst other people? There would not be created any vast wealth by deviating the line five miles. This was not new country and we were not increasing the wealth of a particular owner along that line, and to say that a small holding of a thousand acres should be taken away for the purpose of being divided amongst others, even though compensation would be paid, was nothing more than confiscation. If the area were ten thousand acres and it was felt that some good might be done, that would be a different matter. All realised that large holdings were not in the public interests.

Hon. J. D. Connolly: What area would you propose to make it?

Hon. C. SOMMERS: In connection with other measures the area was 5,000 acres.

The Colonial Secretary: It is one thousand acres.

Hon. C. SOMMERS: The thousand acre farm was sometimes a man's most sacred possession; and what could the Government do with such a small area as a thousand acres in the way of closer settlement?

Hon. M. L. MOSS: The hon. member had used the word confiscation frequently, but no fair reading of Clauses 4 and 5 would justify the use of the word. The clauses provided for compulsory purchase with full compensation. A thousand acres was not a large area for an agricultural property, but if the hon. member would look at paragraph (b) he would find that this area could also be compulsorily purchased for the purpose of a townsite. If in the public interests it became necessary to take this land, the owner had to forfeit it, but not by way of confiscation, because he got full compensation with ten per cent. added for the compulsory taking. There was nothing wrong with the clause.

The COLONIAL SECRETARY: This clause had been in every Bill which had been introduced and passed through the Chamber for many years past. He did not know of one instance in which it had been availed of, but the necessity might arise for the resumption of such land; the clause therefore should be in the measure.

Clause put and passed.

Clauses 5, 6, 7—agreed to.

New clause:

Hon. M. L. MOSS moved—

That the following be added as a new clause :—This Act shall come into operation on a date to be fixed by proclamation, provided that such proclamation shall not be made or published until the Government of the

State has made arrangements with the Government of the Commonwealth to allow entry into Australia of all the plant and material necessary for the construction of the line free from the payment of all duties of customs.

One would have thought that the ordinary business tact of the Government would have prompted them to make arrangements such as were suggested in the new clause. The Government declared that under the existing 3ft. 6in. line it would be impossible to carry what the Federal Government would require in connection with the construction of their portion of the line, and that in consequence it was necessary for them to build the new section. The point which the new clause aimed at had arisen within the last six or eight months. The State Government had been asked by the Federal Government if they could carry certain material over the 3ft. 6in. line in order to enable the Commonwealth to construct the line from Kalgoorlie to Port Augusta. The State Government replied in the affirmative, but said that it would be necessary for them to construct their section of the 4ft. 8½in. line in order to avoid congestion of traffic. Mr. Sanderson had made an excellent suggestion that the Federal Government should be asked to purchase the rails for this section of the line in the open market, import them into the Commonwealth, and sell them to the State Government at cost price. As the State was undertaking such a terrific burden as the building of the Fremantle to Kalgoorlie section of the Transcontinental line, the least the Federal Government could do was to release the State from the customs duty on the rails and material. It was surprising that the State Government had not already made this suggestion to the Federal authorities. If that suggestion was not acted upon, the amendment would be all the more necessary. The Federal Parliament was now sitting, and it would only be necessary to pass a small amending Bill of one clause to allow of the whole of the rails for this section and that from Fremantle to Merredin to be brought into Australia duty free. At a low estimate, a million pounds would be the cost of the rails and fastenings, plant, and other material, and as the minimum duty was about 15 per cent., the State would be called upon to pay anything from £150,000 to £200,000 in duty. The State was not in a position to throw away that huge sum of money, and if ever there was a case for assistance by the Commonwealth Government this was one. The amendment would draw the attention of the people of Western Australia to the fact that the Council had raised a very important question involving the best part of £200,000, which should be saved to the State if possible. To a certain extent, the State had the Federal authorities in its hands in this matter, because they were asking the State for concessions in connection with the carrying of their material. It was unfair to ask the State to pay that huge sum of money into the Federal coffers, for it was not as if the sliding scale was in existence and the State received a proportion of the money back.

Hon. J. D. CONNOLLY: The new clause was a reasonable one, and there should be no difficulty in persuading the Federal Government to accept it. Undoubtedly, authority was being asked for the construction of that line, in order to convenience the Federal people. The line was certainly not for the convenience or benefit of the State at the present time. It was being built at least three years before it would be necessary for the comfort of passengers on the Transcontinental line, and the sole purpose of building it now was to facilitate the Commonwealth work in building the Transcontinental line. It went without saying that if that facility was not given, the construction of the Federal work would cost more money, and on that ground alone the State was entitled to ask for consideration, especially as that was consideration which would cost the Commonwealth nothing.

Hon. J. F. CULLEN: It could not be said that the proposal before the Committee would cost the Federal authorities nothing, because if the Commonwealth had to forego the duty on this material it would cost the Commonwealth the

amount of that duty. It was useless for the hon. member to bury his head in the sand and endeavour to delude himself, because he certainly was not deluding the Federal Government. The object of the new clause was all right, but he suggested to Mr. Moss that the clause should express on the face of it the special nature of the case. The hon. member did not intend that this concession should be a general thing.

Hon. M. L. Moss: It is for this railway only.

Hon. J. F. CULLEN: The clause should express the fact that this was for a semi-federal work undertaken mainly in the interests of the Federal Government, and that there was no intention to make this a precedent for refunds on other Government works. It had been argued in the past whether all Government requirements should not be allowed to come in free, and this clause might be regarded as the thin end of the wedge to secure an all-round rebate on Government importations. The clause could not do any harm, but if the Federal Government proved adamant there would need to be a review of the whole Bill.

Hon. A. SANDERSON: The Colonial Secretary and his colleagues should not regard the amendment as in any way hostile to themselves or to the Bill. If the new clause was inserted he would follow the resultant negotiations with the closest interest and attention. He trusted that the Government would accept the proposal, and, in view of the position of affairs in this State, he could hardly believe that the Government would do otherwise.

Hon. E. M. CLARKE: The building of this line was a unique case. The State was constructing the line for the use of the Commonwealth, and seeing that this State—one of the smallest in the Federation—was taking on itself the construction of such a huge work, the least the Federal Government could do was to allow the rails to come in free. The building of the Fremantle to Kalgoorlie section was going to cost an immense sum and the other States were contributing nothing towards it. He hoped the Minister would take the new clause in the spirit in which it was moved, because the desire of those who supported the amendment was to husband the funds of the State as far as possible.

Hon. R. D. McKENZIE: The Bill should not be loaded with this additional clause, especially as the suggestion made by Mr. Sanderson offered a better way of dealing with the case. The Federal Government were now on the market for a huge quantity of 80lb. rails, and would be able to get them much cheaper than the State when buying only a small quantity; thus the Commonwealth would be able to sell the State the rails at a cheaper price than the State could purchase them independently. This was a work of a special nature. The Government would not build it for some considerable time were it not for the big traffic which was expected in connection with the Federal building of the Kalgoorlie to Port Augusta section. In those circumstances, he hoped the Minister would promise that he would use his best endeavours to have Mr. Sanderson's suggestion carried into effect. If that was done it would be advisable for Mr. Moss to withdraw his proposal.

Hon. M. L. MOSS: The clause drawn up would avoid all the trouble of getting a refund from the Federal Government, but at the same time it must be recognised rails could be purchased on better terms through the Federal Government. He would like to know had the Government given any consideration to this matter; did they think it of sufficient importance to give consideration to a matter that might mean the saving of a large sum of money?

Progress reported.

BILLS (2) MESSAGES AS TO AMENDMENTS.

Messages received from the Legislative Assembly notifying that the amendments made by the Council had been agreed to in the following Bills:—

1, Methodist Church Property Trust.

2, Health Act Amendment.

BILL—INDUSTRIAL ARBITRATION.

Second Reading.

Hon. J. E. DODD (Honorary Minister) in moving the second reading said: I fully realise the responsibility of making hon. members as thoroughly acquainted with the provisions of this Bill as I possibly can. I realise also that possibly there will be keener and more analytical criticism in this Chamber than there was in reference to the Bill in another place, so that it rests with me to make the provisions understood as clearly as I can. It will not be out of place to give a brief review of what has led up to industrial arbitration. I know there are members in the Chamber who are firmly opposed to arbitration in any shape or form; I believe Mr. Sanderson honestly thinks that we should not interfere with the worker in his right to strike, or with the employer in his right to lock-out. The hon. member believes that each should have as much freedom as he likes to settle his own problems. There are several members who were not here last session, and it may be necessarry to go somewhat over the grounds traversed last session. The tendency of industrialism during the last 100 years has been towards collectivism. The worker in his capacity as a unit has gone out of existence, and we now have the worker in the aggregate; and all the demands for higher wages and better conditions are now almost wholly made in connection with the collective capacity of the worker. There is no such thing now as a worker in his individual capacity as there used to be in the old days. The great concerns we have and the big industries all tend to bring the workers together in a collective capacity, and it is the collective bargaining that has led up to the new idea of industrialism. Until 22 years ago there was no attempt made in Australia by legislation to settle industrial disputes unless by way of suppression, and it was the maritime strike, the shearers' strike and the Newcastle and Broken Hill strikes, in the period from 1888 to 1892, that set employees and legislators thinking of some other means of settling industrial disputes than by striking. As I said last session, I know a little bit about some of those strikes and I do not wish to dwell on some of the evils of them. I never want to see the time arise again in the history of Australia when we shall go back to that old system of settling disputes. I have been unable to ascertain the money cost of those strikes that took place during the period mentioned, but I can give a few statistics, which will be interesting, in regard to some strikes that have taken place during the last two years. I went to great pains a few months ago to gather some of these statistics in order to deliver an address on arbitration, at Boulder, which is a place that during the past six months needed some little talk about the benefits of arbitration. The great coal strike of England commenced on the 23rd February of this year and ended on the 9th April. It lasted six weeks. It is said to have been the greatest display of organised labour the world has ever seen, and the most colossal strike ever heard of in the world. It affected 1,053,500 miners and 492,260 other employees, and it is estimated that the total loss to the community in trades union funds and the cessation of production amounted to £50,000,000. This is not an estimate compiled by Labour authorities; it is an estimate taken from statistics and from articles in the various reviews. In the Boer war, which lasted three years, there were half a million men engaged, and it cost £200,000,000, so that if the coal strike had continued for six months it would have more than equalised the cost of the war. That is the money cost; the distress and ruin caused by that strike and others cannot be estimated in figures. For instance, during the great transport trouble in England last year there were hundreds of tons of food stuffs destroyed in Liverpool, and the cleansing of the poorer parts of the city was suspended, resulting in the death-rate among children rising from 20 to 157 per week, the total number of children who died during that short industrial war reaching 500. I mention this to show the horrors of industrial wars. They are just as acute at times as are those of the battle field. There are many other results of strikes,

some of which I do not wish to draw attention to, but I have repeatedly spoken of the creation of the scab or blackleg. Mr. Colebatch knows something about the hatred engendered by the creation of the free labourer—what we term a scab and blackleg. I think the hon. member knows with me some of the pitiful and bitter consequences resulting in that direction out of a strike. If there is any way in which we can tend to lessen that feeling by legislation, I think we should adopt it. I do not think that during the world's history there has been more industrial unrest than there is at present or than there has been during the past year or two, and I shall try to deduce reasons from this unrest as to why we should pass the Bill I am now introducing. We are asking the House to pass a Bill that is going to give very wide powers indeed to an arbitration court and I am going to try to show why we should give these powers. Strikes have been almost universal during the past two years. We can pick up any paper we like at any time and see in some part of the world a strike taking place. Even the lepers in Japan and the prisoners in New Zealand have gone out on strike. Right throughout the world, it does not matter whether it is England, France, Austria, Germany or here in Western Australia we have had strikes.

Hon. D. G. Gawler: In spite of arbitration.

Hon. J. E. DODD (Honorary Minister): Yes, and one or two strikes to which I may refer are the Fremantle strike, the engineers' strike at Kalgoorlie, the moulders' strike at Kalgoorlie, and the engineers' strike against the Government in this State. I would not attempt to palliate for one moment the conduct of the workers in striking as they did. I have not palliated it in other places and I shall not do so here. Apart altogether from that, it has to be conceded that the Arbitration Act is such that it is almost impossible for a union to take a case to the court and have it thoroughly heard on its merits, so there has been some excuse for these unions to go out on strike in the way they did.

Hon. M. L. Moss: There is no ground for making such a statement as that, because these men were under existing awards.

Hon. J. E. DODD (Honorary Minister): I would dissuade any union from going out on strike under the present Act, but the conditions of the Act are such that there are some grounds of excuse for unions acting in the way they have done.

Hon. Sir E. H. Wittenoom: Were they not under existing awards?

Hon. J. E. DODD (Honorary Minister): Some of them. I do not palliate the conduct of these unions in striking, but the moulders at Kalgoorlie, for instance, were not a registered union. Though that does not alter the fact that it is against the law of the land to strike, at the same time they were not a registered union asking to take advantage of the Arbitration Act. I am not going to say, either, that arbitration is bad because of the unrest, but it may possibly lessen some of the effects of the strikes. The coal strike in England resulted in a Minimum Wage Bill passing through Parliament. As members have stated here during the last debate we had on this subject, that most of the English Labour leaders are opposed to arbitration, and that arbitration had no following hardly in England. I want to show how the change that has taken place in England during the past two years has been brought about by these strikes. It is as well, as one of the writers I am going to quote states, to have variation of methods by which we can realise where we are. They had strikes in England and a change in opinion has been brought about there. One English newspaper states—

> The miners have won. They have won the greatest victory in the annals of industrial conflict. They have won it, however, because the community, as represented by Parliament, stepped in and gave the men a victory. The miners' strike is the most eloquent condemnation of strike methods and the most powerful testimony to the value

of State arbitration that could be furnished.

That is what one of the English newspapers states, and Mr. Phillip Snowdon, a Labour member, and I believe the most intelligent Labour member in England, and a very able man, writes as follows:—

> As strikes, both the railway strike and the miners' strike were complete failures. Both were converted into successes by the interference of the State, and by that alone—that is to say by the very power which the men had scorned and rejected.

He goes on further to say—

> The experience of the recent events in the labour world has proved, as every previous experience has shown, that though the strike may be successful occasionally and in peculiar circumstances, it is useless as a means of permanently and securely advancing the welfare of labour. It is well that we should have these occasional variations in labour methods. They teach by practical experience what men are not willing to learn by precept and precedent. Suffering is associated with such experience it is true, but all experience and progress involves suffering. The futility of the strike as a means of realising the higher aims of labour has not yet been brought home to all the working classes by recent events. We shall probably have a continuance of strikes for some time longer. But the miners' strike should have convinced every workman with a capacity to observe and think that there is a reserve power in the community which makes it absolute folly to think that a general strike can ever take the place of political action.

There are many other prominent men and leading speakers who follow in the same strain. Members may think it strange that I should here try and show that these methods help the condition of the worker. I thoroughly realise this, also that there is a large number of workers in this State, and throughout Australia, who are beginning to lose faith in arbitration. I want to say that arbitration is not what they say it is. The worker is losing faith in arbitration because he says it is the device of the employers for the purpose of reducing his wages. I have had to stand up more than once to show the absurdity of that statement, but let any hon. member go amongst any gathering of workers where he lives and address them on arbitration, and they will tell him it is the device of the employer; but when a leader of workers tells others it is a device of the employers to reduce wages he is saying something that is absolutely wrong. I, for a moment, wish to draw attention to the arbitration laws that are in existence in the various States from the time they first commenced. I would like to say that I am indebted for the information I have here to a report on strikes and lockouts issued by the Board of Trade in England in February of this year. It is a very interesting document, interesting to read from either side—the advocates of arbitration and those opposed to it. In 1890 in New South Wales a Royal Commission was appointed to consider whether or not some means could not be devised for settling disputes, and that Commission reported in favour of district councils of conciliation with one council of arbitration. That is similar to what we have here, or what we are supposed to have here, but the council of conciliation has fallen into disuse. From all over Australia and the world arose a demand for arbitration. South Australia passed a compulsory conciliation measure in 1894; Queensland passed an Act in 1892, but placed no restriction upon the right of strike or lockout; in 1896 Victoria adopted the wages board system and later in 1903 established a court of industrial appeal, constituted by a Supreme Court judge. That was that you could appeal from a wages board to a Supreme Court judge. New South Wales adopted several Bills dealing with conciliation and arbitration, the most important of which was the Act of 1908. In that, heavy pealties were imposed for breaches and several strikers suffered terms of imprisonment, notably Peter Bowling, Grey, Brennan, and several others members know of.

Hon. M. L. Moss: They did not serve for long.

Hon. J. E. DODD (Honorary Minister): They served longer than I would care.

Hon. M. L. Moss: But fortunately you would not do what they did.

Hon. J. E. DODD (Honorary Minister): It was in New Zealand that the first real and practical attempt at a solution of settling disputes by arbitration was introduced. The big maritime struggle affected New Zealand as it did Australia, and legislators set about finding a remedy, and in 1894 they passed the first measure from which all other Acts since that time have been copied. The Minister for Labour in New Zealand, speaking of the Bill in 1908, made the following remarks, and I would like members to pay attention to these few remarks, because I do not want members to be led away by thinking that arbitration is ever going to abolish strikes. I am not going to say that it will.

Hon. Sir E. H. Wittenoom: I am sure it will not.

Hon. J. E. DODD (Honorary Minister): This is what the Minister for Labour in New Zealand said—

> The law was never intended to prevent strikes, and never could, and neither this nor any other law ever could. The object is to discredit strikes, because they are a national calamity. Like boomerangs they generally come back and strike the man who throws them, that has been the case in our limited experience.

The New Zealand Act never entirely prohibited strikes or lockouts. They were only unlawful when cases were pending or were subject to awards or agreements. They have a system there of dealing with public utility, a system which we shall probably have to fall back on here in the event of a Bill such as this not achieving the object it is intended to. In New Zealand there is a section of the Act which applies to what they call public utilities: for the manufacture of coal gas, the supply of electricity for light or power, the supply of water to inhabitants of boroughs or towns, the supply of milk for domestic purposes, the sale and delivery of coal for domestic and industrial purposes, the slaughtering and supply of meats for domestic consumption, the working of ferries, tramways, or railways used for the carriage of goods to passengers. A strike in those public utilities is illegal, and the worker or employer is subject to certain penalties unless he gives a month's notice, or fourteen days in some cases, of his intention to strike. Since 1908 the New Zealand Act has been altered, making it more restrictive still than the measure I am speaking of now. I wish to call attention to the fact that New Zealand and several other places such as Canada, and also France, have several laws dealing with public utilities. Whilst they make no reference to any other industry, still they make it entirely illegal for a strike to take place on these matters unless a certain notice is given. I think the Act recently passed in New Zealand is almost as restrictive in some cases as our Act here. I may say this, that the only Act in the world that absolutely restricts the right of strikes or lockouts, or is supposed to restrict, is in Western Australia. The position in Canada is something similar to what it is in New Zealand. They have a law there which has acted for good as far as the settling of disputes is concerned, but the same trouble that has arisen in Canada has arisen here, and the *Canadian Labour Gazette*, speaking of the big coal strike which took place in 1907 said—

> Severe as the situation actually became, it must have been infinitely worse had not the good offices of the Department of Labour resulted in a settlement between the operators and workmen.

The chairman, I think, of one of the conciliation boards, who was connected with the settlement of that strike, made use of these words in summing up, and to my mind they are about the best summing up in connection with a strike that I have ever read, dealing as it does with bodies other than those immediately connected, the worker and the employer. This is what Mr. McKenzie King says—

> I cannot but feel that a little more tact and disposition to understand

aright the position of the other by each of the parties might have averted the whole trouble. Certainly, had the parties been prepared to view their actions with the same regard to the interests of the public that they finally came to view them, the strike would never have continued so long.

The interests of the public, I think, is a matter which concerns this Chamber. He goes on to say—

In the settlement which was reached both parties, I believe, made concessions in view of the great public emergency, which they would not have made had they not been moved by humanitarian considerations. Up to this point, however, the struggle, so far as third parties were concerned, appears to have been purely selfish. Until brought face to face with the situation which the long continuance of the dispute had produced, the public does not seem to have come in for any consideration whatever. When it is remembered that organised society alone makes possible the operation of mines to the mutual benefit of those engaged in the work of production, a recognition of the obligation due to society by the parties is something which the State is justified in compelling, if the parties themselves are unwilling to concede it. In any civilised community private rights should cease when they become public wrongs.

There is the most justification possible why this Chamber representing the public should take a hint in bringing about legislation which will result in the settlement of strikes and lockouts. Mr. McKenzie King says—

When organised society alone makes possible the operation of mines to the mutual benefit of those engaged in the work of production, a recognition of the obligation due to society by the parties is something which the State is justified in compelling.

Hon. D. G. Gawler: It is the strike provisions themselves that protect society, is it not?

Hon. J. E. DODD (Honorary Minister): That is what we are trying to do; that is the provision we are trying to bring about. Society makes it possible for the worker and the employer to carry on their employment, and surely it is due to society that they should have some right in compelling those parties to settle their troubles. I do not say that we should always take it as a general principle, it may operate fairly badly sometimes. It was said in connection with the tramway trouble that we should not interfere with the private rights of the city council, but when a private right becomes a public wrong the State is justified in stepping in and endeavouring to bring about some settlement.

Hon. F. Connor: It requires some discrimination sometimes.

Hon. J. E. DODD (Honorary Minister): Undoubtely it does. There are a good many people who think that arbitration is confined to British-speaking dominions, that possibly no other part of the world has arbitration laws. I may point out that in Holland legislation applies only to main lines of railway; in Belgium to railways, telephones, postal and telegraph services. In Spain, Portugal and Turkey, strikes can only take place after certain conditions have been fulfilled in relation to notice of intention to cease work. The law of France only prohibits engine-drivers, guards, and brakemen actually in charge of trains. Denmark and the Swiss Canton of Geneva have courts of arbitration which have power to inflict penalties for the non-observance of agreements. So arbitration is not peculiar to Australia or to English-speaking dominions. In connection with our existing Act, as I stated just now, it is the only one in the world which absolutely prohibits strikes or lockouts. The conciliation boards which are provided for in the existing Act have fallen into disuse because there exists an Arbitration Court to which the parties can appeal, and they have always appealed to that court rather than to the conciliation boards. It might be as well to remind

hon. members what the existing Act has done in order that all criticism may not be directed to what it has not done. Last year I gave figures in respect to what it had accomplished up to that time, and I now propose to give the figures showing what it has accomplished since its inception. It has dealt with 300 disputes concerning 50 different industries, which have been referred to the court. In all 12,000 employees are working under agreements and 30,000 working under agreements and awards combined. Under the Federal Act 104,000 workers are working under agreements and awards. These figures cover a period up to one day last week, when I wrote to the registrar and asked him the total number of workers coming within the jurisdiction of the court. Then of course there is the New South Wales Arbitration Act and the Victorian wages board, under which a large number of employees are working. A great trouble with our existing Act is that although it was supposed to ignore the rules of evidence, and the awards were to be delivered in good conscience without regard to technicalities, yet all hon. members who have followed up the proceedings of the court will agree that probably there is no court in the world in which more technicalities are observed and in which more regard is paid to rules of evidence.

Hon. M. L. Moss: Then you know nothing about what takes place in other courts.

Hon. J. E. DODD (Honorary Minister): I am going on the newspaper reports of the Arbitration Court and of the records of the court. The shop assistants' case, heard the other day, was a case in point. Some twelve months ago that union cited a case in the Arbitration Court. The hearing was taken before Mr. Justice Rooth. Two objections were raised. One was that shop-keeping was not an industry, and the other that certain employers had not been cited. Mr. Justice Rooth ruled the union out on the score that certain employers had not been cited, but at the same time he ruled that shop-keeping was an industry. It took the union nearly twelve months to establish the case again, and this time Mr. Justice Burnside was on the bench. After two or three days' consideration Mr. Justice Burnside ruled that shop-keeping was not an industry, and the union's case went out on that score. Therefore, after twelve months one judge decided that shop-keeping was not an industry although the other had decided that it was an industry, and consequently the applicants suffered each time. I could give numerous other cases in which the workers have been ruled out on technicalities. I would like to explain the provisions of the new Bill from start to finish, as nearly as I can; and if there is found to be anything I have omitted, or anything which I have not explained, I shall be only too pleased to answer any questions. I can assure hon. members that if there be any omission at all it will not be intentional on my part. It is provided that all the appointments, regulations, etcetera, of the old Act shall be followed in the new Bill; but the Bill differs from the existing Act in the respect that conciliation boards have been abolished, and industrial districts also. The reason for the abolition of industrial districts is in order that it shall be left to the discretion of the court to decide over what area an award shall have effect. Indeed, that has been the condition under the existing Act and so industrial districts are not really needed at all. So far as conciliation boards are concerned they have never been used since 1904 or 1905, and consequently we can see no use for retaining them. The interpretation clauses are among the most important in the Bill. We have "groups of industries" defined. we have "industries" and "industrial disputes" and "industrial matters" defined. Each of these definitions bear closely one upon the other. If it were possible to get a clear definition of "industry" which would satisfy the judges, we would make every attempt to secure it. When the Bill reaches the Committee stage, I shall be very glad to welcome any suggestion in regard to the definition of

"industry" which will help us to overcome the difficulties we have experienced. We are intending to add a schedule to the Bill, of which I shall give notice in due time, in order that hon. members may have a good opportunity of studying its provisions. The schedule prescribes to what unions and industries the Bill applies and we intend to see whether we cannot overcome the difficulty in dealing with the word "industries," apart altogether from the definition we have at present. We have purposely made these interpretation clauses so wide as to cover almost any and every aspect of any industrial trouble which may take place. I can scarcely conceive of any industrial trouble which will not be covered by these definitions of "industrial disputes," industrial matters," and "industry."

Hon. M. L. Moss: We will soon have to get a permit from the president of the Arbitration Court to leave our houses after certain hours.

Hon. J. E. DODD (Honorary Minister): If the hon. member will wait for the full explanation I am satisfied he will support the Bill. The registrations of the various unions in existence to-day are ratified under the Bill; in fact everything will go on just as it is now in reference to awards, agreements, the registration of unions, etcetera. In the definition of "worker" we have reduced the age limit from 16 to 14; that is to say, any person of not less than 14 years of age will be able to take advantage of the provisions of the measure. The definitions of "strikes" and "lock-outs" are similar to those in the existing Act. One is just the opposite of the other. "Lock-out" deals with the employer and "strike" with the worker. The societies or bodies which may become "Lock-out" deals with the employer, two or more persons employing not less than 50 workers during the previous six months preceding the day of application, and in the case of "worker" any number not less than 15. Any branch of a society may also become separately registered subject to other provisions to which I will draw attention later on. Further than that, a composite union may become registered under certain conditions. If hon. members will look at Subclause 2 of Clause 6, they will see that any branch of a society may be treated as a distinct society.

Hon. D. G. Gawler: That is to meet the shop assistant's case?

Hon. J. E. Dodd (Honorary Minister): Yes, and other cases which may arise owing to the definition of the word "industry." There are not only shop assistants, but clerks and engine drivers for instance, and other such unions registered in connection with these industries. It is not a general rule in the Labour movement that there should be composite unions. There is a large number of unions, such as carpenters, engineers, moulders, and others, all connected with one industry, and according to the ruling of Mr. Justice Burnside it will be necessary for those included in the shop-keeping industry to split up into twelve or twenty unions in order to secure redress.

Hon. J. D. Connolly: What is the objection to that?

Hon. J. E. DODD (Honorary Minister): It would be almost impossible for them to keep going.

Hon. J. D. Connolly: You would like to see one huge union of employees.

Hon. J. E. DODD (Honorary Minister): No. In the past I have opposed composite unions and a very great number of the Labour party to-day are opposed to composite unions of all industries.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. J. E. DODD (Honorary Minister): Before tea I was explaining that in some cases composite unions might be registered, but pointing out that clerks and engine-drivers would come under the same category. In the group industries, trades that are closely related, such as masons, plasterers, bricklayers, etcetera, may become registered, and these unions may cite a case before the court. This has been done in order to get over the difficulty relating to the definition of

the word "industry." Clause 7 provides in what manner a society may make application in order to be registered. The resolution has to be carried by a majority of members, and certain rules have to be provided for, subject to the same.

Hon. D. G. Gawler: Not a majority of the union, only of the members present at the meeting.

Hon. J. E. DODD (Honorary Minister): Yes, only of those present. In order to secure the registration of rules, it is only necessary for a majority of those present to pass them.

Hon. D. G. Gawler: And to form a society, too.

Hon. J. E. DODD (Honorary Minister): Yes, Subclause 1 of Clause 7 states—

> Before any society makes application to be registered a resolution authorising the application must be passed by a majority of the members present in person at a general meeting of the society specially called for the purpose.

Any number of persons can form a society so long as there are more than 15. It is laid down what rules shall be passed in order to comply with this measure. It does not follow that these will be the only rules a society may have; but they have to have a number of rules to comply with the measure. Under Subclause 4 it is provided that the rules must state that—

> (b) No part of the funds or property of the industrial union shall be paid or applied for or in connection with or to aid or assist any person engaged in any strike or lock-out in this State; and that, (c) all industrial disputes in which the industrial union or any of its members may be concerned shall, unless settled by mutual consent, be referred for settlement pursuant to this Act.

Hon. D. G. Gawler: That is under the present Act also.

Hon. J. E. DODD (Honorary Minister): Yes, it simply perpetuates the compulsory element in our law. There is nothing in this Bill to mitigate or take away that compulsory element which we have at present. All industrial disputes must be settled pursuant to this measure. This provision has to be made in the rules of every industrial union. The registrar, if he is satisfied that the rules are in accordance with this provision, shall register the union, but he must give notice to every other industrial society. This is done in order that other societies registered shall know what other unions are seeking registration, and whether they are seeking registration under a similar name, and perhaps in a similar industry. There may be an appeal against the registrar's decision to the judge, that is, if the registrar refuses to register. In Clause 14 there are also provisions for the registration of employers. They are identical with the section of the present Act dealing with employers' registration, but there is also a provision made in reference to the liability of shareholders under the Act. The transfer of shares is not debarred, but the shareholder is liable for a period of twelve months in the event of an award being given. Clause 30 states—

> Nothing in this Act shall prevent a transfer of shares in any incorporated company or other society which constitutes or is a member of an industrial union; but no such transfer shall relieve the transferror from any liability incurred by him under this Act up to the date of such transfer.

Hon. M. L. Moss: How long do you keep the liability on a member of a union? If he ceases to be a member, is he liable for a year?

Hon. J. E. DODD (Honorary Minister): If he ceases to be a member, his liability is not affected. In Clause 18 there is a proviso against any other union registering under a name similar to a union which may be in existence. Appeal might be made to the president of the court against the decision of the registrar regarding registration, and it also can be made to the president of the court in reference to this matter. All amendments of rules must be sent to the registrar, and printed copies must be supplied to every member. Very often we are met by the objection that mem-

bers do not know what the rules are, and therefore it is specifically laid down that each member must be supplied with printed copies of the rules if such are required. Provision is made in Clause 22 that the names of members of the union must be supplied to the registrar, the names of all officers, and the names of the directors in any company which may be registered under the Act. Any industrial union, whether of employers or of employees, will be committing an offence against the Act if these returns are not filled in. Every trustee or treasurer of a union has also to be registered, and a copy of the balance sheet has to be supplied every twelve months to the Registrar of Friendly Societies. Failing this, there is a penalty of £10. Under the present Act, these returns I think are supplied half-yearly; at least some of them are. Under this measure, however, it is sufficient that they should be supplied yearly. Under Clause 26 provision is made that the rules of the industrial union must not impose unreasonable conditions upon members in relation to the continuance of their membership, and must not be oppressive. The reason is that provision is made for preference to unionists, to which I shall refer later; consequently it follows that, if provision is made for preference to unionists, there shall be no unreasonable conditions of membership, either of joining a union, or keeping the membership up when once a man is a member; otherwise it would be intolerable. In the event of the cancellation of a union, the obligation of any award or agreement will go on just the same. Members may think that the union could ask for cancellation, or that a man might cease to be a member, as Mr. Moss stated, and thus gain release from its obligations, but that is not so. Under Division II. industrial associations may be registered. Any industrial association is a body representing not less than two unions, and this may also become registered, and all those provisions of the Act relating to industrial unions, and officers, trustees, and members shall apply to an industrial association, with the exception that no industrial association is entitled to recommend the appointment of a member of the court.

Hon. J. D. Connolly: Why is that provided? Why should there be a combination of two unions?

Hon. J. E. DODD (Honorary Minister): A union is an association of units or individuals, but an association is a combination of unions; there cannot be an association of one union. There have to be two or more.

Hon. J. D. Connolly: Why do you provide for the registration of associations of unions?

Hon. J. E. DODD (Honorary Minister): Sometimes an association may register and the branches may not. There are times when the association, or the head body of a number of branches, may register, and the branches may not register. Take the A.W.A.: They appoint a number of branches throughout the State and are an association, and some of those branches may not be registered. Some probably are not sufficiently strong to register and they may be represented by the association. Under the old Act they could also be registered, but they had not the same power as under this measure. Part III. deals with industrial agreements, and in Clause 35 it is specified who may make these agreements. Clause 35 provides that any industrial union or association of workers or employers may make any agreement in writing for the prevention or settlement of an industrial dispute. It provides how these agreements shall continue in force, and the mode of retirement, and notwithstanding the expiry of the term of an industrial agreement, it shall, subject to any order of the court, continue in force in respect to all parties except those who retire therefrom. That is if the term of an industrial agreement expires, the force of the agreement shall still remain until those who are parties to it retire therefrom. It states any time after the term, 30 days' notice may be given in order to retire from the agreement. In Clause 37 provision is made that parties may be added subject to the consent of the original parties to the agreement. Under the Act at present in existence parties have been able

to come in and express concurrence in an industrial agreement without the consent of the original parties. It may work out this way, that at the time an industrial agreement is made, wages may be low, and the agreement may be for a term of three years. Possibly after twelve months wages may be higher and one party may possibly desire to signify its concurrence in this agreement in order to escape pay ing the higher wages. The same may take place just the other way about.

Hon. W. Kingsmill: Not likely.

Hon. J. E. DODD (Honorary Minister): It may possibly be that a number of employers may also signify their concurrence with an agreement after the conditions have improved. That has already taken place in this State. It is also provided in the subsequent clause that the agreement shall extend to and bind every worker who is at any time whilst it is in force employed by any employer on whom the agreement is binding. Then Clause 39 provides that an agreement may be repealed, varied, renewed. or cancelled by any subsequent industrial agreement, but the power of variation shall only be by leave of the court. Part IV. deals with the court of arbitration, and I think it is here if not elsewhere, that I shall possibly strike some criticism in the passage of the Bill through the Council. Provision is made for the one court of arbitration for the whole State to consist of three members, who shall be appointed by the Governor; one of the members shall be president, and two shall be ordinary members. The president shall hold office for seven years. and shall be eligible for reappointment. The president, unless he is a judge of the Supreme Court, shall receive a salary of £1,000 and each of the ordinary members of the court shall receive a salary of £400. The Bill provides that a person other than a judge of the Supreme Court may be appointed and it also states that the president shall be appointed for seven years. In Clause 50 it is provided that the president and the other members of the court shall be deemed to have been appointed as president and ordinary members respectively, and that their appointments shall be calculated as from the 7th July, 1911. That means that it is provided that the court shall be in existence for another six years.

Hon. M. L. Moss: Does that mean that the two gentlemen who are now on that bench shall receive £400 a year as from July, 1911?

Hon. J. E. DODD (Honorary Minister): I take it they will receive £400.

Hon. M. L. Moss: They will get a retrospective increase?

Hon. J. E. DODD (Honorary Minister): I do not think so. If it provides that, I do not think that was what was intended.

Hon. M. L. Moss: I think that is what it means if I understand plain English.

Hon. J. E. DODD (Honorary Minister): There is also provision made for the appointment of two deputy members. These are to take the place of the ordinary members in the case of illness or in the event of the inability of the permanent member to sit, but there is no salary provided for them other than the salary they would be entitled to whilst the other members are away. I want to say again and emphasise the point, that the Bill provides that other than a Supreme Court judge may be appointed president of the court, and I think it is a very good provision too. If ever we are to get satisfaction in connection with the administration of this Act it will have to be taken out of the hands of a Supreme Court judge.

Hon. M. L. Moss: And put it in the hands of a partisan.

Hon. J. E. DODD (Honorary Minister): The only disqualification for appointment as a member of this court, whether it be the judge or an ordinary member, is the ordinary disqualification imposed in all similar measures. That is that any person being an alien, a discharged bankrupt, or being of unsound mind, shall be incapable of being appointed a member of the court. It is provided also that the Governor may remove any ordinary member or deputy member from office who becomes subject

to any of the disabilities mentioned, or who accepts, whether by assignment or otherwise, such relief as is afforded by law to bankrupt debtors, or who is proved to be guilty of inciting any industrial union or worker or employer to commit a breach of an industrial agreement or award, and Parliament, at a joint sitting, may remove any member of the court. Clause 59 gives the court jurisdiction for the settlement and determination of any industrial dispute, and in Clause 60 it is stated that an industrial dispute may relate either to the industry in which the party by whom the dispute is referred for settlement to the court, is engaged, concerned, or interested, to any industry or industries related thereto. A dispute may not only refer to one industry, but it may refer to quite a number of industries, as a union may be formed of workers in what are called related industries, as for example, bricklaying, masonry, carpentering, and painting, which are branches of the building trade. Clause 61 provides that when an industrial union of workers is party to an industrial dispute, the jurisdiction of the court to deal with the dispute shall not be affected by reason merely that no member of the union is employed by any party to the dispute or is personally concerned in the dispute. Where there is no member of the union connected with the dispute it does not affect the jurisdiction of the court. Any union of that industry may cite a case against a particular employer, whether or not he has any unionists in his employ.

Hon. M. L. Moss: That is what I call busybody interference.

Hon. J. E. DODD (Honorary Minister): Nothing of the sort. The idea is to prevent employers from discharging a unionist in order to avoid coming under the jurisdiction of the court. Clause 64 is one to which I am afraid Mr. Moss will take a considerable amount of exception, particularly to Subclause 4.

Hon. M. L. Moss: You are quite right; I opposed that originally.

Hon. J. E. DODD (Honorary Minister): It provides for the representation of parties before the court and prohibits a legal practitioner whether of this State or any other State, whether on the rolls or not, or a solicitor's clerk, from appearing or being heard before the court in any capacity whatever. We have had quite a number of cases recently of solicitor's clerks and solicitors from other States who might not yet have been admitted to practise here, appearing in court and conducting cases sometimes, I believe, on one side, and sometimes on the other. The Bill will try to prevent that.

Hon. A. Sanderson: What is the reason for that clause?

Hon. J. E. DODD (Honorary Minister): One particular reason is to try and avoid the heavy expense which is usually incurred in connection with the engagement of legal practitioners.

Hon. M. L. Moss: I promise to give you some interesting information with regard to the fees charged by the others.

Hon. J. E. DODD (Honorary Minister): I can assure the honourable gentleman we shall be glad indeed to hear of any of those instances to which he refers. Clause 65 may perhaps be inoperative owing to the decision given by the High Court of Australia, but so far as we possibly can, we have endeavoured to make it so that the final conclusions of the court shall not be questioned in any other court.

Hon. M. L. Moss: Fortunately the Federal Constitution Act stops that.

Hon. J. E. DODD (Honorary Minister): Possibly, but I do not see where it will apply in regard to Clause 65. We have been told by Judge Burnside that such is so. The clause provides—

> In the hearing and determination of every industrial dispute and in any proceeding under this Act, the court or president shall act according to equity, good conscience, and the substantial merits of the case, without regard to technicalities or legal forms, and shall not be bound by any rules of evidence.

Hon. Sir E. H. Wittenoom: That puts you in the position of dictator.

Hon. J. E. DODD (Honorary Minister): Oh no, it is simply trying to bring

about a system of arbitration quite apart from the ordinary rules of evidence or legal technicalities, and to give an award on the substantial merits of the case. It is held that this would be done under the present Act. Whether or not this clause can be carried into operation I cannot tell, but we are making an effort to do so. The sittings of the court may be held at various places. Wherever the court may decide to hear a case it may adjourn to that place, and the president or any member of the court may give an award, or the clerk may deliver the award in the absence of the president. The court is given power to proceed to hear a dispute or any other matter before it, dismiss a dispute, or order any party to pay the costs and expenses, to hear and determine a dispute in the absence of any party thereto, provided such party has had sufficient summons, to sit in any place, and also to direct that two experts, who may be classed as assessors, shall be appointed to assist the court in technical matters. There are quite a number of clauses dealing with the powers of the court, which I am sure members do not wish me to draw attention to now. In Clause 69 provision is made for the exercise by the president in chambers of certain powers conferred by the Act provided that the court as a whole is not prejudiced.

Hon. M. L. Moss: How do you think that without the aid of legal assistance anybody can comply with Clause 69 as to all these interlocutory matters? I suppose the hon. member hardly knows what some of those expressions mean.

The PRESIDENT: The Hon. Mr. Dodd is addressing the House.

Hon. J. E. DODD (Honorary Minister): The president may exercise in chambers those powers which a judge can exercise in various other courts. Clause 71 deals with summonses and how they may be served, and also provides that there shall be no disclosure of trade secrets in connection with any documents or goods that may be ordered. It is provided that evidence may be obtained as to a business, but the contents of the books are not to be made public. Clause 72 says that the presence of the president and at least one other member shall be necessary to constitute a quorum, and the next clause states that the decision of the majority of the court shall be the decision of the court. In Clause 77 it is stated what shall be the terms of an award and the locality, if any, to which the award or any part thereof shall be limited. Clause 78 reads that the court in any award may limit the operation of such award or any portion thereof to any particular locality, but except in so far as the award or any part thereof is so limited it shall be deemed to extend to the whole State. That means that where an award is not limited to a locality it shall apply to the whole State. Any award also becomes a common rule and binding on all employers and workers whether members of an industrial union or association or not engaged at any time during its currency in that industry within the State. The award becomes a common rule when delivered, provided that if the operation of the award or any part thereof is limited to any particular locality then the common rule shall not, as regards the matters to which the limitation applies, operate beyond that locality. The endeavour has been to as far as possible make the common rule apply. Special powers are given to interpret or amend an award, but it is also provided that an interpretation or amendment shall not be inconsistent with the original intention of the award. The term may not be for more than three years, but may be for one year and extended thenceforward from year to year; and the same provision as was in the amending Bill of last session in regard to the currency of awards is contained in Clause 83. I may state once again that these provisions were framed in order to overcome the difficulties made by awards delivered by Mr. Justice Burnside and His Honour the Chief Justice, and it was on the recommendation of the Chief Justice that one of these subclauses was placed in the Bill. Clause 85 states what the court may do; the court may

by any award prescribe a minimum rate of wage or other remuneration with special provision for a lower rate being fixed in the case of any worker who is unable to earn the prescribed minimum by reason of old age or infirmity; for the classification or grading of workers employed in any industry to which the award applies——

Hon. M. L. Moss: That is one of our old friends.

Hon. J. E. DODD (Honorary Minister): There are two of them here, one after the other. It was on paragraphs (b) and (c) of this clause that the trouble occurred last session.

Hon. M. L. Moss: And the only difference this time is that you have placed a third friend there—preference to unionists.

Hon. J. E. DODD (Honorary Minister): In reference to the grading of workers, may I be allowed to say that in my opinion grading does not necessarily mean that the court is going to grade every employee somewhat differently. I think I can best explain it by giving an instance in the industry which I know best, the mining industry. In that industry there are what are called mullockers, and they are engaged in different kinds of work. One may be trucking from a shoot and another may be trucking from what is called a dead end. Now, in the dead end, the work is much more laborious than trucking from a shoot, and what I would term grading in connection with mullockers is that the court may order that more shall be paid to the mullocker trucking from a dead end than to the man trucking from a shoot, as is already done by many managers at the present time.

Hon. M. L. Moss: A better way would be to form a dead-end union.

Hon. J. E. DODD (Honorary Minister): The idea of forming a dead-end union or a shoot workers' union, or a union of men throwing into a shoot, is altogether wrong. If unions were split up in that manner, I am safe in saying, there would be infinitely more trouble than at the present time, for if there is anything more likely than another to cause trouble, it is this endless splitting of unions into small bodies, many of them thinking that they should get as much money as those in a grade that may be higher. I say with all sincerity that if this was done, there would be infinitely more trouble than at the present time. The award may also prescribe such rules for the regulation of an industry as may appear to the court to be necessary to secure the peaceful carrying on of such industry. That was one of the two clauses on which we came to grief last session. The court may also direct that as between members of industrial unions of employers or workers and other persons (not being sons or daughters of employers) offering or desiring service or employment at the same time, preference shall be given, other things being equal, to such members. That paragraph definitely provides that the court may in any award give preference to unionists; it does not say that the court shall do so, but if the court thinks that preference should be given to unionists it has power to do so. Subclause 2 states what is the minimum or reasonable rate of wages as follows:—

> No minimum rate of wages or other remuneration shall be prescribed which is not sufficient to enable the average worker to whom it applies to live in reasonable comfort, having regard to any domestic obligations to which such average worker would be ordinarily subject.

Hon. D. G. Gawler: That is another old friend.

Hon. M. L. Moss: I do not think anybody objects to that.

Hon. J. D. Connolly: Why do you limit the hours of the piece-worker, notwithstanding that you fix the rates of piecework?

Hon. M. L. Moss: Everyone must come down to one level.

The PRESIDENT: The Hon. Mr. Dodd is in charge of the Bill.

Hon. J. E. DODD (Honorary Minister): If there was no limitation of the hours of the pieceworker the introduction of the pieceworker might defeat the whole intention of the award, and for the life of me I cannot see why pieceworkers'

hours should not be limited as well as the hours of day workers. Pieceworkers in the past have usually been those from whom the sweater has recruited his employees.

Hon. R. D. McKenzie: Do you also have one man one job?

Hon. J. E. DODD (Honorary Minister): I do not see anything in the Bill in regard to that. Clause 89 provides that there shall be no abatement of the proceedings of the court by the death of any party. Clause 90 enables the court to fix what constitutes a breach of an award, and to impose a penalty therefor up to £100.

Hon. D. G. Gawler: Does it say that the money is to be paid into court?

Hon. J. E. DODD (Honorary Minister): No, I do not see any provision for that. The provision for the enforcing of awards in respect of that clause will be found in Clause 91; and here I may state that under this Bill any factory inspector or any inspector of mines or any other person may be appointed an industrial inspector to see that the terms of the award are carried out or to help in the administration of the Act in other ways. Industrial agreements may be enforced in the same manner as industrial awards. The court is given jurisdiction in Clause 93 to try and determine all charges of offences against the Bill, and such jurisdiction shall be concurrent with that of courts of summary jurisdiction. By Clause 94 all property belonging to any person or body bound by any judgment, order, conviction or direction of the court may be held available or towards satisfaction of the judgment, whether it is an industrial union or an industrial association, and it is provided that no member of any union shall be liable for more than £10 under this subclause, while his goods to the value of £30 are protected from seizure and confiscation under a judgment of a local court and the regulations. In Clause 95 the prosecution may be removed from the court of summary jurisdiction to the Arbitration Court, that is when the case is pending, and the Court of Arbitration can then have exclusive jurisdiction to try and determine the charge and to inflict punishment. The Sheriff and the officers of the local courts are to be officers of the Arbitration Court. Clause 97 deals with the appointment of industrial inspectors. In Clause 98 the rules are laid down by which the union may make a reference to the court. It is first of all provided that after a resolution for the reference of an industrial dispute has been approved by the members at a meeting it has to be affirmed by an absolute majority of the votes of the whole of the members of the union, and the result of the poll has to be recorded in the minutes. In the case of an industrial association it has to be affirmed in like manner by a majority of the industrial unions represented on it. Special meetings have to be convened and held subject to the rules, and notice has to be served upon every member at least three days before the holding of the meeting, in order to prevent a number of dissatisfied unionists endeavouring to take a frivolous case to court or endeavouring to cite a case to the court when there is no necessity for it. In Clauses 101 to 104 the rules are laid down by which Government workers may receive benefits under this Bill. Some little difference has been made between Government employees and private employees. For instance, in paragraph (9) of Clause 103 it states that in any proceedings before the court the Minister or Commissioner may be represented by an officer of the department whom he appoints in that behalf, and in the following paragraph it is provided that all expenses incurred and money payable by any Minister or Commissioner under the measure shall be payable out of moneys appropriated by Parliament for the purpose. Again in paragraph (12) it is provided that no Minister or Commissioner shall be personally liable under any agreement or award or be subject to any personal penalty, while by paragraph (13) no execution or attachment or process in the nature thereof shall be issued against the properties or revenues of the Crown. In Clause 105 we come to the provisions dealing with

offences. It is provided that no person shall take part in or do or be concerned in doing anything in the nature of a lock-out or strike, or, before a reasonable time has elapsed for a reference to the court of the matter in dispute or during the pendency of any proceedings before the court in relation to an industrial dispute, suspend or discontinue employment or work in any industry, or instigate to or aid in any of the above-mentioned acts. The penalty in the case of an employer or industrial union or association is £100 and in other cases £10. It is provided that nothing shall prohibit the suspension or discontinuance of any industry for cases other than a strike or a lock-out. In Subclause 3 it also states that every person who makes any gift of money for the benefit of any person who is a party to any strike or lock-out shall be deemed to have aided in the strike or lock-out, and Subclause 4 provides that when a majority of the members of a union or association are at any time parties to a strike or lock-out the union or association shall be deemed to have instigated the strike or lock-out. Clause 108 states that an employer must not dismiss any worker from his employment or alter his position to his prejudice by reason merely of the fact that the worker is an officer or member of an industrial union or association or of a society or other body that has applied to be registered as a union or association, or is entitled to the benefits of an industrial agreement or award. The penalty is £50. In any proceedings for a contravention of this clause, it lies upon the employer to show that any worker, proved to have been dismissed or injured in his employment or prejudiced whilst an officer of an industrial union and so forth, was dismissed for some reason other than that mentioned in this clause, and the same thing applies in the relation of the worker to the employer. There are additional penalties provided in Clause 111. Any person adjudged by the court to be guilty of any contravention of Clause 105, that is, instigating a strike or lock-out, shall, if the court so orders, in addition to any penalty imposed for the offence be subject to certain disabilities. He shall not be entitled to any rights, privileges, benefits or advantages under the Act. The Act shall, in this regard, cease to apply to him. He shall cease to be a member or officer of any industrial union or association or trades union, or of any society or body of which any such union is constituted wholly or in part, and he shall not be qualified to become a member or officer of any such union or association.

Hon. M. L. Moss: Why do you not adopt the suggestion I made last year and disqualify him from voting at Parliamentary elections? That would stop any big strike.

Hon. J. E. DODD (Honorary Minister) : That might be of considerable advantage to the party the hon. member represents.

Hon. M. L. Moss : I represent no party.

Hon. J. E. DODD (Honorary Minister) : It would hardly be a fair proposition. The punishment would be extremely disproportionate. Where it might apply to two or three hundred workers it might apply to one employer only.

Hon. M. L. Moss : It might do a lot towards keeping industrial peace.

Hon. J. E. DODD (Honorary Minister) : I do not think it would have the slightest possible effect. On the other hand I think it would be interfering with the liberty of the subject. By paragraph (c) the person would lose all the existing or accruing rights to any payment out of the funds of any union, and the receipt by him of any such payment or the making of any such payment to him would be an offence with a penalty of £20.

Hon. M. L. Moss : As far as I can see from the returns of the Registrar of Friendly Societies the receipts of unions all go in management; the members do not get much.

Hon. J. E. DODD (Honorary Minister) : The Arbitration Court may at any time in its discretion, if it appears that the contravention or wilful default has been sufficiently punished, and that the effect of the administration of the Act will not be prejudiced by the removal of the disabilities, order the removal of

the disabilities or any of them. A good deal has been said with reference to the injustice of preference to unionists. This Clause 111 that I have been dealing with inflicts punishment on unionists only. Although the Bill binds unionists and non-unionists, this clause can have no effect on non-unionists.

Hon. W. Kingsmill: But there will be no non-unionists by Act of Parliament.

Hon. J. D. Connolly: You will not allow anyone but unionists to approach the court, so how can you fine the others?

Hon. J. E. DODD (Honorary Minister): It is the unionists alone who have been capable of bringing such laws as this into existence. It does not follow that there will be none but unionists. I doubt if under the Federal Act during its eight years of operation there has been one case where the court has awarded preference to unionists.

Hon. M. L. Moss: You are quite right. Justice Higgins declined to exercise that jurisdiction.

Hon. J. E. DODD (Honorary Minister): It has not been put into force during the eight years.

Hon. M. L. Moss: Then you do not require it.

Hon. J. E. DODD (Honorary Minister): The provision is made because at some time it may be required. I do not know that I am particularly keen on the matter of preference to unionists, but there may be times when it will be necessary for the court to have that power. The point, however, that I wish to make is that the penalty clauses I have referred to do not inflict any hardship on the non-unionist. They may inflict a penalty on the unionist who is subject to the award in the same way as the non-unionist is. Now a proviso is made in respect to which, perhaps, some criticism may be directed and some explanation asked. The proviso reads as follows:—

> No order shall be made subjecting an offender to disabilities under this section if such offender shall prove that his offence was committed pursuant to and in compliance with a resolution passed by an industrial union or association, whilst such offender was a member thereof.

Hon. M. L. Moss: Is that not a farce?

Hon. J. E. DODD (Honorary Minister): Not in the least. Let me explain the operation of that clause. If the offender can show that what he did was subject to the direction of his union, the union immediately becomes liable.

Hon. M. L. Moss: It is a new form of criminal procedure. I tell you to commit an offence and you do it, but you are not subject to punishment.

Hon. J. E. DODD (Honorary Minister): It is provided in Clause 105 that anyone who instigates a strike or lockout is subject to this and other penalties, and if it is proved that the individual committed the offence subject to a resolution of his union then the union has done something instigating a lockout or strike and becomes liable to the penalty.

Hon. M. L. Moss: If I tell you to steal something, I am to be punished, but you get off.

Hon. J. E. DODD (Honorary Minister): No. I do not see how any hon. member can read anything into these clauses which is not here.

Hon. M. L. Moss: At all events, I do not like your chance of getting that Subclause 3 through.

Hon. J. E. DODD (Honorary Minister): The rest of the clauses are not particularly important. Clause 114 deals with penalties for obstructing officers, and similar offences. Clause 115 has to do with the counselling or procuring of offences. Then there is a number of miscellaneous provisions. In Clause 122 we are told that the president may, whenever in his opinion it is desirable for the purpose of preventing or settling an industrial dispute, summon any person to attend a conference. This is taken from the Federal Act. The president of the court may summon any parties interested in a dispute to appear before him and see whether or not something can be done to prevent the dispute actually taking place. The provision is an extremely good one, and under it very often we may get the parties together when they are sparring at one another, as it were,

and it may be found possible to bring about a settlement of the dispute before it goes any further. The regulations are provided for in Clause 127, while in Clause 128 every worker is entitled to be paid by his employer in accordance with any industrial agreement or award, notwithstanding any contract or pretended contract to the contrary, and such worker may recover as wages the amount to which he is declared entitled in any court of competent jurisdiction. I do not know that I can say anything further in reference to the Bill, but I sincerely hope members will give it their thorough consideration. It is probably one of the most important Bills we will have to deal with during the session, and it is a Bill which, in all probability, will have as much effect upon the welfare of the State as any other Bill likely to come before us. I would ask hon. members to look at it in the light that the party in power to-day went to the country stating that they proposed to amend the Act. I do not want to deal with that old-time phrase "A mandate from the people," but I do say that I believe the vast majority of the people of the State are strongly in favour of compulsory arbitration. There has been a weakening in connection with the workers, and I am not going to deny that fact; there has also been a weakening with the employers of labour, but I say that in the interests of the whole of the people, of what may be termed the third party, to which I have drawn attention to-night, I honestly believe that by far the big majority of the people of the State want to see some measure carried through in order that we may settle these disputes amicably. An Arbitration Bill is before the South Australian House at the present time, and another is being considered by the Queensland Parliament. There is a Bill to be presented in the House of Commons this year. The Minimum Wage Bill was carried in the House of Commons, by which conciliation boards were appointed to deal with disputes in connection with the various callings in England.

Hon. D. G. Gawler: But the English Bill is not to settle disputes, I think.

Hon. J. E. DODD (Honorary Minister): No, the Bill that was carried this year provides a minimum wage to be given by boards of conciliation to be appointed in the various districts. It might be interesting to state that the conciliation boards there, as a rule, decide the case for or against. That is to say, if the worker asks for a shilling he has to prove he is entitled to it, or he does not get it, and *vice versa*. I sincerely hope members will endeavour, as far as possible, to consider the provisions of this Bill in such a way that the Government may be able to accept the result. I do not hope to see the Bill go through the House altogether in the form in which it now is. If I had my way I would earnestly urge members to pass it in its present form. In any case I hope hon. members will give it their earnest consideration, and try to get a measure on the statute book by which at least these industrial disputes may be referred for settlement. I beg to move—

That the Bill be now read a second time.

On motion by Hon. M. L. Moss, debate adjourned.

BILL—LANDLORD AND TENANT.

Second Reading.

Hon. M. L. MOSS (West) in moving the second reading said: This short Bill is an exceedingly important one. Nearly every person in the community is the holder of a leasehold interest. It was passed in its present form by this House in 1909 but, unfortunately, it was among the slaughtered innocents at the end of that session on account of the pressure of work in another place. The Bill has become absolutely necessary in consequence of a decision given by the present Chief Justice, which was afterwards supported by the Full Court. The effect of that decision was this: A valuable leasehold property and hotel, worth on the market £1,600, had been declared forfeited for non-compliance with the repairing covenant. I would like to inform those hon. members who may not know, that every lease contains a provision en-

titling the landlord, in the case of breach of covenant, to re-enter and terminate the lease. In connection with the property referred to, there were some trivial repairs not effected, repairs of £5 or less in value, and a very harsh, stern landlord re-entered and succeeded in ejecting the tenant, who thus lost a lease for which he had, a short time before, paid £1,600. The Chief Justice remarked that it was impossible, in view of the state of the law of this country, to give any adequate relief to that tenant. It is hard to believe that with the law altered as it has been in every British possession, and in the old country during the last 30 or 40 years, providing against any such harsh measure as this, it is hard to believe that in Western Australia nothing has been done to remedy the grievance. The condition with regard to the relief of tenants who make breaches of covenants in their leases in Western Australia to-day rests upon this footing only: if a tenant is in arrear with his rent the court, exercising its equitable jurisdiction, is entitled to give relief where the rent has not been paid. They say they can do that because the landlord is always compensated by receiving his rent with the market rate of interest added to it, and the court has always given relief to a tenant behindhand in the payment of his rent, provided the rent is forthcoming with interest at current rates. The only other relief is statutory relief if the tenant fails to insure his premises under the covenant of insurance. That power exists under an old Imperial statute. So, with the exception of giving relief in the case of rent being in arrear, and where the insurance premium has not been paid—always provided that no fire has damaged the property in the meantime—the courts in Western Australia have power to grant relief; but that is the end of it. Before I go on to deal with the Bill I should say that when I introduced the Bill of 1909 I held some conferences with the present Solicitor General, who was then acting as Parliamentary draftsman, and we made an examination of the Imperial law on the subject, and the law existing in all the Australian States and the Dominion of New Zealand. In all these places the remedy that this Bill contains to alleviate the position which arises so frequently at the present time has been dealt with. At the time it was the intention of the Parliamentary draftsman to submit to Parliament a measure which is absolutely necessary in this State, namely, a consolidation of all the Acts on our statute-book—a good many of which are very old—relating to our conveyancing law, to bring it into line with the Conveyancing Act of England, the work of the late Lord Cairns, Lord Chancellor of England. This is the English Conveyancing Act of 1881 which has been adopted with modifications in all the Australian States and in New Zealand. In the last four or five years it was adopted in its entirety by Victoria. At that time the conveyancing system in that State was practically what it is to-day in Western Australia, and as I said, it was the intention of the then Parliamentary draftsman to submit to the Government a Bill to put the Western Australian law on that footing. This has not been done yet. Mr. Sayer mentioned the other day that it was still the intention of the Crown Law Department to present to the Government a draft Bill, and get them to pilot it through Parliament, but that will not occur this session, and this is a pressing matter. I have been asked in numerous directions by various members of the legal profession in this State to make an attempt to put this measure on the statute-book. The provisions of the Bill are copied entirely from the English Conveyancing Act, with the exception of the provisions contained in Subclause 7 of Clause 3. The Bill in a word provides that when a right of re-entry is given under a lease or where a right of forfeiture is given for non-compliance with a covenant, no landlord can wait his opportunity until a man makes a slip and jump in on him and forfeit a valuable property, but it becomes necessary under Clause 3 to do what anybody ought to do if he is not guilty of sharp practice, namely, to send a notice to the person that the place is out of repair and that it must be repaired, or that breaches are occurring with regard to other small covenants that should be kept and are doing

no injury. It is to protect valuable property in the hands of a small leaseholder who by a little slip may be deprived of it and to whom the court of equity is incapable of granting relief at present. Subclause 7 refers to covenants, a breach of which becomes a serious matter. When dealing with hotel properties held under license, for instance, the license is liable to be taken away when there are breaches of covenants, such as breaches of the licensing law. It would be a serious thing to give any relief to a tenant who made breaches of that kind, and so it is provided that this measure of relief, which has been granted everywhere else, and which in New Zealand has been limited, will not extend—

> (a) to a condition for forfeiture on the bankruptcy of the lessee, or of the taking in execution of the lessee's interest; or (b) in the case of a lease of any premises licensed under the Licensing Act, 1911, or any amendment thereof, to a covenant not to do or omit any act or thing whereby the license may be lost or forfeited.

I do not propose to give a number of illustrations, but I think I am correct in saying that if a licensee is three times convicted of adulterating liquor that would affect the license. In connection with properties of that kind no court should have power to grant relief in that connection. That is the whole gist of this Bill, with one other exception. In most leases there is a covenant included that the lessee shall not assign, transfer, part with, or dispose of the lease of the property, or grant an under-lease without the consent of the lessor first having been obtained. Some lessors exercise their right of refusing to give consent to the transfer of a lease unless they get a very large bonus. If the parties originally agree that there shall be no right of transfer without consent and that the lessor is not to be precluded from demanding a bonus, it is all right. But this clause is intended that he shall not make it a condition, and unless the lease contains an expressed provision to the contrary consent shall not be unreasonably withheld and no fine or sum of money in the nature of a fine shall be payable for or in respect of such license or consent; but the proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expenses incurred in relation to such license or consent. In other words he must, in the absence of expressed provision in the lease to the contrary, not refuse his consent unreasonably. The whole right of enabling the landlord to refuse to give consent should not go further without a special agreement to protect the landlord against a person who is insolvent or not respectable. If it is not inserted, the law will insert it for them. That is the Bill. It is a Bill which was agreed to three or four years ago by this Chamber. It has the full support of the Crown Law authorities. It is to cure a decision which the Chief Justice regretted he was obliged to give, and who was supported by the Full Court, and to bring our law into line with that of other parts of Australia, New Zealand, and the old country. I have no doubt that I will have a reasonable opportunity of getting the measure through this House, and I hope the Government will give facilities to get rid of a serious blot in our law by passing the measure through another place this session. I move—

That the Bill be now read a second time.

On motion by Hon. D. G. Gawler debate adjourned.

House adjourned at 8.53 p.m.