been given under the old order of things. I beg to move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Holman in the Chair, the Attorney General in charge of the Bill.

Clause 1—agreed to.

Clause 2—Validation of notices under the Act:

Hon. J. MITCHELL: Would the Attorney General explain a little more fully the intention of the clause? Apparently it was to validate notices that had been issued, but had no relation to future bills of sale.

The ATTORNEY GENERAL: Certain bills of sale had been registered pursuant to notices which were not technically correct because they failed to include words covering future acquired property. The effect of the clause was that, notwithstanding that defect, the bills of sale registered pursuant to such notices should be valid. There were hundreds, and perhaps thousands of such bills of sale, and it would be a serious thing if pursuant to the judgment on a point that was taken by Mr. LeMesurier before Mr. Justice McMillan, all those bills of sale were to be so much waste paper as securities.

Mr. George: Future bills stand on their own merits.

The ATTORNEY GENERAL: The Bill practically made it unnecessary to mention future acquired property in the notice because it was only the notice that was defective. Surely if a person were giving notice to register a bill of sale, a mere verbal defect in that notice as to the property that the bill covered should not invalidate the bill.

Clause put and passed.

Title—agreed to.

Bill reported without amendment, and the report adopted.

House adjourned at 10.50 p.m.

PAIRS.

Mr. Moore	Mr. O'Loghlen
Mr. Wisdom	Mr. Green

Legislative Council,

Wednesday, 18th September, 1912.

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

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

Report of Committee adopted.

BILL—INDUSTRIAL ARBITRATION.

Second Reading.

Debate resumed from the 12th September.

Hon. M. L. MOSS (West): I listened with a great deal of interest to the moderate speech made by Mr. Dodd in support of the second reading of this Bill, but, notwithstanding his moderation, he has not convinced me that the conclusion at which I arrived some four or five years ago that compulsory arbitration for the settlement of industrial disputes should not be continued on the statute-book of this State, is not a good thing. Compulsory arbitration is a form of dealing with industrial disputes which I strongly advocated for many years. I sat in Parliament before there was any law dealing with this question, and I was a strong supporter in this Chamber of the first Bill which was introduced to deal with this question. I also supported the consolidating measure which is now known as the Industrial Conciliation and Arbitration Act of 1902, but I have contended from time to time in this Chamber during the last four or five years that industrial disputes could not be settled by compulsory arbitration, and that compulsory arbitration had signally broken down, and I did my best for a number of years to induce the two Governments which preceded the present Administration to repeal the present Act. As I

stated last session the previous Administrations would not carry out my suggestions in this connection. They waited too long, and when they went to the country a year ago one of the planks of their platform was the repeal of this measure, and the substitution of wages boards in lieu of compulsory arbitration. As I stated last session the country by an overwhelming majority, pronounced against the Wilson Government, and it must be assumed that the question of compulsory arbitration to deal with industrial disputes was affirmed by the people of the State as one of the things the people desired should be continued. I am going to take up the same position on the present occasion as I did last session. Although I am still strongly impressed with the view that this method of dealing with these industrial troubles has signally failed to carry out its purpose, yet with such a strong mandate as the Government have from the people it is our duty to keep compulsory arbitration still on the statute-book. It does not follow, however, that I and others who think the same as I do, can agree for one moment with the Bill as printed and circulated. This Bill, in my opinion, is the most important measure that will be before us this session, and I think it would be no exaggeration to say it is the most important Bill which has been before the House for a very large number of years. Mr. Dodd in his introductory remarks, referred to the fact that there had been strikes of great magnitude in Great Britain, and I want to come nearer home in support of the statement I made that the system of dealing with industrial disputes has signally broken down, and just to ask members to keep before their minds exactly what they know has occurred within the space of a year or eighteen months. In this State we have had two tramway strikes, a railway strike, a brickmakers' strike, a plumbers' strike, a timber workers' strike, a strike of engineers at Midland Junction, an engineers' and moulders' strike at Kalgoorlie, and a lumpers' strike.

Hon. R. G. Ardagh: You kept the record pretty well.

Hon. M. L. MOSS: There are more than that. The point I am going to make is this: I am not mentioning them for the purpose of making an empty statement, but it is in respect of these various branches of industries that there were existing awards; that is the point I am trying to make.

Hon. J. Cornell: There was none in the case of the moulders.

Hon. M. L. MOSS: I will give the hon. member that in. In the large majority of those mentioned, and probably the whole of them except the moulders—and I will speak about them in a minute—there were existing awards.

Hon. J. E. Dodd (Honorary Minister): The engineers had no award.

Hon. M. L. MOSS: I will give members two in; but I say in a large majority of the instances I have mentioned there were existing awards. The point I make is this: we are told that the present Industrial Conciliation and Arbitration Act is defective on account of the inability of the workers to get to the court. That cannot apply to the cases I have mentioned where there were existing awards which were deliberately broken by the persons who set up this tribunal, and who said they were prepared to abide by this tribunal's award. Numbers of members of the present Ministry, and particularly among them the Minister for Works, Mr. Johnson, have been extremely busy since immediately after the last session of Parliament and right up to the present session, in condemning this Chamber, and condemning it most unfairly. I said sufficient at the time I spoke on the Address-in-reply to give my views with a fair amount of emphasis as to the attitude this Chamber assumed with regard to the Bill last session. I want to say once more that the responsibility of throwing out the amending Bill of last session must rest upon another place. The whole of that Bill was agreed to with the exception of three or four items which again appear in the Bill now before this Chamber and to which I will direct attention presently. As far as those matters are concerned it is not my intention to deviate one iota from the vote I gave last session. What I propose to do is

this: there are a number of vital matters in this Bill and it is to those I want to draw the attention of hon. members prominently, because probably other hon. members will point out principles contained in the Bill which appeal to them as matters which will be particularly referred to when we get into Committee. On the present occasion it will probably be of some service to the House if I point out various matters which are departures from the existing state of affairs. The policy of this Bill seems to be firstly to drive all the unions into one large union to enable a central body, the Trades and Labour Council, to control all the industries of the State.

Hon. J. Cornell: The Trades and Labour Council has been struck out of this Bill.

Hon. M. L. MOSS: Yes, but there is such a thing as a wolf in sheep's clothing, and the idea of forming big unions is to enable those people who are always agitating to make their own position easier in trying to foment disputes.

Hon. J. Cornell: That is rather uncalled for.

Hon. M. L. MOSS: It is not uncalled for. I do not intend to mention a solitary name, and I am not going to be drawn, but the fact remains that we know there are men who have fomented disputes in the past and who have been punished for doing so.

Hon. J. Cornell: Give us one illustration.

Hon. M. L. MOSS: I will not.

Hon. J. Cornell: You cannot.

Hon. M. L. MOSS: The hon member is quite entitled, and other hon. members also, to draw their own conclusions from what I say, and I think they will be able to draw conclusions which will thoroughly justify the observations I am going to make. In Clause 7 of the Bill there are certain matters which require to be provided for by the rules of these unions. It is correct, as Mr. Dodd has said, that in a measure like this we must deal with the unions of workers on one side and the unions of employers on the other. The whole basis of this thing is built up of a continuation of unions. I am strongly of the opinion that the political element, if it is possible, should be crushed out of unions which exist for the purpose of seeing that industrial peace is established in the community.

Hon. J. Cornell: The political element makes such a thing possible.

Hon. M. L. MOSS: It should be crushed out of it. It is impossible that where there is a union consisting of, say for the sake of argument, 100 persons, that they should all be of the same political belief. If, as this Bill determines, we are to have preference to unionists, there is a tyranny going to be created which will be absolutely intolerable. There may be a majority of members of unions of the one particular political thought, and other men under the fear of being called blacklegs and scabs are bound to join that union, and if that union, besides being an aggregation of persons to get better industrial conditions for themselves, are also to support some political platform, the position becomes absolutely intolerable. There should be an effort made in this Bill, if it is the desire to make compulsory arbitration better than it is, to crush out the political aspect from the unions, and to let them be organised only to carry out the purposes of the Act. The hon. member says it is impossible to look at this question away from its political aspect. I am going to show what exists at the present time. On the Table of the House there has been laid the tenth annual report under the Industrial Conciliation and Arbitration Act, 1902, and under the Trades Unions Act, 1902. I am sorry it is only the report for the year ended 30th June, 1911. The report for the year ended 30th June, 1912, has not yet been presented, but the report we have is sufficient to establish my point. There is a table A in that report of the Registrar, and it contains a return of registered industrial unions as at the 31st December, 1910, and if hon. members will take that report—I do not propose to quote too extensively from it—it will be obvious that a large portion of the money raised by these unions is utilised for purposes other than the payment of sick and accident and death claims. Take the Fremantle Lumpers' Union. They had an

income during 1910 of £2,259. They spent £419 in sick and accident relief, £181 in death claims, and, strange to say, the management of that cost £688 and other expenditure £680, so that about £1,400 out of £2,259 went in management. Take another instance, the Bunbury Lumpers' Union. Their income was £730, and of that £129 went in sick and accident relief. They had nothing for death claims, and management and other expenditure totalled £305 and £181 respectively, nearly £500. Take next the Geraldton Lumpers' Union. They had an income of £240. Their sick, accident, and death claims amounted to £26, and the management and other expenditure totalled £143. Next let us take the West Australian Amalgamated Society of Railway Employees' Union of Workers. Their total revenue was £1,951. They distributed £375 in sick and accident and death claims, and their management expenses came to £841, while the other expenditure was £334. The Amalgamated Timber Union of Workers had a revenue of £3,553. Their sick and accident relief came to £523, and the death claims to £30. Their management expenses were £1,467, and the other expenditure, £443. The Metropolitan Amalgamated Certificated Engine Drivers' Union had a revenue of £639: £98 went in sick and accident relief, £14 in death claims, and £500 in round figures for management and expenses. Let us next take two goldfields unions. The Nunngarra Miners' Union of Workers had an income of £1,616, and in sick and accident relief and death claims distributed £429, while the management expenses were £673, and the other expenditure, £416. I will take one more, and then pass on. The Westralian Goldfields Federated Miners' Industrial Union of Workers (Gwalia and Leonora branch) had an income of £1,447. They distributed £336 in sick and accident relief, £60 in death claims, and their management and other expenditure totalled nearly £900.

Hon. R. G. Ardagh: Get a copy of the balance sheet, and you will see what the exact expenditure was.

Hon. M. L. MOSS: I am going to make a point out of these figures that I have quoted.

Hon. J. Cornell: You are assuming it is all going in one direction—political action.

Hon. M. L. MOSS: I am assuming that a large portion of this money, which should pay sick and accident relief and death claims, and also pay working expenses in connection with the Trades' Union Act and the Conciliation and Arbitration Act from the industrial aspect, is used for political purposes.

Hon. J. E. Dodd (Honorary Minister): Three-quarters of the money raised by the miners is spent in sick and accident relief.

Hon. M. L. MOSS: I am taking the returns as they are given in the report from which I have quoted, and you cannot make me believe that taking one of them, say the Fremantle Lumpers' Union——

Hon. R. G. Ardagh: Take the general body.

Hon. M. L. MOSS: You cannot make me believe that out of the sick and accident pay and death claims in one year, aggregating £600, it cost nearly £1,400 to do the business of the collecting that money and distributing it. There is no doubt that that money is being utilised for other purposes, and I am going to assume, and I may be wrong——

Hon. J. Cornell: We admit it.

Hon. M. L. MOSS: The hon. member admits it, and another hon. member says I am wrong. I am going to assume, however, that I am absolutely wrong. I think in this Bill something should be done to stamp out the political aspect from these unions. They should exist only for the purpose of this Act, to secure to the community what both sides in politics desire, namely, industrial peace. I am going to refer to something else from the registrar's report. There was a time when I was a Minister of the Crown, and the question was raised whether it was lawful to include in the rules of these associations, political purposes at all, and it was a matter of great contention between the Government at that time and certain

departmental heads as to whether instruction should not be given to try and stamp out the political aspect from the rules. I had strongly opposed the inclusion of political purposes in the rules. In this report there is a very significant paragraph on page 6. It is headed "Political Purposes," and this is what the registrar says—

> Having regard to the fact that many unions desire on registration to have political objects included in the rules as an object for which the union is formed, it became necessary, owing to the decision in the well known Osborne case, to consider the question as to whether political objects could properly be included in the rules of an industrial union. Accordingly the question was laid before the Crown Law Department, when the registrar was advised that, while the decision in the House of Lords in the Osborne case would be valid in this State as regards registration of a trade union, yet the inclusion of political objects amongst those for which an industrial union is formed is no bar to registration. Under the Trade Unions Act the definition of the objects of "trade unions" is exhaustive and conclusive, and no union can be registered which is formed for any object other than those specified in the definition, unless, of course, such object is ancillary to the specified objects:

This is the important part.

> but Section 3 of the Industrial Conciliation and Arbitration Act makes no such limitation; and it might very well further and protect the interests of its members by political action.

The effect of that is this: it is evidently the opinion of the registrar and the department that it is a lawful thing to include in the rules political objects as one of the purposes for which the unions exist, and for which union funds may be utilised. If I can get a following I am going to try and put something in this Bill to prevent these moneys being utilised for political purposes. It is the cry throughout the State that we should try and secure industrial peace, and the only way of getting it is to entirely divorce from these unions political action from attempts to get an improvement in industrial conditions.

Hon. J. Cornell: And make men slaves.

Hon. M. L. MOSS: Nothing of the sort. I am just as anxious as anyone to bring about fair conditions of labour. I do not want to see men trampled down, but we must strive to secure for the country industrial peace. Now I think that the political aspect of this question is responsible for a good many of the troubles which are fomented in this State. I want to show the House what is being done in England in this respect. It is unnecessary to waste the time of the House in explaining why the Osborne case went to the House of Lords, but briefly stated that case decided in effect that the funds of trades unions could not be utilised for political purposes. In England they had been paying the salaries of members of Parliament out of these trades union funds, and they had been utilising the funds for political purposes. There is now a Bill before the Imperial Parliament which provides—

> The chief section runs in negative form. The funds of a trade union are not to be applied directly or in conjunction with any other body or otherwise indirectly in the furtherance of certain political objects (but without prejudice to the furtherance of any other political object) except on certain conditions. The political objects hit are set out in a subsequent clause. They include the expenditure of money on (*a*) direct or indirect expenses incurred by a candidate or prospective candidate for Parliament or for any public office before, during, or after the election in connection with the candidature: (*b*) the holding of meetings or the distribution of literature; (*c*) the maintenance of any person holding a public office; (*d*) the registration of electors or the selection of a candidate for Parliament: (*e*) on the holding of any sort of political meetings or on the distribution of any political literature unless the main purpose is the furtherance of statutory objects.

That is the intention of the Bill before the Imperial Parliament to-day, and when this Bill passes the second reading I am going to put on the Notice Paper a number of amendments for the compulsory inclusion in these rules of provisions to restrict these unions under the Bill, so far as it can be possibly done, from having any political significance and to prevent the use of the funds of the unions for illegitimate purposes, purposes which are largely productive in fomenting many of the industrial disturbances that take place in this State. I cannot vouch for the accuracy of what I am about to say now, but I believe that a large number of the subjects which are discussed in these unions are settled by means of open voting, and that two or three overbearing members of the union terrorise over the rest of the members, the result being that many men are compelled to record votes in a way different from what they would if they were free agents. In my opinion these votes should be taken by a secret ballot, so that men should be able to freely express their judgment on all these subjects and not be tyrannised over by the agitator or the few overbearing men who in my opinion are responsible for a large number of the industrial disputes. These rules are provided for in Clause 7, but there is also in Clause 98 a provision that before a dispute is referred to the court the union must arrive at a decision by a vote taken by ballot. It will be well for the House to carefully consider Clause 98 in order to see that there are sufficient safeguards as to this vote being taken by ballot, and by ballot only. My idea is that if the settlement of industrial trouble is to be through a measure of this kind, there ought to be the freest and fullest opportunity for every reputable person to become a member of a union.

Hon. F. Davis: Is there not now?

Hon. M. L. MOSS: I do not know, but I see nothing in this Bill to prevent unions becoming limited in number.

Hon. F. Davis: They have that opportunity now.

Hon. M. L. MOSS: Then if the hon. member is right I will claim his vote in attempting to provide in the Bill that no reputable person shall be excluded from becoming a member of a union. I want no person to be excluded because he cannot plank down a large sum of money; the entrance fee and subscription should be such that a man of limited means would be able to get into the union, and I believe that if we strip the unions of their political significance and ensure that every reputable man may join such a union at a nominal price, we will have done something towards getting industrial peace. The next portion of the Bill I intend to deal with is Part III., which contains provisions relating to industrial agreements. It is provided in Clause 35 that these industrial agreements may be made between an industrial union or association of workers and the employers, or between an industrial union of workers and some specified employer only. When we turn to Clause 40, however, we find that the court may declare an industrial agreement, which shall have the effect of an award, to be a common rule in any industry. We ought not to pass legislation the effect of which may possibly be that one dishonest employer may go to a union, make an industrial agreement which will have the force of an award, and on that the union may be able to approach the court and have the agreement made a common rule in the industry.

Hon. J. Cornell: The case would have to be argued before the court.

Hon. M. L. MOSS: This is the only instance that I can find in the Bill where it is permissible for the individual employer to deal with a union. I cannot fathom the reason for it, but I will see if it cannot be done in Committee.

Hon. H. P. Colebatch: They might also allow the employers to deal with an individual employee.

Hon. M. L. MOSS: They will not do that. I now come to a most important part of the Bill, and that is Part IV., dealing with the constitution of the court. Every member of this House has no doubt received an extract from the Federal *Hansard* containing portion of a speech delivered by Mr. W. H. Irvine in the Federal Parliament. Mr. Irvine has pointed

out very correctly that the term court as applied to this tribunal which has been created in the Commonwealth, and which is similar to the tribunal existing in this State, cannot correctly be designated a court. It possesses, in his opinion, none of the function of a court at all; in effect, what the Legislature did when it created what is called a court of arbitration was, to all intents and purposes, to create a subordinate legislative body. Parliament gave that so-called court power to make a law throughout the country declaring what should be the particular conditions applying to any industry and fixing the minimum rate of wage to be paid to any employee in that industry. The tribunal's functions, therefore, were not judicial in character, but appertained more to the duties and functions of a legislative body. The judge was told not to act according to the evidence, as it is understood in an ordinary court of justice, but according to the substantial merits of the case and according to equity and good conscience. That I believe is what actuates every member who desires to do his duty to the country. He desires to vote according to equity and good conscience, and with the wish to do substantial justice on the merits of every case that comes before him.

Hon. J. Cornell: That may be questioned.

Hon. M. L. MOSS: The hon. member may speak for himself. My statement is correct so far as I am concerned, and I can say that it has been the practice of every member in this House in the past to vote according to equity and good conscience.

Hon. J. Cornell: Then there have been some errors of judgment.

Hon. M. L. MOSS: Errors of judgment may be made by the best judge we can put on the bench. There is never any deliberative body by which the greatest errors will not be made; we cannot prevent that, but we can ask of every member that when he gives a vote he shall be actuated by a desire to do what is right and in the best interests of the community. The Commonwealth Arbitration Court is presided over by a judge; there are no lay members, and Mr. Justice Higgins carries out the functions of that court to the complete satisfaction, I believe, of the Labour party in Australia. I have long been of opinion that the two lay members of the arbitration court are so much unnecessary machinery, and from long experience in the practice of the law I have come to the conclusion that even with regard to commercial arbitration the arbitrator appointed by each party to the question in dispute is in 99 cases out of a hundred, also a partisan.

Hon. W. Kingsmill: And in all other Acts containing the same provision.

Hon. M. L. MOSS: That is just what I was going to say when the hon. member interjected. In that connection, I was recently arguing a case in the Supreme Court, and the judge asked whether the judgment which had been delivered by the assessor on behalf of the worker who sought compensation had been actually written by the assessor or had been prepared by a solicitor. It was the judgment of a blind partisan, it quoted a large number of legal authorities, and it was obvious to me that the judgment had been prepared by a person with partisan ideas and placed into the hands of this assessor who had given it as coming from himself. I try to be consistent in this regard. When there was a Bill before the House to amend the Workers' Compensation Act I tried to knock out the assessors under that measure also. It is an extraordinary thing that in these cases under the Workers' Compensation Act and the Arbitration Act, and in commercial arbitration, the judge in the majority of instances has been obliged to decide independently. The lay members of such courts are blind partisans, and it is only adding expense and additional machinery to have these men, who are supposed to aid the court but are merely advocates on the bench instead of on the floor of the court. When the Bill is in Committee I will endeavour to eliminate the provision for the appointment of lay members to the court. It is intended, as it was last session—and it was on this aspect of the question that the greatest amount of contention took place —to substitute somebody else for a judge

of the Supreme Court. Let me say at once that if there is anything that is necessary to make this legislation successful it is that the person responsible for the administration of the Act should be a man absolutely free from party colour of any kind; he must be a person in whom the community, both masters and men, can place the greatest amount of reliance.

Member: Such men are difficult to get.

Hon. M. L. MOSS: They are difficult to get, but I should be sorry to hear a single voice in Western Australia raise one word in protest against or objection to the statement that the members of the Supreme Court bench are men of unblemished and irreproachable character.

Hon. J. Cornell: You raised it against Justice Higgins.

Hon. M. L. MOSS: I never said a word against Justice Higgins. I have quoted in the House what eminent members of the Bar in other parts of the Commonwealth have said in regard to him. I regard Justice Higgins as I do the members of the Western Australian bench as being a man absolutely irreproachable.

Hon. J. E. Dodd (Honorary Minister): You believe in preference to unionists?

Hon. M. L. MOSS: This has nothing to do with preference to unionists. If the hon. member thinks it has, I will agree with him that we have here a union of four men against whom not a word of reproach has been heard in this community. We have four judges, and if the jurisdiction conferred by the present Act on the Supreme Court judges is taken away from them there is not the work to employ four judges. One was away last year on leave, and one is now away on leave, and, whatever may be the cause of it, the volume of litigation has dwindled in this State. I suppose the State is assuming much more normal conditions than existed when there was a gold boom. At any rate we are approaching nearer the amount of litigation in other portions of Australia; and if one of the judges is not to be performing the arbitration functions allotted to a judge by the existing statute, there is not work in the State for four judges of the Supreme Court. It has been said that the judges themselves object to performing this arbitration work. They have no right to object. I have said before in the House, and other members have said it, that the judges objected when they were brought down from performing judicial functions and called upon to exercise jurisdiction in the court of disputed returns in connection with parliamentary elections. It was then said that the judges were being brought into the arena of politics, and that it was not a fair thing to do, but we find nearly throughout the whole of the British Empire that where there is a disputed parliamentary election it is inquired before a judge of the High Court or of the Supreme Court, and I have never heard that judges, even those that were strong politicians in the past, have not been able to throw off their political leanings and deal with these questions altogether in an unbiassed way. Now, this Bill is a little better than the amending Bill of last session.

Hon. R. G. Ardagh: That is pleasing.

Hon. M. L. MOSS: It is better in this connection. Last session the Bill was putting a partisan in the position of judge and was making that partisan dependent on the annual vote of Parliament for his salary. This Bill does permanently appropriate £1,000 a year for the judge and £400 a year for each of the lay members of the court. Thus if the court is to be constituted as indicated in this Bill, these men will be able at any rate to do their duty fearlessly without regard to whether the Legislative Assembly will put on the Estimates a sum of money to give them their salaries. There is a great improvement in that direction, but there is still the element that it is to be an appointment made by the Government, a Government constituted of human beings. I hope I shall not be accused of saying an unkind thing when I make the statement that, having regard to some appointments the Labour party have recently made in this State and elsewhere which were of a very distinctly partisan character, it is almost a dead certainty that if this Bill goes through the brand of the gentleman who is to be judge under this Bill will be also partisan.

Hon. R. G. Ardagh: Would you infer the Government would not appoint the best man to the position?

Hon. M. L. MOSS: Of course those men responsible for the administration of the affairs of the country will appoint a person they legitimately believe to be the best person for the position; but he will be a partisan. The gentleman who was appointed manager of a State hotel was eleventh on the list. The Deputy Public Service Commissioner was told to make a list of twelve, putting them in the order of his preference. It may be a coincidence, but nevertheless it is a fact that number eleven on that list was appointed.

Hon. R. G. Ardagh: Has he not given satisfaction to date?

Hon. M. L. MOSS: I dare say, and I have no doubt that a partisan appointed under this Bill will give the utmost satisfaction, but I am not prepared to allow the experiment to be made. What is done when we are appointing such a person as is indicated in this Bill? We are actually creating a dictator in this country, who is going to lay down all the conditions under which every industry shall be carried on. More than that, this Bill, as it is drawn up, will apply even to domestic servants. He will start at the home; he will lay down conditions under which a domestic servant shall be employed, what her work shall be, what her wages shall be, and what her recreation shall be; he will lay down conditions which shall prevail when there are no children in the family; he will lay down the conditions which shall prevail when there are one two, three, or four in the family; he will lay down the conditions as to how many servants one will have in his house. And he will go further; he will go into the butchers', the bakers', and the grocers' shops, and into every factory, and prescribe wages and conditions. If we are to create a man for seven years who will absolutely dictate as to what is to take place in every home in this country, in every shop and in every industry. Where is such a man to come from? Who is going to perform these duties to the satisfaction of everyone? He will either carry out these duties or perform these functions to the satisfaction of one party, or he will do his level best to do what is right and just, and as far as possible be of no party, and if he has resolution and backbone enough to withstand the storm of abuse he will be subjected to, he will be a fortunate man if he does not find himself in a lunatic asylum in the end.

Hon. J. Cornell: Why is not Justice Higgins in a lunatic asylum?

Hon. M. L. MOSS: Justice Higgins has not half as much to do as the president of our court will have to do under this Bill. Justice Higgins only deals with disputes that extend beyond the confines of any one State, but here the president appointed will have to do everything in the whole life of the community from the domestic circle to the greatest industry in the country. It is impossible to do it. Where in times gone by it was attempted to create dictators to run countries it ended in signal failure.

Hon. J. Cornell: There are a few here yet.

Hon. M. L. MOSS: We have not such a one as you are trying to create here, and I do not think at any rate you are going to get the opportunity. I have said we are going to create a dictator, and in support of what I say there is a principle contained in the Bill which is absolutely unheard of, at any rate, where there is any civilised government. This Bill provides in Clause 100—

> Proceedings in the Court shall not be impeached or held bad for want of form, nor shall the same be removable to any Court by *certiorari* or otherwise; and no award, order, or proceeding of the Court shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court of judicature on any account whatsoever.

He is to be a dictator with absolutely unlimited powers. The Czar of Russia is nothing compared to the creation sought to be set up in this Bill. It is said that it is a court of justice which under no circumstances can be in any way corrected. Now, fortunately—fortunately I say—there is something which prevents this

Parliament doing anything of the kind. The Federal Constitution Act provides that there shall be a right of appeal to every subject of the King to the High Court of Australia. Clause 100 means shutting the door of the Full Court, and it means adding additional expense, because these appeals will be tried in Melbourne. Industrial trouble will be kept hanging in the balance until the High Court can get here in the month of October in each year, or litigants will go over to Melbourne to have the technical questions that arise decided over there. Fortunately the Constitution Act of the Commonwealth prevents this thing having its full fling, but I want to show how far the Government are trying to drive this country to create this dictator and do this impossible thing and make every award he gives, every order, every direction, every decree absolutely binding on the people of the State without any right of appeal. It is a scandalous and monstrous abuse of power on the part of any Government, if they can get the votes of both Houses to do it, to foist such a thing on the country. In Clause 50 there is a small matter, perhaps not worthy of mentioning, but which I do mention because the Colonial Secretary says it is not intended. It is provided that the president and members of the present court shall be deemed to be a court acting under this measure, and that they shall be deemed to be appointed on the 7th July, 1911. Now, the lay members of the existing court are in receipt of £300 a year at present, and it looks to me as if it were intended to make retrospective increases, for the salary provided in this Bill is £400. Something has to be done to make that perfectly plain if these two aides to the judge are to remain there. I am strongly opposed to the principle contained in Clauses 55 and 127, Subclause 4. If this Parliament will agree to the appointment of the judge of the court in the way the Bill indicates, and when rules and regulations are made under the Act which Parliament objects to, it is intended that the Legislative Council and the Legislative Assembly shall sit together in one Chamber and hold a joint sitting and have the right at that joint sitting to remove for incapacity or misconduct the judge or to disallow rules made under the Act. I am strongly against this thin edge of the wedge being allowed to have full play. It is a commencement of having one Chamber to carry out legislative functions. Hon. members of this place will be well advised if they beware of what underlies the principle contained in these two clauses. If it is intended to remove a judge appointed under the Bill for misconduct or incapacity, or if it is intended to set aside any rules as being not what Parliament desires, these Houses should have to act exactly in the manner they adopt in regard to other matters. The Constitution of Western Australia provides for two Houses of Parliament sitting separately and apart from each other. I think members in this House will make a sad mistake if they adopt the course suggested in these clauses.

Hon. J. Cornell: Are you sure it will be constitutional?

Hon. M. L. MOSS: I assume that if these clauses are passed they will be quite constitutional, but we will take good care that they are not passed. As I said before, the policy of this measure is to drive everybody into a large union to enable those who can pull the strings to more easily manipulate the people who are employed in these industries. Clause 60 is another of the efforts in that direction.

Hon. J. Cornell: Economic pressure is doing that.

Hon. M. L. MOSS: I do not care whether it is economic or otherwise, but I feel it is intended to exert a certain amount of pressure to be operated by two or three in the Trades Hall Council. Clause 60 reads—

> (1) An industrial dispute may relate either to the industry in which the party by whom the dispute is referred for settlement to the court, as hereinafter provided, is engaged, concerned, or interested, or to any industry related thereto.
>
> (2) An industry shall be deemed to be related to another where both are

branches of the same trade (as, for example, bricklaying, masonry, carpentering, and painting are branches of the building trade), or are so connnected that industrial matters relating to the one may affect the other.

That means that the bricklayers, masons, and carpenters may be perfectly satisfied with their conditions, their pay, and everything else; so far as they are concerned there is no dispute.

Hon. J. E. Dodd (Honorary Minister): Even though the employers desire it.

Hon. M. L. MOSS: I do not care what they may desire. I am not an employer of labour. I do not care who desire these things to become legislation, they are not going to get into the Bill if I can stop it. These bricklayers and masons and carpenters may have no complaint, but the painters may fancy they have a complaint, and then the whole thing is to be upset because one branch of the building trade think they should put the master into a hole. I am not going to assist that. They can make a dispute in these related industries if only one branch desires it. I am not going to give my vote for that.

Hon. J. E. Dodd (Honorary Minister): You are bringing your assumptions to an absurdity now.

Hon. M. L. MOSS: Perhaps so. When the hon. member gets up and tells me what it really means he will find that I am open to conviction. When he can convince me that this is not to put the master in a hole merely because the painters have a trumpery dispute which does not affect other tradesmen, I will vote with the hon. member. The next clause in the Bill is what I designated last session "the busybody clause." It 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. I think that means that a man who has nothing to do with the conditions between master and man can go before the court and make a dispute for them. I am not agreeable to that. The idea of creating a court against whose decisions there shall be no appeal; that there shall be no possibility of quashing any conviction the court may make; the creating of this great dictator, giving him—and, of course, by "him" I mean the court—the giving him all this power which is set forth in Clause 62, to say whether an industrial dispute exists, is in my judgment opposed to the best interests of the State. It has been laid down by the High Court of Australia what is meant by an industrial dispute. They want to take complaints to this court and throw men out of employment and create trouble over some trumpery thing which no other court would hold to be a dispute; and in face of this we are asked to take away the right of appeal. I will allow the court to say what is an industrial dispute, if you like, but it must be open to correction by a superior tribunal.

Hon. J. Cornell: Make the court of unlimited jurisdiction.

Hon. M. L. MOSS: Mr. Cornell is a great unionist. I believe in unionism to a certain extent, but I do not believe in the principle contained in Clause 64, because it affects my union. If this is intended to be a court to deal expeditiously with industrial disputes it will still remain a puzzle to me why the qualified man should be excluded and the unqualified man sought after.

Hon. J. D. Connolly: It is said that the unqualified man is cheaper.

Hon. M. L. MOSS: But he is not cheaper. I promised Mr. Dodd I would tell him something of expenditure that became necessary in the employment of these hybrid advocates.

Hon. J. E. Dodd (Honorary Minister): I have had a little bit of experience in connection with other advocates.

Hon. M. L. MOSS: There is this in regard to the other advocates: Every piece of work they do is liable to be taken before a competent officer and subjected to taxation, while for such of them as may be guilty of making extortionate charges they are liable to be struck off the roll; but there is no way of getting at these incompetent, hybrid advocates. I know of a case in which seven em-

ployers agreed to appoint a particular individual to advocate their claims before the court. That advocacy consisted of less than two days in the Arbitration Court, and the preparation of the case could not have taken a day. The advocate's fees for this service were 70 guineas. I know of what I am talking, for the reason that one of the seven employees was sued for his share, amounting to 10 guineas, and when I was informed of the circumstances I described it as the grossest imposition. I was instructed to attempt to settle the matter. I saw the advocate and said "It is hardly worth your while having this subjected to the light of day, because if you have to fight for it there is not much hope of getting a court to say that 70 guineas is a fair charge for what you did." My client got off for five guineas. The most prominent man at the Bar in this State could not demand 70 guineas for work which involves perhaps a day's preparation beforehand, and two days in court. I might give a number of similar illustrations pertaining to both employers and employees. To think that this system has resulted in the cheapening of this class of litigation is the grossest mistake in the world. Even though the court is not bound by the strict rules of evidence, I think it is quite obvious that people who are accustomed to get up evidence for submission to a court of justice often leave out a good deal of irrelevant matter which other, untrained minds might think should be included; and in my opinion if this court were open to legal practitioners it would largely expedite the business of the court. It has been made a stepping stone again, just as the union is made a political machine and stepping stone for a number of agitators to come into public life and Parliamentary careers. The policy of this Bill is to make disputes to bring men into the limelight in order to get kudos and subsequently enter upon Parliamentary careers. I am going to show that if the Bill were carried through, as printed, and Clause 64 left in, a delightful position would arise under Clauses 95 and 105. Clause 95 is an entirely new clause; it enables the Court of Arbitration to become equivalent to a court of summary jurisdiction for the trial of offences under the Act. Under Clause 105 and succeeding clauses there are certain offences, punishable by fines and imprisonment, and this court becomes a court of summary jurisdiction to try the offenders under Clause 105. I happen to know something about the difficulties and intricacies of getting convictions in cases of strikes and lockouts, and I can say that for an ordinary layman to advocate in one of these prosecutions or defences would be—well I will not say it would be impossible to get a layman capable of doing it, but, generally speaking, it would be next door to an impossibility. You create this court a court for the punishment of criminal offences, yet you do not give the person charged with the criminal offence an opportunity of being properly represented by a qualified person. If Clause 64 be left in there must be drastic alterations made in this clause creating the court a court of summary jurisdiction. Moreover, once one of these prosecutions is removed into the Court of Arbitration, although a man may get three or six months imprisonment, he is not entitled to go to a higher court and say it is a wrong decision. Think what it will mean if you get a partisan employer appointed who succeeds in convicting an unfortunate workman, or number of workmen, of striking: the man or men will be cast into gaol with no right of appeal. The Government cannot know to what length this ill-considered legislation will lead them. Passing on to the principles contained in Clause 85, I may say these are of vital importance to this community, because they indicate to what extent this statutory dictator, this court, is going to control everything in the country. There are five matters contained in that clause. The court may prescribe a minimum rate of wage, a minimum rate of wage which is to be sufficient to enable the average worker to live in reasonable comfort, having regard to any domestic obligations to which such average worker would be ordinarily subject. No one can

complain of that. I have said before that in respect to any industry in this country which does not enable a man to get a wage on which he can do these things, it is just as well if that industry cease to exist.

Hon. F. Connor: No.

Hon. M. L. MOSS: Yes, certainly. I think there ought to be a living wage and fair conditions, and I am prepared to go to that extent. There, however, I stop. Now the length to which Clause 85 is going to land this country is this: in addition to prescribing a minimum rate of wage, the court may provide for the classification and grading of workers employed in any industry. It may prescribe rules for the regulation of any industry, for the peaceful carrying on of that industry, and it may direct in its discretion preference to unionists, and limit the working hours of piece workers. Let me deal with them one after the other. I will bracket two, namely, the classification and grading of the workers and the prescribing of rules for the regulation of any industry. In plain English it means that the dictator created by this Bill is empowered to take the management of every business in the State. The men or company who provide the capital for the carrying on of an industry will have the great pleasure of providing that capital, but will not be allowed to exercise judgment and discretion as to how that capital shall be employed. They are going to be told by a hard and fast award made by this dictatorial court whether they shall employ men or machines, or that a certain number of men shall get a minimum wage, and so on. The court may take away from persons who have capital embarked in an industry all control of it. What does it mean? It means for those who have their capital here to-day a very serious thing. We are in direct competition with the Eastern States while they have no such law as we have here. It is worse than any customs tariff. All our industries will be placed at a tremendous handicap and disadvantage with the Eastern States. When it comes to the question of the introduction of what Mr. Cornell says is not capital, sovereigns into the country, who is going to bring money into the State to be hampered and fettered?

Hon. J. Cornell: All men do not come here with capital.

Hon. M. L. MOSS: You will get neither men with money or without money to come here. What this country wants is to be left alone. Shut up Parliament for five years and the country will progress fairly well. You will not do that and you hamper men on every hand and at every turn. Now, preference to unionists. There is a large number of workers who are anxious not to be members of unions. Can you wonder at that when you find unions dealing with industrial matters and politics?

Hon. F. Davis: Did you say a large number, I think you are mistaken.

Hon. M. L. MOSS: The Labour party throughout Australia have been clamouring that every man should have the right to work. I want every man to have the right to work and the right to live.

Hon. J. E. Dodd (Honorary Minister): That is all we seek in this.

Hon. M. L. MOSS: They will get it. On the basis set forth in Subclause 5 of Clause 82, why should it be a crime on the part of a man to remain outside of a union, but if he remains outside he will get no work. Preference to unionists, it is absolutely dishonest. We are all to come down to the dead level of the same wages, all are to get £4 or £5 a week, and, as I said on the Address-in-reply, we are to start off scratch, run our race and get to the winning post all at the same time. That is also the principle contained in Subclause (e) of Clause 85, to limit the working hours of piece workers. When a man takes piece work, what right has the court to interfere and to limit the time he shall work. If an industrious and persevering man wants to get beyond the level of the £4 a week that man should be allowed to do so, but that man it is said should only work seven hours a day. The greatest country we have ever seen, Great Britain, did not acquire her prominence by hampering conditions at all. I believe in liberty and freedom, but the hon. member (Mr. Cornell) who will drive people into unions,

believes in tyrannising people. That is my view on the limit of time for piece workers. There are two other provisions in the Bill to interfere with people, under Subclause 1 of Clause 97. We have not enough inspectors in this State already. We have health inspectors, inspectors of mines and machinery and others, yet we are to have another lot created inspectors under this Bill. We have done without them in the past, why should we require them now? We are going to have a permanent set of busybodies going into every industry and into everybody's business to see if the owner lives up to the awards. We are going to give preference to unionists, and these men will be hampering and interfering with everybody. It is quite unnecessary. Here is another thing. The whole of the arbitration courts up to date, actuated no doubt by a sincere desire to do what is right, but which I think is absolutely wrong, have limited the number of apprentices which may be taken on in any business, so that the logical result of it all is this, with our skilled labour, will be that in the future the youth of to-day in Western Australia will be placed at a tremendous disadvantage to the youth that comes from outside. If you have one apprentice only to three or four journeymen workmen, the skilled labour in the future will have to come from outside Australia and the young men in the country to-day will have to form a portion of the ranks of the unemployed.

Hon. J. E. Dodd (Honorary Minister): Would you have the German system in here?

Hon. M. L. MOSS: Tell me about the German system later on. We should not place our youth at a disadvantage to the youth who come from outside this country. This is the result of aiming at a dead level and the running of the race in the way I have already indicated, and when a man comes to 60 years of age he cannot be employed but has to be jettisoned. With laws such as this and with the Workers' Compensation Act employers must have the most vigorous men to work and when a man comes to 60 years of age, it will be said, "Well, we have done well for you; we have given you a good living wage that has enabled you to exist and live in reasonable comfort, and now you have arrived at 60 years of age we will provide you with an old-age pension of 10s. a week." That is the ideal of the Labour party in Australia. While you by a law of this kind, create a dictator who lays down the conditions of labour, and where the conditions are applied to men of all ages, logically the inevitable result is that the employer will employ the most vigorous men and the old man is jettisoned and his prospect is an old-age pension. I would not limit the hours of the piece worker himself, but I would limit the hours of the men he may employ. I would not put hampering conditions on people who would bring capital into this country, but I would enable men who take piecework to amass some of the sovereigns to which Mr. Cornell has referred, so that he will be able to start a business and become an employer, so that when he gets up in years he will have provided for a rainy day. That is not what is possible under the Bill.

Hon. J. Cornell: Is it possible for every man to become an employer?

Hon. M. L. MOSS: It is highly desirable that every man should strive to become an employer. I pass rapidly on by saying that under Clause 98 of the Bill, although reference is there made that before a dispute can get to the court there must be a vote by ballot. I shall see if I can make the measure more perfect in this respect so that we can get the unbiassed opinion of members of the union without being tyrannised over by the agitator, which I am brought to think in all unions there is a large percentage. I am coming to another important thing. Under Clause 101 of the Bill Government workers are included in it. No doubt that applies, as it says, to every worker employed by the Government who is not under the Public Service Act. What does that mean? It means that the police are able to form a union.

Hon. J. Cornell: Why not?

Hon. M. L. MOSS: It means that the police will be entitled to become affiliated with the Trades and Labour Council. If

there is one thing more necessary than another in times of industrial trouble in a community it is that the police, who are practically your force to preserve law and order, should be kept free from any partizanship. If the police are not paid sufficient wages and emoluments, then this Government or any Government should pay them sufficient to make them free of all unions, but to put your force into a union, and entitle them to affiliate with the Trades and Labour Council is a disgraceful business. I understand Mr. Connolly to say that the Colonial Secretary has given permission for the police to form a union. It is a disgraceful thing that here we have a body of men who are looked to, not only to preserve law and order, but to protect those people who when troublous times arise are liable to be subjected to violence.

Hon. J. E. Dodd (Honorary Minister): Why should they not have the same rights as others?

Hon. M. L. MOSS: I have given my reasons. If the hon. member seeks to justify this provision, and say that the police are entitled to become a political body, let him give his reasons for that when he speaks, but I say that it is a scandal that the body which we look upon to protect us in troublous times should be allowed to affiliate with any body like the Trades and Labour Council. On looking at Part 6 of the Bill, and reading rapidly, one would think that it was a great improvement on Section 98 of the present Act, and its succeeding sections. Section 98 of the Act is a section that penalises persons who take part in strikes and lock-outs, and Clause 105 and the succeeding clause are those provisions replaced with additions. It may be urged by certain people who wish to throw dust in our eyes that it is a legitimate attempt made here to enforce obedience to an award. One thing that arbitration has been accused of in the past is that it has been powerless to enforce obedience to awards. The court of justice is enabled to enforce obedience to an award amongst employers, but it is powerless, as far as the worker is concerned. It does not appeal to my mind as deserving the name of a court of justice. In dealing with the employer you can get at his property, and thus enforce obedience in that way, but in dealing with an army of workmen you cannot do anything but imprison them, and to think of imprisoning men for this offence is repulsive to my idea of what is right. You would want a prison as big as a military barracks to put them all into, and in a community like this it would be an intolerable act. Mr. Dodd, when speaking on the second reading of this Bill, stated that men had been imprisoned in New South Wales for breaking similar laws. As this has some bearing upon the points I have made as to the partisan character of probable appointments to be made under this law, it is true these men were put in prison, but when the Labour party came into office the first act they did before the Governor's signature was dry on their appointments, was to release these men.

Hon. R. G. Ardagh: An act of justice.

Hon. M. L. MOSS: It might be, but it is a significant fact that they were imprisoned for breaking the law after they had been tried by an unbiassed judge and were then released. This clause will always be a dead letter, and there are provisions in this group which are simply disgraceful to another place. Subclause 4 of Clause 105 states—

> When a strike or lock-out takes place and a majority of the members of any industrial union or industrial association are at any time parties to the strike or lock-out, the said union or association shall be deemed to have instigated the strike or lock-out.

That subclause is bound to be a dead letter. In order to get a conviction against a union for instigating a strike, say in the case of a union of 200 members, it will be necessary to prove at the prosecution that 101 members had instigated the strike. This will have to be proved by strict legal evidence, as strict as the evidence when a person is being prosecuted for a criminal offence, and to get 101 out of the union of 200 and to prove to the satisfaction of the court that the 101 had instigated the strike, is an impossibility. When we look at later clauses in the Bill.

the onus of proving the contrary is thrown on the defendant. Why was not the same onus of proof provided in connection with this subclause? The one that takes the cake, however, is subclause 3 of Clause 111. Before I make any observations, I want to say that under Clause 105 strikes and lock-outs are prohibited and declared to be against the law of the land. It is a criminal offence for anyone to instigate a strike, and it is equally a criminal act against the union, as against every constituent element in the union. Clause 111 places certain disabilities on persons who are adjudged guilty of offences under Clause 105. A person guilty of doing anything in the nature of a strike or lock-out or of instigating or aiding a strike or lock-out is guilty of an offence. and a person contributing money to anyone striking is also deemed to instigate and aid. Subclause 3 of Clause 111 provides—

> 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 while such offender was a member thereof.

Was there ever such a state of affairs in the wide world? The unions must not aid a strike, the men must not strike. and if in the union a resolution is passed saying the men may strike, although the law says the men must not strike, that excuses the man who obeys an order against the law of the land. Whoever passes a resolution of that description is breaking the law, but yet it excuses those concerned when they come into court.

Hon. J. E. Dodd (Honorary Minister): That refers to the penalties.

Hon. M. L. MOSS: But when we put a clause like that in the Bill, it practically means the union may pass a resolution authorising a strike. It is making an absolute sham of Clause 105 when we say the men must not strike, and in another breath say they will be excused if they prove that the union authorised them by resolution to strike. What on earth do they think a Chamber like this is composed of? Any honest working man would say it is a disgrace that such a clause should have left another place. The Honorary Minister said there should be a law to prevent a strike in regard to public utilities, like railways, tramways, electric light and gas works. What is the good of talking like that? How can we compel men to work when they refuse to work in the case of public utilities any more than in any other industry? It comes back to this, that this legislation is no good. If public opinion is at the back of a lot of strikers who are being unjustly dealt with by a master, they will succeed. If public opinion is against them, they will fail. And I say the sooner it is left to public opinion without going to a tribunal such as this Bill proposes, the better it will be for the industries of the State, and for the working man. There is one clause in the Bill I mention for Mr. Dodd's special information, and that is Clause 123, which was in the original Industrial Conciliation and Arbitration Act, and was put in, I think, because there was no law in Western Australia till 1902 legalising the existence of trades unions. Trades unions were legalised in England many years ago, and before they were legalised in England men combining for carrying out trades unionism were conspirators in the eyes of the law. That clause was embodied in the first Act because we had no Trades Union Act to say that unions were lawful combinations. Seeing that we have had such a law since 1902 in this State, Mr. Dodd might do well to consult the Crown Law authorities to decide whether this clause is necessary. I have made all the observations I propose to make. I will deal fully with a number of these questions in Committee, but I have said enough to show that this Bill is a very important and a very dangerous one. It contains principles of which this House must be careful before it agrees to them, because it is difficult to know where they will land us. Our opportunity now is to prevent this legislation. It is no use asking us to make an experiment and saying if it does not do it can be taken off the statute-book. A simple matter in the

shape of the Roads Act was introduced by Mr. Connolly, and the House, against my opposition, agreed to it before the late Government left office, under a promise that its provisions would be revised during the next session. I told Mr. Connolly that, first of all, two Houses of Parliament had to agree before the provisions could be got rid of, and secondly that Mr. Connolly might not be in office to carry out his promise. There are many things in that Act which will be difficult to get off the statute-book. There are many things in this Bill which will never come off if once they get on the statute-book, and they will have most serious effect on the welfare of the country. It should be the aim and ambition of every member to foster the industries of the country and not to hamper them, and I hope that when the Bill gets into Committee as I think it is bound to do, we will see that it does not go on to the statute-book in a form which will make it harmful to the country. I will try to make it workable according to my own likes, and not according to those of Mr. Cornell, and I am sure every member will be imbued with the desire to do his duty in preventing the enactment of a law which may be disastrous to the State.

Sitting suspended from 6.10 to 7.30 p.m.

Hon. A. SANDERSON (Metropolitan-Suburban): I think in ordinary circumstances, having heard the Minister introduce this measure, and also the speech of one of the most prominent opponents of it, we might proceed to range ourselves under different flags. But this is a non-party House; it certainly is as far as I am concerned in regard to this measure for two reasons. The first is that, in the words of my friend Mr. Kingsmill, the leader of the Liberal party might stand aghast—they were the words used—at the attitude I take up. In addition to that, I heard another statement which has stuck to my memory, from the Minister who introduced this Bill. He told us, and he may be right, and my remarks may even confirm his view, that I am not well versed in the art of political diplomacy. My idea of dealing with a public question is not to indulge in diplomacy. I think, on these large questions, at any rate where big issues are at stake, anyone who takes part in public affairs should come forward, and the attitude he takes up, I do not say with regard to every Bill, but with regard to the principles involved in any measure such as this, should unmistakably be put before the public, as well as the members of the House in which he sits. Of course there are those who are shifty politicians, who think that by juggling with words and confusing big issues they are indulging in, or showing themselves to be masters if you like, of this political diplomacy. For my own part, on this question of industrial arbitration, it would be quite idle for me to pretend that I wish to disguise the fact that I am an opponent of it. It is now getting on for twenty years since I listened in the New Zealand Parliament from the Press gallery to the originator of this measure, Mr. W. P. Reeves. I was quite unbiassed with regard to the question. I thought possibly there was a great deal to be said, if not in favour of this proposal, at any rate in favour of making the experiment. I did not see myself how the experiment could succeed, but recognising as we all do what industrial war means, I was quite prepared to make the experiment, if it was recognised that it was an experiment. What has been the result? I am not going to repeat what Mr. Moss has said, beyond this, that I think the experiment has been a failure, and I find myself now unable to accept the principle of compulsory industrial arbitration. If I have not indulged in the art of political diplomacy here, neither have I indulged in it outside. I certainly recognise that I am bound to a very large extent by the utterances I made on the public platform, and when seeking the suffrages of the people who sent me here. This, among other questions, came up for discussion. In order that there may be no mistake on the matter, I have looked up my notes, and I find that in speaking to the electors of the Metropolitan-Suburban Province, I said—

> I regard industrial arbitration as very similar to international arbitra-

tion. Industrial or international war is always a serious affair, sometimes a crime and nearly always a blunder. For that reason I am in favour of the establishment of a court of arbitration to bring the parties together, to adjust if possible the differences, to see what the points of issue really are, and not the least important of the court's province is to "save the face" of a party which finds itself in an impossible position from which, without the assistance of a third party, it could not retreat without loss of honour or dignity. To this extent I am a cordial supporter of an arbitration court. But there is a limit beyond which it is unsound and unsafe to go. I cannot bring myself to consent to international disarmament any more than I can agree to abolish the right of men to go on strike.

That is my attitude to-day. I may be compelled, if the second reading of the Bill is carried, to accept this principle of compulsory arbitration. Frankly, I confess that I find it difficult to get away from the conclusions of the Bill we have before us, if the principle is accepted and thereby cause the leader of the Liberal party to stand aghast. That, at any rate, is the position I have taken up whenever this question has come up for discussion on every public platform in Western Australia, that it is radically unsound to have compulsory industrial arbitration. If, by voting myself, and getting other people to vote for the rejection of this Bill, I could get rid of compulsory industrial arbitration, I would certainly be prepared to take upon my shoulders that somewhat serious task of moving the rejection of the Bill, so that we might clearly see who were in favour of compulsory arbitration. We know well, however, that even if this were done, it would not get rid of this pernicious system, because we would still have on the statute-book a system which I maintain is unsound in principle. Reference was made by Mr. Moss to the speech made by Mr. Irvine. Mr. Irvine pointed out that the Arbitration Court was not a court at all, and I do not wish to emphasise that point, as Mr. Moss quoted Mr. Irvine's words. It is not a court of law; it is a subordinate part of the legislature. And even more cogent from my point of view than Mr. Irving's remarks, were the remarks which Mr. Irvine quoted in his speech from Mr. Justice Higgins, and as the matter is very important I think no apology is required for reading some of those remarks of Mr. Justice Higgins, who is one of the foremost champions, and one of the most important persons in this country, connected with industrial arbitration. Mr. Justice Higgins said—

> It is the function of the legislature, not of the judiciary, to deal with social and economic problems; it is for the judiciary to apply, and when necessary to interpret the enactments of the legislature. But here, this whole controversial problem, with its grave social and economic bearings, has been committed to a judge, who is not at least directly responsible, and who ought not to be responsive to public opinion. Even if the delegation of duty should be successful in this case it by no means follows that it will be by no means hereafter. I do not protest against the difficulty of the problem but against the confusion of functions—against the failure to define the shunting of legislative responsibility. It would be almost as reasonable to tell a court to do what is "right" with regard to real estate, and yet lay down no laws or principles for its guidance.

That is Mr. Justice Higgins, and for my own part, I believe that the great majority of the people who hold the views I do would subscribe to every word Mr. Justice Higgins said. Then we come to the remarks of the champions of this measure on the question of equity and good conscience, the words which were used by the Honorary Minister in introducing the Bill. Whenever this question of compulsory arbitration comes up for discussion, these words are always used.

Hon. W. Kingsmill: It is a reflection on the law.

Hon. A. SANDERSON: It is no reflection whatever on the law. The perfection of commonsense is the law. This system of equity and good conscience,

which has been referred to by so many speakers on this question of industrial arbitration is wholly misleading to the lay mind. It is the use of words which to anyone legally trained have some intelligible meaning, but as used by the layman in connection with this Bill, either have no meaning at all, or at the most a very confused meaning. We have been told by a member of the Government—

> We are desirous of creating a court which shall fulfil the functions of the court of equity of days gone by. There has been nothing said against this measure that was not said against the courts of equity when they began to assume their modern form. The quarrels between Chief Justice Coke and Lord Ellesmere were precisely the quarrels between employers and workers in the arbitration court now.

This court is not to be confined to the usual rules of evidence, but equity and good conscience are to prevail. We have the dictum of Mr. Birrell that the distinction between equity and law will never be grasped by the lay mind. I am not going to inflict any lengthy technical statement on the House, but if members will take up the parallel between this court of arbitration and the Court of Chancery, I think they will find it a very interesting one. I am going to refer to our old friend, Charles Dickens, because I believe his remarks will throw a clearer light on this subject than any reference to Lord Ellesmere or Lord Chief Justice Coke as to this Court of Chancery. Mr. Birrell, who is now a Cabinet Minister, said that the only permanent record of a departed system—mark you, this system of equity, as it is understood by the lay mind and as it is held up to us, is a departed system—was to be found in the pages of Dickens, and no one who has read Parkes' History of the Court of Chancery can deny the essential truth of Jarndice *v.* Jarndice. This is what Dickens said about this Court of Chancery, to which it is said this Court of Arbitration shall compare—

> This is the Court of Chancery which so exhausts finances, patience, courage, and hope, so overthrows the brain and breaks the heart, that there is no honourable man amongst its practitioners who would not give the warning—"suffer any wrong rather than come here."

Now, however much we may hope and believe that in the future we shall see some big industrial development in this State, we know that at the present time our industries are on a small scale, and that our social and industrial scheme is not of a very elaborate nature, and is it any exaggeration to say that this court of arbitration "so exhausts the finances, patience, courage, and hope, so overthrows the brain and breaks the heart" that it is a most discreditable institution to have in our midst?

Hon. J. E. Dodd (Honorary Minister): That analogy is not correct, so far as the cost of the court goes.

Hon. A. SANDERSON: Charles Dickens in his language is speaking at the very end of the court's existence, after it had been going on for hundreds of years. At the beginning, no doubt, the Court of Chancery did good work. The idea is, as the Attorney General said in one of his speeches the other day, to give a court for the control of disputes between workers and masters, a court that should be governed by equity and good conscience, and be free of all legal technicalities. That was perfectly true in the old days of the chancellor in his court, and the analogy seems to me most accurate; in fact it is an analogy that has the support of members of the Government. They say the Court of Chancery is the very kind of court they wish to set up, and that these disputes between common law and equity went back to the time of the Stuarts, and are the very disputes that take place in the court of arbitration to-day.

Hon. J. Cornell: They went back to the time of Wat Tyler.

Hon. A. SANDERSON: I should be prepared to go through English history from the time of Julius Caesar downward to produce support for my view of the case. This question of industrial relations is no new thing. It is one of the oldest

in history. Neither is this system of compulsory legislation a new thing. We can trace it right through the pages of English history, and it has failed most lamentably whether tried by the employers for their purposes when the masters were in command, or whether tried by the employees now that they have the whip hand. The representatives of the employees in this country sit on the Treasury benches to-day and they are attempting to do precisely what the masters did in the old days, that is, to legislate in their own favour, and the masters used exactly the same argument, namely, that they were going to have industrial peace. My own view is that we will never have industrial peace, or if we do, it will be only in Western Australia, and then solely because we have no industries.

Hon. J. Cornell: We will have industrial death.

Hon. A. SANDERSON: Make it a desert and call it peace. Unless we have this constant struggle and constant higgling of the market——

Hon. R. G. Ardagh: How do you propose to regulate it?

Hon. A. SANDERSON: The only interference I would make is to see that the weakest section of the community is protected. In the pages of history to which we have been referred, the masters made the laws in their own interest, and to my mind there is no question whatever that the legislation proposed now is brought in by the representatives of the employees in favour of themselves. The sections of the community that are left out now are the sections that were left out before. In this discussion my criticism will be directed neither from the employees' standpoint nor from the employers' point of view, but as a representative of the public, always with the proviso, however, that I will be prepared to make some experiment and to stretch my opinion to some extent in favour of the most unrepresented and down-trodden section of the industrial workers.

Hon. J. Cornell: You will be called a devastating socialist.

Hon. A. SANDERSON: I am nothing of the sort. I subscribe to nearly everything that Mr. Moss said when he stated that he was in favour of liberty, but I am ready to openly admit that in some cases I am prepared to interfere with that liberty for the purpose of protecting the weakest section of the community. When we have industrial conditions such as obtain in this country at the present time, the employees in the trades unions, at any rate, are very well able to look after themselves. It is not a paradox to say that the employees in this country, speaking generally and with special reference to the trades unions, are the masters of the situation. I will show the House that several members of the Labour party hold that view. I was about to refer to Mr. Reeves, as in many respects the father of this class of legislation. I had an opportunity from the Press gallery of following the commencement of the subject very closely, and I have fortified my recollection of Mr. Reeves' attitude right through by consulting the records. I say at once that this legislation was an experiment from the commencement. Mr. Reeves said, "I do not think that the arbitration court will be very often called into requisition"—this was under the system of having two courts, a conciliatory court and an arbitration court—"On the contrary, I think that in 99 cases out of 100 they will be settled by the conciliation boards." Now, we can put that the other way about, and say that 99 per cent. of these cases have come before the arbitration court. I am not afraid of experimental legislation. In many respects it is the only way we can make progress, but recognise that it is an experiment, and say what the result is with a more or less unbiassed mind. It is a failure. It seems to be admitted by so many sections of the community that the system has failed, and yet they will not come to the conclusion I have arrived at, that we had better retrace our steps or make an experiment in another direction. And to that extent, when we come to the question of the rejection of the Bill we are driven to make an experiment. Now, this may call forth the critical sarcasm of Mr.

Colebatch, but I say that here again I am prepared to throw the responsibility on the Government. So far as I am concerned I feel inclined to wash my hands of the whole affair. This raises of course an interesting and difficult question as regards the Legislative Council. I believe that the Government in many respects would be only too delighted if the Council would reject the Bill; or, better than that, so amend it that they could throw the whole onus of responsibility on the Council. That is why I thought Mr. Moss was getting on dangerous ground when he said that the question of industrial arbitration was accepted and that the Government had a mandate, and that, therefore, although he did not approve of compulsory arbitration, he was going to accept the principle but amend it in Committee. If the people have given a mandate on this question to the Government, surely it can be fairly urged that the mandate should be carried out, and if we are not permitted to throw out the Bill —

Hon. J. E. Dodd (Honorary Minister): Would you be prepared to support the repeal of the present Act, provided this Bill is thrown out?

Hon. A. SANDERSON: I must think that out. My brain thinks very slowly on these questions of industrial arbitration; there are so many traps.

Hon. J. E. Dodd (Honorary Minister): What I meant was that if this Bill is thrown out by the Council would you be prepared to support the repeal of the present Act? Because if you would do so I will do my best to give you the opportunity.

Hon. A. SANDERSON: I think the Council ought to thank me for having got that information out of the Minister. When questions of importance are asked on the other side by the ordinary member it is customary to ask for notice, and if I am permitted to have notice of this question and to consider the matter in conjunction with some other members I will be prepared to give a definite answer to-morrow; but, speaking off-hand, I would be inclined to accept it. I think it is a most important piece of information, and a most important proposal that is put forward by the Minister—if the Council rejects the Bill they will wipe off all the industrial Acts on the statute-book. I assume, for the moment, the Minister is speaking on behalf of the Ministry.

Hon. J. E. Dodd (Honorary Minister): I am speaking on behalf of myself. I shall do my best to help you.

Hon. A. SANDERSON: I think the hon. member had better consult his colleagues. I am not in that unfortunate position; there is no necessity for me to consult anyone except my constituents and my conscience; and having had time to consider the question, I am now prepared to accept it. If the Minister will assist me, I am prepared to throw out the Bill on the understanding that all industrial arbitration legislation on the statute-book is wiped out. Thus the hon. member has had a definite answer without notice. I do not know whether what I am now about to deal with comes under the heading of the discussion of the principle of the Bill, or whether it comes under the heading of an amendment which I would be prepared to support on the assumption that I am compelled to submit to the principle of compulsory arbitration. I refer to regulation of the price of commodities. But first let me tell the Honorary Minister with regard to those blandishments he spoke of on one occasion, when he hoped to get me on his side instead of over here where I am in safe custody, or, as "custody" is hardly the word to use, where I have a friend looking after me.

Hon. W. Kingsmill: Which I refuse to accept responsibility for.

Hon. A. SANDERSON: I do not ask ask him to accept responsibility, but in doubtful matters it is a good thing to have an old and experienced parliamentary hand in front of one to see that one is doing the right thing. With regard to those blandishments and my attitude towards the Labour party which the hon. Minister had the audacity to refer to, let me put it this way, that once I am

compelled, as possibly I may be in connection with this measure, to get over the line, a very narrow line if he likes to so put it, but a very sacred line to me, then I shall tackle the question of regulating the price of commodities. State socialism is the aim and object of all this legislation and of the Labour party, and once I am forced over that line—that is where Mr. Kingsmill has referred to those people standing aghast, because I admit here, as I have admitted everywhere else, that if we accept this ideal of the Labour party it seems to me we accept the whole lot; they are openly aiming at State socialism which I think is radically bad from start to finish—once we get over that line, which may seem to the Minister a very narrow one, but which to me is most sacred, I will then come in on terms of equal discussion, and the question of the regulation of the price of commodities is one I would like to tackle. It is not a bit more difficult to tackle than the regulation of the price of labour. The odd thing to me about the discussion of this very important question, and what fortifies my conviction so strongly, is that we have two opposite camps supporting the same thing. The *Sydney Worker* says—

> Short of absolute State control of all production and distribution, the only remedy in sight for latter-day commercial developments appears to be the institution of some means for the legal regulation of prices.

There is not much in common between the Supreme Court and the *Sydney Worker*, and yet here is what a judge in our Arbitration Court on the 9th August of this year said—

> I think that legislation having for its objective the regulating of the prices of commodities is most desirable at the present time.

To me it is not a bit more impossible than the regulation of the price of labour. I cannot see any great difficulty in a judge or anybody else who is paid a comfortable salary and cannot be removed for seven years—I cannot see the slightest difficulty; in fact the more foolish the person, the more competent he is to do it—sitting there with a pen and deciding what other people should pay for articles they use.

Hon. J. Cornell: You admit that wages are based on the price of commodities.

Hon. A. SANDERSON: The whole of the industrial question is most difficult, complex and vexed. If we can find any principles on which we can work satisfactorily we are to be congratulated. I do not wish it to be imagined that I desire to be dogmatic in this matter. No one desires bad industrial disturbances or even bad industrial conditions. Anyone who has travelled throughout the world and seen what industrial conditions mean, even in the most favourable circumstances of employment, must, I think, be anxious for the future of the industrial community. I certainly have no wish to minimise the enormous importance of conditions. I certainly have no wish to be dogmatic in the views I put forward. I simply say that this specific proposal for compulsory arbitration in Western Australia, sticking as closely as I can to the subject under discussion, and not permitting myself to wander around the world to other parts, except so far as they illustrate the conditions here, this particular Bill, this particular system that we have on our statute-book, has been experimental legislation and has failed very badly indeed to fulfil the requirements which were put forward.

Hon. J. Cornell: Why has it failed?

Hon. A. SANDERSON: Under no system short of the benevolent despot can we regulate these questions, and all that is possible to do in a statesmanlike way to-day is to minimise the evils that happen to fall on the weakest section of the community. That is as far as I am prepared to go.

Hon. F. Davis: Who are the weakest section of the community?

Hon. A. SANDERSON: I will come to that later, but let me give one illustration. An hon. member held up his hands in horror at the idea of shop assistants and domestic servants coming under compulsory arbitration. If the principle is sound and if there is one section of the community who seem to get a wage that

does not fulfil the statement of Justice Higgins that everyone should receive a wage to enable him to keep his wife and family in comfort—I do not remember his exact words but they were to the effect that everyone should receive a fair and reasonable wage—if there is one section of the community that have not been able to secure this reasonable wage it is the shop assistants throughout the State; and I can see no reason why the system should not be applied to the shop assistants. In fact I would go further and do my best to see that this system which is being used and applied by the strongest section of the community, the trades unionists, the highly-skilled trades unionists, to extort money, not from their employers but from the public, because it is the public who pay the bill and not the employers—

Hon. F. Davis: Then why does the employer complain so bitterly?

Hon. A. SANDERSON: Because he is the conduit-pipe, if we may put it so, between the public and the employee. I am well aware that there is a section of employers who think they are very important people, and whose influence has been so extensive in Australia that they have got their protection through the tariff. I am equally opposed to that system as I am opposed to the employees bleeding the public. As an illustration I can, perhaps, give the hon. member the shop assistants as being the weakest section of the community. This question of the real objective of the Labour party should be placed before hon. members. I have spent hours in reading the Federal *Hansard*. If one wishes to know what is going on in the industrial world it is not sufficient to confine attention to Western Australia, but one must go farther afield. The Labour representatives in the Senate have the courage of their opinions. Here is what Senator Rae said. It is of no use holding that Senator Rae is not a person of great importance, for he is at least a Senator; moreover, very often one can get the most interesting information in regard to Labour affairs from members who are not in the most prominent positions, who do not have to use this diplomatic sagacity to which the hon. member has made reference. Senator Rae said—

> I do not entirely agree with Senator Long's reference to industrial arbitration. I decline to endorse his assertion that we adopted arbitration in lieu of strikes and violence. This is merely using the misleading expressions of our opponents. There is nothing violent about a strike. The word is inappropriate to describe what it is generally understood to mean. . . . . There is no violence about sitting down and declining to do anything. . . . So long as employers are permitted under various pretexts to stop their operations and lock men out it will be impossible to prevent men from ceasing to work.

At this point Senator St. Ledger interjected "The hon. member wants both barrels loaded," and Senator Rae continued—

> I do. I tell the hon. member so straight out. I contend that the very basis of arbitration, as we have it now, requires alteration. . . . I want to see arbitration founded on the idea that those who create the wealth of the country have a right to use the political machine to secure an ever increasing proportion of that wealth, until they ultimately eliminate the middle man and speculator and secure the whole of it. Until we realise that at the back of arbitration there is, on the part of producers a desire, which no mere palliative measure can meet, to secure the wealth they produce, instead of its being filched from them in the shape of rent I adopt absolutely the socialistic view that the wealth of the world belongs to the workers and my object in politics is to get what I can for the workers.

Hon. R. J. Lynn: Is that from Mr. Cornell's speech?

Hon. J. Cornell: At all events I agree with it.

Hon. A. SANDERSON: Of course the hon. member agrees with it. The people I would venture to appeal to are those misguided individuals who think that compulsory industrial arbitration is going

to bring about this industrial peace. It is simply a step in the direction of carrying out the Labour ideals, and those people in Parliament and outside who have given, without thinking, perhaps, too carefully of what they were doing, who have given this concession of compulsory arbitration, set the ball rolling, and it must land them inevitably, unless they retrace their steps, at the conclusion at which the Labour party have arrived. I think it is a pertinent observation that it is sometimes difficult to put on paper what you mean, even when you have a clear idea of what you want to put down; but when you do not know, as is the case with a lot of this industrial arbitration legislation, when you really have not a very clear idea in your head, it is impossible to set it down. We have the Labour people, who have a clear idea of what they are aiming at, and we have those on the other side who have not quite a clear idea, but who trust to a chapter of accidents to see that all will be right in the end. These two sections of the community have landed us in the impossible position in which we find ourselves. Are we to have strikes? Mr. Moss's list was quite sufficient to show us that he thinks it is a perfect farce. When I have laboured through the huge mass of matter which we have before us in connection with this industrial arbitration all over the world, or, if you confine yourself to one country alone, in Western Australia, every now and then one feels inclined to throw up the whole thing, so obviously impossible is it to put this thing through. The Acts of Parliament mean nothing. You can put anything you like in your Arbitration Bill, because no one takes any notice of it. That is the conclusion of despair and disgust at which I arrive when I try to treat this matter seriously. It is putting a premium on strikes; you can regard it as nothing else. All can go to a court, to a man who knows little, very often nothing whatever, about the subject he is called upon to adjudicate upon, and sitting as he is, between two men who invariably vote on different sides, the whole responsibility is thrown on the one man. What can you expect but he will increase the wages? Why should he not? Everybody can put forward a very good case to show that his wage is a very low one, and that throws the responsibility on the judge, who increases the wage, as he has done in dozens of cases. The butchers have been there and got their wages raised. If the ordinary man on the lowest grade of the Railway Department can get his 9s. and 10s. a day, is it not natural that every other section of the community, whether it be schoolmaster or shop assistant, or policeman, is it surprising that when they find the most ill-instructed section of the community able to go to the court and get a wage like that, every section of the community says "We cannot lose anything by going to the court; anyone can appear there and say what he likes, because the laws of evidence do not apply. Therefore, let us go to the court and see what will happen." Is that not putting a premium on strikes? When I try to grapple with this difficult question, I for one throw down my papers every now and then in absolute disgust, which I try to turn to amusement when I consider the farce of the whole thing. No one knows it better than the members of the Labour party themselves. I have stood up on every platform throughout the country discussing this question. I should be very sorry indeed to be an employer in this country. I have been an employee, in a good many places, sometimes getting what I wanted and sometimes not. If I were again a working journalist, or again a schoolmaster, or again a dryblower, as I have been, I would go to the Arbitration Court and say "Will you not raise my wages?" It is very difficult to listen with patience to anybody in this country, with the experience we have had, and the intimate knowledge everyone has in a small community like this of what is going on, it is very difficult to listen with patience to those people who talk about compulsory industrial arbitration.

Hon. J. Cornell: Is it not one of the first stages of social evolution that a man should try to improve his condition?

Hon. A. SANDERSON: Social evolution, the law of equality and justice, equity and good conscience!—all these subjects I am prepared to follow out to almost any extremity; but where are we to stop? Social evolution in a country like this—I suppose we will be told we are laying the foundations for a magnificent development. Look at the history of Australia, particularly of Western Australia, ever since its birth. As an Australian born on the other side and residing here, I find it distressing when I travel throughout the world and see the progress being made in other places, and come back again to my own country, and realise that there are just as good chances in other parts of the world, and see the farce that is being worked out here.

Hon. J. Cornell: Australia is only a baby compared with other nations.

Hon. A. SANDERSON: Yes, and is behaving in a very babyish manner. After 100 years we should have grown out of our baby state. Even if the experiment had been a success in this country it would not convince me that it was sound, or would bear the weight of further developments. The president of the Arbitration Court himself declared that it was a farce, and as good as a play. His reference to the folly of Parliament in passing measures which he could not make head or tail of were, I think, a little unkind. He was very sarcastic in his references to members of Parliament, and when the president himself says it is a farce and as good as a play, is it surprising that it should arouse indignation or amusement in accordance with the mood in which it finds one? Then the hon. member talks about social evolution. I think that to have these grand ideals, in fact to have ideals of any kind, after one has reached the age of 40, is the subject for congratulation.

Hon. W. Kingsmill: Or for medical examination.

Hon. A. SANDERSON: Well if my friend goes as far as that, I will not follow him. But are we not dealing with a practical, burning political question, that of compulsory arbitration? If the evolutionary theories and if the social theories of the hon. member would help us in the discussion of this Bill, I think his interjections would be very pertinent.

Hon. J. Cornell: Do you deny that they do help?

Hon. A. SANDERSON: I do indeed. On my own showing, on the showing of the father of this legislation, it is nothing but an experiment.

Hon. J. Cornell: Who is the father?

Hon. A. SANDERSON: Mr. W. P. Reeves. I do not think that is questioned, at all events in Europe. If the hon. member will go to London, or Melbourne, or Sydney, or Wellington Mr. Reeves is recognised by his political career, by his position, his literary gifts and the books he has published and by his present official position in London, as one of the greatest authorities in the world. It is no exaggeration to say that because he has had the practical handling of this question through the New Zealand Parliament and he has had the opportunity which very few have had of travelling all over the world and being received by the most distinguished people in connection with this question of industrial legislation and has been given the fullest opportunity of examining the conditions. That is why I think it is no exaggeration to say that Mr. Reeves is the father of this industrial legislation.

Hon. J. E. Dodd (Honorary Minister): What does Mr. Reeves say about arbitration at the present time?

Hon. A. SANDERSON: I have quite enough here without bringing down Mr. Reeves. That is my great difficulty in this discussion. If I had not been interrupted I think I should have been finished before this. The question has been asked what Mr. Reeves says at present. If I got Mr. Reeves's statements from 1894 down to the present time, even this session would hardly be sufficiently long for me to deal with them. I do not know what Mr. Reeves says at the present moment on this subject of industrial arbitration. I am only telling members what Mr. Reeves said when he introduced this legislation and the reasons he gave for asking members to support him, and showing that his anticipations at that time

have been falsified just as were his anticipations on the subject of the great land taxation question in New Zealand. I am able to give a direct reference to a most recent paper which Mr. Reeves read bfore the British Association on the question of land legislation. He may be reading a paper to-night for all I know, on this question. This I frankly admit that Mr. Reeves was the first one to bring in this legislation. There are many members of the community totally opposed to the Labour party, and some, for reasons which satisfy them, and some because they will not trouble to go into the question deeply but form their opinions off-hand and so have no opinions worth debating, will say they are in favour of compulsory arbitration. I believe that members in this House will accept the proposal. I do not believe that members this Council would have the courage to go to their constituents and tell them straight out that we would have nothing whatever to do with the thing. I am prepared to go on any platform in Western Australia and maintain that position that many workers are full up of it or, as the Minister told us in more classical language they thought the thing was a failure. The impression I got from the Minister's speech in introducing the Bill was that a portion of the working classes did not believe in compulsory arbitration.

Hon. J. E. Dodd (Honorary Minister): Arbitration according to this Bill.

Hon. A. SANDERSON: Exactly. I do not wish to go any further than that at present. That is my position; they do not believe in arbitration under this Bill.

Hon. J. E. Dodd (Honorary Minister): We are trying to better it.

Hon. A. SANDERSON: Still, they do not believe in it. There are few people whose opinion I would sooner take from a labour point of view than that of the Honorary Minister, and few are better qualified than he to express an opinion, and, considering his politics, he is very moderate in putting his views before Parliament, but, will the Minister tell us that this system of industrial arbitration such as we have in this Bill commends itself unanimously or anything like unanimously to the employees in Western Australia. That is the question I would like him to answer. How would any Liberal be here if it were not that he was supported by the rank and file of the people in this country?

Hon. F. Davis: Did you say Liberal?

Hon. A. SANDERSON: I said Liberal.

Hon. F. Davis: I thought this was a non-party House.

Hon. A. SANDERSON: I am speaking of Parliament, not of this House. I am questioning whether the employees in this country believe in industrial arbitration. I say they do not, and if the employees of Western Australia were anything like unanimously in favour of industrial arbitration or in favour of the ideals of the Labour party, how would anybody else be returned to Parliament at all? In one of the most distinguished members of the other Chamber I find a most striking illustration of a large employer being returned to Parliament time after time. Does not that show that this view of compulsory arbitration and the views of the Labour party do not commend themselves to the bulk of the employees in this country?

Hon. F. Davis: Those employees had not a vote among them.

Hon. A. SANDERSON: They have votes all over the country. Let the hon. member go back to his own constituency. He will have to go before his constituents in a few months and the test will then come. If the employees in his constituency are unanimously in favour of the views of the Labour party he will be back here again, and on personal grounds, at least, we would be glad to see him back. He will find, however, that when he goes around this Bill will have just become law and begun to operate, and I wish him joy in trying to justify the measure which he presumably is going to support when he goes before his constituents. I do not wish to weary members or myself, but I have had to break off every now and again to try to suppress my disgust—that is the only word that really meets the case—at a party who will bring forward a measure of this kind. We are seriously asked to consider and amend the measure; that

is where I shall differ from Mr. Moss and many other members of this Chamber. I will be compelled apparently to accept this industrial system. I should prefer, if it were in my power, not to alter one single line in the Bill, but to allow the Labour party to appoint anyone they like to the Arbitration Court and see what will happen. I am not an employer, but of course we have to realise that the measure is not fair to the people who are represented here. I feel very much tempted to take up that attitude, but it need not be considered seriously. There are members here who would at once object, and quite rightly, and I myself when faced with the serious problems and issues at stake, would hesitate not to try to do something to make this measure less obnoxious. At the same time I think we may warn ourselves that the Bill will put the Legislative Council in a very difficult position if we make any amendments. It is a farce to talk about a party House here. I like party politics as the Maoris used to like a fight. The Maoris used to supply arms and ammunition to their opponents in order to have a good fight, but what is the use of a fight against five or six. There are no party politics in this House, and it is not a party House. For all I know the Minister may thank me before I have finished for having rendered some assistance with this measure, because we know the critical condition of affairs that this country is getting into. I do not want to dilate on that; but we know the Labour party would be only too glad to get back to the country and say we had destroyed this Bill. That is why I cannot follow Mr. Moss in the view he took up with regard to accepting the principle of compulsory arbitration and just slashing it about in such a way that it would not commend itself to me any more than before. It will give the Labour party an opportunity of saying we destroyed the merits and virtues of the Bill. I feel satisfied that the common sense of the people sooner or later will knock this law out altogether. It is a question, however, of what will happen in the meantime. I wish to put what I propose to do if I am compelled to accept this Bill. If I have done nothing else I have been well rewarded by drawing the interjection from the Minister. It opens up the possibility of dealing with the matter in a satisfactory way. I refer to the proposition that the Honorary Minister put forward with regard to the defeat of the Bill. Preference to unionists forms an interesting heading. We will get it in Committee. I do not propose to inflict too much on the House now. I really should apologise to one or two members, but when one gets going on this Bill it is very difficult, through being drawn aside by interjections, to compress one's points concisely into the space of 60 minutes. With regard to the exclusion of the legal profession, what have we to say to that?

Hon. J. Cornell: A good thing.

Hon. A. SANDERSON: It has been done and, like the rest of the Act, it is a farce and a failure. Mr. Moss has dealt with the question of the cost, and I think his illustration was sufficiently striking to show what a farce it is. No layman however foolish or arrogant he may be, will venture to go into that court without consulting a lawyer. Will the Honorary Minister maintain that when those cases come on for discussion, the opportunity is not taken by the person representing either side to consult with a member of the legal profession.

Hon. J. E. Dodd (Honorary Minister): In nine cases out of ten it is not done.

Hon. A. SANDERSON: That is another very interesting admission, and I hope every hon. member will make a note of it and verify it by reference to the advocates. That is the second most important admission we have had from the Honorary Minister to-night, and I will say nothing further than to ask hon. members to verify it for themselves.

Hon. J. E. Dodd (Honorary Minister): I will give you something about legal expenses directly.

Hon. A. SANDERSON: They are quite historical.

Hon. W. Kingsmill: Fabulous, not historical.

Hon. A. SANDERSON: No lawyer is

ever paid too much, and a great many lawyers are paid insufficiently, and some not a bare living wage. Will anyone tell me that in the medical or legal world when enormous issues are at stake, either life or it may be hundreds of millions of capital, that a beggarly 70 guineas or 5,000 guineas for the skill of a physician's hand and the knowledge of his brain, or a lawyer's advice, are to be begrudged by any sensible or intelligent man. It requires no advocacy from me, but I must say that it moves me to disgust and aumsement to hear what is an old stage joke. It is very well known that there are pettifogging attorneys and that there have been bush lawyers, but I say that this system we are introducing in the arbitration court is evolving another class of lawyer who is uncontrolled. Let me put it like this : if the system of industrial arbitration is going on, and is going to be permanently on the statute book of Australia, what will happen? The fees which an advocate will demand, if he is able, by arguments or by personal appearance or anything else he can bring along, to influence the decision of the courts, will be so stupendous that the 70 guineas referred to will be considered a mere flea bite, and the man who might be looking forward to entering the legal profession will avoid that profession and so injure that most noble profesion, because he will be satisfied to appear as an advocate before the arbitration court, where he will be able to command enormous fees. If men are able to establish their reputation there and are able to influenee the judge, there will be charges and expenses greater than have ever been imposed by any lawyer, and after all, said and done, there is nothing mysterious about the law. Men who have the brain power and the energy and intelligence will devote themselves to the law if the rewards are made sufficiently promising. It is the independence of the lawyer that is one of the attractions, and we are training up now under this system of industrial arbitration a system of blacklegs—that is the word used by the Labour people—and we are going to be satisfied with that. It is proposed to permit a judge to occupy a seat on that bench, but if we take away counsel from the judge the best and the ablest judge will be the first to admit that it is a very serious loss. We put a judge there and I am going to ask the Minister this : what claim has a judge to be a president of this court? What has his legal training to do with the work in the arbitration court. Do not talk to me about weighing evidence, because we especially exclude rules of evidence in this court. Let me remark here again a curious point. Mr. Moxon who is supposed to be a representative of the employers and he is a man who is very well qualified to give an opinion on this question, says that he wants an economist as president of the court. I do not exactly know what he means by an economist but I think any economist would be much amused at this suggestion. I admit this with regard to the judge as president of the court, that he has one important advantage in that he has a life appointment. And I would prepared to give the same appointment to anyone else. One of Mr. Moss's reasons for putting a judge there was that there was nothing else for him to do here at present. I do not know whether Mr. Moss was serious; one can never tell in these matters who is serious. This was put forward at any rate, and to me it is a matter of indifference whether he is serious or not.

Hon. F. Davis: You would not suggest that Mr. Moss was the star artist in this performance?

Hon. A. SANDERSON: Mr. Moss has political experience in this House which the hon. member who interjected has not, and which many other hon. members have not, and in addition Mr. Moss, who is not here just now, is well able to look after himself, and to cross swords with any interjector. We ought to be glad indeed to have a man like Mr. Moss here and I shall look on with the greatest attention and interest to what Mr. Moss will have to say on this Bill when it is in Committee. He is recognised by most members as the most competent person to deal with this Bill, and I do not think

it is an exaggeration to say that he is one of the men best able in this House to deal with the Arbitration Bill, and if the Minister likes I will say from both the employers' and the public point of view, as I prefer to put it. And yet Mr. Moss and other members of the legal profession will not be permitted to appear in the arbitration court. If that is not a farce, I do not know what is. Is it surprising, therefore, that I ask whether this is really a serious matter. What some regard as a joke is a serious matter, and what is a serious matter seems to be a screaming farce. Then we come to preference to unionists. We have it already. I want to see the position that anybody in the community can go to the arbitration court just as they can go into any other court, and have their rights advocated and looked after. And again, I suppose I shall certainly have some of the members of the Liberal party looking aghast at the attitude I am taking on that matter. Certainly everyone should join a union. We are a union now either of citizens of the Commonwealth or of the State or of the Empire, and I insist that the most unfortunate and the weakest person in the community who is unable to belong to any other union, but who is only able to say that he belongs to the union of the State should have a court to look after his interests. That is my opinion about preference to unionists. If this is to be treated seriously we have preference to unionists already, and if we compelled everyone to go into a union then there would be no union at all. I belong to a union. I am a golfer and I belong to a golf union, or as a gardener I belong to a gardener's union. In fact I do not know how many clubs or unions I belong to. Naturally enough anyone with any sense will join an association or union to look after his interests. What do these people want to-day? These people want to make everyone join a union. That is interference with liberty. But if we have everybody in a union what will be the position then? We can go to a court and get our award. If on the other hand we have nobody in a union a person will then be able to go to the court and say, "I am getting £5 and I think I ought to get £6." That is a brief outline of the attitude I take up in regard to preference of unionists. I do not think it is any breach of confidence to say that I have asked several large and small employers to give me their opinion of this Bill. They seem to think that I am a champion of the employers. In discussing it they do not seem to consider anybody else but the employers and the employees. Now I regard the matter wholly from the public point of view. The employers have got their preference in the tariff, and they are getting their profits out of the pockets of the public, and now the employees come along and are getting their preference in this Industrial Arbitration Bill. It is no exaggeration to say that the public are those who are being bled; but how long is this going to last? The employers have got to be considered, no doubt, and so have the employees, but the public have no consideration at all, and it is the public who are bearing the whole of the burden of this tariff and this industrial legislation.

Hon. H. P. Colebatch: Who are the public as distinct from the employers and the employees?

Hon. A. SANDERSON: We had questions this afternoon as to who are the employees and who the employers. They are both at one period, but if there is one section of the community who are the wealth producers of Australia generally, it is those in the agricultural industry.

Hon. C. A. Piesse: They hold the key to the position.

Hon. A. SANDERSON: They do not hold the key to the position for they will have to pay.

Hon. C. A. Piesse: They will bring the others to their knees.

Hon. A. SANDERSON: The agriculturists will be brought to their knees, and perhaps, like Samson, they will bring all others down with them. The two largest sections of the public are those engaged in the agricultural industry and those employed in the professional classes, whether working for the Government or for them-

selves. This legislation will bring the agricultural community and the professional community to their knees. It is hardly my business to put forward proposals for the solution of this difficulty. I would accept wages boards as an experiment, but wages boards are not going to solve this problem, because I maintain that as long as the world continues, whether we have a Government system of employment or a private system of employment, there will still be a constant struggle between the different sections of the community. My view is that the public are justified through Parliament in interfering to protect the weakest section of the people. There are in the industrial life of all countries, and possibly in this State, although they are not so much in evidence here, conditions so cruel and distressing that no matter what principles one may attempt to guide himself by, he must be prepared to do anything in order to see that we may not have repeated here some of the horrors that we know the industrial system introduces. My sympathy is always and entirely with the weak and suffering, but I do not go to the extent of talking nonsense or committing injustice. I have given the House in brief outline my attitude in regard to this industrial question. I will not go any further at this stage because all these questions of preference to unionists, exclusion, and so forth, can be fairly debated in Committee. I hardly think that the Minister in charge of the Bill appreciated the importance of the proposal that he made to the House. He is in a very responsible position, both in this Chamber and in the country, and he told us that if we will reject this Bill he will do all he can to get the system of compulsory industrial arbitration wiped off our statute-book.

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

Hon. A. SANDERSON: Perhaps I exaggerate its importance, but it seems to me the most momentous development in this debate so far. I shall be most interested to hear what other members say on that subject, because I will repeat finally that for my own part I accept the proposition of the Minister.

On motion by Hon. J. Cornell debate adjourned.

BILL—TRAMWAYS PURCHASE.

Assembly's Message.

Message from the Assembly received notifying that the amendments requested by the Council had been made.

In Committee.

Resumed from the 11th September; Hon. W. Kingsmill in the Chair, the Colonial Secretary in charge of the Bill.

Title—agreed to.

Bill reported, and the report adopted.

House adjourned at 9.12 p.m.

Legislative Assembly,

Wednesday, 18th September, 1912.

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

QUESTION — WICKEPIN-MERREDIN RAILWAY DEVIATION.

Mr. MONGER (without notice) asked the Premier: Will the Premier carry out the recommendations and suggestions conveyed in the report of the select committee of the Legislative Council in regard to the construction of the Wickepin-Merredin railway?

The PREMIER replied: The hon. member will require to give notice of that question.