

## Legislative Assembly,

Saturday, 24th December, 1904.

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MR. SPEAKER took the Chair at 10:30 o'clock, forenoon.

## PRAYERS.

[Delay occurred in forming a quorum.]

## PAPER PRESENTED.

By the MINISTER FOR MINES: Amendment of regulations under Mines Regulation Act.

## PUBLIC SERVICE BILL.

## COUNCIL'S AMENDMENTS.

MR. MORAN (referring to procedure): Another place would have the right to again send back those amendments in this Bill to which the Assembly had disagreed, and could again request our concurrence before the Bill lapsed. Was that so?

MR. SPEAKER: Yes.

MR. MORAN: It was of the utmost importance we should know this, so that there might be no danger of sacrificing the Bill.

MR. SPEAKER: Presuming the usual course would be followed, where amendments had been requested and were not actually made, the Council could reiterate their request. If disagreement was then insisted on, nothing but a conference could overcome the difficulty.

## IN COMMITTEE.

MR. BATH in the Chair; the PREMIER in charge of the Bill.

No. 6—Clause 7, strike out Subclause (3), and insert the following in lieu:—

(3.) The Commissioner so suspended shall not be restored to office unless each House of the

Parliament, within forty-two days after the day when such statement is laid before it, severally declares by resolution that the said Commissioner ought to be restored to office.

(4.) If each House of Parliament within the said time so declares, the said Commissioner shall be restored to office by the Governor accordingly, but otherwise he may be removed from office.

THE PREMIER: This amendment simply meant the reinstatement of the clause as originally introduced. Having introduced this original proposal, he moved that the amendment be made as requested.

MR. MORAN did not propose to pursue the more or less academic discussion in regard to the Council approving or disapproving of the salary of the Commissioner.

Question passed, the Council's amendment agreed to.

No. 7—Clause 14, line 1, after the word "Governor" insert "for presentation to Parliament"—agreed to.

No. 8—Clause 15, lines 1 and 6, strike out "five" and insert "four," also strike out "The Educational Division"—agreed to.

Nos. 9, 10, 11—agreed to consequentially.

No. 12—Clause 24, after "Gazette," insert "or in such other ways as he may deem necessary"—agreed to.

No. 13—Clause 27, page 10, line 1, after the word "may" insert "on the recommendation of the Commissioner"—agreed to.

No. 14—Clause 27, strike out Subclause (2):

THE PREMIER: This subclause was rather important, and he moved:

That the amendment be not made.

MR. MORAN supported the Premier. This was one of the vital clauses of the Bill.

MR. RASON: This was a very important subclause, but it had been gaulified to a great extent by the insertion of the words in the previous amendment. As the clause read before, the Governor might appoint a person; but now the

Governor could not appoint such person without the previous recommendation of the Commissioner.

**THE PREMIER:** Even when the appointment was made on the Commissioner's recommendation, it was still reasonable that preference should be given to a person already in the public service.

**MR. RASON:** That was to say, the Commissioner would first exhaust the service.

**THE PREMIER:** This subclause only provided that he should first exhaust the service.

Question passed, the Council's amendment disagreed to.

No. 14A—Clause 31, Subclause (1.), strike out paragraph (b.)—disagreed to consequentially.

No. 15—Clause 34, Subclause (8), line 7, strike out all the words after the word "staff" to end of clause:

**THE PREMIER:** This was an amendment which replaced the clause as originally introduced. The clause contained the words, "If any such person shall have been employed on the temporary staff for three years next preceding the commencement of this Act, he shall, for the purposes of the Act, be deemed to have been appointed to the permanent staff from the date of the commencement of such service." He moved:

That the amendment be made as requested.

**MR. MORAN:** With a fuller Committee he would certainly have endeavoured to take the course he took last time, by asking members to support the provision to give the men who had been three years previously employed the right to be considered as on the permanent staff. At present it would be dangerous to delay discussion; so he would not disagree.

**MR. A. J. WILSON** disagreed to this amendment. If it were adopted, considerable injustice would be done a large number of employees in the public service who had not only been for the three preceding years, but in some cases for the preceding ten years, on the temporary staff, and who were likely to be so.

**MR. MORAN:** The hon. member made a mistake if he thought they were likely to be so. They were fully protected as from the date of the commencement of this Act.

Question passed, the Council's amendment agreed to.

No. 16—Clause 37, strike out "educational"—agreed to consequentially.

No. 17—Clause 39, Subclause (1.), strike out "Commissioner," and insert "Governor":

**THE PREMIER:** This made the Governor the authority to issue regulations. He moved that the amendment be made as requested.

Question passed, the Council's amendment agreed to.

No. 18—Strike out Clauses 45 to 48 inclusive (relating to school teachers)—disagreed to consequentially.

No. 19—Clause 54, strike out the whole:

**THE PREMIER:** This had reference to the Appeal Board. The amendment provided that the presence of all three members of the board should be secured. The difficulty in regard to the amendment was that if we made it mandatory that the three members of the Appeal Board should be present, the sudden illness of any one member might prevent the sitting of the board. If witnesses were brought from a distance or taken away from employment, it might be awkward if the board was by the illness of a member prevented from sitting. He moved:

That the amendment be made as requested.

Question put and passed.

No. 20—Clause 60, strike out Subclause (2), and insert the following in lieu:—  
[New clause providing for officer becoming bankrupt]:

**THE PREMIER:** Clause 60 as printed provided that if an officer became bankrupt, or applied to take the benefit of any Act for the relief of insolvent debtors, or made an assignment, his service should be dispensed with unless he proved to the satisfaction of the Governor that his embarrassment was not caused by fraud, extravagance, or dishonorable conduct. By the amendment, the officer must apply to a court of insolvency for a discharge; and if it appeared to the court that the applicant had been guilty of the conduct described, the court should report to the Minister or permanent head; and if the officer did not apply to the court, or if it appeared from the court's report that he had been guilty of reprehensible conduct,

the officer might be dismissed, reduced, or otherwise punished. He (the Premier) was inclined to favour the clause as printed. The servants of the State had a certain protection against some forms of legal process; and their creditors also should have some protection. He moved:

That the amendment be not made.

MR. RASON supported the Council's amendment. In the past, in case of bankruptcy, an officer had to prove to the Governor-in-Council that he had not been guilty of dishonourable conduct, extravagance, or fraud. By the amendment the court, instead of the Governor, was made arbiter of this point. The amendment relieved the Governor of the responsibility of deciding whether the officer was guilty of an offence.

MR. MORAN agreed with the preceding speaker.

MR. A. J. WILSON supported the Premier. The amendment would give an opportunity for favouritism. It provided that such officer might be reduced, dismissed, or fined. If guilty of dishonourable conduct he should not be able, by improper influence, to have a fine substituted for dismissal. There should be no power to discriminate.

MR. KEYSER agreed with the member for Guildford (Mr. Rason). By the Council's amendment, the onus of proof was thrown on the court instead of on the officer. The court would decide on whether he had been guilty of fraud or dishonourable conduct.

Question passed, the amendment not made.

No. 20a—Clause 61, line 1, after "upon" insert "or of any order for the payment of costs made against," and in line 3, after "punished," insert "or against whom any such order is made":

THE PREMIER: The amendment would enable costs awarded against an appellant to be deducted from the salary. He moved that the amendment be made as requested.

Question passed.

Amendments 21 to 24—disagreed to consequentially.

No. 25—Clause 69, paragraph (b), strike out "Eight Hours Day," and insert "Proclamation of Self-Government (21st day of October)":

THE PREMIER: The object of the clause was to enable the goldfields people to celebrate Eight Hours Day in May, whilst the coastal people fixed it for the 21st October. However, as union leaders in this State were agreeable to a proposal for a uniform Eight Hours Day throughout Australia, he moved that the amendment be made as requested.

Question passed.

No. 25a—Clause 75, strike out the words "under such statute as may be in force for the time being enabling the insurance to be undertaken by the State, and until such statute is in force":

THE PREMIER: The clause provided that in the event of Parliament creating a State life insurance department, public servants must insure their lives with that department instead of with a private company. As there was no immediate need for this clause, he moved that the amendment be made as requested.

Question passed.

Amendments 26, 27 (consequential)—made as requested.

No. 28—disagreed to consequentially.

No. 29—New clause to stand as Clause 15:—"The Governor may appoint, temporarily, two assistant Public Service Commissioners, who shall act in conjunction with the Commissioner in the classification and grading of officers, and in the exercise of such other powers and duties of the Commissioner as the Governor may from time to time, on the recommendation of the Commissioner, direct":

THE PREMIER: The clause would empower the Government to appoint temporary Commissioners for classification purposes. He moved that the amendment be made as requested.

Question passed.

No. 30—New clause to stand as Clause 16:—"No member of Parliament shall interview or communicate with the Commissioner regarding the appointment of any applicant for a position in the public service":

THE PREMIER: This seemed a harmless provision, assuming that a member of Parliament had, like every other citizen, a right to give a testimonial as to an applicant's character. He moved:

That the amendment be made as requested.

MR. MORAN: Would not the Commissioner be a man of integrity? Why

should a member of Parliament be debarred from expressing an opinion as to the fitness or the unfitness of any candidate for a public position? We were getting into the habit of barring members of Parliament from all the ordinary privileges of society.

MR. GREGORY: The amendment was contrary to the Privileges Act. It was impertinent to put such a clause in a Bill. Any necessary provision of this sort could be made by regulation. He opposed the amendment.

MR. RASON: Though the amendment, if passed, would relieve members of Parliament of great inconvenience, that inconvenience was part of the price they must pay for greatness. There was no reason why a member of Parliament should be labelled as a dangerous person not trusted to communicate with the Commissioner. This was going too far. Members were supposed to have certain privileges, and for those privileges we were substituting disadvantages. The time would come, if it had not already come, when a member of Parliament would be an object of derision.

Question negatived, the amendment not made.

No. 3—Second Schedule, strike out the whole—agreed to.

Resolutions reported, and a message accordingly returned to the Legislative Council.

#### BILL RETURNED—AGAIN CONSIDERED.

Schedule of 19 amendments requested by the Council, not made by the Assembly, now farther considered in Committee; MR. BATH in the Chair, the PREMIER in charge of the Bill.

MR. MORAN: If the Committee were unanimous, could these amendments be passed *in globo*?

THE CHAIRMAN: Yes; if no member wished them to be taken separately.

Amendments (18 in number)—made as requested.

No. 30.—New clause:—"No member of Parliament shall interview or communicate with Commissioner regarding the appointment of any applicant for a position in the public service":

THE PREMIER moved that the amendment be made as requested.

MR. GREGORY protested against such a clause appearing in the Bill. If

time permitted, surely every member of the Committee would oppose it. It was discreditable to think that the Government, in their anxiety to close the session, accepted such a suggestion.

MR. MORAN: The clause was perfectly innocuous. The member of Parliament who thought he was thus barred from communicating with the Commissioner must be very simple-minded. The clause was childish, no penalty being imposed for a breach of it.

Question passed, the Council's amendment agreed to.

Resolutions reported, the report adopted, and a message accordingly returned to the Council.

#### PUBLIC HEALTH ACT AMENDMENT BILL.

##### REMARKS ON PROCEDURE.

MR. SPEAKER: In connection with the point raised relating to the Bill to amend the Health Act that it was proposed to ask leave to introduce, I have looked into the matter and find that the Bill does not seek to do exactly what the Bill which has been referred to a select committee proposes to do. Though that is the case, there is a considerable element of doubt as to whether the Bill is in order. On this occasion, where there is a doubt, I intend to rule in favour of expediting public business; therefore, I shall allow the Bill to be introduced, although I do not intend this to be taken as a precedent. The hon. member may move his motion.

##### MOTION.

On motion by the COLONIAL SECRETARY, leave given to introduce the Bill.

Read a first time, also read a second time without debate.

##### IN COMMITTEE. ETC.

MR. BATH in the Chair; the COLONIAL SECRETARY in charge of the Bill.

Clause 1—agreed to.

Clause 2—Government may dissolve district boards:

MR. RASON: One must raise a slight protest against the way in which the second reading of the Bill had been dealt with. The Colonial Secretary might give some reason for the introduction of the Bill. Personally, he was aware of the reason, but many members did not

know why the Bill was brought forward at the end of the session and to be put through all stages.

**THE COLONIAL SECRETARY:** Last night he had practically explained the objects of the Bill. According to Section 4 of the Amending Act of 1900, power was given to the Governor by proclamation to declare a health district. That had been done at Kalgoorlie, and consisted of the Kalgoorlie and Boulder municipalities and the Kalgoorlie and Boulder roads boards. There was no legislation enabling the Governor to abolish that district board of health. The previous Health Bill introduced this session would have given that power, but as that Bill had no chance of being placed on the statute book, and as it was in the interests of the district that power should be given to abolish the board, this measure was brought forward. The local governing bodies had decided in conference that the district board of health should be abolished. The various health boards had passed resolutions unanimously in favour of the abolition of the board. Some correspondence on the point had reached his department, and the Bill was brought forward to meet the wishes of the people in the Kalgoorlie district.

**MR. SCADDAN:** What reasons were given for dissolving the board?

**THE COLONIAL SECRETARY:** Because the board had not worked satisfactorily, and the desire for the abolition of the district board was to enable the municipal councils and the roads board to be constituted health boards. The Bill before the House provided for that.

Clause put and passed.

Clauses 3, 4, 5—agreed to.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

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

#### BRANDS BILL.

##### COUNCIL'S AMENDMENTS.

Shedule of amendments made by the Council now considered in Committee; **MR. BATH** in the Chair, the **COLONIAL SECRETARY** in charge of the Bill.

No. 1.—Clause 45, strike out "two years" and insert "eighteen months,"

also strike out "one year" and insert "eighteen months":

**THE COLONIAL SECRETARY** moved: "That the Council's amendment be agreed to."

**MR. RASON:** There was something extraordinary in the procedure on the part of the Colonial Secretary. Whilst the Bill was under discussion in the House the member for York moved that no horse under the age of 15 months should be deemed unbranded, and the Minister in charge protested against the amendment. Now another place suggested 18 months, and without a word of explanation the Minister agreed to the suggestion. It was somewhat inconsistent. The Minister was showing undue preference to another place. He might show more consideration to the wishes of members here.

**THE COLONIAL SECRETARY:** It was true he had opposed the amendment of the member for York, making the time 15 months; but he had advanced as an argument that in horse-breeding and in racing parlance a horse was considered a yearling until it was rising two years, and that by inserting 15 months we would give the stock-breeder a less margin of time. The object here was to give the breeders as much time as possible. Since the Bill left this Chamber stock-breeders in another place had gone into it, and he had seen the Crown Solicitor, who told him that in a court of law what was the custom with stock-breeders and racing men would not be taken as a correct reading of the measure; according to the clause a magistrate could not consider a horse 18 months old to be only a year old. In another place they desired to increase the time named, though not to give quite so much time as he (the Minister) intended to do; hence his desire to accept the amendment. He did not give preference to another place over this Chamber. His desire was to make the Bill the most workable to the stock-breeders.

**MR. FOULKES:** The Colonial Secretary really knew nothing of what he was talking about. The hon. gentleman was able to argue for or against a clause with the same amount of plausibility.

Question passed, the Council's amendment agreed to.

No. 2—Seventh Schedule (position and order of brand on cattle), add “or off cheek”:

THE COLONIAL SECRETARY: It was suggested in another place that we should add “off cheek” to the second portion of the seventh schedule. In another place there were perhaps more stock-breeders than in this Chamber. He moved:

That the amendment be agreed to.

MR. RASON: The member for York had proposed to have the words “off cheek” inserted. That suggestion was repudiated at the time; yet now that the suggestion came from another place it was to be adopted. It seemed that whenever we got a blow from the other House the Minister, as in this case, was only too ready to offer the other cheek. That was a practice which should be condemned. There was too much “cheek” about it altogether. As the suggestion had arisen on the Opposition side of the House, he was glad the Minister had seen his way to agree to it.

THE COLONIAL SECRETARY had been willing to have the words “off cheek” inserted on recommitment, but the amendment was not on the Notice Paper, and the suggestion was made that it should be inserted in another place. In this he concurred.

Question passed, the Council's amendment agreed to.

Resolutions reported, the report adopted, and a message accordingly returned to the Council.

#### MOTION—KOOKYNIE LOCK-OUT PROSECUTION, COUNSEL'S FEE.

Resolution passed by the Legislative Council (disapproving of a certain action of the Government) now considered:

MR. C. H. RASON (Guildford): The message from the Legislative Council which we are now called upon to consider is—

That, in the opinion of this House, the action of the Government in retaining a legal practitioner residing in Perth to prosecute in the recent lockout case at Kookynie was not warranted in the circumstances.

This motion was passed in another place, and this House is asked to agree with the resolution. I do not intend, and indeed it would be impossible, to go at length into the merits or demerits of this

case; and especially would that be undesirable in any circumstances, because I understand that an appeal has been lodged by the company against the verdict obtained; so that the matter can hardly be discussed here with that freedom which would otherwise be desirable, if time permitted. Briefly, the facts are as follow. A certain company at Kookynie posted a notice of its intention to reduce wages. The men employed on that mine first went out on strike against that reduction.

MR. A. J. WILSON: That is contrary to facts.

MR. SCADDAN: It was a lock-out to reduce wages.

MR. RASON: If I am correctly informed, the men went out, and it was held to be a strike.

MR. HENSHAW: It was a lock-out.

MR. RASON: The Minister for Labour, I believe, communicated with the men, and persuaded them to retire from the position they had taken up, and it was then held or considered that the attitude adopted by the company amounted to a lockout. I believe that is a correct statement of the occurrence. An action was brought in the Local Court to determine whether or not the action of the company did amount to a lockout. That action, I believe, was instituted by the Government. At the hearing of that action counsel representing the Government was employed, one Mr. Ewing, and the fee paid to Mr. Ewing was, I understand, 100 guineas. In the first place I maintain that it would have been easily possible, if the presence of counsel was required, to arrange for the attendance of one of the practitioners in the service of the Crown available in the Crown Law Department. It is said that the Crown Law Department could not possibly provide, owing to pressure of work, a legal gentleman to be present on that particular day. But surely it could have been arranged that the case should be heard on a day or two subsequent to the day that it was heard, or a day or two previously. And it is to my mind simply quibbling to hold out as an excuse for the action that was taken that no officer of the Crown Law Department was available; for although his services might not have been available on that particular

day, they would have been available a day or two subsequently. But putting aside that phase of the question, if it was not possible to obtain the services of an officer of the Crown Law Department, there were qualified legal gentlemen at Kalgoorlie, also at Menzies and Kookynie. Surely their services, if necessary, could have been obtained at a very much lower cost than the amount paid—100 guineas.

MR. A. J. WILSON: It is doubtful whether they could have been.

MR. GREGORY: Yes.

MR. A. J. WILSON: As far as the fee is concerned, but not the ultimate value of the service.

MR. RASON: I wish the member for Forrest would make a speech in the ordinary manner, rather than by way of interjection. If it was necessary to obtain the services of a legal gentleman, there were qualified practitioners at Kalgoorlie, Menzies, and Kookynie whose services could have been obtained. The point to be argued did not involve the necessity for any very great amount of legal training or practice.

MR. A. J. WILSON: Yes.

MR. RASON: I accept the statement that the member for Forrest thinks it did. But the principle involved had already been decided by a Judge of the Supreme Court of Western Australia, and with all respect to the member for Forrest, I should myself—and I think the majority of people would—take the ruling of a Judge of the Supreme Court in preference to the opinion of the member for Forrest. The point had practically been decided, and all that was necessary for anyone appearing in that court to do was to quote the opinion of Mr. Justice McMillan, to quote the verdict, which really amounted to a verdict given in court by Mr. Justice McMillan. Surely so simple a course did not necessitate the employment of a solicitor to go the whole way from Perth and receive a fee of 100 guineas. But a farther objection to the course that was taken is this, that the solicitor engaged, Mr. Ewing—it may be only a coincidence, but it is a regrettable one—is the very practitioner who all along in all these cases has appeared for the men. He has appeared on the side of Labour in nearly all the cases that have been heard.

MR. TROY: I suppose that is your objection.

MR. RASON: It is my objection. It may be only a coincidence, but it is an objectionable coincidence and a regrettable one, that first the Government should go very far out of their way to employ a legal practitioner at all, and that then the one they did employ should happen to be the very man who all along has represented Labor.

MR. NEEDHAM: He appeared in a worthy cause, did he not?

MR. RASON: No; a most unworthy cause. Not only does he appear in labour disputes, but this same legal practitioner is a gentleman who has conducted cases which everyone I think regrets, the cases against Millar's Company, where the men sought to obtain payment twice over. It is regrettable because, though not foul-minded, the general public cannot avoid the natural inference—

MR. HENSHAW: Determined by prejudice.

MR. RASON: If the reverse had occurred, the hon. member interjecting would have been among the first to accuse anyone who had adopted the contrary course. The whole of Western Australia would have rung with cries from the Labour party against the iniquity of a Government employing, to appear against Labour, counsel who had distinguished himself by his opposition to Labour.

MR. BOLTON: That is the reason for this resolution, that the Government did not employ a certain barrister.

MR. RASON: The point I wish to make is that there was no necessity to employ a legal practitioner at all apart from those now in the service of the Crown Law Department; that if there was necessity, there were local men who could have been obtained, who were amply qualified to discharge the duty, who could have been obtained at one-tenth of the amount paid; and that if it were absolutely necessary—which I deny—to engage a solicitor practising in Perth, then the choice made was a most unhappy one. I do not intend to unduly press this motion; but I desire an assurance from the Minister for Labour—an assurance to which I think the House is entitled—that he will fully recognise the responsibility of his position, and that in all similar cases in the future he will, as is his duty, hold

the scales of justice equally; that he will show no favour to either one side or other; that while he may determine to secure to the cause of Labour ample justice, he will be equally determined to secure ample justice to the employer. I ask him if the position had been reversed, if the employers' cause had been at stake, would he have engaged a solicitor in Perth, at the cost of 100 guineas, to defend the employer? I hope the Minister will give us the assurance requested. I am sure he cannot fail to realise that it is his manifest duty, if he interferes at all—and I submit it would be far better to have no interference—but if he interferes on one side he should be equally ready to interfere on the other. I maintain that in this case there has been an unwarranted and extraordinary expenditure; that if it was necessary to employ counsel at all, counsel could have been employed at a far lower cost than the sum paid. I formally move that the Council's resolution be agreed to.

MR. C. J. MORAN (West Perth): As an absolutely disinterested party, I should like to have the privilege of stating that I look on this matter as one entirely in the hands of the leader of the Government, and as one in which the impartiality of the Government is in question. True, the leader of the Government happens to be a member of the Labour party; and the leader of the Opposition is absolutely within his rights in asking for an explanation. I am satisfied that there is enough in the matter, considering the present condition of the country, to call, not for a justification, but for a few weighty and dignified words, such as I hope will be uttered by the leader of the Government. No one can believe for a moment that the head of any Government would show the slightest partiality to one side or another in such disputes. The employment of counsel is a matter for the leader of the Government; and I am sure he will give such a full and dignified explanation as will place it beyond all shadow of doubt that no head of a Government in Western Australia will ever be found to take anything but an impartial view of a dispute of this character.

THE PREMIER (Hon. H. Daglish): I confess that this message from the Legislative Council was somewhat sur-

prising to me; because there has certainly been no warrant whatever for any motion to impugn in any degree at all the impartiality of the Government in dealing with this or any other law case. The position of the Government is that an Act of Parliament makes certain actions of individuals and bodies of individuals offences against the law. A case of this sort was reported from Yundamindera. The Minister at once inquired into the circumstances on both sides. He got a statement of the case from each side; and he was prepared, whichever side happened to be in the wrong, to take the necessary action to vindicate the law. That is the position the Government assumed. That is the position I think the Government should assume in every case. But, speaking as the head of the Government, I refuse to allow the Minister for Labour to give an assurance that he will be impartial, until some person can establish a case that warrants the demand for such an assurance; which demand, without justification, is in my opinion simply an insult aimed unwarrantably at the Minister, there being no circumstance to warrant for a moment the assumption that in any case he would dream of leaning to either one side or other. In this case the Minister, as soon as he got information of this labour dispute, was prepared to take action against the men if they were legally guilty, or against the company if it was legally guilty. Information was received that the men were out on strike; and the Minister cautioned them that if they were striking they were liable to prosecution, and gave them clearly to understand that they would be prosecuted for such an offence. The case has been heard by one court, and it may later on go before another. At present, the decision given amply warrants the action of the Government. That action was not, however, taken on the opinion of the Minister. Before any step was decided on the question was referred to the Crown Law officers, after the full facts of the case had been obtained from both parties to the dispute; and those facts were laid before the legal advisers of the Crown. An opinion was thereupon given which justified the action of the Minister in initiating proceedings. When it was decided to initiate proceedings, the question rose as to who should conduct



those proceedings. The member for Guildford (Mr. Rason) thinks the work could readily have been undertaken by the Crown Law officers; that, if not on one particular day, then on some other day one of those gentlemen should have been sent to Yundamindera to represent the Crown. In reply, I can but assert that if the hon. member's statement be true, there must have been either an enormous diminution in the volume of law business since this Ministry assumed power, or there must have been unwarrantable extravagance in the payment of lawyers' fees before this Ministry assumed power. Because this is not the first instance in which a Government has found it necessary to brief legal practitioners to appear for the Crown. It is the first instance in which the briefing of a legal practitioner has in itself been brought as a charge against a Government.

MR. RASON: Has a legal practitioner ever before been briefed in the same circumstances?

THE PREMIER: Yes; in the same circumstances. This is not the first case. In a case before the Arbitration Court, Mr. Northmore was sent to Collie to prosecute certain coal-miners for engaging in a strike.

MR. FRANK WILSON: He was sent by the company.

THE PREMIER: Well, I say that if in that matter the Government failed to prosecute the men, the Government were guilty of a dereliction of duty.

MR. GREGORY: Did not the Government pay Mr. Northmore?

THE PREMIER: I have not the papers, and cannot say; but I say that in similar circumstances legal practitioners have been engaged by other Governments.

MR. RASON: They have not.

THE PREMIER: I say that if in the event of a breach of the law, no matter what Act of Parliament was violated, an outside practitioner was engaged by the Government to prosecute, the circumstances are similar to the circumstances in this case, and my assertion is fully warranted. One reason, if not the only reason, for this attack seems to be that a particular barrister was selected.

MR. RASON: And a particularly high fee paid him.

THE PREMIER: I do not think the hon. member is serious in regard to the fee.

MR. RASON: I am.

THE PREMIER: Then I do not think the hon. member knows much about lawyers' fees if he objects to this fee. A strong attack was made on the Government because Mr. Ewing was feed; and it was said, with a nasty insinuation attached to the assertion, that Mr. Ewing's connection with the Millars' case rendered his engagement in this case very undesirable. At the time this case originated, so far as I know, Mr. Ewing had not been briefed in any case brought against that company. But in my opinion, so long as a gentleman is recognised as a legal practitioner and is permitted to practise in court, that is a criterion of his fitness to practise. Surely the Judges are powerful enough to protect the purity and honour of the Bar.

MR. RASON: Who said a word about purity or honour? I said it was an unhappy choice.

THE PREMIER: The hon. member used certain words which were ambiguous, as his words frequently are when he desires to convey a nasty insinuation, though he lacks the courage to make a direct charge.

MR. RASON: I ask the Premier to withdraw those most offensive remarks; and I beg to assure him that I am second to no man in this House in courage to do any act that I think should be done. Considering what has passed within the last few days, the remarks of the hon. member are not only offensive but most insulting; and I ask that he withdraw them.

MR. SPEAKER: The remarks should be withdrawn.

THE PREMIER: I should have withdrawn my remarks even if Mr. Speaker had not asked for a withdrawal; and I regret that the remarks were uttered. At the same time, I think it would have been better if the hon. member had not implied that there was some connection between Mr. Ewing's engagement by the Government in this case and his engagement to conduct certain cases against Millar's Karri and Jarrah Company. At the time this case originated Mr. Ewing may or may not have been engaged to conduct the cases against Millar's Company; but

certainly at that time no member of the Ministry was aware of his engagement for that purpose. Mr. Ewing was engaged because it was necessary, if this case was to be brought properly before the court, that some barrister with experience of arbitration cases should be briefed. Mr. Ewing had had considerable experience in the management of cases before the Arbitration Court.

**MR. FRANK WILSON:** Only on one side.

**THE PREMIER:** No matter which side he represented, the essential point was his knowledge of the Act under which he was required to prosecute. A barrister when he appears in court does not represent any views which he may hold personally; in fact, I am utterly unaware of what views Mr. Ewing holds privately.

**MR. F. F. WILSON:** He opposed the Labour party at the last election.

**THE PREMIER:** I know that he has never in any way been connected with the Labour party, and that no allegation can be made on that score. When an advocate appears in court he appears to do a certain service in return for a certain consideration; and the only motive that governs the selection by a suitor of any advocate is whether the advocate has ability adequately to serve the purpose for which he is feed. Having that object and only that object in view, the Minister for Labour selected Mr. Ewing as the most suitable barrister to conduct those proceedings; and we had nothing to do with any other cases in which Mr. Ewing was employed. Would any member dream for a moment in his private business of considering, when engaging a lawyer, the cases in which that lawyer had previously appeared, or the side which that lawyer had taken in such cases? I unhesitatingly say that to suppose such a thing is an absurdity. We are told that it would have been easy to arrange for an officer of the Crown Law Department to conduct the prosecution. I deny that; and I would point out that already the officers of our Crown Law Department are overworked. Already my experience has proved that our Crown Solicitor and our Assistant Crown Solicitor have too much work to do; and that they cannot, without sacrificing very important work, be spared to take a week's trip to a distant part of the State. We are told the services of some Kal-

goorlie solicitor could have been made available. The only reason for selecting Mr. Ewing was his knowledge and experience of practice under this Act, and that knowledge and experience under the Act was not possessed by any solicitor in Kalgoorlie except perhaps the gentleman who appeared as counsel on the other side. Had Mr. Keenan been available to represent the Government, it is quite possible that he might have made a very good practitioner indeed; but it would be impossible for the ablest solicitor to appear at the same time to represent both sides in a dispute.

**MR. GREGORY:** Was Mr. Keenan offered the work?

**THE PREMIER:** He had a retainer for the other side, I think. The same objection that would warrant the Government in passing by a Kookynie solicitor would hold in regard to passing by the Kalgoorlie solicitor. We were not liable to be influenced in any way by the side Mr. Ewing, or any other solicitor who might be engaged, had represented in other cases. It had nothing to do with the question. The main object of the Government, as well as of private individuals, is to have a case successfully conducted.

**MR. FRANK WILSON:** To get a just decision.

**THE PREMIER:** A case should be successfully conducted, and when I say that, it does not necessarily mean that a verdict be obtained, but it means that the side which the Government take should be clearly represented and adequately presented to the court. That is the object the Government should have in going to law on any subject, to have our case presented in a thoroughly clear manner in order that a proper decision can be arrived at. He agreed with the member who says that justice should be done. But how can justice be done better than by seeing that the case is well presented to a court. I do not intend to go more deeply into this matter except to refer to the amount of fee that was paid. This case took Mr. Ewing altogether seven days. He received a fee not of 100 guineas but of £100—it is well to be accurate even in the matter of a fee—and besides he undertook for that retainer to do certain work in connection with an appeal, should an appeal be

lodged. This amount will include everything up to and including argument in one appeal, provided it is held in Perth; so that actually for £100 Mr. Ewing still has something farther to do, no matter where the appeal is held. If the appeal is held in some other place than Perth the full expenses of that appeal are not covered by the £100 fee. In 1902 the Western Australian Government were represented in a certain arbitration case by a Mr. Robinson.

**MR. RASON:** Do you compare the time taken in these two cases. Do you think there is any comparison?

**THE PREMIER:** I intend to let members draw their own conclusions. The fees paid were: fees on brief, including six days' court work and seven days' maintenance, £105; refreshers for five extra days in court £52 10s., and one extra day maintenance £3 3s. I think I have said sufficient to show that the Minister was actuated solely by a desire to see that the law was obeyed, and I can assure members that so long as the Government remain in power we shall endeavour to enforce the law not against one particular side to a dispute but against either side. The Government are quite prepared, in fact regard it as a duty, to insist on the observance of the Arbitration Act, and the Minister for Labour himself, as a private member, showed his desire to see that both sides did their duty towards each other, and he gave up a great deal of time and incurred considerable expense only a little while ago in going some considerable distance from Perth, and spending wearisome days and tiresome nights in endeavouring to secure the observance of the Arbitration Act by the men themselves.

**MR. GREGORY:** He urged the Government to prosecute on that occasion.

**THE PREMIER:** I do not know. He was then only a private member, and had not the responsibility of deciding on prosecuting one way or another. I say that the Minister then showed his desire by practical work and taking a great deal of trouble in seeing that both sides to the dispute obeyed the Arbitration Act; and he will in his Ministerial capacity and has in his Ministerial capacity, when opportunity offered, endeavoured to carry out the idea Parliament had in intro-

ducing the Act, that by administration we should work in the direction of securing industrial peace.

**MR. FRANK WILSON (Sussex):** I wish to make a few brief remarks on this question, and to take an absolutely impartial view of the question unbiased as far as possible, because I do think there has been some justification, notwithstanding what has been said by the Premier, for the motion being brought forward. I agree with the Premier that the Minister for Labour was acting in the best interests of the State and of all concerned; but I cannot get away from this aspect of the decision, that this solicitor, Mr. Ewing was well-known to be retained by the trades organisations of the State.

**MR. F. F. WILSON:** He is not retained at all.

**MR. FRANK WILSON:** He told me so himself. He is the solicitor representing the trades unions of the State, and in every case Mr. Ewing has been engaged in connection with arbitration awards it has been on the side of the workers. I will try to put the case as it appears to me. Surely when we find a Labour Government and Labour Minister instituting for the first time, at the expense of the country, proceedings against some one for a lockout or a strike, and we find that the Minister immediately goes, regardless of cost, to the solicitor who it is well known represents the trades unions of the country, one cannot blame people outside for drawing conclusions.

**THE MINISTER FOR RAILWAYS AND LABOUR:** I never engaged the solicitor. He was engaged by the Crown Law authorities.

**MR. FRANK WILSON:** I do not wish to hurt the Minister's feelings. The Minister is responsible for the action of the Crown Law authorities. I do not care who recommended the solicitor, the Minister is responsible or the Government are responsible. The aspect to outsiders is that the Labour Government institute, for the first time, proceedings in connection with a lockout or a strike, and at the public expense a solicitor is engaged and sent to travel some 950 miles, to and fro, to conduct this simple case and indeed before a police court, and he is a solicitor well known to represent the trades unions. That is the impression outside. Supposing the Gov-

ernment were prosecuting the workers instead of the employers, would they have sent Mr. Ewing to conduct the case? I doubt it very much. I think they would have selected some other solicitor probably at Kalgoorlie or at some outside place.

**THE MINISTER FOR RAILWAYS AND LABOUR:** I should have selected the solicitor I thought best fitted to conduct the case.

**MR. FRANK WILSON:** The Premier referred to a case at the Collie some time ago. No solicitor has ever been sent to Collie by the Government. In that instance Mr. Northmore was retained by the company, and the company paid his expenses. I believe Mr. Ewing—this same gentleman—was engaged by the unions on that occasion. There is no case in which the employers have proceeded against their workers, where the Government have provided a solicitor to prosecute. This is the first instance.

**MR. MORAN:** On either side.

**MR. FRANK WILSON:** We have prosecuted often.

**MR. MORAN:** Have the Government previously prosecuted?

**MR. FRANK WILSON:** No. In every case up to the present, when anyone wished to prosecute under the Arbitration Act, they had to go the Registrar, and if the Registrar was satisfied as to the case he asked about costs, and the person wishing to prosecute had to give an indemnity against costs. Why has this system been departed from? Anyone who wishes to take proceedings under the statutes of the country, except of course the criminal statutes, takes proceedings at his own cost. Why should we depart, in cases under the Arbitration Act, from the usual procedure? Why not depart from the usual procedure under other Acts? The course is for Parliament to provide laws to regulate commerce and trade, the different relations between different classes of people in the State, also to suppress crime. When we come to the question of crime the Government proceed through the police, who always prosecute; but when it comes to civil cases and a question of fine or awards—it may be perhaps a misunderstanding or a misreading of an award—if a lockout or a strike occurs

through the misreading of an award, why should the Government step in?

**THE MINISTER FOR RAILWAYS AND LABOUR:** Does not the Act provide for that?

**MR. FRANK WILSON:** Up to the present time the Registrar insists on being indemnified against costs. Why did the Minister depart from that system? I unfortunately have had to institute, once or twice, proceedings under the Act, and every time I have been asked for an indemnity. Why should the Minister depart in this instance from the procedure? It appears to me in that again there is some justification for the view that has been taken in this matter in another place. I do not say the view is the correct one, but it is some justification, and the Minister must admit that. The Premier says the Government are quite prepared to take action in every instance. I brought a case under the notice of the Minister the other day. Is he going to take action on that? A number of fillers at the Collie were instructed to work on a Saturday to get out 100 tons of coal which were required on that day.

**THE DEPUTY SPEAKER (Mr. Bath):** The hon. member cannot discuss that matter on this motion. He must discuss the merits of the case in question.

**MR. FRANK WILSON:** I want to show that here is a case in which the Government are not moving. The Government say "We will move in every case, whether on the side of the employers or of the employees." Surely I can refer to that? The fillers were told to get out 100 tons of coal. The miners were told on Friday that they would not be required to work on the Saturday, that there was no work for them. What did they do? They immediately put up a notice on the mine that as they were not working the mine was closed down, and if any of the fillers dared to work to fill the 100 tons of coal, they would be fined 12s. 6d. per man.

**THE MINISTER FOR RAILWAYS AND LABOUR:** The same steps are being taken in your case as have been taken in previous cases. Inquiries were being made. The case only came to me a week ago.

**MR. FRANK WILSON:** The letter written to the Minister for Labour was dated 9th December.

**THE MINISTER FOR RAILWAYS AND LABOUR:** The letter was sent to the Secretary for Labour, not the Minister.

**MR. FRANK WILSON:** I am pleased to accept the assurance of the Minister, but it is contrary to what he told me yesterday afternoon.

**THE MINISTER FOR RAILWAYS AND LABOUR:** I beg your pardon.

**MR. FRANK WILSON:** The Minister said there was no case.

**THE MINISTER FOR RAILWAYS AND LABOUR:** On the facts you sent me there is no case, but we are making inquiries.

**MR. FRANK WILSON:** These fillers were intimidated by the union, and notice was put up by the union instructing these men that they must not work in accordance with the orders of the manager on a certain date or they would be fined. All the men except four went to work. I may say that not only did the miners put up notices, but they went round to the homes of all the fillers and warned them not to work. Four men refused to work, and the manager, when the men put in an appearance, asked why they had disobeyed his orders and refrained from working on the previous Saturday. Their reply was that the union had given them instructions not to work, and told them that they would be fined 12s. 6d. each if they did, therefore they remained away. The manager said at once, "If you think the union is going to rule this mine, and you prefer to obey the orders of the secretary of the union rather than mine, I have no farther use for you," and he sent them about their business. Was not the posting of that notice on the mine by the secretary of the union inciting to a strike? Was there not something in the nature of a strike on the part of the officials of that union? Most decidedly there was. The Minister says there is no case. I differ from him. Has he submitted the matter to the Crown Law authorities, or is that just his own opinion? I have very strong doubts whether the Government do intend to prosecute. I go farther and say it is not in the interests of the State that they should prosecute at all. If we have an Act of Parliament which is going to regulate the conditions of our trade, the terms under which we must act with our employees, rates of pay and other conditions, and if there is a breach of that Act

either on the part of the employer or employee, surely it is wise for the Government to hold aloof and say, "There is the law; there are the courts before you. Settle your disputes in the ordinary manner." As long as the Government take part in these prosecutions they will be charged with bias. Does the Minister think he is going to satisfy me, for instance, in the case I have quoted, that he is acting impartially, if he refuses to grant me the same relief as he gave to the workers on the occasion in question? He cannot.

**THE MINISTER FOR LABOUR:** The workers in that case put the case down as a lockout long before it was sent to me.

**MR. FRANK WILSON:** In every case where a man is charged with a strike he will retaliate that it is a lockout, and where an employer is charged with a lockout he will retaliate by saying it is a strike. That is natural. But why should the Minister be put in that invidious position, that he has to judge between the two sides? Practically the case has to be tried by the Minister. First he writes to me in connection with the Collie Proprietary Coal Company and asks my aspect of the case. I give it. He writes to the secretary of the union and gets something totally different; and he has to sit there without proper evidence and come to a decision as to whether I am right or the defendant is right, and the chances are that he will lean towards the union.

**THE COLONIAL SECRETARY:** Would it not be the case, if you were Minister?

**MR. FRANK WILSON:** I think it might.

**THE COLONIAL SECRETARY:** Men are only human.

**MR. FRANK WILSON:** Yes. I am arguing that it is not a right position to take. What right have any Government to use the public moneys to prosecute, on behalf of any section of the people, another section. What right have the Government to take the money out of my pocket to prosecute on behalf of the workers? What right have the Government to take money out of the workers' pockets and prosecute their unions on my behalf? The thing is absurd. It is not a crime.

**THE COLONIAL SECRETARY:** The Act says it is.

**MR. FRANK WILSON:** It is not a criminal matter at all. This is a misreading probably of the wording; an action taken under a misinterpretation of the wording.

**THE MINISTER FOR LABOUR:** There have been so many of them.

**MR. FRANK WILSON:** They have all been settled without the intervention of the Government. The Government are going to bring a rod against their own back, and one heavily pickled, if they go on like this. What reason was there to interfere in the Kookynie case? The unions had some money, and why should the Government step in and provide the funds? Are they going to recover this £100 from the company?

**THE MINISTER FOR LABOUR:** Yes.

**MR. FRANK WILSON:** I do not think they will ever be allowed to recover the £100 from the company. I hope the taxpayers will never permit such a charge to be made. There was no need to have a solicitor to travel 950 miles in a case like this. There are several lawyers in the district who could have conducted the case.

**MR. GREGORY:** Just as smart.

**MR. FRANK WILSON:** If the Government are going to continue to prosecute under this Arbitration Act, if they are going to establish themselves as a first court and then take sides, they cannot help becoming partisans. The very fact of the Minister having considered the case between employer and employee and having come to a decision that one side or the other is right or wrong makes him a partisan at once; and we have the Premier's assurance that when the Government undertake a case of this description they are going to succeed. I hope that is not going to be the spirit in which we are going to conduct these matters. First of all I object to the Minister being put into a position in which he has to take sides; and secondly, whenever the Government prosecute, that ought to be done in an absolute spirit of justice, and not as in the case of a private individual who goes to win every time. It is different with individuals. I may be quarrelling with my next-door neighbour and want to win every time. The Government should not take up that attitude. If the Government set themselves on one side or the

other, the position will be intolerable. Are they going to prosecute for every breach of every Act? I understood from the Premier that wherever the Acts of the State are in question, wherever anyone has committed an offence against any of the Acts, the Government purpose taking action. I hope not, indeed. Are they going to take up offences under the Workers' Compensation Act and provide the means to prosecute? Why are they not paying the expenses of prosecuting Millars' Company, then, for this offence against the Truck Act? They would not dream of doing it. It would be repugnant to all sense of equity and justice. It would be repugnant to the feelings of any member of this Committee, if any Government assisted an action of that description. Are the Government going to prosecute in every case those who may help themselves to the funds of their labourers? Are they going to take action against gentlemen who walk away with the funds of the different unions? If they are going to set themselves up as guardians of the morals of the public of the State, if they are going to set themselves up as a tribunal in the first instance to decide between man and man, and then institute the proceedings, they must go the whole hog, they must go to the full extreme; and I venture to prophesy that such an attitude is going to be a dismal failure, and not only will it be a dismal failure, but it will cause many a heartache in their own ranks. There has been plenty of justification for the other place to move a resolution of this character, and I support it. I think what I refer to is undesirable from the Minister's point of view, from the State's point of view, and certainly from the workers' and employers' point of view. We provide statutes to work under, and let us work under them and fight our own battles. We have the courts to appeal to, and why should we have to appeal to a Minister, who is there only temporarily, who is there only for a few months or a few years?

[THE SPEAKER took the Chair.]

**MR. E. P. HENSHAW (Collie):** I do not intend to say much on this case. It is a matter I do not think we should

take into very serious consideration. It seems a strange thing that this should have emanated from the source it has, and be sent down to this place. I am glad to say there was no member on this (Government) side of the House who would take the matter in charge. Had the decisions been given in favour of the employers, we would have heard nothing of this matter at all. Evidently it is the desire of a section that the administration of this Act shall be left to the workers. Section 117 of the Arbitration Act compels the Government to take action; but the previous Government have not taken that responsibility, but allowed the Act to become practically a dead letter in the same sense as they allowed the Truck Act to remain in abeyance. I want to see this Act enforced without fear or favour, whether it be against the workers or the employers. Let the provisions of the Act be observed, and if the companies lock men out, penalise them to the fullest extent, and if the men strike, mete out the same punishment to them. The member for Sussex (Mr. Frank Wilson) spoke plausibly about a strike and supposed intimidation of some of the Collie miners, or fillers as he called them. In regard to that question, these men were simply observing a trade custom. They were observing the registered rules of their own union, registered under the Arbitration Act, and they were acting quite within their rights. Above all persons, the hon. member is the last to mention the non-observance of the Arbitration Act. Amongst the coal-mining companies at the Collie the Act is placed at defiance. They walk through the awards, they commit breaches of the Act openly, and it is time the Minister for Labour took into consideration the advisability of prosecuting some of the mining companies. Within the last three months there has been wholesale discrimination going on. I could name 25 men who have been working in that place over two years, have their homes there, really good workers, and they have been victimised by the company with which he is connected. There are cases in which the Minister for Labour should take action. We desire to get population, yet these mining companies of which the hon. member is the champion

are driving men out of the country. They are victimising them. I can name men who have been in that district two, three, four, and five years, and have now to go. It is time the Government took this matter into consideration, to see if they cannot bring about something like industrial peace in that district. Above all, I want to say that the member for Sussex is the last member in this Chamber who should rise in protest in regard to breaches of the Arbitration Act.

MR. A. J. WILSON (Forrest): I do not desire to lengthen the discussion, but only to draw the attention of the House to the fact that we have heard a good deal said in regard to the fee paid in connection with this particular business, but we have heard nothing of the immense industrial consequences and the immense advantages to industrial peace which have resulted from the bringing of this particular action. We know that all along the line in the past whenever the workers have desired any variety of industrial conditions, they have had to go to the manager and say that "On and after a certain date we will not work any longer, unless the hours are reduced to a certain number or the wages increased to a certain ratio." Employers have been allowed to adopt a system without any hindrance by the Government of the day. Now we have a Government in power prepared to take advantage of the existence of the Act, and we find a certain class of people in the community rise up in holy horror and protesting against the honest, straightforward, and clean administration of the Act. I venture to say that if we probe this to the very bottom we shall find that those responsible for initiating this, those responsible for bringing the matter prominently before the public to-day, are after all most seriously disappointed in connection with this piece of industrial legislation. I do not want to indulge in any personal recriminations. I might give information to this House and to the country in connection with the very gentlemen responsible for bringing this matter before the public at all, and before Parliament, which would lead one to infer that after all it was more a matter of professional jealousy than anything else. I do not want to needlessly advertise Mr. Ewing, but it seems to me that if I were

a legal practitioner, what I certainly should have done would have been to arrange for a fellow legal practitioner in one House of Parliament to bring the matter up, to have the advantage of an advertisement given to my business. As far as Mr. Ewing is concerned on this particular question, he requires perhaps no advertisement. I venture to assert, without fear of successful contradiction, there is no law office throughout the length and breadth of this State that has so replete and complete an arbitration and industrial library as that possessed by Mr. Ewing. I venture to say not even the Crown Law Office has so many reports of arbitration cases in different parts of the world; workmen's compensation cases, and cases which have been tried throughout the universe in connection with the administration of this particular class of legislation; and it is because Mr. Ewing has made a specialty of it that his services have been so frequently availed of so far as the workers are concerned. The amount of the fee paid is a paltry consideration. The question is not whether Mr. Ewing has been previously engaged by one particular section of the community as against any other section of the community. The price that has been paid covers not only the case already determined, but an appeal which I understand has already been lodged in the Full Court with regard to this matter. And as the Full Court will invariably sit in Perth, the cost of that Kookynie appeal will be fully covered by the amount paid. The most important consideration is that the decision resulting from the action of the Government has done more to secure industrial peace than has any previous decision. We now know that what it is wrong for the employee to do is equally wrong when done by the employer.

MR. T. H. BATH (Brown Hill): I have a few remarks to make; but the point I wish to emphasise is that the leader of the Opposition has not recognised a very regrettable feature of the Council's resolution. The hon. member has been induced to champion a resolution which practically censures the Government for vindicating the law.

MR. GORDON: This is a resolution from the Upper House. Has the hon. member any justification for impugning the motives of that House?

MR. SPEAKER: I do not think the hon. member has reflected on the Upper House.

MR. GORDON: Yes; he is reflecting on the resolution.

MR. SPEAKER: I did not hear the hon. member reflecting on the resolution.

MR. BATH: I have not made any attempt to reflect. I am only pointing out what is the evident effect of the resolution—an effect apparent to anyone who reads it. The member for Sussex (Mr. Frank Wilson) usually poses in this House as one who wishes to preserve law and order. He is what we may term a conservative; one who wishes to thoroughly examine the ground before taking any forward step. It is only natural that there should be conservatives in this Assembly; and the member for Sussex is accustomed to present a lucid train of argument to which one has some difficulty in replying briefly and effectively. But I would point out that his view of the situation, if adopted, absolutely out-distances the view of an anarchist or a nihilist. The hon. member says that this Parliament, and the Government who are responsible to this Parliament, having passed certain laws, are not thereafter called on to see that those laws are administered, but that the onus of administering those laws should be placed on private persons. I say, that is opposed to all the canons of constitutional law. Hon. members are continually emphasising the fact that it is the duty of Parliament not only to pass laws, but to see that they are properly administered.

MR. GREGORY: The point made was that the Government should not take action in civil matters.

MR. BATH: Nowhere in the world is there that distinction between civil and criminal matters. No judicial code in the world draws such a line, save for the purpose of convenience. Civil actions are commenced by private persons only when these desire to commence them. In any country where the law is properly administered, the Government initiate civil as well as criminal actions. I have only to point to the land of private enterprise, the United States of America, where we find that in the individual States, if not in the Federation as a whole, industrial legislation is not only administered by the Governments on



their own initiative, but special officials are employed to administer the law, instead of the onus being thrown on private persons. The same system obtains in Great Britain, in Germany, in France. It obtains even in Russia, where there is no constitutional procedure, but where ordinances issued by the Imperial authority are enforced by Government officers. Even if we go to much-despised Japan, we find that whatever industrial legislation it has is administered by an efficient staff of Government officers. In New Zealand the enforcement of arbitration awards was formerly left to private enterprise, though the provisions of the Workmen's Compensation Act, the Truck Act, and the Early Closing Act were enforced by Government inspectors. Workmen had to take action to secure the enforcement of Arbitration Court awards; but it was found that the decisions of the court were practically nullified, and the enforcement of such awards was made part of the duties of the Labour Department, whose records show that there are inspectors of awards on whom is cast the duty of seeing that the awards are observed by both sides. It is regrettable that this resolution has been passed, and that another place has unconsciously been made a vehicle for the expression of professional jealousy.

MR. H. GREGORY (Menzies): I do not think the preceding speaker is justified in making that last remark, and I am sorry he made it. The Hon. M. L. Moss has always shown himself a high-minded man; and he has done more for the cause the last speaker is supposed to represent than that speaker will ever do. I am speaking of what I know; and I do not think the hon. member was justified in imputing motives of that sort to Mr. Moss.

MR. BATH: I know what his action was in the matter of Detmold & Company.

MR. GREGORY: If we continue to bandy about such charges, we shall perhaps have a recurrence of the unfortunate recriminations of a few days ago. I wish to deal more especially with the argument that there is no cause for discriminating between civil and criminal administration. The State always takes charge of the enforcement of the criminal law. Some contend that for the safety

and welfare of our people the Government should see that all laws are properly administered. There is great difference of opinion as to how far the Government should go in initiating civil actions. There are factory inspectors to see that the Factories Act is enforced; there are health inspectors, appointed by the State or by the local authority, with power to initiate prosecutions. To some extent we may look on those prosecutions as civil and not criminal actions. But when we come to the Workmen's Compensation Act and the Arbitration Act, I contend that if the Government initiate prosecutions, they are doing work which would be better left to the parties themselves.

MR. BATH: Doing exactly the same work as is done under the Arbitration Acts in New South Wales and New Zealand.

MR. GREGORY: I do not think it right. The appointment of Mr. Ewing was wrong because many solicitors could have been obtained either at Kookynie or in the district adjoining, and obtained at considerably less expense.

THE COLONIAL SECRETARY: Solicitors with less knowledge and experience.

MR. GREGORY: I do not wish to argue about Mr. Ewing's qualifications, lest too much may be said of them. I did not come here with a special brief for Mr. Ewing, nor with a desire to do him any harm.

THE COLONIAL SECRETARY: Perhaps you hold a brief for somebody else.

MR. GREGORY: I do not hold a brief for any person. There are solicitors at Kookynie, Menzies, and Kalgoorlie. Probably the Minister interjecting believes in the system of centralisation. His Arbitration Bill has been lost after several nights' work, and is now in the waste-paper basket.

THE PREMIER: Not lost, but gone away.

MR. GREGORY: It was a most urgent measure; and it has been thrown away. Probably it is the desire of the Colonial Secretary to insist on all arbitration cases being heard in Perth, or that if a case is heard in a distant centre, a Perth lawyer shall be employed to plead. I object to that, because there are plenty of able practitioners available locally. But I do not wish to discuss Mr. Ewing.

I think we shall make a mistake if the Crown interferes in disputes of this sort between workers and employers. If a man contracts a debt and dishonours a promissory note, the Crown does not take action to secure payment. Under the Workmen's Compensation Act the Government do not initiate prosecutions; and I think we shall err if under the Arbitration Act we take action against employers. This is of course a matter of opinion; but if such prosecutions continue, we shall have great trouble. If a large number of men is out on strike, I should not like to be the Minister to initiate prosecutions of 300 or 400 strikers.

MR. A. J. WILSON: You would dodge the trouble.

MR. GREGORY: And so, I believe, would the hon. member. Such action should be left to the parties concerned. However, it is too late to trouble ourselves over this matter. I should not have spoken but for the arguments of the preceding speaker. My opinion was that the Premier and the leader of the Opposition might without interference debate the motion. The initiation of such prosecutions should be left entirely to the workmen or the employer.

MR. H. BROWN (Perth): This is not a question of the fee paid or the barrister retained. It is simply a matter of principle, whether it is the duty of the Government to fight the cause of the workers or of the employers. It seems to me that if the Government continue to fight the battles of either side, we do not know what will be the cost. The value of Mr. Ewing's service will be settled by the taxing-master; and we are of course certain that his fee of £100 will be reduced on taxation, probably to £70 or £80. No taxing-master would allow a higher fee, especially for an appearance in the Local Court. But if the action of the Government be right in principle, on the same principle it is their duty to fight all breaches of awards of the Truck Act; and I am certain it was never intended when passing the Arbitration Act that the Government should take part in litigation. Had the Opposition been in power, and had they fought the cause of the employer, a similarly condemnatory resolution would have been passed on them. It is very wrong for the Government to fight the cause of either party.

The unions are financially strong enough; and in civil actions the persons interested should fight their own battles.

MR. W. B. GORDON (Canning): The debate has substantiated the fact that whether or not an action is honest is largely a matter of opinion. The member for Forrest has frequently criticised the Government policy; but here to-day he compliments the Government on their honesty in enforcing the Arbitration Act. A man judges of what is honest according to his own views.

MR. NELSON: He would not judge of it according to the other fellow's views.

MR. GORDON: Who is this interjecting? I do not know whether it is a monkey or a rat. It is a rat. It has gone out. In ordinary business life, if a man wishes a lawyer to appear for him, he does not retain a lawyer who has been opposed to the principle to be defended. It is peculiar that Mr. Ewing has in arbitration cases been in favour of the unionist; and the Government retain him to fight a case against employers. The only idea in retaining Mr. Ewing to conduct a case like this is that not only does he work night and day for the unions and engage in cases of importance for them, but it is always found that this gentleman is engaged in any alien case of importance brought before the courts. There are the two extremes. It is an extraordinary matter. The Government can engage advocates where it suits them. There is a case in point: one member of a union made an affidavit that he was receiving a certain amount of wages. This affidavit was put in, and in the Arbitration Court this affidavit went a long way towards the unionists losing their case. What happened? The unionists called a meeting and expelled the man who had made this affidavit, because he had told the truth in that affidavit.

MR. A. J. WILSON: The Government you support permitted that to be done.

MR. GORDON: This man was written to, and told that for making an affidavit as to the amount of wages he had received, in fact for telling the truth, he was expelled from the union.

THE COLONIAL SECRETARY: How does that affect this case?

MR. GORDON: It is the duty of the Government to take up the case of every-

one, or they are not true to the principles which they have enunciated. The Government are only true to their principles while it suits them. The Government are spending the country's money in advocating cases when it suits themselves only. I ask the Premier: Will he take up the case I have mentioned, that of the man expelled from a union for making an affidavit? Will the Premier provide an advocate for that man?

MR. F. F. WILSON: His case has already been taken up by the employers.

MR. GORDON: If the Government provide a lawyer for one side, they should provide legal advice for the other side.

Question put, and negatived on the voices.

At 1.25 p.m. the SPEAKER left the Chair.

At 2.6, Chair resumed.

Message returned to the Legislative Council, informing them that the Assembly had considered the resolution (Kookynie), and disagreed to the same.

#### PIPES MANUFACTURE, DAY LABOUR, TO INQUIRE.

##### COUNCIL'S RESOLUTION.

Resolution of the Legislative Council now considered as follows:—

1. That the proposed extension of the day labour system in the manufacture of pipes is undesirable, and that such competition by the Government is calculated to prove injurious to the best interests of the State.

2. That a Royal Commission (the *personnel* of which should be outside of political influence) be appointed to inquire into the whole question of the day labour system *versus* private enterprise. The Commission to report on or before the holding of the next session of Parliament; and that pending the presentation of such report, this House is of opinion that farther action in the direction of extending competition by the Government with private enterprise should be deferred.

MR. H. GREGORY (Menzies): In dealing with this resolution from the Legislative Council, I do not know whether I am in error, but I am under the impression that the Premier has agreed to approve of this suggestion. If that be the case, there is no necessity for me to delay the House. Am I correct in assuming that the Premier will approve of the adoption of this resolution?

THE PREMIER: The resolution? No.

MR. GREGORY: I thought the Premier would agree to the adoption of this resolution.

THE PREMIER (Hon. H. Daglish):

What I did agree to was that I would offer no opposition whatever to the carrying of the second portion of this resolution; but I could not, as members will see for themselves, possibly concur in the first part, which is to some extent a condemnation of the action the Government have announced their intention of taking.

MR. MORAN: And all past Governments, too.

MR. GREGORY: I regret that I was misinformed by the leader of the Opposition (not now present). I understood from the member for Guildford (Mr. Rason) that he was desirous of having the whole of this carried; but probably he will be satisfied with having the first part disagreed to and the second part agreed to. I wish to emphatically state, for myself, that I desire the whole of the resolution as it stands to be adopted. Only last night I heard that the large works of Hoskins & Co. have been closed down. If this day labour work is carried on by the Government, it means transferring the manufacture of these things from a private workshop to the Government workshop at Fremantle, aided and abetted by the Government. As far as I am concerned, that has very little weight; but I think it would have a great deal of weight with people resident in the locality. I object to our embarking in State manufactures of this sort without Parliament having an opportunity of properly discussing the advisability of it, and without our having full particulars of what it is proposed to do. Matters of this sort ought to be decided by the House, and not by the Minister of the day. If this sort of thing can be tolerated, I do not see why to-morrow or the next day the Minister may not establish some new industry. We might have a boot shop or some kind of factory.

THE MINISTER FOR WORKS: If there were a monopoly, we might do it.

MR. GREGORY: If it were a monopoly, probably they would. The Minister has not shown the House this is a monopoly, and I am not too sure of the ideas of the

Minister as regards what constitutes a monopoly. I think he believes in the greatest monopoly we have in the State, that of the trades unions. I do not think it fair that a new industry of this sort should be carried on by the State, that it should be brought forward simply because a Minister of the Crown thinks it advisable. I do not like to delay the House, because I know there are other notices on the Notice Paper which are important; still I doubt whether they are of equal importance to this. If the Government, however, will give us a promise that a Royal Commission shall be appointed, that a thorough examination will be made into the question, and that the Government will allow the fullest information, that is departmental information, to be given to the commission, so that the facts of the case can be laid clearly before the country as to whether this industry should be conducted by the State, I do not wish to delay the House, and I will be satisfied with that promise, and not insist on a full argument in regard to paragraph 1.

**MR. SPEAKER:** I understood the hon. member was moving that the resolution be agreed to.

**MR. GREGORY:** I must move that it be agreed to, and leave the Premier to move the excision of a certain portion of it.

**MR. MORAN:** In the case of a resolution of a dual character such as this, it is the practice to divide it, if necessary. I think it would expedite matters if the resolution were to be put as "1" and "2." That was the custom followed by the late Speaker.

**MR. SPEAKER:** I cannot do that.

**THE PREMIER:** The member for Guildford told me that he had no desire to move this resolution if the assurance of a commission was given. I am perfectly willing to give that assurance if the hon. member does not proceed with this motion, because I recognise the importance of having a full inquiry. If this motion proceeds, of course it will be settled by the House.

**MR. SPEAKER:** An amendment may be proposed by the hon. member that certain portions of this resolution be adopted and certain portions of it be disagreed to; that paragraph 1 be disagreed with, and paragraph 2 agreed to.

**MR. GREGORY:** I move:

That paragraph 1 of this resolution be not agreed to, and that paragraph 2 be agreed to.

**THE PREMIER:** I support the motion.

**MR. MORAN:** As far as I am concerned, I have no prejudice either for or against day labour, or anything of the kind. I do not think it affects the workers one tittle in these days of Arbitration Courts and protection for whom they work, so long as the work is carried out to the best advantage. I want to know how it is best to be done for the State, and I support the motion.

Question put and passed; a message accordingly returned to the Council.

#### COMPLIMENTARY REMARKS.

**THE PREMIER (Hon. H. Daglish):** As the hour for prorogation is approaching, I take this opportunity of rising to express my sense of the ability with which you, Mr. Speaker, have during this the first session of the present Parliament presided over the deliberations of the House. I likewise wish to congratulate the Chairman and the Deputy Chairmen of Committee, as well as the officers of the House, on the ability with which they have discharged their duties, and to thank them for the courtesy which they have invariably extended towards myself and other members. I think it is opportune, too, on this occasion to express my pleasure—an uncommon pleasure, I believe—at the good fellowship and amity which have characterised the present session. Of course, when we hold unduly prolonged sittings, the most angelic of us is occasionally liable, through nervous tension, to work off a remark which might be better suppressed. But even allowing for that, I think the session has been very successful, in view of the good fellowship and the friendliness displayed by hon. members. I believe we are now rising, at the close of the year and of the session, with nothing but the best of feelings towards one another. I have therefore very keen pleasure in expressing my satisfaction on that account, and in congratulating you, Mr. Speaker, on presiding so successfully over us during your first term of service in your honourable office. I now have much pleasure in wishing you and my fellow members a very merry Christmas and a happy new year. (General applause.)

MR. H. GREGORY (Menzies): I wish to support the remarks of the Premier. I am quite sure that members have tried their best to do their work well, and that every one of us, no matter on which side of the House he sits, has been actuated by an earnest desire to pass legislation in the interests of the country. I congratulate you, Mr. Speaker, and the Chairman and Deputy Chairmen of Committees, for the manner in which they have conducted the business of the House; and I must also express my pleasure at the manner in which the officers have performed their duties. I am satisfied that I have always been treated with the same degree of fairness as any person on the Government side of the House; and I am sure that feeling is reciprocated by every Opposition member. I trust that when the House is called together next year, we shall all be able to meet again; that none of us will be missing; and that though we may have some fights, the session will close as happily and with as much good fellowship as it closes on the present occasion. (General applause.)

MR. SPEAKER (Hon. M. H. Jacoby) said: Mr. Premier, Mr. Gregory, and hon. members, you can hardly conceive the pleasure with which I have listened to the congratulations so kindly offered me on behalf of the House. I shall leave the Chair at the end of this session with the feeling that I have endeavoured to uphold the dignity of the House, and above all that I have endeavoured to do my duty without suspicion of partiality, during the time I have presided. The heritage handed down to me by the gentlemen who previously occupied the Chair was one of high ideals; and though, perhaps, I have fallen short of the example set me by those gentlemen, that has not been for want of endeavour on my part. I thank you sincerely for your kind expressions; and I wish to say, and believe it to be absolutely true, that this Parliament cannot in any way suffer by comparison with the preceding Parliaments in which I have sat. I consider that the deliberations of this Parliament have been, on the whole, remarkably free from the regrettable scenes which are occasionally witnessed in our Parliaments. I trust that the example and the record which we have put up during the session will be an ideal which we

shall endeavour to attain in succeeding sessions. I leave the Chair this afternoon with nothing but the most kindly feelings, and full of thankfulness to the members of the House who have in all circumstances treated me with the utmost generosity. I wish, before resuming my seat, to say that the labours of my office have been considerably and valuably aided by the very efficient services, not only of the Clerk (Mr. Lee Steere), and of Mr. Grant, Mr. Kidson, and the *Hansard* staff, but by the messengers and all connected with the House. I think members are as satisfied as I am with the services rendered, and I feel sure that they include the officers in any thanks they have offered. (General applause.)

MR. T. H. BATH (Brown Hill): I thank the Premier and the member for Menzies, for their kindly expressions regarding me. I have always endeavoured as Chairman of Committee to carry out my duties to the best of my ability, and as far as possible to maintain order in this House so that its dignity may be enhanced in the eyes of the outside public.

#### PUBLIC SERVANT'S COMPULSORY RETIREMENT.

##### POMBART SELECT COMMITTEE'S REPORT.

MR. C. J. MORAN (West Perth): It gives me great pleasure indeed to hear the sentiments of good-will and good-fellowship amongst ourselves, and to think of the kindly Christmas cheer that is awaiting us at the hands of our constituents and the country. I am pleased also that a few minutes are allowed me to ask the House to do justice to one who has not had any particularly merry Christmas for the last two years. Unless the House is prepared to do justice and to support the select committee, consisting of members from all sides, who inquired into Mr. Pombart's case, he is not likely to have a merry Christmas this year. The select committee made a most exhaustive inquiry, and arrived at a fair decision, not altogether exculpating Mr. Pombart from blame, but finding unanimously that he ought not to have been discharged; eliciting from all the witnesses connected with the department, and from the gentlemen who held the two preceding inquiries into Mr. Pom-

bart's case, that they never expected he would have been dismissed, and that his service was worthy of retention. The committee were bound to find that a man who was wrongfully dismissed, and who has been out of work for two and a-half years, is entitled to some consideration. But I ask my fellow-members of the select committee to join with me in not enforcing that recommendation, and in liberating the Government from any liability to compensate Mr. Pombart. All I ask is that the man should be re-employed; and though we found that he was entitled to compensation, yet in order that nothing of a debatable matter may be brought before the House I will ask the select committee to excuse the Government from an observance of that part of the report, and simply to provide before Christmas that this man shall be reinstated—I do not say in his old rank, but reinstated in the department from which he was, with undue harshness, removed. I sincerely ask the Premier and the House not to refuse to adopt the report, but to give this man some consolation before the Christmas holidays commence. I am sure all my colleagues on the select committee will support me strongly. Their report is unanimous. There is not the slightest difference of opinion. We have reported that we do not advise his being put back in his old position, but that he is entitled to be reinstated in some position in the department from which he was discharged. I move:

That the report of the select committee be adopted.

MR. E. NEEDHAM (Fremantle): I second the motion.

THE PREMIER (Hon. H. Daglish): I cannot accept this motion, if it be understood that the Government is committed to any definite action regarding the case. I have as yet had no opportunity of studying the evidence; and I think it would be injudicious for the House, unless other members are better acquainted than I with the evidence, to agree to the motion. But if the hon. member will withdraw the motion, I am quite prepared to take an immediate opportunity of looking into the whole of the circumstances disclosed by the evidence; and if I find from the evidence that the man is deserving of some appointment, I will do

my best to find him a suitable appointment whenever a vacancy occurs.

MR. MORAN: I am not prepared to substitute your or any other man's judgment for that of the whole House. I will accept that compromise if I am forced to do so.

THE PREMIER: The hon. member must recognise that unless the whole of the House has read the evidence, and is in a position to judge, it is not in a position to form an opinion on the select committee's report. I am not, therefore, as one member of the House, prepared to vote for its adoption, because I am not justified in doing so, for I am not seized of the recommendations on which it is based. I think the member could reasonably accept my promise that I will go into the evidence immediately, and endeavour to do justice to this person.

MR. H. BROWN (Perth): I would like to ask whether in June or July last Mr. Pombart received a cheque for £40 odd in full satisfaction of his claim?

MR. NEEDHAM (Fremantle): I am glad that in the few minutes available we can discuss this question; and I hope the House will adopt the report presented. We ask only for a little commiseration—the reinstatement of the man who has been unjustly treated.

MR. GREGORY: It is commiseration, then?

MR. NEEDHAM: He has been, as far as I can judge from the evidence placed before us, the victim of a system that obtained in the office where he was then working. Whilst we do not advocate his reinstatement in that office, we advocate, and we hope the House will support us, that he be reinstated in the Government service. It has been proved beyond the shadow of doubt that the man is capable, and was the most able and most efficient officer in this branch of the service. The committee, having spent considerable time, morning after morning, and week after week, in going into the case, I ask the House to consider the report and accept it. A question has been asked by the member for Perth; but I say, without answering that question, it would have been far better if the question had not been asked. This phase of the question came before the select committee, but I sincerely hope the hon. member will not press for an answer to

his question. I do not intend to occupy the time longer. I ask members to accept the report and to do justice to a man who has been unjustly dealt with.

MR. GREGORY: If you can answer the question, why do you not do so?

MR. F. F. WILSON (North Perth): As a member of the select committee, I may say we went carefully into this matter, collecting all the evidence we could in reference to the case. We had before us the gentlemen who constituted the two boards of inquiry, and the officials in connection with the department. The members of the inquiry board had no idea the Government would dismiss Mr. Pombart. One board went so far as to recommend that Mr. Pombart should be transferred. All the evidence was against Mr. Pombart having committed any indiscretion or lack of judgment that was serious enough for him to be dismissed from the service. I think the committee are justified in asking the Government to reinstate Mr. Pombart and give him the means of gaining a livelihood. I hope the Government will accept the recommendations of the committee, and reinstate Mr. Pombart. If the member for Perth will take the trouble to read the evidence, he will find all particulars in reference to the matter he has referred to, and when he has read the evidence he will come to the same conclusion as the committee have done.

MR. HARPER (Beverley): Surely we require some precedent, for the Premier to accept without consideration the decision of a select committee. I have no doubt the recommendations of the committee were arrived at after due consideration. Surely, as the Premier says, if satisfied after reading the evidence that the decision is justifiable he is prepared to act upon it, that should be sufficient; but to ask the House to decide that what the select committee recommend shall be adopted is I think a dangerous principle.

MR. MORAN: Is not that the usual course with every select committee? What is the hon. member talking about?

MR. HARPER: This is asking the Premier to commit himself to a specific act.

MR. MORAN: Certainly not.

MR. HARPER: That is what I understood. What the Premier promised

seems to me to be quite fair; that he will took into it and that he will be governed largely by the recommendation of the select committee. To ask more than that is, I think, asking more than the House should grant.

[MR. H. BROWN rose to speak. A Member interjected that the member for Perth had already spoken.]

MR. SPEAKER: The hon. member technically made a speech. If the hon. member wished to make an inquiry, his best time to have risen was whilst the hon. member who moved the motion was speaking. If he rises afterwards to make a speech he has, I am afraid, lost the opportunity.

MR. H. BROWN: We have nothing to guide us.

MR. GREGORY: There is no Standing Order as to the number of words which make a speech.

MR. J. L. NANSON (Greenough): I think the member for West Perth would be well advised were he to accept the promise made by the Premier, that he would give this case every consideration and see what could be done. Personally, I should very much object to the adoption of a report which suggests that a gentleman should be reinstated in the public service, altogether regardless of the fact, so far as I read the report, as to whether there is a suitable vacancy for him. I have never understood why, in the employment by the State, we should differentiate from employment by a private individual in an ordinary business house, where the point whether a man was justly or unjustly dismissed would not enter into the question at all. He would be given notice and his services would be dispensed with, because the employer for one reason or other wished to discontinue them. But it has never been suggested that if at a later stage it were found that the man had been unjustly dismissed, he should be again taken into the private firm and a place made for him when there was no suitable vacancy.

MR. MORAN: You must admit there is a difference. That is why you introduce a Public Service Bill.

MR. NANSON: If there be a difference, it explains entirely to my mind why it is that a civil servant is very often more expensive than a private employee, and

why the service is not always equally efficient.

MR. MORAN : That is another matter.

MR. NANSON : Take this particular case. I do not know this gentleman at all ; I have never met him, and have had no dealings with him ; but I am given to understand—the member for West Perth can correct me if I am wrong—that before he entered the civil service he carried on a baker's business. For some reason he abandoned it and entered the civil service. I do not know that the calling of a baker is a very good preliminary.

MR. MORAN : You are quite wrong. He has been 20 years engaged in this class of work.

MR. NANSON : It is admitted he made certain mistakes. One will always find that a civil servant leans naturally, as any employee does, to the side of mercy when a mistake is made, because he never knows when he will make a mistake himself. If he did not lean to the side of mercy, the treatment he urged might be meted out to himself. It is accordingly a question for the employer to decide—that is the responsible Minister of the day, I take it—whether the mistakes which have been made are such as to make it desirable that the servant should not be retained. There is no stigma cast upon Mr. Pombart. There is no stigma that he has done anything wrong or dishonest. All that can be said is that his qualifications are not those which are altogether desirable for the position of a clerk of court. The select committee have looked into that and have dissented from that view ; and it is quite possible that after the Premier has inquired into it he will find he has reason to agree with the view of the select committee. But I think the Premier would be altogether wrong if he, not having looked into the case, were to give an assurance that Mr. Pombart should be reinstated. I think, farther, that it would be also wrong if he were to give an assurance that a position was going to be made for Mr. Pombart. After all, the public service is paid for out of the money of the taxpayers, and I feel assured every member will agree with me, if he thinks over the matter, that no one has a right to use the money of the taxpayers in order to make positions

in the civil service, if positions are not available. For that reason I hope the member for West Perth will accept the assurance of the Premier. There is the farther circumstance, I believe, that Mr. Pombart has not since he left the civil service succeeded in obtaining employment of any sort. I understand it is some two and a-half years since Mr. Pombart left the service. He did not leave it with any stain on his character, and it seems an extraordinary circumstance that he has not obtained employment. It speaks very little for the estimation in which public servants are held.

MR. MORAN : If I could not help him, I would not hurt him.

MR. NANSON : It may seem to the member for West Perth that I am putting my knife into this unfortunate gentleman ; but we have a duty to perform here, to see that out of commiseration positions are not made in the public service. It is not our own money. If the hon. member feels a special degree of commiseration, it is open to him to provide a billet for Mr. Pombart himself. What I was saying was that it seems extraordinary to me, indeed almost incredible, that for the last two and a half years this gentleman should not have been able to obtain some sort of private employment. Before he entered the service he was a baker. [MEMBER : What if he was?] He gave up baking, I believe, in order to take this position.

MR. MORAN : I hope the hon. member will not repeat those assertions. They are absolutely unfounded.

MR. GREGORY : I heard the rumour.

MR. MORAN : He did have a little business here ; but he was never a baker.

MR. NANSON : When I referred to the fact of Mr. Pombart having been a baker, I said it was possible that I might be in error, and I asked the hon. member to correct me if I was in error. There was a gentleman of the same name who carried on a baker's business in Perth.

MR. MORAN : Were you not "jackarooing" on the Murchison once?

MR. NANSON : I never was. There was a gentleman named Pombart carrying on a baker's business in Perth. That business ceased, and about the same time there was a gentleman of the name of Pombart appointed clerk of courts. The



Bill which will shortly be assented to on the prorogation of Parliament will institute some sort of test for persons entering the service, as to their competency; but until this provision is passed it is possible for a man to be appointed to the public service without any test as to his competency for the position he is called upon to fill. When he gets into the position he makes certain mistakes and perhaps his services are dispensed with, and then the question arises whether these mistakes were of sufficient gravity to justify his dismissal. Then we have warm-hearted persons like the member for West Perth.—

MR. MORAN: And cold-hearted ones like the member for Greenough.

MR. NANSON: It is essential some should be cold-hearted. It would be a bad thing for the country, although good for individuals, if we all had that warm impulsive temperament which characterises the member for West Perth. It is a much less pleasant part I have to play in this business—[MR. NEEDHAM: Is this a Christmas carol?—because I am putting forth the interests of the taxpayers and of the public as a whole, whereas the hon. member is appealing on behalf of a single individual; and, as another hon. member reminds me, he is appealing on behalf of an individual at a time when we all have feelings of charity and good-will. But I do not think questions of this kind should be decided by considerations as to whether a single individual is to have a happy Christmas or not. Indeed, so far as the Christmas season is concerned, if that were the only argument I should be happy to join with him, as no doubt others would, in securing to this gentleman a happy Christmas season. What I wish particularly to

emphasise is that the Premier, even if this gentleman had not been dismissed, even if his mistakes were not perhaps so serious as to compel his dismissal from the public service, should make the fullest inquiry as to whether this gentleman is competent to fulfil those duties, and also that he should not create any position, but that he should only fill a vacancy should there happen to be one. Possibly the matter can be left by him to the Civil Service Commissioner to be appointed, and that no doubt would be even a more satisfactory method of procedure.

MR. MORAN: I beg leave to withdraw the motion. I am sorry the hon. member took so long that I am not able to deal with this matter in the appointed time.

Motion by leave withdrawn.

#### DISCHARGE OF ORDERS.

On motion by the PREMIER, remaining Orders discharged, namely—Defamation Bill, second reading; Mining Act Amendment Bill, second reading.

#### SUMMONS TO MEMBERS—PROROGATION.

BLACK ROD appeared at the Bar (four minutes past 3 o'clock), and summoned members of the Legislative Assembly to attend His Excellency the Governor in the Legislative Council Chamber.

MR. SPEAKER and hon. members proceeded accordingly to the Council Chamber, where His Excellency was pleased to give assent to Bills of the session. His Excellency delivered an address, proroguing Parliament. (*Vide* Council's proceedings, *ante*.)

*The session then closed.*