

Legislative Council,

Thursday, 23rd September, 1937.

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

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT

Second Reading.

Debate resumed from the previous day.

HON. L. B. BOLTON (Metropolitan) [4.34]: I have always been, am still, and desire to remain a firm believer in arbitration and conciliation, but I definitely hold the view that if arbitration is to be the success that we hope, the law must be enforced equally against the employer and the employee as well as against unions and any other offending bodies. In the Bill before the House it is proposed to amend Section 97. My remarks will be almost wholly confined to this section, and will not be so much by way of a criticism of what is in the Bill as by way of offering reasons which I hope will be sufficient to induce the House to support me when I move in Committee, as I intend to do, for the deletion of Section 97 entirely. As in most of the Bills brought before the House there are some good features in the present Bill. There are two clauses that are particularly pleasing to me. One of them is Clause 17, relating to the right of appeal from the decision of the industrial magistrate to the Court of Arbitration. This is an improvement that has been warranted for many years, and I think we will all agree that there are many occasions when the magistrate's decision appears contrary entirely to the interpretation of the Arbitration Court. Another good clause is that which enables the court to be approached for an interpretation of an award although the term of such award has expired. This may be the means of preventing many disputes or misunderstandings, such as have occurred from time to time. These are the best features of the Bill, and it is possible I may vote for the second reading to sup-

port these clauses, and also with the hope of convincing the House of the necessity of entirely deleting Section 97. I intend to move this should the Bill reach the Committee stage. I quite realise that if this is done there will be no provision for breaches of an award. I do this after careful study, and knowing well that it will not in any way inflict any penalty or hardship on the worker. The worker will still have his right of proceeding in the local court for the recovery of any amounts short-paid by the employer. But the court will not have the right to impose a fine for any breach, but only the power to order payment of those amounts.

Hon. G. Fraser: That would be welcoming breaches.

Hon. L. B. BOLTON: I do not think it would be welcoming breaches. It does not seem to matter much whether this section is there or not. I am going to endeavour to show the different attitude adopted towards the employer and the unions. I would do that by quoting some figures. My figures are authentic, and I think I will be able to demonstrate that while my proposal will not inflict hardship on the worker it will be just as good for the working of the Act, because the law will be more equal. There will be an evening up, so that there will not be a continuation of what we have to-day on any and every occasion, namely, that when there is a breach by an employer the law is enforced, while in the case of the unions the opposite takes place. Section 129 of the Act states—

(1) No person shall (a) take part in or do or be concerned in doing any matter or thing in the nature of a lockout or strike; or (b) before a reasonable time has elapsed for a reference to the court of the matter in dispute, or during the pendency of any proceedings before the court in relation to an industrial dispute, suspend or discontinue employment or work in any industry; or (c) instigate to or aid in any of the above-mentioned acts. Penalty: In the case of an employer or industrial union, £100; and in other cases, £10.

That is the principal part of Section 129, and as I have said before, its deletion will mean that there will then be no provision for breaches of the award. But if there is no intention on the part of the Government to enforce any breach of this section by the unions, why retain Section 97 which operates against the employer—more so when the section can be removed without taking away the right of the worker to sue

for any short payments that are made by the employer. In other words, if the penal clauses are to be applied they should be applied against both employer, employee and union. I propose to quote the numbers of breaches of the award during the 12 months ended the 30th June last.

Hon. J. J. Holmes: Breaches by whom?

Hon. L. B. BOLTON: I want to be perfectly fair, and quote breaches by both parties for the year ended the 30th June, 1937. During that period there were 315 convictions against employers in the industrial court for breaches of awards and industrial agreements.

Hon. J. Cornell: Has the hon. member observed that the Government were fined?

Hon. L. B. BOLTON: That may be so. Quite a number of cases, I am aware, were against the Government. Fines in these cases totalled £459 and, with costs, an additional £224 8s. 8d. In 81 of these cases, or 25½ per cent. of the total, no fines were inflicted.

Hon. G. W. Miles: Those fines were paid, I suppose.

Hon. L. B. BOLTON: I am going on to prove that in every instance all the fines and costs were paid by the employers. In 37 cases, or 11½ per cent. of the total, fines of less than £1 were imposed. This means that 118 cases, or 37 per cent. of the total, would be affected by the new proposal contained in the Bill to fix a minimum fine of £1. During the same period there were 118 convictions against workers for breaches of awards and industrial agreements. Fines amounting to £60 10s. were imposed, plus costs amounting to £21 0s. 8d. In nine of those cases, or 7½ per cent. of the total, no fine was imposed. In 53 other cases, or 45 per cent. of the total, fines of less than £1 were imposed. Thus 52½ per cent. of the convictions against workers would be affected by the proposed minimum fine of £1.

Hon. G. Fraser: Was not collusion alleged in some of those cases against the workers?

Hon. L. B. BOLTON: Probably there were many instances of collusion between employers and employees. I do not deny that such cases do happen, but when they are discovered, heavy fines should be inflicted. What worries me most of all is that during the same period there were a number of strikes.

Hon. J. J. Holmes: Were those fines paid?

Hon. L. B. BOLTON: All the fines and costs inflicted upon the employers were paid.

Hon. G. W. Miles: What about the employees?

Hon. L. B. BOLTON: My information is that those fines and costs also were paid. During the same period the following strikes, which amounted to breaches of the Industrial Arbitration Act, occurred:—

Union, Place, and Duration.

A.W.U. (Goldmining branch); Ivanhoe shaft (Lake View and Star, Limited)—three weeks.

Meat industry employees; W.A. Meat Export Company—one week.

Road transport workers; Metropolitan omnibus services—one month.

Coal miners; Collie coal mines—three weeks.

A.W.U. (Goldmining branch); Kurrawang woodline—partial stoppage, approximately five weeks.

Fibrous plaster workers; Metropolitan fibrous plaster manufacturers—one week.

A.W.U. (Goldmining branch); Big Bell gold mine—one week.

A.W.U. (Goldmining branch); Youanmi gold mine—two weeks.

Amalgamated Engineering Union and Australasian Society of Engineers; East Perth power house extension (International Combustion, Limited)—two weeks.

In none of those instances was any action taken against either the unions or the workers for a breach of the Act. In the omnibus strike, the Industrial Registrar applied to the Court of Arbitration for the deregistration of the union, and a provisional order was made to take effect if the men did not return to work by a certain date.

Hon. G. Fraser: The men returned to work.

Hon. L. B. BOLTON: Yes. That supports my contention that had the Government taken action in other cases as they should have done, the men would probably have returned to work as did the omnibus strikers.

The Chief Secretary: Why do you say the Government should have taken action?

Hon. L. B. BOLTON: These matters have to be referred to the Crown Law Department and they go mainly to the Minister concerned. If not, why were officials of the Government permitted to proceed against employers for breaches of the Act? In no instance has any action been taken against the unions during that period. This is most unfair.

The Chief Secretary: You do not know what you are talking about.

Hon. L. B. BOLTON: Then the Minister, in his reply, might be able to put me right. I know what I am talking about when I tell members that in the period I have quoted, there have been that number of convictions against employers, whereas, when unions have been the cause of a strike or stoppage of work, no action has been taken by the Government. If the Government do not enforce action for a breach of the law on one side, they should not enforce it on the other side.

The Chief Secretary: Can you mention one case in which the Government or Crown Law Department took action?

Hon. H. S. W. Parker: I was engaged in about 20 cases.

The Chief Secretary: I asked the hon. member to mention one.

Hon. H. S. W. Parker: The lime burners.

Hon. L. B. BOLTON: I mentioned the Collie coal miners. Something over two years ago between 200 and 300 Collie miners were fined for a breach of the award. But what happened in that instance? So far as we know, the matter ended with the fining of the men. They simply laughed at the court and no attempt has been made to enforce the order of the police magistrate. Yet, in every case against an employer during the same period, enforcement, if necessary—though probably it would not be necessary—has been made to secure payment of the fine and costs in full.

Hon. H. S. W. Parker: Or the offenders would have been put in gaol.

Hon. L. B. BOLTON: Yes. There was an instance of men "doing" time. I think it arose out of the wool strike; men were fined for a breach of the Act and they preferred to go to gaol. I have no objection to their doing that so long as the punishment meted out to both sides is enforced. In contrast to the inaction of the Government in this State, I should like to quote what is happening in Queensland. Mr. Cornell briefly touched on the strike at the Milton Brewery of Castlemaine, Perkins Ltd. The difference in the attitude of the Government in the two States is most marked. In Western Australia week after week passes and no action is taken. This is what happened in Queensland:—

As a sequel to the stay-in strike at the Milton Brewery of Castlemaine, Perkins, Limited, the Industrial Court to-day cancelled the breweries' award in Brisbane and withdrew preference to unionists in all awards of the Liquor Trades Union, the decision to take effect at

9 a.m. on Wednesday if work is not resumed by that time.

Hon. G. W. Miles: And Queensland has a Labour Government, too.

Hon. L. B. BOLTON: Yes, a Labour Government.

Hon. G. Fraser: Do not you think that was justified seeing that the employees drank milk while they were in the brewery!

Hon. L. B. BOLTON: I do not think the hon. member can vouch for the employees having drunk milk; in fact I have no doots about it.

The Chief Secretary: Who took action there?

Hon. L. B. BOLTON: The Press report states that the Industrial Court cancelled the award.

The Chief Secretary: Who moved the Industrial Court?

Hon. G. W. Miles: Evidently no influence was used to prevent the Industrial Court from doing it.

The Chief Secretary: No influence was used here, either.

Hon. G. W. Miles: Then it is strange that no action was taken.

Hon. L. B. BOLTON: I do not care who takes action so long as action is taken. The trouble in Western Australia is that no one takes action against the unions, though there is always someone only too ready to take action against the employers.

Hon. G. W. Miles: Is it not the duty of the Government to see that the laws of the land are observed?

The PRESIDENT: Order! The Minister will have the right of reply.

Hon. G. W. Miles: Let him reply to that.

Hon. L. B. BOLTON: I should like to refer briefly to another strike at present in progress in Kalgoorlie. For three weeks the printers of Kalgoorlie have been on strike. What action is being taken by the authorities to end that unfortunate occurrence? If an employer had been responsible for that stoppage, would not action have been taken against him immediately for a breach of the Act? If the Government intend to retain the penal provisions of the Act, it is their duty to treat both sides alike.

Hon. G. Fraser: Who should take the action?

Hon. G. W. Miles: If those responsible do not carry out the law, they should be fired and someone else put in their places.

Hon. G. Fraser: But who should take the action?

The PRESIDENT: Order!

Hon. L. B. BOLTON: I think I have given sufficient reasons for the deletion of Section 97 of the Act, and if the Bill reaches the Committee stage, I shall move to that effect. The deletion of that section will not inflict any hardship on the worker, but it will have the effect of evening up treatment. It could not then be said that the law was being flouted by one side and enforced against the other side with the utmost rigour. I shall support the second reading in the hope of getting my amendment accepted in Committee.

HON. A. THOMSON (South-East) [4.58]: When the measure we are now seeking to amend was before another place, I made a statement that arbitration, in relation to the enforcement of awards, applied to employers only. The case submitted by Mr. Bolton this afternoon shows that the statement made by me so many years ago has been amply justified. The Industrial Arbitration Act is very much one-sided. I agree with the remarks that fell from Mr. Cornell. Certainly it must be very irritating to a large number of unions who approach the court to have to wait so long before their cases can be adjudicated upon. As the Bill is to be referred to a select committee, I hope, with Mr. Angelo, that there will be a general overhaul of the principal Act as well as of the Bill. I trust that the mover for the appointment of the select committee will include in his motion not only an inquiry into the Bill but also an inquiry into the Act. I am somewhat disappointed with the Government's proposed amendment relating to apprentices. The Bill proposes a new section under which the Arbitration Court, with the approval of the Governor, will be able to make regulations. As regards the general administration of the court, far too much attention has been paid to curtailing opportunities that rightly belong to young Western Australians to acquire trades. I hope the select committee will submit amendments affording greater facilities in that direction. The Arbitration Court may prescribe methods and conditions of training, teaching, attendance at technical schools, and passing examinations. In those respects Parliament has given the Arbitration Court a free hand. Awards mostly prescribe that there shall be one apprentice to three tradesmen. I regret that the report of Mr. Wolff, the Royal Commissioner on Employment of Youth, is not before us, as from it we

might have been able to obtain some suggestions for improving the working of the Arbitration Court. Parliament has an absolute right to direct that there shall be more apprentices than is the case under present conditions. I recommend the select committee to suggest provisions whereby what may be termed junior workers, young people whom the depression has deprived of the opportunity of acquiring a trade, shall have similar opportunities to those existing in other States. In this State at present the question is one of age. Under the Act young men who have been debarred from learning trades during the past few years are doomed to be hewers of wood and drawers of water, without much opportunity to get out of the ranks of unskilled labour. The conditions with regard to apprenticeship should be made far more elastic than they are now. In that respect we have a duty to perform to the youth of the State. Practically all members who so far have spoken on the Bill have declared that the existing Act is one-sided. Mr. Holmes has pointed out that every employer is liable to pay a fine for any breach of the award.

Hon. H. S. W. Parker: The Act is all right, but its administration is bad.

Hon. A. THOMSON: The Act is not all right in my opinion. In the case of a large union it is absolutely impossible to enforce an award. Mr. Bolton has quoted the case of the Collie union. There are 300 miners in that union. Suppose each of them said, "I will not pay the fine." The alternative would be that they should all go to gaol. Now, a union may have 4,000 or 5,000 members. Are all those members to be gaoled? The position would be impossible. Suppose the Arbitration Court told a large number of strikers to work, and they simply refused. Again the position would be impossible. In that connection I have a suggestion to make to the select committee. Last year and in the year 1935-36 the industrial unions collected in dues no less than £88,000. All life assurance companies and all fire insurance companies have to place in the hands of the Treasurer a deposit guaranteeing their bona fides as regards carrying out the terms under which they are granted permission to trade. This Bill should contain a corresponding provision, to the effect that a proportion of the moneys collected by unions shall be placed in trust funds, so that any union

flouting a decision of the Arbitration Court may be punished by the taking of the amount of the fine from its trust fund. As the Act stands, an employer must pay, but a large body of men combined in a union cannot be compelled to pay. In fact, no Government would endeavour to enforce payment in those circumstances. The present Government have definitely laid down that no man shall be employed in connection with any public work or on any Government contract held by a private contractor unless he contributes to the funds of a union. If it is fair for the Government to impose such conditions on the workers, then in the interests of the unions themselves, and certainly in the interests of fair play, an agreed-upon sum should be set aside from union contributions to establish a special fund enabling the courts to exact payment of fines when a union commits a breach of an award. In that respect a union is, in effect, exactly the same thing as a corporation or company. A union should be mulct in fines just as a corporation or company is.

Hon. G. W. Miles: A good suggestion.

Hon. A. THOMSON: I make no apology for the vote I cast last year against the second reading of a similar Bill. What moved the majority of members of this Chamber to refuse to agree to the second reading was the fact that at the time the Bill was introduced, the Government had not acted in an impartial manner. If one may judge from statements which appeared in the Press, the Government at that time supported strikers instead of supporting the law.

Hon. G. W. Miles: That is so.

Hon. A. THOMSON: That action of the Government justified the action of members of this Chamber in refusing further consideration to the Bill in question. Though the statement may cause some surprise, I have been a strong supporter of the Arbitration Court ever since it came into existence. No one can accuse me of being unfair in criticism, and I say that what is fair for an employer should be fair for an employee. In regard to passing any measure, this House should hold the scales of justice evenly. We should not make a law which can be flouted by one section of the community while penalties are imposed on another. Take the strike in Kalgoorlie. If my information is correct, the employers made a very fair offer. They said to the men,

"Come back and work, and we will be willing to go to the Arbitration Court for a decision, and to make that decision retrospective from the time the question was raised by you." Could anything be fairer than the offer of the newspaper proprietors? However, the men are still out. They say, "Unless you give us what we want, we will not go back." The same thing happens throughout the Commonwealth. It appears to me that such actions must undermine the principle which many old-time unionists fought for, and which all of us thought would abolish strikes. I know it may be contended that industrial arbitration has reduced strikes to a minimum. I do not argue that the men are not justified in taking drastic action if they are treated unfairly. However, this Parliament years ago passed a measure which, in the words of the late Mr. A. McCallum, went from the office into the kitchen. He meant that the industrial laws prescribed in the Act were intended to abolish all strife and to reduce to a minimum differences of opinion between employer and employee. Unfortunately, it seems that the multiplicity of claims submitted, and the desire of so many unions to approach the court, have so laden the court with work that the court finds it impossible to attend to all the matters that are before it with the despatch that unions would wish. I ask those members who will constitute the select committee to give favourable consideration to the advisableness of broadening the principle to the extent of providing additional conciliation boards so that unions may approach them and have what may be termed round-table conferences. I speak from years of experience as an employer and employee, and I say that when an employer and an employee can get together, there is not very much difficulty in arriving at a reasonable compromise, because the average man is fair and reasonable, and the average employer is willing to give his employees a fair deal. Unfortunately it seems that in connection with the court we have built up something which prevents employer and employee getting as close together as one would like. Take the unfortunate position that arose recently at the Midland workshops. I am not going to say that those men have not grievances, but surely they could have gone to the Commissioner and said that they

felt they were entitled to a margin more than they were getting, and that they had no desire to create a stoppage. Then they could have asked for an undertaking that when they approached the court and the award was given, the award might be made retrospective—in the event, of course, of its being in favour of the men—to the date of the application. But no, they preferred to have a stop-work meeting, and so the Commissioner was forced to close the shops because so many men were away. Some members of unions seem to be desirous of playing with a two-headed penny. I hope the select committee will give consideration to the suggestions I have made, and that the Bill will then emerge from this House as a measure that will provide justice for all and will go a long way towards minimising industrial disputes. I support the second reading, and will also support the move that may be made to refer it to a select committee.

HON. G. FRASER (West) [5.20]: I have been pleased to learn in the course of the debate that most members favour the idea of arbitration. I think only one member openly stated his hostility to arbitration, but the idea seems to be general amongst members that the court is necessary, and it is also logical to assume that from time to time alterations are needed to improve the working of the court. The Act, as we know it to-day, has been in force for about 12 years, and very few, if any, amendments have been made during that period. So I say it is only logical to assume that certain amendments will be necessary to bring the Act up to date. The Bill before us, if carried, will, in my opinion, improve the working of the Act.

Hon. J. Cornell: But it will not do much good unless you have more courts.

Hon. G. FRASER: I was surprised to hear Mr. Bolton speaking in favour of deleting Section 97 of the Act, the penalty section. I was rather surprised at the conclusion arrived at by both Mr. Thomson and Mr. Bolton, and also other members, who give us an idea of their views by way of interjection, then when breaches of awards take place the Government should prosecute. That seems to show a rather remarkable state of mind for members to be in.

Hon. H. S. W. Parker: Why not industrial inspectors?

Hon. G. FRASER: That would not be their duty.

Hon. H. S. W. Parker: What would be their duty?

Hon. G. FRASER: I will tell the hon. member whose duty it is. Quite a lot of figures were given by Mr. Bolton as to the amount of fines imposed for breaches of awards. If the hon. member had read the Act, he would have seen that in a majority of those cases action was taken by the unions for breaches of awards.

Hon. J. Cornell: Who collects the fines?

Hon. G. FRASER: I am not dealing with fines; they have nothing to do with the Act. If a case is taken to the court, the court will do its duty. The majority of the prosecutions read out by the hon. member were a result of the activities of the union concerned and related to breaches that had occurred. The union took the lead, and prosecuted. The hon. member bemoaned the fact that the Government did not take action when employees committed breaches of awards. If in a majority of cases it is left to the unions to take action when breaches are committed by employers, would it not be only right to expect that when breaches are committed by employees, the employers' organisation should likewise take action? The Act provides that power, just as it gives the power to the employee.

Hon. J. Cornell: If they are parties to the award.

Hon. G. FRASER: Sub-section 2 of Section 97 of the Act states—

If any party or person on whom the award is binding commits any breach thereof by act or default, then, subject to the provisions of the last preceding paragraph hereof, the Registrar or any industrial inspector or any employer or industrial union or association bound by the award may, by application in the prescribed form, apply to the Court for the enforcement of the award.

So why blame the Government if action is not taken?

Hon. J. J. Holmes: In the Collie case, who intervened and stopped the prosecution?

Hon. G. FRASER: The provision in the Act gives the employer equal rights with the employee as far as approaching the court is concerned when breaches of the award are made.

Hon. H. S. W. Parker: You know that the employer is too kind-hearted.

Hon. G. FRASER: I am not ascribing any reason why it is not done. What I com-

plain about is that members blame the Government for not taking action when breaches of awards are committed.

Hon. J. Nicholson: Do not you think that an independent body should enforce the awards rather than that one party to the award should do so?

Hon. G. FRASER: I consider that the same course should be followed as is followed in common law. The person aggrieved is the person who takes action. Why not apply the same procedure here? I raised no objection because the Government have not taken an active part in prosecuting for breaches of awards. The responsibility lies with the employers, if the breach is made by the employees. If they do not seek to enforce the awards, then it is their funeral, and not that of the Government.

Hon. G. W. Miles: Has not the court power to enforce the award?

Hon. G. FRASER: If action were taken in that direction, I suppose the court could enforce it.

Hon. J. Cornell: Mr. Bolton's complaint was that where fines were inflicted the Crown Law Department did not follow them up and collect them.

Hon. G. FRASER: That has nothing to do with the Act. I am pleased with the Bill because it seeks to improve the existing Act in various directions. We have been told in the course of the debate that it would be much better to have round-table conferences. What happens to-day? Before any case goes into the court the unions concerned always meet the employers in round-table conferences and discuss the proposed award. That is the common practice.

Hon. J. Cornell: Not on the goldfields.

Hon. G. FRASER: Before the papers are filed, the unions meet the employers in round-table conference and endeavour to come to a settlement on the points that are in dispute. But in quite a number of instances the employers have refused to meet the unions. Generally speaking, however, the two parties meet in conference and determine quite a number of points. Then, if agreement cannot be arrived at on others, they are submitted to the court. What happens on the goldfields I do not know. My experience is confined to the coast and I have some knowledge of conferences that have taken place, and at which agreements have been arrived at on certain points, and the remainder have been referred to the

court for settlement. In that way quite a lot of industrial trouble has been averted. Hon. members when speaking in this Chamber have objected to what they termed interference with the Arbitration Court. But when we get a measure such as the one we are discussing which seeks to permit other bodies to have the privilege of going to the court, we find objections to it. I am referring to that part of the Bill which will give the A.W.U. the right to register.

Hon. J. Cornell: It is registered now.

Hon. G. FRASER: I mean in the State Court.

Hon. J. Cornell: Yes, in the State Court the mining industry branch is registered.

Hon. G. FRASER: That is only a section of the A.W.U.

Hon. L. Craig: Cannot the other sections apply for registration?

Hon. G. FRASER: The Bill will give them the right to apply.

Hon. G. W. Miles: Have they not already applied?

Hon. G. FRASER: Yes, and they were refused registration.

Hon. G. W. Miles: By whom?

Hon. G. FRASER: By the court.

Member: Unions objected to their registration.

Hon. G. FRASER: It will always be found in all registration of unions objections come from other organisations. I cannot recollect any union having applied for registration without such an objection from another union having been lodged.

Hon. J. Cornell: The A.W.U. does not conform to the present Act.

Hon. G. FRASER: It would be much to the interests of the State generally if the A.W.U. were given what the Bill sets out to give them. We have to thank that organisation—I am not a member of it, but I recognise the good work that it has done.

Hon. H. Tuckey: Would it simplify matters if its name were changed?

Hon. G. FRASER: A rose by any other name would smell as sweet. That union has done much good for the State generally, and quite a lot of industrial upheavals have been averted by it. One member suggested that the intention was that the A.W.U. should organise all into one big union. I hope that that member's comments on other portions of the Bill have been a little more up-to-date, because that proposal for one big union has been dead for many years past. When a union already covers a particular branch of

industry and an attempt is made to form another union to cover that same branch, it is only natural that the existing body should object. The A.W.U. was one of the most strenuous objectors to the idea of one big union. What pleases me most in the Bill is the endeavour made to give status to the industrial insurance canvasser and the domestic servant. I have never been able to understand why objection should be raised to giving to the industrial canvasser the right to become registered and approach the court. Most of those men have rounds similar to the rounds of butcher, baker or any other tradesmen. The man does his round, collecting for this type of insurance. And until recent years—it may still be so—it was quite the usual practice for the energetic man who had obtained a round and had had allotted to him a certain number of customers bringing in a certain amount of insurance each week, that energetic canvasser in order to increase his pay envelope went from door to door in an endeavour to increase his business. A number of them were successful in doing that, but when they reached a certain stage the insurance companies stepped in and said, "Your book is now too big. We will reduce your book and put on another canvasser." Thus the company was taking from the canvasser the business that he himself had obtained, and passing it over to another collector. When such things are done is it not perfectly natural that those men should appeal to Parliament for some protection? That is what the Bill proposes to give them, namely, the right to approach the court for an award. I can see no objection to giving them that protection, and I have sufficient faith in the Arbitration Court to be quite certain that when those men do approach the court they will get justice. As for domestic servants, we have heard during the course of the debate that it is impossible to get such help.

Hon. L. Craig: Difficult to get, but not impossible.

Hon. G. FRASER: When we examine the position it is not hard to understand, because in years gone by the treatment and the conditions and wages of those employees were not of the best. Quite a lot of young women who did that class of work have in recent years left it and they refuse to return to it.

Hon. L. Craig: Their wages are better than those in a factory.

Hon. G. FRASER: In some instances, yes, but in quite a lot of instances no. One has only to pick up his newspaper to see ad-

vertised applications for domestic servants from 10s. a week upwards.

Hon. L. Craig: You cannot get one for that.

The PRESIDENT: Order! There will be other opportunities for discussing the details of the Bill.

Hon. G. FRASER: Even to-day, with a scarcity of domestic servants, 10s. per week is a wage that is offered. Only last year I had some young women looking for places. I made inquiries, and some of the wages offered were as low as 5s. a week.

Hon. C. F. Baxter: That must have been down in your province.

Hon. G. FRASER: It was not in my province at all. Of course those were not the general wages. The general rate was 10s., 12s. 6d., and 15s. a week. Apart altogether from wages, quite a number of those who did follow that occupation left it because of the treatment meted out to them, and the long hours they were called upon to work. The majority of those employers who employ domestic servants treat them properly, but a number of the girls were unfortunate enough to be assigned to places where their treatment was not too good. So they left, and it is very hard to induce them to return to the slave conditions that they knew. And the very places where conditions are not too good for the girls, are always looking for girls, and new girls come along there, and so, such a place, not fit to work at, gets most of the girls that are looking for work.

Hon. J. Cornell: Suppose you paid them 30s. a week: would that be satisfactory?

Hon. G. FRASER: I am not in a position to judge what their wages should be, or their hours either. I am prepared to leave that to the Arbitration Court. If those girls get the advantage asked for in the Bill there will no longer be a shortage of domestic servants.

Hon. W. J. Mann: It will not make a scrap of difference.

Hon. G. FRASER: Well then, why not give the proposal a trial and see whether or not it will bring about a difference? It is a fact that because of the conditions and wages and hours young women will no longer take on this class of work. I know that from the number that at various times have come to me and told me of their difficulties: indeed, I am surprised that any girls at all can be persuaded to take up this occupation in the present conditions. However, let

them go to the court, and I am sure the problem will be solved. I hope members will pass the Bill and let us get it into working order. If it be thought that any provision in the Bill is not satisfactory, let members give it the benefit of the doubt. I will support the second reading.

On motion by Hon. W. J. Mann, debate adjourned.

BILL—FAIR RENTS.

Second Reading.

Debate resumed from the previous day.

HON. H. S. W. PARKER (Metropolitan-Suburban) [5.43]: On a former occasion I said that I objected to the Bill largely on the ground that it will increase the evil it is designed to prevent. The object of the Bill is to get cheap rents for people who cannot afford to pay high rents. The natural, ordinary way to do that is to have an abundance of houses, so that prospective tenants shall have opportunity to select, and thus force the owners to come down to a reasonable rental. If the Bill were to become law it would frighten people who are in a position to build, and so those people would not build. I have expressed those views before, and I find on looking up the laws of the countries and States mentioned by the Chief Secretary the curious fact that the Bill is copied very largely from the law which is now in Queensland and was once the law in New South Wales. In England after the war an Act was brought in called "The Increase of Rents Restriction Act." This was designed to prevent people from charging more than a certain rent, and that was the rent at which the house was let at a certain date. People were not permitted to charge more than that rent. When the tenancy fell in and the landlord regained possession of his property, he could charge what rent he liked. It was deemed to be "uncontrolled" then. The dwelling was assumed to be controlled so long as it remained within the provisions of the Act, and it ceased to come within the provisions of the Act on the happening of certain events. That Act has been amended from time to time. The present Act provides that it shall cease to exist in 1938. The law, therefore, will cease automatically to operate in that year.

The law in New South Wales has been amended from time to time. At one period the law included shops, but eventually these were deleted. The Act in that State was amended in all sorts of ways. It was in 1928 that shops were deleted from the Fair Rents Act, and on the same date Section 6 was brought in reading as follows:—

The principal Act is further amended by inserting next after Section 25 the following new section:—"Section 26. This Act shall cease to have effect on the 1st day of July, 1933."

I fear the Chief Secretary was misinformed when he stated that the Fair Rents Act was still in force in New South Wales. It ceased to exist four years ago. I have made a search, but cannot find any record of the Act having been renewed, or the sections I have quoted having been repealed. Apparently it was found in New South Wales that the Fair Rents Act did not have the effect it was designed to have. This Bill is practically the same as the Queensland Act, but there is one big difference in the matter of principle, namely, what is a fair rent? In the Queensland Act I find the following:—

1. In determining the fair rent the court shall ascertain the unimproved value of the land whereon the dwelling house is erected and the value of the dwelling house, which value shall be the cost of the dwelling house to the owner up to the date of the hearing less such fair and reasonable sum as may be estimated for any depreciation.

2. The court shall determine the fair rent at a sum not exceeding £10 per centum of the total value of the land and dwelling house ascertained under Subsection 1 hereof: Provided that, except where circumstances which render an increase equitable are proved to the satisfaction of the court, the fair rent shall not exceed the rent at which the dwelling house was let on the 1st day of October, 1919, and to that extent this provision shall have retrospective operation.

That Act was brought down in 1920, and so far as I know, has not been amended. In that State the court can, if it likes, give to the landlord the rent at which the house was let virtually at the time when the Act was brought into force. Rates and taxes are not mentioned. We have been told what an enlightened country New Zealand is. I agree that this is so with respect to fair rents, but it is vastly and absolutely different from the fair rents legislation of Queensland. It is obvious from the New Zealand Act that the authorities have

studied the question, and found that the Act of Queensland and the expired Act of New South Wales undoubtedly caused a diminution in the number of available dwelling houses. The Act of New Zealand was assented to on the 11th June, 1936. It provides a basic rent with reference to dwelling houses that are let on the 1st May, 1936. The expression "basic rent" means:—

With reference to a dwelling house let as such on the 1st May, 1936, the rent payable as on that date.

With reference to a dwelling house that was not let as such on the 1st day of May, 1936, the rent that was last payable before that date, or in the case of a dwelling house that was first let as such after the 1st day of May, 1936, and before the passing of this Act, the rent that was first payable in respect of such dwelling house.

2. Any increase in the basic rent of any dwelling house to which this Act applies that has been made since the 1st day of May, 1936, and before the passing of this Act and any increase in the basic rent of any such dwelling house that is made after the passing of this Act shall, notwithstanding anything to the contrary in any agreement, be irrevocable.

The important part is, to what this Act applies. If we pass the Bill as it is now before us, it is doubtful whether we shall be able to induce people with money to invest in dwelling houses for letting purposes. New Zealand has foreseen that, because Section 3 of the Act of that Dominion says—

Nothing in this Act shall apply with respect to any dwelling house.

"Dwelling house" means—

Any house or any part of a house let as a separate dwelling where the tenancy does not include any land other than the site of a dwelling house or a garden or other premises in connection therewith, and includes any furniture that may be let therewith; but it does not include (a) any premises let at a rent that includes payment in respect of board or attendance.

Section 3 says—

Nothing in this Act shall apply with respect to any dwelling house (a) that is let for the first time as a dwelling house at any time after the passing of this Act.

A new dwelling house is exempt from the restrictions of the Fair Rents Act. Section 3 continues—

(b) That has not been let as a dwelling house at any time since the 27th day of November, 1935, and before the passing of this Act; or (c) that is let as a dwelling house on the passing of this Act at a rent exceeding

£156 a year (whether or not such rent is computed on an annual basis); or (d) that in the case of a dwelling house to which the last preceding paragraph does not apply, has at any time since the 27th day of November, 1935, and before the passing of this Act, been let as a dwelling house at a rent exceeding £156 a year (whether or not such rent is computed on an annual basis); or (e) that is let on the passing of this Act pursuant to any housing scheme that provides for the disposal of the dwelling house to which it relates by way of leases having a compulsory or optional purchasing clause, and is hereafter approved by the Governor General in Council for the purposes of this section.

(2) Except as provided in the last preceding subsection, this Act applies to every dwelling house that on the passing of this Act or at any time thereafter is let as a dwelling house.

The Chief Secretary: What is your interpretation of Section 3?

Hon. H. S. W. PARKER: People in New Zealand foresaw the disastrous effect of fair rents legislation elsewhere in the way of preventing the erection of buildings for the future. They said their law would not apply to future buildings. They wanted more buildings. That is my interpretation.

The Chief Secretary: Your interpretation is wrong.

Hon. J. Cornell: Read Section 25.

Hon. H. S. W. PARKER: Section 25 says—

This Act shall continue in force until the 30th day of September, 1937, and shall then be deemed to be repealed.

(2) The expiry of this Act shall not render recoverable any rent which during the continuance thereof was irrevocable, or affect the right of a tenant to recover any sum which during the continuance thereof was under this Act recoverable by him.

Hon. J. Cornell: It was only a temporary measure, a housing scheme for providing houses.

Hon. H. S. W. PARKER: The Chief Secretary referred to other countries. He was misinformed regarding the three countries I have mentioned, and it is possible that he was misinformed in regard to India, South Africa and the Irish Free State. I trust we shall never be called upon to frame our laws regarding landlord and tenant upon any that may emanate from the Irish Free State. That has been a bugbear there for many years and I trust we shall not introduce it into this country. The Bill is almost a verbatim copy of the

Queensland Act. No consideration has been given to the position of the landlords with respect to mortgages or anything of the kind. The New Zealand Act is very different, and much more fair. It provides—

On the hearing of any application to fix the fair rent of any dwelling house to which this Act applies, the magistrate shall have regard to the relative circumstances of the landlord and of the tenant, and after taking such circumstances and all other relevant matters into consideration shall, subject to any regulations that may be made for the purposes of this Act, fix as the fair rent such rent as in his opinion it would be fair and equitable for the tenant to pay.

Subject to any regulations as aforesaid, the rent fixed as aforesaid shall not exceed the basic rents, as defined for the purposes of Section 5 hereof, or the rent (if any) payable as on the 27th day of November, 1935 (whichever is the less) unless the magistrate is satisfied, by evidence produced by the landlord, that in the special circumstances of the case it is fair and equitable that the fair rent shall exceed such basic or other rent.

That does not tie the magistrate to any rule of thumb method. He has an absolute right to use his discretion and to come to an equitable decision as between the parties. If fair rents legislation is really required in Western Australia—I do not for one moment consider it is—then why not adopt Section 7 of the New Zealand Act?

The Chief Secretary: You stopped short in dealing with Section 25 when you came to the most interesting part of it.

Hon. H. S. W. PARKER: To what does the Minister refer?

The Chief Secretary: To the extension of the application of the Act.

Hon. H. S. W. PARKER: The Minister referred to the provision for matters before the court being continued. That subsection reads—

(3) Notwithstanding the expiry of this Act, all proceedings pending on any application made under Section 6 of this Act may be continued and completed as if this Act were still in force, and all orders under the said section theretofore made and then subsisting or thereafter made in any such pending proceedings shall enure as if this Act were still in force, and all proceedings may be taken and all jurisdiction exercised with respect to such orders accordingly.

The Chief Secretary: So the Act has not expired!

Hon. H. S. W. PARKER: Not from that standpoint, but in respect of all future buildings it has expired.

The Chief Secretary: No.

Hon. H. S. W. PARKER: I say it has. It has been suggested that this legislation is necessary with regard to the goldfields, but I do not think so. Houses are required on the goldfields and I do not know how we can expect to get more houses by abusing landlords. Who would be foolish enough to build houses merely for the purpose of being abused, particularly with the knowledge that under this measure the owner will only secure a return of $4\frac{1}{2}$ per cent., being the Commonwealth Bank rate, plus $1\frac{1}{2}$ per cent., which obviously means 6 per cent.? That is all the return the property owner will be able to secure for his house in a locality that has a somewhat limited life. There is no speculative value either for the vendor or the purchaser of houses on the goldfields. What inducement, in those circumstances, will there be for men to build houses for sale? There will be no incentive whatever.

The Chief Secretary: The Bill does not limit the return to 6 per cent.

Hon. H. S. W. PARKER: Practically speaking, it does.

The Chief Secretary: No, it is a long way from that.

Hon. H. S. W. PARKER: The courts, in determining what the fair rent will be, will be guided by Subclause 2 of Clause 8, which sets out—

The court shall determine the fair rent at a rate of not less than $1\frac{1}{2}$ per centum above the rate of interest which is for the time being charged upon overdrafts by the Commonwealth Bank of Australia on the capital value of the dwelling house aforesaid plus the following:—(a) the annual rates of the same;

So the individual will not get the benefit of that.

(b) the amount estimated to be required annually for repairs (including painting, maintenance, and renewals);

(c) insurance on any building;

(d) the amount estimated to be the annual depreciation in value of the dwelling house, if such depreciation diminishes its letting value.

That is a wonderful provision, and it will have to be interpreted. I do not know by whom, how or where it will be interpreted.

Hon. H. Tuckey: It will be almost impossible to do that.

Hon. H. S. W. PARKER: How will the court determine whether depreciation has diminished letting value? It will certainly not be profitable to the landlord. The Chief Secretary may be asked by some of his constituents, "What have your Government

done to restrict the profits of landlords?" I am sure the Minister will reply, "We have now fixed it so that the landlord cannot get more than 6 per cent. on his money, or 1½ per cent. above the Commonwealth Bank rate." In my opinion, that answer would be absolutely correct. I would prefer the Bill to be passed and provision made that not only should the landlord be penalised if he overcharged, but that the tenants themselves should be penalised if they did not pay.

The Honorary Minister: How would you do that?

Hon. H. S. W. PARKER: By adopting the same methods as those indicated in the Bill regarding the landlord. The Bill provides that if the landlord overcharges, he may be sent to gaol. Why should not the tenants be sent to gaol if they refuse to pay? What is sauce for the goose is sauce for the gander, and what is good for the landlord should be good for the tenant. If the Government desire to interfere with the landlords, they should see to it that such legislation acts both ways. While I should like the Bill to go through, I shall not vote against my conscience because I believe there are a lot of people who do not see the force and effect of this legislation. If I were about to seek re-election, I would gain a lot of votes by supporting the Bill, but I shall not endeavour to catch votes by putting up a bluff regarding legislation that will be to the detriment of the people. This legislation will be to the detriment of the poor tenants and for that reason I shall vote against the Bill. On the other hand, I would like the Bill agreed to so that people would appreciate that what I say is correct. I shall vote against the Bill.

On motion by Hon. H. Tuckey, debate adjourned.

House adjourned at 6.7 p.m.

Legislative Assembly.

Thursday, 23rd September, 1937.

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

QUESTION—RAILWAY SUBWAYS.

Mr. NORTH asked the Minister for Works: 1, Has he ever recommended to local authorities that traffic fees be used to construct subways? 2, If not, has he earmarked any other funds for the purpose of constructing subways in the Claremont electorate and under the Cottesloe station?

The MINISTER FOR WORKS replied: 1, No. 2, No.

QUESTION—KING EDWARD MEMORIAL HOSPITAL.

Mr. RAPHAEL asked the Minister for Health: When is it the intention of the Government to commence the building of the proposed new additions to the King Edward Memorial Hospital in Subiaco?

The MINISTER FOR HEALTH replied: At once.

STATE GOVERNMENT INSURANCE OFFICE BILL SELECT COMMITTEE.

Extension of Time.

On motion by the Minister for Employment, the time for bringing up the Select Committee's report was extended for two weeks.

ANNUAL ESTIMATES, 1937-38.

In Committee of Supply.

Debate resumed from the 16th September on the Treasurer's Financial Statement and on the Annual Estimates; Mr. Sampson in the Chair.