

Legislative Council

Thursday, 4th September, 1952.

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

QUESTIONS.

GALVANISED PIPING.

As to Cost and Cartage Charge.

Hon. N. E. BAXTER asked the Minister for Transport:

(1) Is he aware that the road rail freight surcharge on galvanised piping is equivalent to the cost of the piping?

(2) If so, is he of the opinion that this charge is excessive?

(3) If the answer to (2) is in the affirmative, is the Government prepared to take steps to have the charge reduced to a reasonable one?

The MINISTER replied:

(1) No. Presumably the term "road rail freight surcharge" refers to the freight rate payable for emergency road transport operating as a result of the metal trades strike. Comparisons of these rates with the value or costs of individual items of loading have not been worked out, but specific inquiries show that the cost of galvanised piping is between £60 and £70 per ton. As an example, the freight charge by emergency road transport for 250 miles is £8 1s. 7d. per ton which is only £2 15s. 7d. per ton more than normal railway freight rates.

(2) No; the charge is the minimum which it has been possible to arrange.

(3) Steps have already been taken to secure reduced rates since the emergency plans were originally introduced. The present rates are the lowest at which carriers are prepared to make their vehicles available.

MILK.

As to Increased Return to Producers.

Hon. C. H. HENNING asked the Minister for Agriculture:

In view of the fact that, since the last increase in the price of milk to producers, the basic wage has risen by £1 16s. 8d., will he inform the House why no increase

in the price of milk has been granted to producers, particularly as figures showing the increased cost of production have been submitted to the chairman of the Milk Board?

The MINISTER replied:

The basic wage has not increased £1 16s. 8d. since the last increase in the price of milk. The increase in the South-West areas has been £1 7s. 10d.

The Milk Board has considered this increased cost and decided that the price of milk be not increased at present, but this matter is being reviewed and will be kept under constant review.

RAILWAYS.

As to Reinstating Services.

Hon. A. R. JONES (without notice) asked the Minister for Railways:

In view of the progress report in "The West Australian" a few days ago, will he tell the House what is the policy adopted by the Railway Department for reinstating services which, in the opinion of residents north of Perth, are far from satisfactory?

The MINISTER replied:

The general plan is to restore the services in the reverse order of withdrawal, that is to say, the last service to be abandoned will be the first to be restored, and so on. As regards the services north of Perth, an additional goods train was put on the Wongan and Murchison route, which helped to solve some of the problems of which the local people were victims. Generally speaking, that is the plan being adopted. It will be some time before even skeleton services are restored, but that is the method of restoration to be applied.

LEAVE OF ABSENCE.

On motion by Hon. H. Hearn, leave of absence for six consecutive sittings granted to Hon. J. G. Hislop (Metropolitan) on the ground of private business.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

In Committee.

Resumed from the previous day. Hon. J. A. Dimmitt in the Chair; the Minister for Transport in charge of the Bill.

Clause 4—Section 6 amended (partly considered):

Hon. G. FRASER: I move an amendment—

That paragraph (e) be struck out.

This paragraph, of course, covers the interpretation of the word "strike." It really comprises 90 per cent. of the Bill. We have good grounds for being worried about it. We are not concerned from the point of view that it will frighten any-

one, because if a strike is going to occur all the laws in the land will not prevent it. We do feel, however, that this definition will, with every reason, be resented by the workers throughout the country. Anyone who studies it will agree with that statement. It is the worst provision I have seen in a Bill since I have been in this Chamber. It is harsh and as wide open as the world.

I am making a final attempt to get members to keep the legislation on an even keel. We have heard of the wonderful relationships that have existed between the employers and the employees. Can such relationships continue if the Act becomes so lopsided as it will be if this provision is carried? Previously the penalties were comparable, but if this measure is agreed to there will be no comparison between the penalties to be imposed on the employers and those on the workers.

It has been said that the object of the Bill is to help the worker to oust the communist. The worker does not need any help through the Industrial Arbitration Act to oust the communist. By this legislation we will make it difficult for the leaders of the labour movement, both political and industrial, who have, up to now, been a great factor in the preservation of industrial peace in this State. The wonderful work that has been done by the State Disputes Committee and by the political leaders of the Labour Party, has been a big factor in keeping the wheels of industry turning. But the Bill, because it will make the Act lopsided, will make doubly hard for these people a task that has never been easy.

When men feel they are suffering from an injustice, and have the idea of going on strike, it is difficult for their leaders to get them to decide to continue at work. Members should not make it any more difficult for these men who keep the wheels of industry going. It is admitted that the amendment of the word "strike" is made so that political strikes can be dealt with. This is peculiar in an Act which is called the "Industrial Arbitration Act."

Hon. L. Craig: It affects industry.

Hon. G. FRASER: It may, but why put it in an industrial arbitration Act?

Hon. L. Craig: Because it affects industry.

Hon. G. FRASER: The functions of the court are to deal with matters of an industrial nature, but under this it will deal with political matters, which is entirely wrong in an Act of this description. I am hoping some members on the Government side will explain what they mean by the various definitions here. We have said what we think they mean, and we were laughed at. We are just comedians according to the Government supporters.

Hon. H. S. W. Parker: No, the arguments are comic.

Hon. G. FRASER: At the same time, we produced an opinion given by a legal firm which backed up entirely the views we put forward. I defy any supporter of the Government to get up and tell us that our interpretations of these various phases are incorrect. Take the early portion of the clause where it mentions the word "cessation." Everybody knows what a "cessation" is, but what is a "limitation of work"? Define that! If a man knocked off work for half an hour, that is a limitation of his work.

Hon. H. S. W. Parker: Go slow.

Hon. G. FRASER: I suppose when the employees in the Tramway Department decided to abide by the regulations, that slowed work up and could be classed as a limitation of work.

Hon. L. Craig: That is, if the court says so. You have an advocate on the court.

Hon. G. FRASER: I will come to that phase later. It is too silly, because so many interpretations can be placed upon these words. A little later on it says, "a worker acting in combination or under a common understanding with another worker or person." There is no definition of "person."

Hon. J. M. A. Cunningham: That would probably be one of the grongos that came from the East.

Hon. G. FRASER: If that is so, then let the Minister tell us. One of the "grongos," as the hon member calls them, did not come from the East until this strike was well under way. We want to know what this mysterious word "person" in the Bill means. So I ask the Minister to explain those various phases to us. Then the Bill goes on, "a refusal or neglect to offer for or accept employment in the industry in which he is usually employed by a person acting in combination or under a common understanding with another worker or person." If a man has been offered employment and he refuses it, his action automatically becomes a strike. That does not have to be decided by the court. White can be declared white until the court says it is black and that is just too ridiculous. I will quote a legal interpretation on that phase. Portion of it states—

Under the Bill, however, the nature of the conduct, i.e. whether it be a strike or not, is not known in advance because the court can declare any particular cessation of work not to be a strike. This is a most peculiar provision and the writer has never struck the like in any other legislation. The court, has, in fact, been given authority to legislate.

The Minister for Agriculture: He did not read the Federal Act or he would have seen it there.

Hon. G. FRASER: That legal gentleman says it is a most peculiar provision and he has never seen the like in any other legislation. We want to know what is in the Government's mind because this is one of the most vital pieces of legislation so far as the workers are concerned, that has ever been introduced into this Chamber. We are entitled to an explanation.

Hon. C. W. D. BARKER: I rise to support the amendment. The part of the clause that worries me most is that which states, "a refusal or neglect to offer for or accept employment in the industry in which he is usually employed." This will make it as wide as the world and it could affect different men in different jobs in different ways. If there were two men working on a drive in a mine at Kalgoorlie and they did not think it looked too safe and decided to apply for work elsewhere, their action, and their refusal to work, would constitute a strike.

Until the court cleared those men they would be on strike, and they would not be able to get another job. They would have to go to the court to be cleared and the court, if it was burdened with other problems, would not take their case out of its turn. If such actions are to be declared strikes, who is going to keep the men while they are waiting to have the case heard by the court? It is most unreasonable. That means that a man can be regimented and forced to take certain work, if it is his usual employment. That statement is not ridiculous because the Bill says that.

Hon. H. S. W. Parker: Suppose he is on strike and he goes looking for another job, what happens?

Hon. C. W. D. BARKER: He will not get it.

Hon. H. S. W. Parker: Why?

Hon. C. W. D. BARKER: He would have to go to the court to be cleared.

Hon. H. S. W. Parker: There is nothing to that effect in the Bill.

Hon. C. W. D. BARKER: Of course there is. The other day one of my colleagues suggested that if two people were working on a station and they did not like the particular work they were doing, and they refused to do it and left, their action would constitute a strike and they would be on strike until such time as the court cleared them. Who would give those men another job?

Hon. L. A. Logan: Do not make it look ridiculous.

Hon. C. W. D. BARKER: I am not making it look ridiculous. I am stating facts. This provision is so wide that it is

possible for these things to happen. It is serious and the workers are going to suffer. It is all right for the hon. member. I am thinking about the workers.

Hon. L. A. Logan: Not a very good way of thinking about them.

Hon. C. W. D. BARKER: It is the best way I know of.

Hon. L. C. Diver: What happens in the case of a married couple on a station who are suddenly called away by a telegram, and leave at once?

Hon. C. W. D. BARKER: That case would be different because provision is not made for it in the Act.

Hon. L. C. Diver: I am suggesting how to get out of the difficulty.

Hon. C. W. D. BARKER: That could be a strike. It is a refusal to accept work in the industry in which they are employed. This provision regulates employment. We should not be talking about penalties, imprisonment and fines. We should be talking about some way of bringing the worker and the employer together; we should not appeal to the court as a place of punishment and harsh treatment. That is not the way to bring the employer and the worker together. This provision is harsh and I support the amendment.

Hon. G. BENNETTS: I also support the amendment and I agree entirely with Mr. Barker's views. I worked underground on one occasion, but have sworn never to do so again because of an accident I suffered. If I were working on the top and I was told to go underground and, after having conferred with a workmate I refused to do so, that would constitute a strike. Men are sometimes sent to stopes where there are fumes. If they refused to do that work, they would be on strike. It must be remembered that there are some bosses who are very conscientious and want to get as much as they can at the expense of the worker.

Let us take the case of chutes, one of which may be blocked up and a worker is given a charge of dynamite to put among the stones; if those rocks shifted he would be crushed. I have advised my boy never to accept a job like that again. If men refused to do this type of work, they would be on strike. There is a danger to railway workers as well. If a guard is transferred from one place to another and, after consulting his union organiser, he refuses to go, that can be termed a strike. It is a dangerous provision and will have a detrimental effect on the worker.

I was talking to a man whom I would class as one of the three leading men of this State and he said he could not understand the Government bringing down a Bill like this, seeing that this State was one of the few in the Commonwealth that had been so free of strikes. Most of the difficulties here are fixed up by conferences. He said that with a clause like

this in the Bill there was sure to be trouble. If trouble did arise, his department would be the first to be affected. I support the amendment.

The CHAIRMAN: I do not want to restrict debate but it has taken 27 minutes for three speeches to be made. At this rate it will take us to the early hours of the morning to get through the Committee stage, particularly if each member makes a second reading speech. So I would urge members to restrict their speeches as much as possible to enable us to get rid of the task ahead of us.

Hon. A. R. JONES: I would like the Minister to give some explanation of the clause under discussion.

Hon. C. W. D. Barker: Hear, hear!

Hon. A. R. JONES: It seems to be very badly worded. I feel that the term "strike" needs defining, but I do not think it is defined at all well in this clause. If two people accepted work offered them by the Labour Bureau and travelled 50 miles or even 500 miles to the job and having arrived there found it did not suit them and refused to accept it, would that constitute a strike? Presumably, of course, their employment would have started from the time they signed the necessary papers.

The Minister for Transport: If the court declared it to be a strike it would be.

Hon. G. Fraser: It is a strike until the court declares it is not.

The Minister for Transport: Exactly.

Hon. G. Fraser: That is not what you said.

The Minister for Transport: That is the effect of it.

Hon. A. R. JONES: This clause needs tidying up. If it is put to the Committee as it is, I will vote against it.

Hon. C. W. D. Barker: Hear, hear!

Hon. E. M. HEENAN: Apropos of your request, Mr. Chairman, I would say that while members of this Chamber will always respect your wishes, I think it is my duty to point out that if there is an important aspect in this Bill at all, we are dealing with it now.

The Minister for Transport: That is entirely agreed.

Hon. E. M. HEENAN: I think it behoves each one of us, to the best of his ability and with the time he thinks the matter warrants, to put forward a case for the point of view he holds. I was sorry that you made those remarks, Mr. Chairman, because, in my opinion, this Bill should be debated very fully and everyone should take part in it. Mr. Barker and other speakers on the Labour side made remarks which I think were fully justified; they were correct legal interpretations of some of these clauses. They were laughed at and attempts were made to ridicule them,

but members who laughed at them and attempted to ridicule them did not get up and state their arguments. I think they should.

Hon. H. S. W. Parker: We have not had a chance.

Hon. E. M. HEENAN: By way of interjection, Mr. Diver illustrated the case of people working on a station and, being called away suddenly by telegram, downed tools and left the farm. In my opinion that would amount to a strike.

Hon. H. S. W. Parker: They are already liable to a penalty under the Master and Servants' Act.

Hon. E. M. HEENAN: I repeat that, in my opinion, it would constitute a strike. If Mr. Parker and other members can offer some other interpretation, I will, of course, be very pleased to hear it. I am not infallible and I know my own limitations. I would be open to correction. Ipso facto it constitutes a strike which is punishable by a penalty of £50. What is so unfair is that these people are guilty until they are proved innocent. That is the remarkable position.

The Minister for Transport: And they are innocent until the court declares them guilty.

Hon. G. Fraser: No, they are not.

The Minister for Transport: You know it is a technicality.

Hon. E. M. HEENAN: I look forward to hearing the Minister's explanation and also Mr. Parker's explanation.

Hon. H. S. W. Parker: I cannot catch the eye of the Chairman.

Hon. E. M. HEENAN: I am not infallible, but there are the plain words and, in my opinion, when such circumstances occur automatically, or ipso facto, as the legal phrase has it, they constitute a strike, and the people concerned are guilty of an offence until the court declares them not to be on strike. That does not seem to be a proper state of affairs in an enlightened community. I know that the Minister and others will say we are quoting extreme cases.

Hon. C. W. D. Barker: Such incidents might happen.

Hon. E. M. HEENAN: Nothing so extreme might happen, but something bordering on it could occur. We are supposed to be living in a free democracy. A man has dignity, and it is the obligation of our society to safeguard personal dignity. I do not think we should pass laws which can place decent citizens in the invidious position that could be created. The Minister and others will probably say it is not likely to occur, but surely our job is to make sure that it does not.

If I libel, slander, assault, or murder someone, I am innocent until I am proved guilty; but under this legislation, people who, perhaps for good and sufficient reason,

leave their work, will be guilty of a strike. They may be exonerated in a week's time or a month's time or in six months' time, but until they are exonerated they are legally on strike. The only law I know which is analogous is to be found in some aspects of Customs legislation and the Gold Stealing Act. If someone is found on the Goldfields with a bar of gold in his possession, he is guilty until he proves himself innocent.

Hon. H. S. W. PARKER: Where is the onus shifted in this provision? You know what the onus of proof is.

Hon. E. M. HEENAN: I think I do.

Hon. H. S. W. PARKER: Where is it shifted here?

Hon. E. M. HEENAN: The men of whom Mr. Diver spoke would be on strike the moment they left the farm.

Hon. G. Fraser: And until the court said otherwise.

Hon. E. M. HEENAN: That is right.

Hon. L. C. Diver: Without a penalty.

Hon. G. Fraser: Never mind about the penalty.

Hon. E. M. HEENAN: They are liable to a penalty.

The Minister for Agriculture: There cannot be a penalty without their being taken to court.

The Minister for Transport: The court has to charge them.

Hon. E. M. HEENAN: The court could charge them and convict them.

The Minister for Agriculture: If it found they were implicated in a strike.

Hon. E. M. HEENAN: Under the definition, a strike is a cessation of work—that is, a leaving or giving up of work. Moreover, it is a strike if there is "a refusal or neglect to offer for or accept employment in the industry in which he is usually employed by a person acting in combination or under a common understanding with another worker or person." I think that would mean that if three miners were offered work on the Great Boulder mine and refused to take it, they would be on strike. They would be committing an offence until the court cleared them.

If that reasoning is wrong, I hope someone will point out where it is astray. The men concerned might not care to work on the mine. It might be damp, or they might consider it dangerous, or might not like the management. But if they refused to take employment that would constitute a strike. That seems a pretty far-reaching sort of law to inflict on the community, and this and other aspects compel me to oppose it.

Hon. H. S. W. PARKER: Mr. Heenan referred to this clause as being like the Customs Act and the Gold Stealing Act. That is to say, the onus is shifted. I

notice, however, that the clause is drawn very carefully, and there is no onus-shifting. This is not comparable with the drastic section of the Gold Stealing Act. The Industrial Arbitration Act was introduced to assist industry and not purely to maintain good relations between employers and employees. The idea was to protect not only employers and employees but the general public also. It was found recently that, owing to the definition of "strike" as it appears in the Act, the Arbitration Court did not have the power it should have to control industry.

Hon. F. R. H. Lavery: It fined the unions and deregistered them.

Hon. H. S. W. PARKER: The Act did not give the court the power to provide what every person, including the hon. member who interjected, would desire; namely, that the work of the State should be carried on.

Hon. C. W. D. Barker: You cannot force men to work.

Hon. H. S. W. PARKER: Of course I cannot.

The Minister for Agriculture: This was never intended to do that either.

Hon. H. S. W. PARKER: No one can be forced to work. That is a first principle, as every Britisher knows.

Hon. C. W. D. Barker: What is the idea of the Bill, if it is not to force men to work?

Hon. H. S. W. PARKER: It is interesting to hear the interjections, because they show how entirely fallacious are all the arguments. There is nothing in this Bill to force anyone to work anywhere. People can do what they like. I personally would be very much in favour, under certain circumstances, of the court being able to force people to work. But this measure is to permit the Arbitration Court to keep the wheels of industry turning. Owing to the very clever way in which certain persons got round the definition of "strike", it became necessary to alter it.

Let us presume that the people to whom reference has been made are on strike. What does it matter if they are? What does it matter if a man is drunk? It matters nothing until he is taken to the court. In this instance, the court is given most extraordinary powers. It can say, "Yes, we know your definition, but we are not going to call this a strike." The court has absolute power; and do we not all want it to have that absolute power to deal with all industrial disputes?

Hon. G. Fraser: No.

Hon. H. S. W. PARKER: Very well, then. I can understand the hon. member's opposition. But I was under the impression that all good unionists welcomed the Arbitration Court.

Hon. G. Fraser: With well-defined powers.

Hon. H. S. W. PARKER: Exactly! It is rather strange that although this Bill was very seriously debated by the ablest men in the Opposition in another place, so far as I know there has not been one constructive suggestion as to how the Arbitration Court can be given power to prevent ordeal with a strike which does not come within the existing definition, where there is a dispute between employer and employees. There are many strikes that have nothing to do with the conditions existing between employers and employees. In fact, those strikes that have arisen and that come under the existing definition, have been comparatively easily settled. Owing to the cleverness of certain Labour officials of four unions who got together in an unofficial body and drove a four-in-hand through this section of the Act, it has been found necessary to tighten it up.

Can anyone suggest that because, as Mr. Bennetts said, someone would not go to a certain dangerous stoep, anybody would be game to approach the Arbitration Court and suggest that that constituted a strike? The Arbitration Court consists of the President and a representative of the registered unions as well as a representative of the employers, and I think that we could rely on the commonsense of the court if anyone did approach it in such circumstances. It has been suggested that the representative of the unions would be overruled, but I venture to say that if he were overruled unjustly, there would be a great public outcry. This definition has been included to protect the people—not just either the employer or the employee—against happenings such as we have recently experienced.

The MINISTER FOR AGRICULTURE: I do not think that members who have spoken against the provision understand what it means. Until recently, what was called a strike was when all the workers in an industry walked out, but in recent times, due to the cleverness of certain people, we have experienced what has been called the rolling strike. In the metal trades strike, it was not a case of all the men in the workshops going out. Six of the men—key men—were advised to cease work, and that precipitated everything that followed. In such circumstances, some authority must have power to take action. All the employers did on this occasion was to dismiss those men for refusing duty, and the result of that was the metal trades strike. Either the employer or the employee with a genuine grievance has a perfect right to go to the court. Under this measure, the definition of "strike" includes—

(i) a cessation or limitation of work or a refusal to work by a worker acting in combination or under a common understanding with another worker or person.

Hon. C. W. D. Barker: That is, two people.

The MINISTER FOR AGRICULTURE: It might be two at any time, but in the case of the recent strike it was six men.

Hon. F. R. H. Lavery: What is meant by a "person"?

The MINISTER FOR AGRICULTURE: The hon. member is a person, and so am I. We might get together and, being in key positions, throw many other people out of work, thus holding up an industry. This provision is to prevent that sort of thing. The definition continues—

(ii) a refusal or neglect to offer for or accept employment in the industry in which he is usually employed by a person acting in combination or under a common understanding with another worker or person.

That does not mean that an employer could approach a man in the street and force him to take some employment. It is to cover a situation such as where the six men at Midland refused certain work because it had been declared black.

Hon. E. M. Davies: Is that anything new?

The MINISTER FOR AGRICULTURE: No. There is a provision similar to this in the Commonwealth Act, and no one has attempted to violate it. The members of the Arbitration Court are fair-minded men, well versed in arbitration law, and I am content to leave it to them. One can hardly walk down the street without violating some statute, but, of course, no action is taken, and no action could be taken under this provision until someone approached the court and laid a charge.

Hon. G. Fraser: Why should people have to go to the Arbitration Court to clear themselves?

The MINISTER FOR AGRICULTURE: No one will have to do that. The court will determine which is a genuine case and which is not. Surely members realise that when perhaps two men are able to hold up an industry, something must be done to prevent that sort of happening.

Hon. C. W. D. Barker: Why did you not frame the Bill in that way?

The MINISTER FOR AGRICULTURE: That is how it is framed. These provisions will be in the interests of the men who would otherwise be thrown out of their employment.

The MINISTER FOR TRANSPORT: I am amazed at the opinions that have been expressed in support of the amendment, and I am certain that those who have expressed such opinions well know why the Crown Law authorities framed the Bill in its present form. The definition of "strike" in the Act seemed wide enough for anything and was in definite terms, but it did not work satisfactorily, because there were some people who were able

to evade its provisions, with the result that we have had very serious strikes on our hands.

Difficulty was encountered in trying to frame this Bill in finite terms because it was necessary to provide for all sorts of contingencies that could arise. It was necessary to be sure that ill-intentioned persons could not evade its provisions and that was the reason for this new definition, and for the proviso—

unless and until in any particular case the court declares the particular cessation, limitation, refusal or neglect not to be a strike.

If any persons are accused of striking, the matter will be left to the court to decide. When a stoppage of work occurred last year at the East Perth loco. running sheds—there was another at Fremantle—the participants were fined by an industrial magistrate but, on appeal, his decision was disallowed on the ground that the existing definition of "strike" could not apply to a strike of a political nature.

Those men were on strike for a reason not connected with their employment but, owing to a technical point, they could not be penalised. This amended definition will prevent a similar occurrence in future. It is necessary for the court to be given these increased powers in order that it may fulfil its proper functions.

Hon. G. FRASER: The Minister has said it will be left to the court to decide the question. The Arbitration Court is presided over by the President, a legal man, and legal men always interpret matters from a legal point of view. We have often read in the Press where a magistrate or judge has said he would like to give some other decision but had to interpret the particular case from a legal point of view, and decide accordingly. If the evidence before the Arbitration Court shows that there is a refusal or neglect to offer for employment, the person charged must be fined.

It is no use talking about the discretion of the court because it must give its decision from the legal point of view. It must be admitted that in a great number of instances no one will lay any complaint before the court, but in many instances complaints will be laid, and then the persons charged will have to prove to the court that they are innocent. The interpretation will be given not only from the point of view of the common people but from the legal aspect. If a man has done any of the acts set out here he must be fined. That is a big risk for Parliament to take and to allow to be placed on the shoulders of the State.

Hon. H. C. STRICKLAND: I have said a great many things about the clause previously and I do not want to reiterate them but there is not the slightest doubt that the only argument put forward by

the Government supporters is that its object is to cover political strikes. Therefore, why cover everyone? It goes from the sublime to the ridiculous. It says—

"strike" includes—

a refusal or neglect to offer for or accept employment in the industry in which he is usually employed by a person acting in combination or under a common understanding with another worker or person.

If that is not wide, I do not know what is. Refusing to offer! For instance, let us say that Mr. Baxter is serving drinks in the lounge of his hotel to a young couple and he offers them employment and they refuse, would not they be liable under that clause?

The Minister for Transport: Would the court so declare?

Hon. H. C. STRICKLAND: Why should a person run to the court to ask whether he can work for someone or not?

Hon. J. M. A. Cunningham: Mr. Baxter would be a fool to take it to the court, too.

Hon. H. C. STRICKLAND: The mind behind the framing of this Bill must have been diabolical. It is certainly diabolical to think that we are to regiment the whole of the community. Mr. Parker tried to tell us that the Arbitration Court was set up to compel employment.

Hon. H. S. W. Parker: No, I did not. I said I wished it were in certain instances.

Hon. H. C. STRICKLAND: Mr. Parker inferred that the purpose of the Bill was to force the wheels of industry to go round.

Hon. H. S. W. Parker: Yes.

Hon. H. C. STRICKLAND: And enforce the provisions of the Bill.

Hon. H. S. W. Parker: Yes.

Hon. H. C. STRICKLAND: I have always understood that the Arbitration Court was set up as a tribunal to settle disputes between employer and employee—

Hon. H. S. W. Parker: What about the public?

Hon. H. C. STRICKLAND: —and to find fairly. If whoever framed this clause wanted to drag in people who incite political strikes, why not confine it to them? The words "neglect to offer" may sound silly, but there are some people who have an inborn hatred of the worker and will never lose it.

Hon. L. C. Diver: There are not too many like that.

The Minister for Transport: Does not the hon. member trust the court?

Hon. H. C. STRICKLAND: Why should anyone have to go to the court?

Hon. H. S. W. Parker: They do not; they are taken to court.

Hon. H. C. STRICKLAND: The hon. member said that they were not taken to court.

The CHAIRMAN: Order! Members will have an opportunity of contributing to the debate when Mr. Strickland resumes his seat.

Hon. H. C. STRICKLAND: Some members have said that a person who refused to work would not be taken to court. Sir Charles Latham said, "Who would do that?", but I know what happened when he and Sir James Mitchell were in office. Imagine a shearer being brought under the provisions of this clause simply because he desired to work in one shed as against another. Members know that shearers are paid according to the number of sheep they shear, and if a shearer wanted to work on one station where there were four sheds as against another with only two, he would immediately be declared to be on strike. Mr. Logan knows that pastoralists are anxious to engage only the best shearers.

Hon. L. A. Logan: I think I know them better than does the hon. member, because I know they would not do things like that.

The CHAIRMAN: Order!

Hon. H. C. STRICKLAND: It has been demonstrated what they will do. As an instance, I know of one female who was employed on a station in the North-West and because she would not submit to a certain action she was obliged to walk 80 miles to the nearest town.

Hon. C. W. D. Barker: I can vouch for that.

Hon. H. S. W. Parker: Who struck there?

Hon. H. C. STRICKLAND: It is all very well to say these things do not happen, because they certainly do with some pastoralists. One has only to look at what they have done for the aborigines.

The Minister for Transport: What have they done?

Hon. H. C. STRICKLAND: Nothing. Last night, on the A.B.C. news service, I heard a famous soldier say these words to the Australian public—

We believe in freedom; we believe in liberty, we believe we should be able to live where we like. We believe we should be able to work where we like.

Members will probably meet that famous soldier next year, Field-Marshal Sir Wm. Slim, who was speaking on the A.B.C. news service about 9.20 p.m. last night. Do members of this Committee believe that a person should be able to work where he likes?

Hon. H. S. W. Parker: Undoubtedly!

Hon. H. C. STRICKLAND: The hon. member does not. He says that a refusal or neglect to offer or accept employment in the industry in which he is so employed—

Hon. H. S. W. Parker: Read the last part.

Hon. H. C. STRICKLAND: Very well. It says—

unless and until in any particular case the court declares the particular cessation, limitation, refusal or neglect not to be a strike.

Hon. H. S. W. Parker: That's it!

Hon. H. C. STRICKLAND: It is a strike until the court says it is not.

Hon. H. S. W. Parker: No, it is not.

Hon. H. C. STRICKLAND: The wording is clear enough.

Hon. H. S. W. Parker: Your interpretation is not.

Hon. H. C. STRICKLAND: I will read it again so that other members may be able to interpret it a little more clearly than does the hon. member. It says—

"strike" includes—

a refusal or neglect to offer for or accept employment in the industry in which he is usually employed by a person acting in combination or under common understanding with another worker or person; unless and until in any particular case the court declares the particular cessation, limitation, refusal or neglect not to be a strike.

It says "until."

Hon. H. S. W. Parker: That is so. How does he get to the court?

Hon. H. C. STRICKLAND: There is no need to include that at all.

Hon. H. S. W. Parker: It may not be used.

Hon. C. W. D. Barker: If it is not to be used, why put it in?

Hon. H. S. W. Parker: It can be used, but I trust it will not be.

Hon. H. C. STRICKLAND: The whole definition is too broad. It can be provocative and intimidatory and it will be; there is not the slightest doubt about that. Those things do not happen with the big companies that employ labour, but they do with the smaller employer. I can cite dozens of cases from my own personal experience. If members think that by waving a big stick such as that over the workers they will get better results, I am afraid they are making a big mistake. I fear for it.

The Minister for Transport: You know that its object was to cover any trouble-makers and to protect the ordinary worker.

Hon. H. C. STRICKLAND: Well, why not put it that way? Why make it mean that if a 15-year-old child falls out with his boss and he refuses to work, he will break the law? Surely we can try to get some commonsense into the industrial legislation. Members know that we, as a party, believe in arbitration, and if there are disruptive people who are so-called

led communists or are communists, then we should certainly alter the Act to round that type up, but we should not leave the clause as it now stands because it will cover everyone and I am sure it will do no good whatsoever.

Hon. G. FRASER: In an effort to curtail the debate, I wish to put forward a suggestion for a compromise. Let members forget for a moment that we have objection to the clause. I would be prepared to withdraw my amendment for the deletion of paragraph (e) if the Minister were prepared to compromise and agree to the deletion of subparagraph (ii).

Hon. C. W. D. Barker: That is fair enough.

The Minister for Transport: No, because it would leave some uncovered.

Hon. C. W. D. BARKER: I do not desire to prolong the debate, but I cannot help mentioning the references made to the recent strike in relation to this particular clause. Mr. Parker said that under the old definition a four-in-hand could be driven through its provisions.

Hon. H. S. W. Parker: A lot of that was done.

Hon. C. W. D. BARKER: When the men went out, it was a strike under the old Act. What prolonged the strike? Who prevented negotiations? The court itself deregistered the union and removed it from its jurisdiction.

Hon. H. S. W. Parker: Six men were dismissed because they would not go back to work.

Hon. C. W. D. BARKER: When the men tried to negotiate with their employer—in this case, the Government—they could not obtain a hearing, and so the strike continued for six months. The Government was not prepared to negotiate and told the men they must go back to the court. The trouble was they could not do so, because the union was deregistered. Under the definition of "strike," almost any action could be covered. When we show what might happen, we are told that the employers would not take such matters to court and that even if that were done, the court would probably say it was not a strike. What about the people who will be suffering in the meantime?

Hon. H. S. W. Parker: What did they do last time when the men went on strike?

Hon. C. W. D. BARKER: A lot of them starved. The whole trouble could have been avoided.

Hon. L. A. Logan: In the latest instance the men should never have stopped work, and you know it.

Hon. C. W. D. BARKER: There are occasions when men must fight for their rights, and we want to maintain that privilege. We are in favour of arbitration and

will fight for it. What we are trying to hammer in is that we are afraid this legislation will cause more trouble. We do not want to feed stuff like this to the communists, who will make use of it and will provoke trouble on every possible occasion. I appeal to members to do something about it. Let us compromise, as Mr. Fraser has suggested, and give everyone a fair chance. Surely members will admit that the provision as it stands is lopsided. Mr. Parker said the object of the provision was to force men to work. Have we reached the stage when we are required to force men to work?

Hon. H. S. W. Parker: On a point of explanation, Mr. Chairman, I did not suggest that the object of this legislation was to force men to work. I said it represented an endeavour to keep the wheels of industry turning.

The CHAIRMAN: It takes it Mr. Barker does not wish to misquote Mr. Parker.

Hon. C. W. D. BARKER: No. I accept Mr. Parker's correction. I was merely stating what I understood him to say. We should not attempt to force men to work, but to keep them in employment peacefully and so keep the wheels of industry turning. This is the first Bill I have had anything to do with and I never dreamt it would be this sort of legislation. Men will always fight for a principle and the Bill will not prevent that. Did our comrades who went overseas and fought for freedom, die in vain?

Hon. H. S. W. Parker: On a point of order, Mr. Chairman, has all this anything to do with the definition of "strike"?

Hon. C. W. D. BARKER: It has everything to do with it. Under the Bill we are asked to sacrifice our freedom.

Hon. G. FRASER: I did not quite catch the Minister's reply to my suggestion when I extended the olive branch. Did I understand him to accept my proposal?

The Minister for Transport: No, because I said it would leave part of the trouble uncovered.

Hon. G. FRASER: I am sorry the Minister cannot see his way clear to agree to my proposition. The old definition of "strike" covered matters relating to cessation of work, limitation of work and refusal to work, whereas the new one covers almost anything. The trouble we witnessed during the last few months has been described as a political strike. In my opinion, if the Minister would agree to my suggestion to delete subparagraph (ii), he would then have all that he requires under the terms of subparagraph (i). Impossible conditions are imposed by subparagraph (ii). I would like the Minister to give serious consideration to my suggestion.

Hon. W. R. HALL: I see considerable danger in the inclusion of the words "refusal to work". For many years on the

Golden Mile, and particularly with respect to underground employment, a considerable volume of contract work has been undertaken. This is performed by two or four men working together under contract on the basis of payment of so much per foot. There have been times when the men have refused to accept the contract price offered because it was not regarded as sufficient to enable them to make enough money per fortnight. There are a lot of good employers, but nevertheless there are some who are unscrupulous. If we legislate along the lines proposed in the Bill, the unscrupulous employer could take advantage of the new definition of "strike" and might apply it to a situation such as I have indicated. The words I have quoted could with advantage be deleted.

The MINISTER FOR TRANSPORT: The explanation of my attitude to Mr. Fraser's suggestion is very simple. Subparagraph (i) deals with cessation of work, while subparagraph (ii) deals with an equally important phase, namely, return to work. The Bill, as a whole, aims at giving the Arbitration Court and the President of that tribunal very wide powers in the interests of the community generally and of industry. Subparagraph (ii) will enable the court to deal with people who refuse to return to work after being directed by the court to do so under conditions that it considers proper. Hence the necessity for the two subparagraphs.

Hon. G. Fraser: But they are complementary.

The MINISTER FOR TRANSPORT: No, they are not.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. R. J. BOYLEN: I support the amendment. The definition, particularly the second portion of it, is a bad one and would be detrimental to the workers in many industries, particularly the gold-mining industry. Not long ago two diamond drillers on the Golden Mile were killed following an explosion of carbon-monoxide gas. Afterwards, there was still evidence of the presence of the gas, but not sufficient to cause death. How unreasonable it would be to order men to work under those conditions!

Many men were attracted to the gold-mines because of the high wages that were offered, but they did not intend to remain in the industry all their lives. They realised that if they did so, their health would become impaired. Under this provision, such men could be told that, as they had been working in the industry, they must remain there. If that happened, men would think twice before accepting employment on the mines. This type of proposal may be common enough in other countries, but is contrary to our ideas of justice. The question is not one of whether we favour arbitration. This defi-

nition provides for domination, and under it workers could be regimented and industrial trouble would be increased.

Hon. E. M. DAVIES: I support the amendment. Apparently the Government is trying to overcome a difficulty that confronted it during the recent metal trades dispute and honestly believes that this provision would tend to prevent a similar occurrence in future. Unfortunately, it will have the effect of penalising many industrialists who, through the years, have been loyal to industry and to the State. The amicable relations between employers and employees should not be disturbed. Under the definition, if a worker and another person discussed their remuneration or rate of pay and decided to leave the industry, they could be said to be guilty of a strike.

Hon. N. E. Baxter: That is only your opinion.

Hon. E. M. DAVIES: If the Bill becomes law, the Arbitration Court will be guided by it. Under the definition, we shall be reverting to the conditions of 60 or 80 years ago when men were indentured to employers, and if a man left his work, he was apprehended and compelled to return. The definition amounts to a regimentation of labour and an interference with the liberty of the subject, which is something we should not countenance. Mr. Fraser has offered a reasonable compromise which should receive serious consideration. Quite a number of people who have discussed this measure with me consider it to be most harsh and believe that, so far from inspiring confidence in the court, it will have the opposite effect. Although we have taken some time to debate this matter, I feel sure it is not too late for us to reach a compromise. I would like the Minister to give us reasons why he cannot accept the proposed compromise.

Hon. F. R. H. LAVERY: Those who favour the Bill have suggested that some of us do not understand the reasons for it. I fully understand those reasons.

Hon. N. E. Baxter: Tell us all about it then.

Hon. F. R. H. LAVERY: If the hon. member will listen, he will hear. I have just about "had" his silly interjections. I was pleased to hear the forthright way the Minister put his case before us, but I would appeal to him to give to this side of the Chamber the consideration which at one stage he said he could not extend in connection with the second part of this definition. I fully understand the reason that provision was included. As the Minister said himself, it has been inserted to cover people who are ordered back to work by the court and who refuse or neglect to offer for or accept employment in the

industry in which they have been engaged. I accept that as being correct. But why is it not so stated in the Bill?

We have already had two legal gentlemen from either side of the Chamber describing the effect of this Bill. Once the measure leaves the Chamber it will be open to all the legal aggression that can be brought against it, because in another part of the Bill there is provision for legal men to be in attendance at the court. Before the measure leaves here, it should be tightened in such a way that it will not be necessary for the legally-minded President of the court to bring in other legal men to tear it to pieces.

I agree with those who have stated that a definite mistake was made when the court deregistered a union during the recent dispute, because the organisation was thus placed outside the operations of the Act. I think we are also making a mistake here in including a provision that a man must go to the court to prove his own innocence. It is provided that a strike exists under certain conditions unless and until in any particular case the Court declares it not to be a strike. In 99 cases out of 100 people would not be taken to court under these circumstances but there are one or two instances in which it could occur.

Hon. J. M. A. Cunningham: It would probably be justified.

Hon. F. R. H. LAVERY: If so, why would such a person have to wait until such time as the court was ready to lay a charge against him?

Hon. N. E. Baxter: Does that not apply under all common law?

Hon. F. R. H. LAVERY: No.

Hon. N. E. Baxter: Of course it does!

Hon. F. R. H. LAVERY: No; the hon. member could be involved in an accident with his car and if his breath smelt of liquor he could be charged with being a drunken driver. I hope that conciliation methods that have been practised with success in the past in the handling of industrial troubles will be continued. If we do not provide for conciliation methods we will be strengthening the hands of the communists and, as Mr. Parker said, there are some very clever men amongst them.

Hon. G. FRASER: I regret that my efforts at conciliation have not been accepted by the Minister. I am also sorry that during the course of the debate on this matter so many members who have laughed at our interpretation of the provision have not got on their feet and said why.

Hon. N. E. Baxter: We do not think it necessary to keep repeating ourselves like parrots.

Hon. G. FRASER: "Parrot" would be too good a name for the hon. member. We have put forward our honest opinions of what is likely to occur if the Bill becomes law. The only ones who have attempted to disprove our statements have been the two Ministers, and Mr. Parker from the legal point of view. Mr. Jones was the only Country Party member to speak, and he said he was satisfied that our arguments were correct.

The Minister for Transport: Mr. Jones asked for clarification.

Hon. G. FRASER: Yes, and he said he would record a vote with us, but he is not here now. I do not know why, but I can guess.

Hon. L. A. Logan: He is a sick man.

Hon. G. FRASER: I know.

Hon. L. A. Logan: He went home to bed.

Hon. G. FRASER: Yes, and I saw a lot of talk going on.

The CHAIRMAN: Order! I think the hon. member is incorrect in imputing motives.

Hon. G. FRASER: I did not think I was doing that, but was expressing my ideas. Mr. Jones was the only one who attempted to speak from the Country Party point of view. We are prepared to listen to Mr. Baxter. Let him show us where we are wrong if, as he says, our interpretations are foolish and incorrect. He has not attempted to do so in debate.

It seems that the Government has sent the Bill to this Chamber and said, "We want the Bill back without any alteration," because there has been no spirit of compromise during the debate. If that is the attitude, we might as well not be here. We should review this measure and, after full debate, decide whether it shall pass in the form in which it came here. It will pass in that form, but why? Because the Government has used the whip on its supporters and told them it wants the Bill passed in this form.

Hon. N. E. Baxter: That is not so.

The Minister for Transport: It is news to me.

Hon. G. FRASER: Then let some members on the Government side show where we are wrong.

Hon. J. M. A. Cunningham: I have done so several times.

Hon. G. FRASER: Well, the debate has not closed yet. The captains of industry here have not spoken in the Committee stage. Our interpretations have been backed by legal opinion. I hope that when any other important measure affecting 95 per cent. of the community, as this one will do, comes to this Chamber, it will receive more consideration than this Bill. We have done our best to improve the Bill,

and our intentions and actions have been honest because we believe it is not in the interests of the community to place this measure on the statute book.

We have amendments on the notice paper, and they have been put there with the idea of improving the Bill, but we come up against the same old brick wall—hardly any debate, but a solid vote. I appeal to the Minister to come with us the little way that I suggested by deleting subparagraph (ii). Under subparagraph (i) he will not get everything he requires. We object to subparagraph (ii) because it will brand a lot of innocent people as strikers. It is of no use saying the court will clear them. Why should they have to go to the court because they refuse to take employment? Why should they run the risk of the fines suggested here? We cannot do any more. We have put up a fight. The whole onus in connection with what will happen if the Bill becomes law is now entirely on the shoulders of the Government.

Hon. L. C. DIVER: Mr. Fraser attacked members of the Country Party for having had nothing to say on this clause, but they have not had the opportunity to do so. Members of Mr. Fraser's party have risen, not giving others any opportunity to speak. I believe personal freedom is one of the first considerations in any legislation and if I had any doubt about the capacity of the Arbitration Court to determine whether a breach of the law had been committed, I would vote with the Labour Party on this occasion.

Hon. G. Fraser: Why drag everyone to court.

Hon. L. C. DIVER: People will be taken to court on rare occasions only. Almost everyone in the community realises that without these powers the Arbitration Court cannot preserve the law when unions are usurping the functions of even the Commonwealth Government and are going so far as to try to dictate our foreign policy.

Hon. G. Fraser: Subparagraph (i) of paragraph (e) would be sufficient.

Hon. L. C. DIVER: That is not so. If I feared that the freedom of the individual would be endangered by this provision, I would vote against it. Much has been said this afternoon about compulsion, but I would remind members that if an employee on the permanent staff of the P.M.G.'s Department suggested going on strike, he would risk instant dismissal because the regulations contain provisions similar to these. I have every faith in my fellow Australians, but a small minority is dictating the policy of a huge body of workers in an endeavour to disrupt industry. I have explained my attitude and need not go further into detail.

Hon. R. J. BOYLEN: Although the Minister will not agree to the amendment, I would again draw his attention to subparagraph (ii). I doubt whether it is the intention of the Government to do what is provided there. I think the Government wishes to compel a person to accept employment in a particular industry, but surely it does not desire to hold him responsible if he neglects to offer for employment!

The Minister for Transport: The provision is to ensure that he will return to his employment after a strike.

Hon. R. J. BOYLEN: The strike might last for a week or so and if the worker did not then immediately offer himself for work, he could be penalised.

Hon. N. E. Baxter: He is not being compelled; this refers to where he neglects to offer for employment.

Hon. R. J. BOYLEN: He should not be compelled to offer for employment in an industry, and I think the Minister should agree to the striking out of that provision.

Hon. H. K. WATSON: I have the greatest personal regard for Mr. Fraser, but, having listened to the debate, I must say that it was only my natural courtesy that prevented me from rising earlier and telling Mr. Fraser and his colleagues what I thought of the arguments they presented to the Committee this afternoon and evening. I am bored and tired and utterly unimpressed by the solemn nonsense that they have dished up. I desire to draw the attention of members to the fact that the operative provision of the Act is Section 132 which will, when amended, read—

Any person who takes part in a lockout or strike commits an offence against this Act. Penalty in the case of an employer or industrial union £500, and in other cases £50.

By no stretch of imagination could a husband and wife, deciding to quit employment on a station, be found guilty of an offence. Every man will retain his right to give his employer a week's notice.

Hon. G. Fraser: Under the Act, but not under this Bill.

Hon. H. K. WATSON: By no stretch of the imagination could it be held that the circumstances suggested by Mr. Fraser or other Labour speakers would constitute a strike within the meaning of the Act.

Hon. C. W. D. Barker: What about the legal opinion?

Hon. H. K. WATSON: We are dealing with commonsense.

Hon. G. Fraser: We agree that the position is as you say, under the present Act.

Hon. H. K. WATSON: It is a well-known rule of construction that in dealing with any set of words that are as wide as the world, the court will cut them down in relation to the situation with which it is dealing.

Hon. E. M. Heenan: What did you say?

Hon. H. K. WATSON: That when words are as wide as the world, they must be cut down.

Hon. E. M. Heenan: I do not follow.

Hon. H. K. WATSON: If the hon. member cares to read the judgment of the Privy Council in the James case, he will see what I mean. Section 6 of the principal Act commences with these words, "In this Act, if not inconsistent with the context." They are most important words, and if the definition of "strike" could by any stretch of imagination be held to include the refusal of men to go to work, or the giving of notice of termination of work by an employee to his employer, it would be inconsistent with the context of Section 132 of the Act. For those reasons I feel that we have listened for many hours this afternoon to arguments which were as futile as they were untenable.

Hon. J. M. A. CUNNINGHAM: I did not intend to speak, but we were challenged to show where some of the things that have been said tonight were wrong. Some of the statements made have been most misleading, particularly to members who do not know the circumstances in the particular industry mentioned. Hypothetical after hypothetical case has been brought up.

Hon. C. W. D. Barker: No!

Hon. J. M. A. CUNNINGHAM: They were nothing more than that, because the Bill has never been an Act. We heard earlier that there have been lock-outs under the old Act, but they have never been brought to the court. Why? Because they could not stand up, any more than could the hypothetical cases that have been mentioned, if they were taken to court.

Hon. R. J. Boylen: Give us an instance.

Hon. J. M. A. CUNNINGHAM: If a key man, in any industry, is approached by a person, a disrupter, a communist, call him what members like, and he puts up a sufficiently good argument, and the trade unionist ceases work, stops work or slows up work, it will be a strike. I suggest that that is just what we want.

Hon. G. Fraser: We do not object to that.

Hon. J. M. A. CUNNINGHAM: That is what the Bill will do.

Hon. G. Fraser: That would be a genuine case.

Hon. J. M. A. CUNNINGHAM: But does the hon. member want me to believe that, because two innocent, honest citizens wish to change their jobs, or wish to cease work to go on a health trip, they will be declared on strike if they give the normal notice of termination of employment? Does the hon. member sincerely expect me to believe that?

Hon. G. Fraser: That could be done under this Bill.

Hon. J. M. A. CUNNINGHAM: One member mentioned certain circumstances in the mining industry, where a man was instructed to go up with dynamite into a blocked winze and blast it out. That is not right.

Hon. F. R. H. Lavery: Yes, it is.

Hon. J. M. A. CUNNINGHAM: No shift boss in any mine would dare to do it.

Hon. G. Bennetts: My own boy was concerned.

Hon. J. M. A. CUNNINGHAM: There is a proper method of blowing a winze, and special equipment is used. There are inspectors who look after that sort of thing. I do not know of any mining company that would instruct a man to do a job like that without the proper equipment. The union representative would be on the job immediately, and the management would support him. One member also mentioned men working in dangerous places and not being paid reasonable wages. Men carrying out dangerous work such as that would certainly be under contract. If they were not getting sufficient out of it, they would not go on with the job, and would not accept the contract. No mining company in those circumstances would try to force men into such jobs.

Hon. R. J. Boylen: This Bill allows them to do it.

Hon. J. M. A. CUNNINGHAM: No, it does not. A contract is a contract, and men do not accept a contract unless the terms are favourable to them.

Hon. C. W. D. Barker: Is all that type of work done under contract?

Hon. J. M. A. CUNNINGHAM: Not all of it. If men were on wages and the job became too hard for them, they would merely make representations to the foreman or shift boss. If they were working in an unhealthy section of a mine, they would advise the inspector that the ventilation was not up to standard, and within an hour he would be out there to investigate their complaints. The men do not have to continue working in conditions like that, because there are inspectors to safeguard them. Some members have suggested that the second portion of this definition should be struck out. The Minister gave us a good example of why it is needed. It will apply to the so-called black ban cases. They are most insidious weapons, used by disrupters.

Hon. H. C. Strickland: Why do you not give us a case?

Hon. J. M. A. CUNNINGHAM: If the Bill had to cover every hypothetical case, it would be a terrific piece of legislation. It has to be wide to cover as many phases as possible and it will be left to the jurisdiction of the court to decide whether that is justified. The past record of the court is more than enough for the people of this State to depend on it to give a fair deal to everybody. With reference to the words, "limitation of work or a refusal to work", I will quote the following as an instance in point.

During a case held before a Federal conciliation commissioner, Mr. A. Strahan, the manager of the Australian Shipping Board was reported in the Press as follows:—

Mr. Strahan said the vessel had a valuable cargo of 2,200 tons, including 80 tons of wet salted hides, which had badly deteriorated. There would be a serious financial loss. The Sydney secretary of the Seaman's Union (Mr. B. Smith) said seaman were reluctant to offer for the "Daylesford" after the "black" ban imposed on the vessel by the Boilermakers' Society.

Mr. Knight said it was "a sorry state of affairs" when a ship, loaded with valuable perishable cargo, was held up because of a "black" ban by the Boilermakers' Society—a union completely outside the shipping industry.

By the placing of this so-called "black" ban, they were able to disrupt the working of that ship's cargo until it became a complete loss, not because anyone was on strike, but because the men usually engaged in that industry were prevented from offering their services for that job.

Hon. E. M. HEENAN: I must express the greatest sympathy with Mr. Watson in having to wait from 4.30 p.m. until now to listen to this unimportant, trivial debate on a Bill which is not worth discussing. The clause under review is so clear and concise that no one should have spoken on it! If that is Mr. Watson's viewpoint, I sympathise with him and I am sorry his holiday did not last a month longer because he would not have had to put up with the utter nonsense that I and other speakers have apparently been voicing. Learnedly he quoted the words at the beginning of Section 6 of the Act as if they were something remarkable and had some important meaning. If he will look at almost any other Act he will notice that it contains a similar provision. I appreciate the Minister's motive in trying to improve the Industrial Arbitration Act. The main quarrel I have with the people who drafted the Bill is that they included this clause defining the word "strike".

The Minister for Transport: We are also trying to convert some of the members of the Opposition.

Hon. E. M. HEENAN: If the Bill is passed, the Arbitration Court will play a far more active part in industrial matters. There are a number of punitive clauses, and, as Mr. Fraser pointed out, the court will have to interpret the law as passed by Parliament. Mr. Watson's claim that we have uttered nonsense cannot be substantiated. That is almost an insult to members on both sides of the House and especially those of us on the Labour side who have given very careful attention to the Bill. The Minister said that it was the Government's intention to make it as wide as possible.

Hon. G. Fraser: It does not take notice of intentions; only words in black and white.

Hon. E. M. HEENAN: If four men decide to leave their place of employment for some reason, either good or bad, I believe that the correct interpretation of this clause leads only to the conclusion that they are on strike; that they are committing an offence; that they can be labelled strikers until the court clears them and, presumably, they can be charged. We might get a Government, or a Minister or a set of circumstances where a wise decision would not be made. If, in effect, we say that anyone who drives a car on the road can be charged with exceeding the speed limit and that we will let the court decide, it is wrong in principle. That is no exaggeration. It is in my opinion a legal and strict interpretation of the clause. The Minister agrees with me, I think, and no one has controverted this argument.

Hon. H. C. STRICKLAND: I was pleased to hear the Minister admit that the definition is in two parts, one dealing with cessation of work and the other with the return to work, because that substantiates our argument. The Bill will tend to regiment labour. It is absurd to accept Mr. Watson's suggestion that an opinion from a legal man, who is recognised by the Government itself as being one of the best authorities on industrial legislation, should be wiped off. Mr. Watson cannot wipe it off as nonsense nor can Mr. Cunningham say that members opposing it were putting forward hypothetical cases.

Are we to be guided by commonsense or superior legal advice? It would be remiss on the part of the Committee to agree to this clause in the hope that everything will be cherry ripe. I hope the Minister will consider the matter and clarify it. The second part of the provision is a double-barrelled one. It is possible that no one will take little children to court, but they can affect them with fear psychology; and we know what that can mean. I support the amendment.

Hon. C. W. D. BARKER: I, too, would like to make a final appeal to the Minister and ask him to compromise. Cases of miners in Kalgoorlie have been quoted to which we are told the provision will not apply and that it is nonsense. It is not nonsense and the provisions certainly will apply to these cases that have been cited. The Minister should be reasonable. I feel sure he has not a heart of stone and that I will be able to penetrate it. He has admitted that the provision is a wide one and that it may never be used. If that is so, why not remove it from the Bill? The Government will not achieve its ends by this legislation because the wheels of industry will not move smoothly; the big stick has never been successful in making men work.

Hon. R. J. BOYLEN: I rise to make a further appeal to the Minister. For argument's sake, let us say there is a strike on the mines at Kalgoorlie. Some workers, thinking it would last a week or two, leave for Esperance. In the interim the strike is settled and the men are not there to accept employment; they neglect to do so. Accordingly, their action constitutes a strike. That could occur in the State. It is more far-reaching than we realise. I trust the Minister will agree to strike out this provision to avoid possible further trouble.

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

Ayes	9
Noes	14
Majority against	5

Ayes.

Hon. C. W. D. Barker	Hon. E. M. Heenan
Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. R. J. Boylen
Hon. W. R. Hall	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. L. Craig	Hon. H. S. W. Parker
Hon. J. Cunningham	Hon. C. H. Simpson
Hon. L. C. Diver	Hon. J. McI. Thomson
Hon. Sir Frank Gibson	Hon. H. K. Watson
Hon. C. H. Henning	Hon. F. R. Welsh
Hon. L. A. Logan	Hon. H. Hearn
	(Teller.)

Amendment thus negatived.

Clause put and passed.

Clause 5—Section 9 amended:

Hon. E. M. HEENAN: The proposed new Subsection (4f) provides that the court may, upon its own motion or upon application, disallow any rule which is contrary to law, etc. I move an amendment—

That after the word "section" in line 3 of proposed new Subsection (4f) the words "but after hearing argument by an officer of the union concerned" be inserted.

If any rule is to be attacked, it is only fair that an officer of the union should be heard before a decision is reached.

Hon. H. S. W. PARKER: This is an extremely clever amendment that would render the clause absolutely valueless. It would mean that if the union did not send an official along, the court could not make an order.

Hon. F. R. H. LAVERY: The point taken by Mr. Parker is rather subtle. There is no such intention behind the amendment.

Hon. H. S. W. Parker: It is not the intention; it is the wording that counts.

Hon. G. Fraser: That is what we have been trying to tell you all the evening on the other amendment.

Hon. F. R. H. LAVERY: Recently a case occurred in which my union was involved. The secretary of the Transport Workers' Union applied to the court to have its rules amended to include men working in quarries and driving unlicensed vehicles. In quarries there are vehicles used inside the area where the employers' operations are carried on. They do not go on to the highway and are accordingly unlicensed. When we wanted our rules altered to include those vehicles, the A.W.U. submitted a strong case to prove that the suggested rule was so wide that they could not agree with it. The President of the court consequently told our secretary, Mr. Nilsson, that the court could not accept the rule because it infringed those of another union.

He was going to dismiss the rule there and then, but Mr. Nilsson asked for an adjournment so that he could place it again before a general meeting of the union and have it amended to suit the wishes of the court. The President granted the application: the meeting was held the following fortnight, and it was agreed to make the desired amendment. The union then had the rule included in its standard rules. The President was about to disallow the rule on the occasion to which I have referred, but refrained on the appeal of the union secretary.

Hon. L. Craig: But he heard the secretary.

Hon. F. R. H. LAVERY: Yes; and that is exactly what we are asking for here.

Hon. L. Craig: But he did that without this provision.

Hon. F. R. H. LAVERY: That is so: but that was under the Act and not under this amending legislation. The amendment is very simple and if the wording is not quite suitable, I am sure Mr. Heenan would be prepared to alter it. The union affected on the occasion I mentioned could have been one of the de-registered organisations.

Hon. H. S. W. Parker: Then it would not have had any rules.

Hon. N. E. Baxter: It would not have had the right to be heard in any event.

Hon. F. R. H. LAVERY: That is what I said before. It would then be outside the jurisdiction of the court. We are asking the Committee to pass a most necessary amendment.

The MINISTER FOR TRANSPORT: If members will refer to the marginal note they will see that this, in common with many other parts of the Bill, was taken from Commonwealth legislation. As a matter of fact, this provision has been in the Commonwealth Act since 1928 and has remained there with the approval of successive Labour Governments. It has been deemed necessary, adequate and equitable and has never given any trouble. To include the amendment would make it mandatory on the judge to hear arguments by a union official but would not make it mandatory upon the officer to attend to be heard.

Hon. E. M. Davies: He could be subpoenaed.

The MINISTER FOR TRANSPORT: I think the hon. member is perhaps assuming too much. The notes I have on the matter are as follows:—

1. This amendment assumes that the court would not consider every aspect of the matter before it, including the views of union officials, a somewhat violent assumption.

2. If the words are included and by design or accident a union official does not tender his views to the court, the subsection will have no operative effect because unless the court hears the official of the union it will not be able to disallow objectionable rules.

3. If the words are included the subsection may be so construed that the court is at liberty only to hear an official of the union and no other person, because of the rule of construction, that to include one matter is to exclude all others, comprehended in the maxim *inclusio unius est exclusio alterius*.

4. If directions are to be given to the court by the Bill as to what it must take into consideration in arriving at its conclusions, directions will have to be completely exhaustive and it is impossible to foresee all the details which may surround a particular case. By way of illustration, if the subsection is to direct the court that it must hear a union official and the intention of the amendment is that the court must also hear any other persons and take into consideration all sorts of circumstances, an attempt should be made to comprehend all of these matters and include them, otherwise it is best to leave the matter entirely open to the good sense and judicial fairness of the court it-

self in determining what representations it will hear and what circumstances it will take into consideration for the correction of unlawful, tyrannical, obstructive and unreasonable provisions in the rules of a union.

I suggest that it is very much better to leave this matter to the good sense of the President of the court. Without question, he would endeavour to obtain views of a union official, as has been proved by the comments of Mr. Lavery. I think that in an attempt to arrive at a fair and equitable determination, it should be left to the court to decide exactly what evidence it will take and in what manner it will do so.

Hon. G. FRASER: I do not agree with the Minister that it should be left to the discretion of the court. We are dealing now with the rules of a particular union.

The Minister for Transport: It has worked all right in the Federal court.

Hon. G. FRASER: I am not worrying about the Federal court, but about the State court. Is it not only fair that before we give the court the right to disallow any of the rules of a union, that union should be consulted and permitted to put up a case? As it is now, the court could proceed without any knowledge of the union at all. The union need not know anything about it until after a decision was made.

The Minister for Transport: Is it likely?

Hon. G. FRASER: Of course.

The Minister for Transport: I do not agree.

Hon. G. FRASER: The Minister was so particular in connection with the previous provision that he made it wide enough to include the world. Now the Minister will not allow us to make sure that an official of the union that is to be dealt with, can put up a case. It is left to someone's judgment.

The Minister for Transport: That is so.

Hon. G. FRASER: That is not equitable. I admit there is something in the contention of Mr. Parker that it could not give a decision until the representative of the union had appeared before it. What is wrong with that?

Hon. L. Craig: You do not tell the court what witnesses it shall call.

Hon. G. FRASER: But we do not allow a court to proceed without hearing the accused.

Hon. L. Craig: You have a representative on the bench.

Hon. G. FRASER: He is only one out of three. We want the legislation to be as watertight as possible.

Hon. H. S. W. Parker: Call it airtight!

Hon. G. FRASER: Let us make it mandatory on the court to notify a union before it slashes its rules, so that the union can be represented.

Hon. E. M. HEENAN: I agree with the point raised by Mr. Parker and the Minister that the words "hearing argument" would probably make it mandatory on the court to hear argument. It would be correct to infer that if a union refused to go to the court, the court would be held up. I suggest that in place of the words "hearing argument," I substitute the words "inviting argument." If then the court wanted to do something about a union rule it thought unsatisfactory, it would be mandatory to invite an officer of the union to come along and argue why the rule should not be expunged. If he did not appear, it would be his misfortune. I think this is a reasonable compromise. The court would not then be able to strike out a rule without at least inviting an officer of the union to come forward and have his say. The fairness of this proposal should appeal to members, and the Minister should accept it.

The CHAIRMAN: Is it the wish of the Committee that the hon. member be allowed to alter his amendment by deleting the word "hearing" and substituting the word "inviting"?

The MINISTER FOR TRANSPORT: I have no wish to block the hon. member, but I do not think it makes much difference. It might be legally argued that the court could discuss the matter with this one person to the exclusion of everyone else. It would be possible to make it mandatory on a judge to see a union official, but not mandatory on the official to go and see the judge. I oppose the amendment because it places a limitation on the court's powers, which is neither necessary nor desirable.

The CHAIRMAN: We must clear up the hon. member's request. Is it the wish of the Committee that he be allowed to alter his amendment?

Hon. H. S. W. PARKER: Even if—

The CHAIRMAN: Order! Does the hon. member wish to speak to the request to change words?

Hon. H. S. W. PARKER: Yes. Even if we agree to the change, it will not have any effect. The first portion of the clause is acted on now. When a union originally lodges rules with the court, the Registrar goes through them and usually finds one or two that are not permitted. The practice is for him to say to the union official concerned, "You had better get them altered, because the court will not register them as they are." If they are not altered, but left, the court simply strikes them out. Proposed new Subsection (4h) gives what we really want. It provides for what is to be done when there is no dis-

cussion about the rules. I do not propose to vote to permit the amendment to be altered, because I think it is futile. I shall vote against the amendment, so why should I vote to allow it to be altered?

The CHAIRMAN: I shall again ask the Committee whether it will grant Mr. Heenan leave to alter his amendment. There being no dissentient voice, leave is given. The words now to be set out in the amendment are—

"but after inviting argument by officer of the union concerned."

Hon. G. FRASER: Mr. Parker did not tell the Committee that this provision deals with rules that have already been registered by the court, which is quite a different thing.

Hon. H. S. W. PARKER: They would be struck out if the law was altered.

Hon. G. FRASER: If a union has been registered and has worked under its registered set of rules—

Hon. L. Craig: They may be oppressive.

Hon. G. FRASER: Why did the court register them in the first place if they were oppressive? The Minister says we should leave it to the court, but we are now told that the court has registered rules that have proved contrary to law, tyrannical, oppressive and so on. If in the past the court was so neglectful, why should we not now insist that before a rule is disallowed by the court a representative of the union should be invited to discuss the matter? Under this provision the court may, without application by anybody, disallow the rules of the union under which the organisation has been working for years.

The Minister for Transport: That is assumption.

Hon. G. FRASER: It is not.

Hon. H. S. W. PARKER: What if an alteration of the law makes some rule inoperative?

Hon. G. FRASER: It is not asking too much to make it obligatory on the court to invite a representative of the union to discuss the rules. I thought the Minister would have accepted the amendment.

Hon. G. BENNETTS: The Bill is loaded against the worker and the judge of the court might be biased. We cannot afford to take any risk and I think the secretary of the union should be invited to attend. I support the amendment.

Hon. E. M. DAVIES: What is wrong with providing that the court must ask a representative of the union to come along and hear argument? When an industrial organisation compiles its rules, they must be lodged with the Industrial Registrar and registered. After they have operated for some years it is only British justice that before they are altered a representative of the organisation should be invited to

explain to the court what the rules mean or the necessity for them, before the court arrives at a decision. I support the amendment.

Hon. R. J. BOYLEN: While I am not critical of the judiciary, I would point out that appointment to the judiciary does not mean that any man becomes infallible. Therefore I support this amendment which would make it obligatory for a representative of the union to be invited to be present to safeguard the interests of his organisation.

Hon. E. M. HEENAN: The Minister used the argument that this clause has been taken from the Federal Act which apparently has worked satisfactorily.

The Minister for Transport: It has been in existence for 24 years.

Hon. E. M. HEENAN: But none of those Acts is so perfect that it cannot be improved in some minor way. The Minister also said that undoubtedly the court would invite somebody from the union to be present, and I think that would probably be the case. However, I am sure that it is the Minister's intention that this legislation when it becomes law should function smoothly and win the confidence and respect of the workers and employers. My amendment will help the workers to gain confidence in the legislation. The amendment is only a minor one and I agree with the Minister that the court would probably consult the union. If that is so, why not make it mandatory? If the amendment is accepted, the Registrar would merely send out a circular to the union concerned and request it to have a representative present if it wished to debate the point. I cannot see any reason why the Minister should not agree to the amendment.

The MINISTER FOR TRANSPORT: We have dealt with this amendment at some length and I gave my reasons for opposing it when I spoke previously. If members will refer to an earlier part of the Bill they will find the following words:—

The Registrar may, after inviting the industrial union to consult with him on the matter determine such alterations of the rules as will, in his opinion, bring them into conformity with those requirements.

Therefore the hon. member's amendment would be redundant, so I can see no necessity for it. That clause goes on to state that the court may disallow any rule of an industrial union which imposes unreasonable conditions on its members or is oppressive in any way. The great majority of unions with which the Registrar would have to deal would be normal and law-abiding, but it will give the court power to deal with those who will not co-operate. Last night I mentioned certain union officials who would not co-

operate and this legislation will cover their activities. Under the Bill as it stands the Registrar need not call upon or invite the attendance of obstructive union officials, therefore I suggest that the amendment be defeated and let us leave the measure as it stands.

Amendment (as altered) put and a division taken with the following result:—

Ayes	9
Noes	14
Majority against	5

Ayes.

Hon. C. W. D. Barker	Hon. E. M. Heenan
Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. R. J. Boylen	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. G. Fraser
Hon. W. R. Rail	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. L. Craig	Hon. H. S. W. Parker
Hon. J. Cunningham	Hon. C. H. Simpson
Hon. L. C. Diver	Hon. J. McI. Thomson
Hon. Sir Frank Gibson	Hon. H. K. Watson
Hon. H. Hearn	Hon. F. R. Welsh
Hon. L. A. Logan	Hon. C. H. Henning
	(Teller.)

Amendment thus negatived.

Hon. G. FRASER: I move an amendment—

That paragraph (b) of proposed new Subsection (4f) be struck out.

I do so for the reason that whilst I agree the Bill itself is tyrannical and oppressive, I do not know of any union rules that are. If any union has such rules the court has not done its job.

Hon. H. S. W. Parker: Can the hon. member foretell the future?

Hon. G. FRASER: I can with regard to tyrannical and oppressive rules. If the court carries out its duties properly, I cannot see how any such rules can be registered.

The CHAIRMAN: Mr. Davies has on the notice paper an amendment which should precede that moved by Mr. Fraser. Does the hon. member intend to go on with it?

Hon. E. M. DAVIES: No, I will not proceed with it because it deals with the same subsection respecting which Mr. Fraser has moved his amendment.

The CHAIRMAN: Very well.

The MINISTER FOR TRANSPORT: Earlier, I pointed out that many of the clauses of the Bill had been taken from the Commonwealth Conciliation and Arbitration Act which was passed in 1928, and Section 81 of that Act contains words identical with those in this paragraph. They have been taken en bloc from that section.

Hon. G. Fraser: The Minister would not take anything en bloc from the Commonwealth, would he?

The MINISTER FOR TRANSPORT: Those words in the Commonwealth Act were included to deal with a state of industrial affairs which has grown up in the Eastern States. We believe the same body of men and the same set of circumstances are threatening us here, and therefore we should adopt those words from the Commonwealth Act because they are useful. If any union rules were tyrannical and oppressive, the President of the court would use his power to remove them, but the inclusion of these words precludes any doubt as to what his powers are.

Hon. E. M. DAVIES: I support the amendment and I am unable to see the logic of the Minister's argument. The rules would be registered with the court and therefore it would be peculiar if suddenly they were deemed to be tyrannical and oppressive and consequently be disallowed. If that is the way the Arbitration Court is to act without conferring with the union officials concerned, the position seems rather peculiar to me. I would like some further information as to why this paragraph is necessary.

The MINISTER FOR TRANSPORT: The paragraph does not necessarily apply to union rules that have been registered.

Hon. G. FRASER: The clause contains the words "disallow any rule of an industrial union."

The MINISTER FOR TRANSPORT: That may be, but a rule may be standing for some time without any exception being taken to it. The court may then find that its application has become tyrannical and oppressive and its function would be to disallow it so that it would not bear harshly on the members of the union. I can give the paragraph no better recommendation than to say it has been tried and proved under the Commonwealth legislation.

Hon. G. FRASER: I hope the Minister will not keep on repeating that.

The Minister for Transport: Not when Dr. Evatt has stressed it?

Hon. G. FRASER: I do not care who stressed it.

The Minister for Transport: Well, Mr. Menzies then.

Hon. G. FRASER: We are concerned with what is in the State legislation. Although certain sections may be in the Commonwealth Act, they may not be there because our colleagues wanted them included. The Western Australian Industrial Arbitration Act was for many years held up throughout Australia as an excellent measure.

The Minister for Transport: Not so much the Act as the men with whom it had to deal.

Hon. G. FRASER: No, the Act. It was regarded as a model for all other Acts. I am proud of our measure as it stands at

present, but as things are shaping, I will not be so proud of it in the next few days. Our Act is a better one than the Commonwealth legislation, and I hope the Minister will not again refer to the Commonwealth measure as a guide for us to follow.

Amendment put and negatived.

Hon. G. FRASER: I move an amendment—

That paragraph (d) of proposed new Subsection (4f) be struck out.

When the rules are first supplied for registration, it should be the duty of the court to see that no unreasonable conditions of membership are contained. Once the rules are registered, they should be allowed to remain.

Hon. L. Craig: Without amendment?

Hon. G. FRASER: Yes, without amendment?

The Minister for Transport: This may be an application for registration of a new set of rules.

Hon. G. FRASER: Then the court has power to deal with that phase. This is something new being put into the Industrial Arbitration Act. Applications made for the registration of rules are examined very minutely by the Registrar. The danger lies in the fact that the rules may be in operation for some years but, as a result of something cropping up and people becoming panicky, the court will be allowed to interfere against the better judgment of the members of the organisation. Who is the best judge: the people who are expected to pay for membership and live up to the conditions in the rules, or some foreign body?

Hon. L. Craig: Would you call your representative on the court a foreign body?

Hon. G. FRASER: No, but I would call the court a foreign body. The court does not have to abide by the rules of the union, but the members have to, and they should be the ones to judge what conditions should be laid down for membership and those for the acceptance of new members. The court does not know the conditions operating in a particular industry.

Hon. L. Craig: How many members in the union have any say in the preparation of the rules?

Hon. G. FRASER: Every member can have all the say he desires. A board of management is appointed which deals with union matters, whether they be rules or anything else. Before these rules are adopted or any action taken by the management committee, they must be endorsed by a general meeting of members. If I had time I could show that no alteration of the rules is permitted, without notice of motion first being given and a

date being specified for a special meeting to consider the action to be taken. So there is complete protection provided in the rules of all organisations. Would the hon. member permit a foreign body to dictate to the organisation to which he belongs; to tell it what it should charge for membership and so on?

Hon. L. CRAIG: Do not look at me.

Hon. G. FRASER: I have to look somewhere, and where I look, I accuse! The hon. member would not permit that I am sure.

Hon. C. W. D. BARKER: I support the amendment. We do not want to take the money out of the hands of the union. The members themselves are the best judges of the conditions that should operate. Would any members who are business men permit an outsider to enter their premises and dictate their business to them? Of course they would not. If the union members make these rules, they should be allowed to keep them, and no one should be allowed to dictate to them.

Hon. H. K. WATSON: It seems to have been overlooked by one or two members that these provisions and indeed one or two other provisions in the Bill apply with equal force to industrial unions of employers as to industrial unions of employees. There is no discrimination. The reference is to industrial unions.

Hon. R. J. BOYLEN: What is an industrial union of employers?

THE MINISTER FOR TRANSPORT: This is another amendment brought forward in another place and resisted on the ground that the law as contained in the Commonwealth Act has stood the test of time for over 20 years. It is incorporated into our own legislation to meet the same threatening set of conditions. It was included to avoid the possibility of skilled tradesmen being refused admission into the union for any reason and thus being robbed of their means of livelihood. It was decided that a judge should have discretionary powers, and those powers are to deal with unions that will not co-operate and for some reason wish to impose restrictions on applicants for membership. For that reason I oppose the amendment.

Hon. F. R. H. LAVERY: Does the Minister believe in compulsory unionism, and would he compel a union to accept into its membership a person of a type that it considered undesirable? Some years ago, a union was able to get rid of a member who belonged to the Communist Party, yet, according to the Minister, a union should be compelled to retain such a man in its membership.

THE MINISTER FOR TRANSPORT: If the court deemed that the rules were unreasonable, it might require an alteration to be made. In reply to the hon.

member, I do not believe in compulsory unionism, but that has nothing to do with the subject under discussion.

Hon. R. J. BOYLEN: I support the amendment. Members should be guided by the opinion of those who are associated with industrial unions and should not be misled by Mr. Watson's statement. I do not know of any industrial union of employers registered in the court.

Hon. H. K. WATSON: Mr. Boylen's statement shows ignorance of the Act and its operation. Section 27 provides that the Registrar shall supply to Parliament, within 30 days after its meeting each year, a return showing the number of members in each industrial union registered under the Act. Earlier in the session the Minister tabled such a return, but apparently Mr. Boylen has not looked at it. This return contains the names of several industrial unions of employers, including those of bootmakers and repairers, bread manufacturers, hairdressers and so on, and incidentally practically every mining company is registered as a union of employers. I repeat that the provisions of the Bill apply just as effectively to unions of employers as to unions of employees.

Hon. E. M. DAVIES: Are they industrial unions of employers?

Hon. H. K. WATSON: Yes, and they are registered under the Act. The time of the Committee might be more profitably employed if members had acquainted themselves of the actual position.

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

Ayes	9
Noes	14
Majority against	5

Ayes.

Hon. C. W. D. Barker	Hon. E. M. Heenan
Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. R. J. Boylen	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. W. R. Hall
Hon. G. Fraser	(Teller.)

Noes.

Hon. N. E. Baxter	Hon. J. Murray
Hon. L. Craig	Hon. H. S. W. Parker
Hon. C. Diver	Hon. C. H. Simpson
Hon. Sir Frank Gibson	Hon. J. McI. Thomson
Hon. H. Hearn	Hon. H. K. Watson
Hon. C. H. Henning	Hon. F. R. Welsh
Hon. L. A. Logan	Hon. J. Cunningham
	(Teller.)

Amendment thus negatived.

Clause put and passed.

Clause 6—agreed to.

Clause 7—Section 52 repealed and re-enacted:

Hon. G. FRASER: I move an amendment—

That proposed new Subsection (3) be struck out.

This provides that a union, which has filed with the Registrar a copy of the register of its members, shall, during the

month next following quarter day, file a statement of alterations made in the register. It will be absolutely impossible for many organisations to give effect to this provision. I know some members will remind me that there are provisions whereby exemptions can be granted under certain conditions, but that is not the point. It is definitely laid down that every quarter a union must submit a copy of its register of members. In new Subsection (1) there is a list of the records that must be kept. To do the job would require the appointment of a special accountant for many organisations. The secretaries of some of these organisations work in a part-time or honorary capacity.

Hon. L. Craig: But you must have a list of members. Even a croquet club has a list of members.

Hon. G. FRASER: That is so. The Act at present says that the list shall be supplied every 12 months, and we want the provision to remain as it is. This provision, however, asks for the information to be supplied every quarter. Quite a number of unions issue yearly tickets and once a year they provide the names and addresses of the persons to whom such tickets are issued. In many instances they do not know where the men concerned will be in three months' time.

Hon. L. Craig: But they only have to send the addresses they have.

Hon. G. FRASER: That is so; but it is not only the register that has to be supplied, but all the information set out in the new subsection. I have never heard of anything being wrong with the present setup. Why make an alteration that will necessitate the supplying of four lists a year?

Hon. L. Craig: It has to be done every month in connection with the pay-roll tax.

Hon. G. FRASER: Of course, the hon. member is in business!

Hon. L. Craig: It applies to little stations and farms.

Hon. G. FRASER: Then the hon. member will realise the difficulty involved, with no advantage to anybody. There may be some advantage to the Commonwealth Government as regards the pay-roll tax, but there is none to the Registrar in this case. He is supplied with a yearly list and has been satisfied up till now. Why not leave it at that, instead of imposing impossible conditions on an organisation?

Hon. L. A. LOGAN: On first looking at this provision, I thought that Mr. Fraser might have a case; but when one reads the new subsection carefully, one finds that all it asks is that any alterations shall be forwarded to the Registrar. There is not much hardship about that.

Hon. W. R. HALL: If organisations have to supply this information every three months it will be awkward for those with

part-time secretaries. There is a lot of work entailed where the membership is large.

The Minister for Agriculture: If the membership is large, there will be a full-time man employed.

Hon. W. R. HALL: Some unions have not the resources to employ a full-time secretary and sometimes they are insufficient to provide for a part-time secretary. One union with which I was connected had an honorary secretary. I support the amendment.

Hon. F. R. H. LAVERY: I have been specially asked by the Transport Workers' Union to oppose this provision. The union has about 1,500 financial members and between 500 and 600 who are unfinancial. These members are spread over the Goldfields and the South-West Land Division and work in 87 different types of industry. The secretary finds it difficult to carry out the present provision. The board of management meets once a month and there are up to 80 or 90 new members each time.

Hon. N. E. Baxter: It must be a very financial union.

Hon. F. R. H. LAVERY: It covers 87 industries, but unfortunately does not include the farming industry or the membership might be much larger. The money received is only sufficient to provide a certain staff. Thus we have a secretary, an assistant secretary, an organiser and a vigilance officer. They are paid officers and have to collect all money and keep all the records. It will be impossible for this union to abide by the provisions of the measure, and it will have to pay the £2 per week penalty for not doing so. The union, under the parent Act, is often granted an extra period of six weeks in which to lodge its returns. Union secretaries do not just sit about reading newspapers and thinking up strikes. They have to plan not for just a week or a fortnight ahead, but for three and four years ahead in connection with awards.

Hon. E. M. DAVIES: I support the amendment. I suppose the Minister will say that the provision is included in the Bill because it is contained in the Commonwealth Act. I see nothing wrong with the parent Act. The names and addresses are supplied once a year, but now it is suggested that they be supplied every three months.

The Minister for Transport: Only the alterations.

Hon. E. M. DAVIES: Yes, but in some instances it is impossible to supply them. Numerous people come to me with housing problems, and in the last few months I have had many cases of people who have had no address at all. Some have been tossed about from one lot of accommodation to another, and sometimes they have walked the streets in the day-

time and paid to stay in a hotel or boarding house for a night and then walked the streets the next day. That has gone on for two or three weeks in some instances. How can a union get the address of those people? A large State-wide organisation like the A.W.U. cannot be expected to get the addresses of its members and supply the Registrar with alterations every three months.

Hon. G. BENNETTS: I speak now as a member of the A.W.U. In Boulder we have a secretary, an organiser and a girl in the office, and the union operates as far afield as Big Bell, Mt. Magnet, Youanmi and so on. Its members are being shifted all the time. The shearers are all over the country.

Hon. L. Craig: Shearers have one postal address.

Hon. G. BENNETTS: I would not say they have. They shift from time to time, the same as miners do. It is ridiculous to put all this work on the unions. The present position is quite workable, and our organisations here are doing a good job.

Hon. H. K. WATSON: I can sympathise quite a bit with the views expressed by Mr. Fraser, Mr. Lavery and Mr. Bennetts. Under the Companies Act a secretary has to fill in all manner of forms. We should see that undue work is not cast upon secretaries. On the other hand, an industrial union, like a company, is formed for the advancement of the interests of its members, and in the same way as they have rights, so they have obligations. The provisions of the new subsection are not as bad as they may appear at first sight. Mr. Logan pointed out that the quarterly return is only in respect of alterations. Under Clause 8, the Registrar can exempt a union from the operations of the provision that we are discussing. I have no doubt that in the same way as the Registrar granted exemption in the instance cited by Mr. Lavery, in connection with the lodgment of the annual return, so he would, in pursuance of this provision, grant exemption to most unions in regard to the lodging of a quarterly return. The power would be there in case of need, I will vote for the new subsection as it stands.

Hon. R. J. BOYLEN: There is a possibility of inaccurate particulars being supplied to the Registrar unintentionally—if this subsection is agreed to—by many of the smaller unions that have members all over the State. The secretary of such an organisation could not get all the particulars required in the time available. I support the amendment.

Hon. F. R. H. LAVERY: The yearly fee in the Transport Workers' Union is £3, paid in half-yearly instalments, but if it is paid before the 28th February there is

a reduction of 5s. That is done in order to save work in the office. The union decided not to replace its late secretary.

Hon. H. K. WATSON: That union has an income of about £5,000 a year.

Hon. F. R. H. LAVERY: If all the fees were collected that might be so, but many of them are collected in instalments of as little as 2s. per week. Owing to its limited finance the union cannot employ further staff and it would be impossible to supply these particulars every three months. The secretary is fully engaged on the industrial side and relies on his assistant secretary, organisers and vigilance officers to collect the fees. I was honorary treasurer until the end of last year.

This provision could be applied to and observed by the Waterside Workers' Federation on the Fremantle waterfront because the members of that organisation all work within a very small area, but the A.W.U., whose members are scattered throughout the State, could not possibly keep track of all the changes in addresses. We had a large stack of letters returned because the addresses were unknown—

Hon. N. E. Baxter: Were they sent to unfinancial members?

Hon. F. R. H. LAVERY: They were not. It is only a financial member who can get a ballot paper forwarded to him. Our register contains 24,000 names of the men who have gone through our union, the turnover being about 80 or 90 per month. It would be impossible for this organisation to abide by the quarterly requirements of the Bill.

Hon. L. Craig: You could get a complete exemption from that provision.

Amendment put and negatived.

Clause put and passed.

Sitting suspended from 10.30 to 10.50 p.m.

Clauses 8 to 10—agreed to.

Clause 11—Divisions III and IV added to Part II:

Proposed new Section 36A—Applications for inquiries respecting elections:

Hon. G. FRASER: Would the Minister explain the reason for the inclusion in new Subsection (1) of the words "or a person who, within the preceding period of two months, has been a member of an industrial union"? Why should a person who is not a member have a say in that disputed election?

The MINISTER FOR TRANSPORT: Despite accusations that I am referring to the Commonwealth Act constantly, I must do so again. This appears in that Act and allows a person who had been a member for 12 months to raise an objection or a complaint that there had been an irregularity. In another place the period of 12 months was reduced to two. Without knowing exactly why it was in the

Commonwealth Act, we assumed there was some good reason and it was adapted, with other material from that Act, for the purposes of the Bill.

It is possible that a unionist who had been a member might have been expelled and had valid and legitimate reason for complaint. The 12 months stipulation was to cover a possible election of new officials. We assumed that if there were a change of officers, he might have a chance of re-admission and be able to lodge his complaint. That hardly applies, however, because as I have said it was reduced to two months in another place.

Hon. G. FRASER: The point I make is that it is allowing a person who is not a member and has left the union, to lodge an application for an inquiry by the court.

The Minister for Agriculture: He may have been a member two months before.

Hon. G. FRASER: This is in connection with fees and if he has left the union—

The Minister for Transport: I gave an excellent reason for that.

Hon. G. FRASER: He has left the union up to two months.

The Minister for Transport: He might have been expelled.

Hon. G. FRASER: Yes, there is that possibility. However, I think it is rather dangerous to allow a person of that description to lodge an application for inquiry by the court. I have no objection to a member of the union lodging an application, but it is not right to allow any person, irrespective of whether he has been expelled or has left of his own accord, to lodge an application for an inquiry and put the union to a lot of expense. I did intend to move for the deletion of the words to which I refer and although there have been instances in the past and one recently in the Press to which it may refer, I think it is far too wide a provision. I think the deletion of those words would be a fair method.

The MINISTER FOR TRANSPORT: The period stipulated in the Act from which this was taken was 12 months and the reason for its inclusion probably was that, if there had been any malpractice in a union and a member had been expelled, he would have ample time to lodge a complaint. The court would have to be satisfied that his claim was valid before it would put the union to any expense. The provision can do no harm and it might afford protection to a member or ex-member of a union.

Proposed new Section 36E—Interim orders:

Hon. E. M. HEENAN: Subsection (1) of the proposed new section provides that the court may make various orders, one of which is that a member of the in-

dustrial union or another person specified in the order may act in an office to which the inquiry relates. I think the words "or another person specified in the order" should be struck out. The court might order that the elected secretary should stand down and appoint someone to act in his place. I am afraid that the person so appointed might be an outsider.

Hon. H. Hearn: But there is a proviso that, in the event of a suitable member being available, the court shall give him preference.

Hon. E. M. HEENAN: That would be some safeguard, but the court might consider that a suitable person was not available amongst the members of the union.

The Minister for Agriculture: The proviso is a distinct direction to the court.

Hon. E. M. HEENAN: But it could still appoint somebody outside the union. If my suggestion were adopted, the court would have no discretion in the matter, and that would eliminate the risk of an outsider being appointed in any circumstances.

The Minister for Transport: I have some information that will clarify the position.

The CHAIRMAN: Does Mr. Heenan intend to move his suggested amendment?

Hon. E. M. HEENAN: To put the matter in order, I move an amendment—

That in lines 11 and 12 of paragraph (d) of Subsection (1) of proposed new Section 36E, the words "or another person specified in the order" be struck out.

The MINISTER FOR TRANSPORT: In another place, Mr. McCulloch argued that under the provision as then framed, any person could be appointed to conduct the affairs of a union, and he considered that a union would be able to find a suitable person within its ranks. After discussion, the Attorney General agreed to the insertion of the proviso, and in view of that, Mr. McCulloch withdrew his amendment to delete those words. My notes state that the words objected to appear in the Federal Act and were included therein in 1949 at the instigation of Dr. Evatt who said they were necessary. The Attorney General said that a case might arise where there was a difference of opinion within a union over an election, and in such a case it would be preferable for the court to have discretion to appoint an independent person to conduct the routine affairs of the union during a dispute rather than a representative of one or other of the warring factions.

Such an appointee would only look after the cash and pay the rent, etc., and would not act as president or secretary of the union. Action in this regard was taken in the Eastern States recently when Mr. Short objected to the election of Mr.

Phillips as secretary of the Ironworkers' Federation. As a result, a neutral person was appointed to take care of the routine union matters and look after the interests of the members. I suggest we leave the provision as it stands in the form in which it was amended in another place.

Hon. E. M. HEENAN: In view of the information supplied, I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Proposed new Section 36J—Validation of certain Acts, etc.:

Hon. C. W. D. BARKER: I move an amendment—

That Subsection (3) of proposed new Section 36J be struck out.

Surely when a union is registered and the rules are laid down and accepted by the Registrar and the court, in any ballot that may be taken afterwards the court should agree to its being conducted under union rules. If this subsection is not deleted, authority will be given to the court to do anything in connection with an election by departing from the rules of the union.

The MINISTER FOR TRANSPORT: A similar amendment was moved by Mr. Graham in another place and he stated it was the responsibility of the Registrar to ensure that elections would be in accordance with the rules, and that the new provision would give authority for anything to be done in connection with the election by a departure from the rules of the union. The amendment was negatived without debate. The assumption is that the court must have a free hand to conduct elections in the manner it considers proper and not in the way a union thinks proper. A union could frame rules to depart from the intention of the court. The Registrar would probably disallow these. The court at its discretion decides to ascertain the attitude of members on matters of grave importance, and in such cases it is necessary that the court should have free and unfettered powers.

The proposed new section concerns election to union offices and Subsection (3) applies to a disputed return. Here again the court should have discretionary powers. It would probably desire to work within the union rules but reasons could arise to make this not practicable. For example, the union rules could require ballot papers to be initialised by the secretary and in union ballots that might be necessary and desirable. But if it were a disputed election, the situation would be entirely altered. It is necessary sometimes for the court to be exempt from the technicalities of union rules which in special cases would not work out in actual practice. That is why it is necessary that the provision should stand.

Hon. G. FRASER: That is the weakest argument I have heard submitted by anyone in the hope of something being retained in a Bill. I have never known yet of any ballot paper that had to be initialised by the secretary. Most union rules stipulate that there shall be nothing on the ballot paper except the initials of the returning officer.

The Minister for Transport: He may be the secretary; very often he is.

Hon. G. FRASER: His initials would not have to go on the ballot paper. The returning officer would be the person to initial the ballot papers.

The Minister for Agriculture: The rules might provide that the returning officer shall be the secretary.

Hon. G. FRASER: No, never!

The Minister for Agriculture: That never has been so?

Hon. G. FRASER: I have not known of it yet.

The Minister for Agriculture: I think I could find a case.

Hon. G. FRASER: The Minister would have a hard job. The general rule in all organisations is to appoint a returning officer. If it is good enough for the union to have to carry out ballots according to the rules registered by the Registrar of the court, it should be good enough for the court to conduct an election on those lines.

The Minister for Transport: Do not forget that this refers to a disputed return.

Hon. G. FRASER: It would not matter what it was. The rules cover that, and there can be no reason why the rules should be departed from.

Hon. H. S. W. Parker: Suppose the rules said that the returning officer must be a member of the union and the court said it would not have that. That would be a departure from the rules.

Hon. G. FRASER: The court is given certain authority. It has power to appoint someone as an officer of the union, and surely it would have power to appoint a returning officer.

Hon. H. S. W. Parker: But that might be against the rules.

Hon. G. FRASER: It is not necessary for all the rules to be brushed aside.

The Minister for Agriculture: It does not say so, either.

Hon. G. FRASER: It is a dangerous provision because it is so wide. I cannot see why the rules of the union should be departed from. If it is good enough for the union to take a ballot under its rules, surely it is good enough for the court to take a ballot under the same conditions.

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

Ayes	9
Noes	14
Majority against	5

Ayes.

Hon. C. W. D. Barker	Hon. W. R. Hall
Hon. G. Bennetts	Hon. E. M. Heenan
Hon. R. J. Boylen	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. F. R. H. Lavery
Hon. G. Fraser	(Teller.)

Noes.

Hon. L. Craig	Hon. L. A. Logan
Hon. J. Cunningham	Hon. H. S. W. Parker
Hon. L. C. Diver	Hon. C. H. Simpson
Hon. Sir Frank Gibson	Hon. J. McI. Thomson
Hon. E. Hearn	Hon. H. K. Watson
Hon. C. H. Henning	Hon. F. R. Welsh
Hon. Sir Chas. Latham	Hon. J. Murray
	(Teller.)

Amendment thus negatived.

Proposed new Section 36N—Offences in connection with elections:

Hon. G. FRASER: I would like the Minister to explain the word "lawful" in the first line of the proposed new section. What is the definition of the word?

The Minister for Agriculture: Within the law.

The MINISTER FOR TRANSPORT: I imagine it means what it says. I cannot read into it anything other than what it states. It stipulates that a person who does not do this or that is liable to a certain penalty.

Hon. G. FRASER: I am wondering what the word means here. I suppose it is within some law, but what law? Is it the Industrial Arbitration Act, or some other law?

The Minister for Agriculture: It might be the rules of a union. I think it is easily interpreted.

Hon. G. FRASER: It puzzles me. I would also like the Minister to say what is the interpretation of the word "induce" in paragraph (a) of Subsection (2) of the same proposed new section. Is it linked with the words that go before it, or with those that follow?

The Minister for Transport: It connects the two. It relates to a form of intimidation.

Hon. G. FRASER: If it is merely to link up the subsequent portions I shall move to have it deleted. If an election were being held and I said to someone, "I want you to vote for such and such a candidate," I would be inducing him to vote.

Hon. H. S. W. Parker: But it is with a threat.

The Minister for Transport: If it is read together with the other words, it must suggest intimidation.

Hon. G. FRASER: Is it to be read together with them?

Hon. H. S. W. Parker: Of course.

Hon. G. FRASER: If it merely links up with what follows, it is dangerous. I want the Minister to explain it so that we will have the explanation in black and white.

The MINISTER FOR TRANSPORT: My reading of it is that this is part of another Act that has been in operation for a long time. It must have been included for a good reason and it has stood the test of practice. Obviously, it does not make sense if it is to punish somebody for an innocent action, but in its context it obviously refers to an act of intimidation, and then subparagraphs (i), (ii), (iii) and (iv) in Subsection (2) link up with it and make sense, and that is the way in which it should be read.

Hon. G. FRASER: It could easily be read another way, but I wanted a definite statement from the Minister that it was linked up with the first paragraph.

The Minister for Agriculture: It is.

Proposed new Section 36P—Court may order secret ballot:

Hon. G. FRASER: I am satisfied now that the Minister has given his explanation. Dealing next with proposed new Section 36P, in my opinion there is one place that requires clearing up. I move an amendment—

That at the end of proposed new Section 36P, a proviso be added as follows:—

Provided that the result of such secret ballot shall be conclusive and shall invalidate any right to impose penalties which might have been imposed before the secret ballot was taken.

The effect of the amendment, if agreed to, will be that, should the court take a secret ballot and the ballot result in favour of a strike, the penalty provisions will be invalidated.

Hon. E. M. DAVIES: I support the amendment. If the court is given power to take a secret ballot in order to ascertain the views of members of an organisation in regard to a particular proposal, it should not have power to take legal proceedings against the organisation, should the vote be in favour of a strike. That would be contrary to British justice.

The MINISTER FOR TRANSPORT: This provision is to give the court power to ascertain the views of union members. During the recent strike, many unionists asked when we would bring down legislation to enable a secret ballot to be taken. Members opposed to this provision say that if the result of a secret ballot is to be conclusive, it should invalidate the right to impose penalties. When a ballot is taken

on a question such as a return to work, it might elicit a verdict in favour of a return to work—

Hon. E. M. Davies: What if it did not?

The MINISTER FOR TRANSPORT: The ballot is taken at the discretion of the court. If that were not so, a union might, by a snap vote, induce its members to strike, and then demand a ballot which, if taken within a short time, would probably confirm the snap vote. It is unlikely that, on an issue of that kind, the court would demand such a ballot. It would probably try to get the parties together and exhaust all the ordinary processes of law in an attempt to settle the strike. If those ordinary means failed, after a lapse of some weeks during which the men would get to know all the pros and cons of the question, the court would probably hold a ballot to see whether they approved of the action of their leaders.

If that ballot resulted in a return to work, it would mean that the men were prepared to override the direction of their leaders. If, on the other hand, they were so convinced of the validity of their action that the ballot supported a continuation of the strike, the other parties to the issue would probably say, "There must be something in this. We must see if we cannot negotiate terms." This provision was part of the Federal Act for many years and, had there been anything inherently bad in it, Dr. Evatt would have had it removed.

The Minister for Agriculture: Dr. Evatt put it in the Act.

The MINISTER FOR TRANSPORT: He did. I anticipate that this particular power of the court will be exercised with considerable discretion and I see no reason whatever for invalidating the penalties which may have been imposed because of the wrongful action of the union. That is really what this proviso proposes to do. Therefore I suggest that the amendment be defeated.

Hon. H. S. W. PARKER: This proviso is somewhat dangerous. If a union conducts a ballot and the men decide to strike, the union becomes involved; and that is when it becomes liable. This proviso can be read two ways and one is that if the court has penalised a union and, at a subsequent ballot, the men decide to continue the strike, the penalty that has already been inflicted must be invalidated. That would be extremely dangerous.

Let us assume that the union has been fined £500. Obviously, when the court directed a ballot to be taken the men would naturally vote to continue the strike in order to save their £500. That is the effect the proviso would have, and I do not think that is what the hon. member wants. If there is a strike and nothing has happened, the court might say, "We

will take a vote to see if the men will return to work." The court directs that the ballot be taken and the men decide that they will not return to work. The union is not involved. The union did not conduct the ballot.

Hon. E. M. Davies: That is the union.

Hon. H. S. W. PARKER: No. No individual member could be penalised because nobody would know how he voted in a secret ballot. Therefore I think this is a dangerous proviso.

Hon. F. R. H. LAVERY: The reasons advanced by the Minister and the interpretation submitted by Mr. Parker were both reasonable so long as they were dealing with an ordinary type of strike. But there is another type—a political strike. This type of strike can be brought about because of an issue that has nothing to do with the unions. The court, in its wisdom, might order that a secret ballot be conducted to see whether the men intend to hold the strike.

Hon. H. S. W. PARKER: The court would not hold a ballot until after a strike had commenced.

Hon. F. R. H. LAVERY: I thought the proposed new section was to be used to deal with a communist-inspired strike, because an ordinary strike, as we know it, is not brought about in five minutes. Months of negotiating between employers and the unions usually take place before there is a decision to strike. As soon as the men strike the court deregisters the union. After the deregistration takes place, the court orders a ballot of the deregistered members, but it will not be a fair ballot because the court will have antagonised the men. That is why we require this proviso. If the men say they are not going back to work, what does the court intend to do? If they decide to go back to work, there is nothing in the Bill to say that the men will be forgiven. The fine will still stand and so will the deregistration of the union. Therefore let us accept the amendment and give the men some consideration.

The MINISTER FOR AGRICULTURE: Of course we can take the reverse side. Suppose that the men decided not to return to work, would it not mean, if the hon. member is right, that the penalties should be imposed? We do not want that. We want to give the court the option of determining afterwards whether it should enforce the penalties or not, the same as is done today. I think the hon. member will agree that in the present case there is hope that the court may take a lenient view and not insist upon the penalties that have already been imposed. This is a clear-cut ballot to decide whether the men are going to return to work or stay out on strike. If they stay out on strike, they will go on negotiating. If it

is decided that they shall return, the court shall order that effect be given to that decision. It would be better to leave the proviso out.

Hon. C. W. D. Barker: If they took a ballot on whether they would return to work and if the ballot was in favour of their not going back, would that make it a legal strike?

The MINISTER FOR AGRICULTURE: The President of the court would be extremely careful before he asked for a ballot. There may be a certain ruling up to that stage and if this proviso were passed it would place him in an awkward position.

Hon. C. W. D. Barker: Would it make it a legal strike?

The MINISTER FOR AGRICULTURE: There is no such thing as a legal strike.

Hon. E. M. DAVIES: Did I understand the Minister for Agriculture to say that if a ballot were taken and the members decided to discontinue the dispute, the President of the court would rule that no penalties would be imposed? Where do we find that in the Bill? We argue that if the Bill becomes an Act, it will be a direction to the President and members of the court to give effect to its provisions.

Hon. H. C. STRICKLAND: I agree with the Minister for Agriculture when he says that the President would not be in a hurry to order a ballot to be taken, but the peculiar feature of it is that any one section can hold a ballot. There is nothing in the clause to say that the strikers shall have a ballot.

The Minister for Transport: That could have applied to the recent strike because only a section of the A.E.U. was affected.

Hon. H. C. STRICKLAND: That is so. Therefore the court could take a ballot among those who were striking. There is no doubt that the proposed new section would give the court wide powers and it could order a ballot to be taken whenever it thought fit. It would be more or less a Gallup poll, and every time one was held the union would have to pay the costs. I support the amendment.

Hon. L. CRAIG: I am surprised at the attitude adopted by members who are opposed to the Bill. They claim vehemently that they stand for arbitration. The whole Bill is to protect members of the union against those who are out to disrupt their organisation, and the members opposed to the Bill are doing everything to stultify the court and the arbitration system.

Hon. E. M. Davies: The hon. member wants to penalise everybody because of a few.

Hon. L. CRAIG: We want to give members of the union the right to run their union, and that is all the Bill seeks.

Hon. R. J. Boylen: This is not arbitration; this is dynamite.

Hon. L. CRAIG: We have an Arbitration Court consisting of a President and representatives of both the employers and the employees. Nothing could be fairer. Powers are given to the court to protect union members, yet members in this Chamber are trying to disrupt it.

Hon. E. M. Davies: In every organisation members can demand a ballot if they desire it.

Hon. L. CRAIG: The hon. member knows quite well that members of a union often have no say and are intimidated, and their powers are taken away from them as a result of their apathy. Every member opposing the Bill wants to do the decent thing by the union and is anxious that union members shall have full control of their organisation.

Hon. E. M. Davies: We want equitable law.

Hon. L. CRAIG: The Bill is as equitable as possible. It is time that the members of trade organisations were given full control and the right to express their views by ballot.

Hon. E. M. Davies: They are given that right now.

Hon. L. CRAIG: Mr. Strickland is ridiculing the proposed new section by stating that the ballot may be held among only a section of a union. Is it not reasonable that a section involved in a strike should have the right to decide whether it will continue? The court attends to these matters. The opposition to the Bill seems to be organised.

Midnight.

Hon. H. C. STRICKLAND: I regret that Mr. Craig seemed to think there is organised opposition to the Bill and that we are merely speaking with a view to obstructing its passage. That is quite wrong. I pointed out what could happen. There is nothing at all in the provision under discussion to cover only one section of a union which may be striking; the whole union is to be affected. I have no objection to the Arbitration Court meeting the management of the unions, but I object to it being given such wide powers.

Hon. F. R. H. LAVERY: I mentioned a few moments ago that the union in which I am concerned has five sectional awards, each award to suit the type of work a particular section is doing. In 1936 the passenger section stopped work. Under the proposed Bill the court would have jurisdiction to take a ballot either of the passenger section alone or of any one of the five sections or of the whole union.

Hon. L. A. Logan: Is there anything wrong with that?

Hon. F. R. H. LAVERY: That is in the Bill. But it does not cover the point mentioned by Mr. Strickland. It does not confine a section to a section. The provision refers to a section or class. If the provision covered the section on strike and that section alone, then is it not reasonable that that section is the only one concerned and should have the right to say whether it is going to stay on strike or not; or has the whole union got that right? Are all five sections of the union going to be penalised by deregistration because one section has stopped work? The Bill does not even specify the section.

Hon. L. A. Logan: You are tying the hands of the court.

Hon. F. R. H. LAVERY: Not at all. This tends to intimidate the union to which I refer; it would be frightened to go on strike because one section could take away the funds of the whole union. I support the amendment.

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

Ayes	9
Noes	14

Majority against	5
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Ayes.

Hon. G. Bennetts	Hon. E. M. Heenan
Hon. R. J. Boylen	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. G. Fraser	Hon. C. W. D. Barker
Hon. W. R. Hall	(Teller.)

Noes.

Hon. J. Cunningham	Hon. J. Murray
Hon. L. C. Diver	Hon. H. S. W. Parker
Hon. Sir Frank Gibson	Hon. C. H. Simpson
Hon. E. Hearn	Hon. J. McL. Thomson
Hon. C. H. Henning	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. F. R. Welsh
Hon. L. A. Logan	Hon. L. Craig

(Teller.)

Amendment thus negatived.

Proposed new Section 36S—Persons having conduct of ballot:

Hon. E. M. DAVIES: I move an amendment—

That Subsection (2) of the proposed new Section 36S be struck out. This provision is redundant. The rules have to be approved by the Registrar and we have empowered the court to disallow any rule. Therefore it would be extraordinary to provide that, notwithstanding anything contained in the rules, the person conducting the ballot may take such action and give such directions as he considers necessary.

The MINISTER FOR TRANSPORT: This is similar to an amendment that we have already discussed. When a secret ballot is taken, the court should be untrammelled and should not necessarily be

bound by the union rules. It would be possible for a union to frame rules to defeat the intention of the court, and that is why it is necessary for the court to have a free hand in conducting a ballot.

Hon. G. FRASER: The Minister's statement is not quite correct. At no stage has a similar amendment been moved. Earlier authority was given to the court, but now we are asked to grant this power to a person.

The Minister for Transport: It might be the Registrar or the electoral officer.

Hon. G. FRASER: It might be anybody. The power of the court should not be delegated to any person.

The Minister for Transport: He would be the agent of the court; it would be delegated authority.

Hon. G. FRASER: But this would permit the person to make any alteration he liked. He could ride roughshod over the rules.

The Minister for Transport: If he were a properly authorised and trained officer such as the electoral officer, should not he have a free hand?

Hon. G. FRASER: No.

The Minister for Transport: Why not?

Hon. G. FRASER: Not to do as he liked in conducting a ballot. An authorised officer of the union would not be permitted to do as he liked.

The Minister for Transport: I do not think I would be suspicious.

Hon. G. FRASER: Unions lay down rules for the conduct of ballots and returning officers must comply with them. Why provide for some person to make Rafferty rules?

The Minister for Transport: He is not necessarily to be bound by the union rules. That is all.

Hon. G. FRASER: According to the subsection, he may take such action and give such directions as he considers necessary.

The Minister for Agriculture: What for? To prevent irregularities, and that alone.

Hon. G. FRASER: That is an entirely different matter. We should leave it to the court to make any alteration deemed necessary.

Hon. H. S. W. PARKER: There appears to be some confusion. The proposed new Section 36J. provides that when an election is held in pursuance of an order of the court, it shall not be invalidated by reason only of a departure from the rules of the union. Now we are giving permission to depart from the rules of the union. In a sense, we have dealt with the cart and are now dealing with the horse.

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

Ayes	9
Noes	14
Majority against		5

Ayes.

Hon. C. W. D. Barker	Hon. E. M. Heenan
Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. R. J. Boylen	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. G. Fraser
Hon. W. R. Hall	(Teller.)

Noes.

Hon. L. Craig	Hon. J. Murray
Hon. J. Cunningham	Hon. H. S. W. Parker
Hon. L. C. Diver	Hon. C. H. Simpson
Hon. Sir Frank Gibson	Hon. J. McI. Thomson
Hon. C. H. Henning	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. F. R. Welsh
Hon. L. A. Logan	Hon. H. Hearn
	(Teller.)

Amendment thus negatived.

Hon. C. W. D. BARKER: I move an amendment—

That in lines 2 to 8 of paragraph (a) of Subsection (5) of proposed new Section 36S. after the word "Division" the words "but not including the salary of an officer of the State performing a duty in relation to the ballot" be struck out.

The State should bear the expenses of any ballot conducted under this provision which relates to ballots taken by the court to ascertain the views of members of a union. It could seek any opinion, even though the union had done nothing contrary to the laws of the country or any of its rules. The unions have not money to pay whenever the court wants to order a ballot. If a ballot were ordered for some specific reason, such as defining a strike, there might be something in the provision, but a ballot can be ordered for any purpose. It is at the discretion of the Attorney General to say whether the State shall meet the expense, but I think it would always be the union that would have to pay.

Point of Order.

Hon. H. K. Watson: I rise to a point of order. It would appear that, if carried, this amendment would involve a charge upon the finances of the State, and I would like to know whether the amendment is constitutional.

The Chairman: The Legislative Council has no power to pass legislation which imposes a charge on the Crown. I must therefore rule the amendment out of order.

Debate Resumed.

Clause put and passed.

Clauses 12 to 15—agreed to.

Clause 16—Section 67 amended:

Hon. F. R. H. LAVERY: I move an amendment—

That a proviso be added to paragraph (c) of Subsection (4) as follows:—

"Provided all parties to the reference expressly consent thereto."

I have always understood the idea was that the procedure in the Arbitration Court should be simplified as much as possible, and union advocates have always been laymen who have grown up in the industries covered by the unions. The parent Act, by Section 67 (4) provides that legal practitioners may appear before the court with the consent of the parties. Certain unions are fairly wealthy, and others have clever advocates although they are only laymen. The proviso in the Act covers the position of a union which is unable to bear the financial strain of providing legal representation. Just recently a Q.C. appeared against a union in the court, and was able to defeat the union, which was represented only by a layman. Unless all parties concerned agree, legal practitioners should not be permitted to appear.

Hon. H. S. W. PARKER: I do not think the hon. member appreciates the position. A legal practitioner cannot appear in an ordinary case dealing with conditions of labour. In the past questions of law have arisen and the court has made decisions without hearing full legal argument, with the result that the legal profession has derived considerable financial benefit from the fact of appeals having been made to the Supreme Court.

There have been many appeals. Morrison's case was quoted in the opinion that has been laid on the Table of the House. This provision is only to allow a legal practitioner to argue a legal point. If a practitioner is there in the first instance, he will save a lot of expense to the parties concerned. It is a wise precaution in the interests of those who have to go to the court, whether a union of employers or of employees.

Hon. F. R. H. Lavery: That is agreed.

Hon. H. S. W. PARKER: Then I cannot understand the hon. member's desire to move the amendment. It is not a question of the parties wanting legal opinion, but the court. In the Full Court of the Supreme Court we often hear a judge say to counsel, "I would like you to address yourself to such and such a question."

The Minister for Agriculture: They have not a fixed mind as to what the interpretation really is.

Hon. H. S. W. PARKER: No, they want it fully argued out.

Hon. E. M. Davies: Why has it not been necessary before?

Hon. H. S. W. PARKER: It has been. I have pointed out that because lawyers have not appeared on legal points, there has been the expense of appealing to the

Supreme Court whereas, if lawyers had appeared in the first instance, the appeals would have been avoided.

The MINISTER FOR TRANSPORT: I entirely agree with what Mr. Parker has said. I understand the President of the court expressed a desire for this clause to be inserted, for the very reason that when technical points of law were likely to be argued, it would help the court in arriving at a solution; and it would probably establish points which might be of considerable assistance and even money saving to the parties joined in the particular issue.

In another place the Premier gave an instance of where the employees' representative on one occasion desired to engage legal opinion, but was denied the right to do so because the employers' representative objected under the provision of Section 67. The amendment might easily restore a position that it is desired to correct; and which might easily be in the interests of the unions as well as the employers.

There is still no free hand in engaging legal representation on ordinary matters of practice because it is conceded that either the employers' or the employees' representative, through years of practice in industrial matters, might be more skilled than would the counsel who might normally be engaged. On the other hand, it might be desirable, in the interests of all parties concerned, for counsel to be engaged when points of law were likely to arise. That is why it is desired to include this provision.

Hon. G. FRASER: The unions feel there is a danger in allowing representation by legal practitioners unless all parties concerned are agreeable, as otherwise legal practitioners might eventually take control of the court.

The Minister for Agriculture: This applies only where questions of law arise.

Hon. G. FRASER: "A question of law" might have a very wide definition. Industrial law would be considered—

Hon. H. S. W. Parker: And constitutional law.

Hon. G. FRASER: It is felt that as arbitration law could be brought under that heading, the provision is dangerous as many small organisations are not financially strong enough to afford legal representation in court.

The Minister for Agriculture: The unions generally would co-operate in determining a legal point in their interests.

Hon. G. FRASER: That is so, but the unions have in mind the opinion expressed on many occasions by the present President of the court about admitting legal practitioners to the court, and they want this safeguard.

The MINISTER FOR TRANSPORT: The Industrial Arbitration Act already provides, under Section 67, that all parties must agree.

Hon. G. Fraser: That is in connection with other phases.

The MINISTER FOR TRANSPORT: It could cover anything, but this is to deal with the case where for some reason one party or the other does not consent.

Hon. G. Fraser: We feel the position is wide open and desire this safeguard. From the financial point of view many unions could not afford legal representation and would thus be at a great disadvantage.

Hon. H. S. W. PARKER: It would not matter if the union was not represented by a legal practitioner while the employer was, because the representation would be in regard to legal points only and not in relation to the cross-examination of witnesses and so on. The fact that one side has legal representation does not necessarily mean that the other side requires it also, because very often the judge feels that he would like some qualified person to argue the point at issue and give his views on it.

The MINISTER FOR AGRICULTURE: The only legal member of the court is the President and if a question of law arises, and he is not certain of its interpretation, he has no power to ask for advice, so he is now given authority—I know he has asked for it—to say "We will have another legal man here." I do not think this provision would involve any cost against either the appellant or the respondent.

Amendment put and negatived.

Clause put and passed.

Clauses 17 to 23 agreed to.

Clause 24—Section 132 amended:

Hon. G. FRASER: I move an amendment—

That in line 7 of paragraph (a) of proposed new Subsection (1) the words "five hundred" be struck out and the words "two hundred and fifty" inserted in lieu.

We think that a fine of £250 is quite sufficient and will bring this particular fine into conformity with other fines throughout the measure. I understand that the original Bill had the words "five hundred" and that was reduced to "two hundred and fifty," after which the Bill had to be re-committed and the words "five hundred" were reinserted. This is a penalty to be inflicted upon a person who takes part in a lock-out or strike. Other portions of the Bill stipulate that there shall be a recurring penalty for every day a union is on strike and therefore a fine of £250 should be sufficient.

The MINISTER FOR TRANSPORT: Many of the penalties in the original Bill were reduced but this one has remained

the same. Mr. Fraser pointed out that it was recommitted to bring it back to the £500 from £250. Under Section 98 of the principal Act a breach of an award of the court is punishable by a fine of £500 and I should think that a person who took part in a lock-out or strike should incur a larger penalty, or at least the same penalty as that imposed against a person who breaches an award of the court. For that reason, and in view of the reduced value of money, I think the amendment should be defeated.

Hon. G. Fraser: I do not suppose it matters whether it is £250 or £500 because it will never be paid.

Amendment put and negatived.

Clause put and passed.

Clauses 25 to 30—agreed to.

Clause 31—Section 142A added:

Hon. G. FRASER: I oppose this clause. If this is agreed to it will mean that there will be a daily penalty imposed on the offender. As the Act now stands he is fined and unless he commits another offence that is all there is to it. This is merely another drag-net provision.

The Minister for Agriculture: It is not the only legislation that contains a daily penalty. There is one applicable to this House.

Hon. G. FRASER: We are discussing this measure now. We will deal with others when we come to them. Whenever a strike occurs, the argument about fines always holds up a return to work. If a union is fined for every day it is on strike, it will not be able to pay. There will be weeks of haggling over the question of fines, and I think a return to work in the last strike was held up because of the question of penalties. This will simply make the position worse. In most courts of law if a person commits an offence he is fined for it, but he cannot be fined any more until he has committed another offence.

1 a.m.

THE MINISTER FOR TRANSPORT: Originally the penalty was one-tenth but it was reduced to one-twentieth. The object of this Bill is to protect the rank and file of the unions against extremist leaders. In the last strike we had the spectacle of the two offending unions each being fined £500. Rather to their surprise the £500 was collected because a bailiff was put in. As the Act now stands, no further penalty could be imposed.

Hon. G. Fraser: They commit only one offence.

THE MINISTER FOR TRANSPORT: That is so, but if they are told to return to work and they refuse, they are committing a fresh offence. We want power given to the court to make the strikers do what it directs. The President may order them back to work and he should have the right to say, "If you will not

go back, you will be fined for every day you remain on strike". If the strikers defy the law, the penalties should remain.

Hon. F. R. H. LAVERY: A strike can be carried on for many days while the union is waiting to negotiate. It is not always the union that is not willing to come to terms. That was proved in the 1930 strike. We were held up for weeks until one man decided to conciliate. Would it have been fair for the men to have been fined for every day they were out on that strike?

Clause put and passed.

New clause:

Hon. C. W. D. BARKER: I move—

That a new Clause be added as follows:—

"32. The provisions of this amending Act shall continue in operation until the thirty-first day of October, one thousand nine hundred and fifty-three and no longer."

The CHAIRMAN: If the Bill became law with this new clause added, it would have an effect which might not be immediately apparent. I will quote from Section 16 of the Interpretation Act which reads as follows:—

(1) Where any Act repeals or has repealed a former Act or any provisions or words thereof, or where any Act or enactment expires or has expired, then, unless the contrary intention appears, such repeal or expiry shall not—

(a) revive anything not in force or existing at the time at which such repeal or expiry takes effect.

If the Bill becomes law with this expiry of time clause in it, it will mean that at the end of the period, Sections 25, 26, 137, 140 and 142 would disappear on the 1st November, 1953, because the Bill provides for their repeal. We must bear in mind that the five sections which have been repealed would be gone from the Act on that date, and there would be no re-enactment clauses to take their place. In other words, the parent Act would be minus those five sections. As Chairman of this Committee, it is only right that I should bring those points to the notice of the mover of the proposed new clause and also to other members of the Committee.

THE MINISTER FOR TRANSPORT: Naturally, I oppose the new clause and do so all the more vigorously because of the point you have raised, Mr. Chairman. Some of the sections repealed by the Bill call for certain returns from the unions and if the amending Bill expired by effluxion of time the unions would be exempt from the necessity to furnish those returns and relieve them of a great many

obligations which the parent Act now imposes on them. In any case, even if that were desired by members, it would make an entire farce of the Bill because it has been brought forward to remedy a state of affairs which experience has shown badly needs correcting. It would also rob the rank and file of protection against militant union leaders, which the Bill seeks to give them. I will vigorously oppose the new clause if the hon. member does not decide to withdraw it.

The CHAIRMAN: Does the hon. member wish to proceed with the new clause?

Hon. C. W. D. BARKER: No, I do not wish to proceed with it, Mr. Chairman.

The CHAIRMAN: Has the hon. member leave of the Committee to withdraw the proposed new clause? There being no dissentient voice, the amendment, is by leave withdrawn.

Proposed new clause, by leave withdrawn.

Title—agreed to.

Bill reported without amendment and the report adopted.

Third Reading.

Bill read a third time and passed.

ADJOURNMENT—SPECIAL.

THE MINISTER FOR TRANSPORT:
(Hon. C. H. Simpson—Midland): I move—

That the House at its rising adjourn till Tuesday, the 16th September.

Question put and passed.

House adjourned at 1.10 a.m. (Friday).

Legislative Assembly

Thursday, 4th September, 1952.

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The SPEAKER took the Chair at 2.30 p.m. and read prayers.

PRIVILEGE.

Mr. Rodoreda and Monte Bello Island Tests.

Mr. RODORED A: As you, Mr. Speaker, are the guardian of the rights and privileges of private members, I want to bring under your notice certain things that have happened in the last couple of days. I have a cutting here from "The West Australian" dated the 3rd September, 1952, and it is headed, "Sharp Attack on Atom Test Site." It goes on—