# Legislative Council.

*Tuesday, 7th December, 1937.*


| | PAGE |
|---|---|
| Bills: Factories and Shops Act Amendment, 3R. .... | 2299 |
| Income Tax Assessment, Assembly's Message .... | 2299 |
| Loan, £1,227,000, 2R. .... .... .... .... | 2304 |
| Fremantle Gas and Coke Company's Act Amendment, 2R., Com., etc. .... .... .... .... | 2304 |
| Perth Gas Company's Act Amendment, 2R., Com., etc. .... .... .... .... .... | 2308 |
| Industrial Arbitration Act Amendment, (No. 1) Com. .... .... .... .... .... .... | 2308 |


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

## BILL—FACTORIES AND SHOPS ACT AMENDMENT.

*Third Reading.*

**THE CHIEF SECRETARY** (Hon. W. H. Kitson—West) [4.34]: I move—

That the Bill be now read a third time.

**HON. A. THOMSON** (South-East) [4.35]: In supporting the third reading of the Bill I should like to express my regret that I was unable, owing to an accident, to assist Mr. Nicholson and my fellow members when the Bill was before the House. I take this opportunity to place on record my sincere appreciation, which I hope will receive the endorsement of other members, of the excellent services rendered to the House and the Committee of the House by Mr. Nicholson. No one could have given greater attention to the details of the Bill than did that hon. gentleman.

Question put and passed.

Bill read a third time, and transmitted to the Assembly.

## BILL—INCOME TAX ASSESSMENT.

*Assembly's Message.*

Message from the Assembly acquainting the Council that it had considered the amendments made by the Council, and had agreed to Nos. 1, 2, 4, 7, 8, and 10, and had disagreed to Nos. 3 and 6 for the reasons set forth in the Schedule annexed, and agreed to Nos. 5 and 9, subject to the further amendments shown in the annexed Schedule, in which further amendments the Assembly desired the concurrence of the Council, now considered.

*In Committee.*

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

No. 3. Clause 79:—Add to paragraph (b) of the clause a further proviso, as follows:—

Provided further, that where there is no Government school within the meaning of the Education Act, 1928, nearer than ten miles from the taxpayer's place of abode, and no means of free transport for children between the nearest Government school aforesaid and the taxpayer's abode is provided by the Government or the Education Department, and the taxpayer maintains his child or children elsewhere than in his place of abode in Western Australia for the purpose of providing for the education of such child or children, a deduction of one hundred pounds, in lieu of a deduction of sixty-two pounds as aforesaid, shall be allowed under this paragraph in respect of each child so maintained while such child is one to which this paragraph applies.

The CHAIRMAN: The reason given by the Assembly for disagreeing to the amendment made by the Council is as follows:—"The ordinary deduction of £62 is already greater than in most of the States and the Commonwealth, and is all the exemption which can reasonably be granted."

The CHIEF SECRETARY: I move—

That the amendment be not insisted on.

Hon. C. F. BAXTER: I regret that another place could not agree to the Council's amendment. If all things were equal, the allowance of £62 for each child would be all right. Our amendment, however, refers to persons who are situated 10 miles or more from any State school. They are in a vastly different position from the ordinary taxpayer, say, in the metropolitan area. Apparently the Government is not prepared to consider those who are living in isolated parts of the State, for it is not proposed to give them more than is given to dwellers in the city. Those parents are entitled to consideration. The amount in question may be only small, but it represents a great deal to parents who have three or four children to be educated. It is the aim of all parents to see that their children are educated so that they may be a credit to themselves and to the State. The amount in question represents a very small sum so far as the revenue

of the Government goes, but it is of great importance to the people concerned. I oppose the motion.

Hon. A. THOMSON: I support Mr. Baxter's remarks. I know of many cases where mothers have had to live in the towns so that their children may be educated, with the result that the father has to keep two homes. The amount involved is very small, but it is very important to these particular parents. The Government should give some consideration and encouragement to people who are prepared to live in the country under conditions of considerable hardship. I hope the amendment will be insisted on.

Hon. W. J. MANN: I cannot support the Chief Secretary. The consideration asked for in the Council's amendment is for those who live almost at the back of beyond. The concession would do something to balance the free transport that is given to children in other parts of the State. We frequently hear complaints that children cannot secure the education desired because their parents cannot afford to send them to schools away from home, and maintain them as well. The consideration sought will not represent a large amount, and the Government could well extend this small concession to the people outback.

Hon. V. HAMERSLEY: I also support the attitude adopted by Mr. Baxter. People in the outback districts who send their children to high schools have to shoulder the expense of boarding them out, as well as the travelling expenses involved. The Government should see fit to make an even greater allowance to those people than the Council suggested.

Hon. E. M. HEENAN: I support the Minister's point of view, principally because the amount involved will be almost negligible. In my opinion, the people concerned are in a position to pay for the education of their children. In view of the up-to-date system of correspondence classes available for children in country areas, I think the amount involved is not worthy of any further consideration by the Committee.

Hon. G. W. MILES: I hope the Committee will support the Chief Secretary, and not insist on the amendment. It will be most illogical if we do insist upon it. When dealing with another measure, members objected to workers in the back country receiving any additional concession in respect of the basic wage, and yet they ask for consideration under this Bill. The matter could be adjusted in some other way.

Hon. J. M. MACFARLANE: I hope the Committee will insist on the amendment. I have great sympathy with the people outback who endeavour to provide their children with a better education than is possible locally. We should make this small concession to those people.

Hon. G. FRASER: If I thought that the amendment, if insisted on, would mean that one more child would be sent to a school where he would receive further education, I would be inclined to support it.

Hon. A. Thomson: Then you should do so.

Hon. G. FRASER: The amount involved will not be more than 10s. a year, and decidedly that would not be an inducement to people outback to send their children to schools to be better educated.

Hon. G. W. Miles: It is good political propaganda.

Hon. G. FRASER: That is all. If we insist on the amendment, it will merely mean relief to people who are in a position to send their children to schools to be better educated.

Hon. H. SEDDON: Although I supported the amendment originally, I realise that it will not make much difference to the taxpayer. On the other hand, it will involve a considerable amount of work to the Taxation Department, as there will be discrimination as between the taxpayer in the country and the taxpayer in the city. Then again, some people in the city, who may desire to send their children to school elsewhere, may claim the deduction.

Hon. C. F. Baxter: But how could they, seeing that there would be a Government school within ten miles of their residence?

Hon. A. Thomson: Even so, why should you worry about that?

Hon. H. SEDDON: The Bill is for the purpose of raising taxation, and the amount that the taxpayer will be saved will be so negligible that it is hardly worth insisting upon the amendment.

Hon. E. H. ANGELO: I had hoped that the Legislative Assembly would have accepted the amendment, if only as a gesture of sympathy and a desire to help people in the country districts. Mr. Fraser said that country people who sent their children to schools in the city could afford to do so.

Hon. G. Fraser: They can afford to do so; otherwise they would not send their children to the towns.

Hon. E. H. ANGELO: I know of some people who have almost starved themselves in order to send their children to school. The Assembly gives as one reason for disagreement with the amendment that the allowance already made is greater than in some of the other States. The position is not analogous. How is it possible to compare such an allowance in Western Australia, which is such a large State with a scattered population, with that provided in Victoria, where there are schools within a few miles of each other? It would appear that the amendment will be lost, and in that event I trust that the Education Department will be able to do something in order to provide the children in the outer districts with a better education than is available at present.

Hon. G. W. MILES: If the Committee insists on the amendment, what will happen? The Government has met the Council with regard to the important amendments we have made to the Bill, and when this particular amendment is considered, it all boils down to a deduction of £38 for each child. What will that represent in reducing the taxpayer's assessment? It will not amount to more than a few shillings per head per year. It seems to me that this is a political business, put up for the people in the back country. What will they save by it? It will not make a difference in their income tax assessments of more than 5s. It is not worth insisting upon.

Hon. A. THOMSON: Mr. Miles has no right to impute motives to members who are sincere in their desire that some consideration be shown to people living in the outback districts. It is easy for Mr. Miles, with his affluence, to say that the saving of a few shillings is neither here nor there. It is not to him, but I know plenty of instances in which mothers have had to leave farms and live in country towns so that their children might secure a better education.

Hon. G. Fraser: This amendment will not keep them on the farms.

Hon. A. THOMSON: Mr. Miles was not justified in accusing members of indulging in political propaganda.

Hon. G. W. Miles: Well, I will withdraw that accusation.

Hon. A. THOMSON: I think you should, and you should not have made it! Small as the concession sought will be, it will at least be a gesture in recognition of the difficulties confronting people outback. The saving of a few shillings a year is of vital importance to them. In view of their attitude with regard to men on the basic wage, the Government should support the amendment.

Hon. C. F. BAXTER: Both Mr. Fraser and Mr. Miles claim that the amount involved is trumpery. It may not be, because there may be four or even six children sent to school.

Hon. G. W. Miles: And yet those people have no income tax to pay, because they have no income!

Hon. C. F. BAXTER: The amendment will affect the people in the hon. member's province more than it will those in any other part of the State. It will not mean much to the wealthy people of the North-West, but it will mean a lot to the people on the bread line up there.

Hon G. W. Miles: With the other deductions they have, those people do not pay any taxation at all.

Hon. C. F. BAXTER: What is the use of saying that this is political propaganda?

The Honorary Minister interjected.

Hon. C. F. BAXTER: If the Honorary Minister would be a little more silent we would make better progress in this House.

The CHAIRMAN: Order! I hope past Ministers will be more considerate of present Ministers.

Hon. C. F. BAXTER: When I was in the ministerial seat I did not interject in the whole period of five or six years, whereas the Honorary Minister is proving something of a parrot. Mr. Fraser has said that if it were a bigger amount involved he would support it. Actually of course he has never yet supported anything that is not in favour of the Government. Now is the time to deal with this amendment, because we have the Income Tax Bill to come before us.

Hon. G. FRASER: Mr. Baxter spoke of people on the bread line. I can assure him that people on the bread line would not get any advantage under this amendment.

Question put and a division called for.

The CHAIRMAN: Before the tellers tell, I give my vote with the ayes.

Division resulted as follows:—

| | |
|---|---|
| Ayes .. .. .. .. | 11 |
| Noes .. .. .. .. | 14 |
| Majority against .. .. | 3 |

Ayes.

| | |
|---|---|
| Hon. J. Cornell | Hon. W. H. Kitson |
| Hon. L. Craig | Hon. G. W. Miles |
| Hon. J. M. Drew | Hon. H. Seddon |
| Hon. G. Fraser | Hon. C. B. Williams |
| Hon. E. H. Gray | Hon. H. S. W. Parker (*Teller.*) |
| Hon. E. M. Heenan | |

Noes.

| | |
|---|---|
| Hon. C. F. Baxter | Hon. J. Nicholson |
| Hon. L. B. Bolton | Hon. H. V. Piesse |
| Hon. C. G. Elliott | Hon. A. Thomson |
| Hon. V. Hamersley | Hon. H. Tuckey |
| Hon. J. J. Holmes | Hon. C. H. Wittenoom |
| Hon. J. M. Macfarlane | Hon. G. B. Wood |
| Hon. W. J. Mann | Hon. E. H. Angelo (*Teller.*) |

Question thus negatived; the Council's amendment insisted on.

No. 6. Clause 102:—Add at the end of the clause a proviso as follows:—

Provided that this section shall not apply if the estate of the taxpayer is liable to death duties under the Death Duties Act, 1934.

The CHAIRMAN: The reason given by the Assembly for disagreeing to the Council's amendment is:—"If the amendment be made it will make the clause awkward to administer, and we would prefer the deletion of the whole clause."

The CHIEF SECRETARY: I move—

That the Council's amendment be not insisted on.

I do this for the reason submitted by the Assembly and also for the reasons submitted at length by me when the Bill was previously before the Committee. The persons to be affected by this amendment are those who have made arrangements with the Commissioner to be taxed on a cash basis. However, the Committee does not want me to go over the whole argument again. In addition to that, there is a tax which this amendment would make difficult of administering, and so the Government, rather than have this amendment, would prefer that the whole clause be struck out.

Hon. H. SEDDON: My reason for moving the addition of this proviso was that there might be hardship inflicted as the result of the taxation. The Government now takes the view that it would prefer to have the whole clause deleted. The amendment would provide relief in the case of a person who had lived up to his income and then died. Without this amendment the widow would be assessed for income tax and also for probate duty.

Hon. L. CRAIG: It is extraordinary that anybody should want to insist upon this amendment. It treats people who have made an arrangement with the Commissioner to pay on a cash basis quite differently from those people who keep their books of account in the ordinary way. It means special treatment for those who make this arrangement with the Commissioner. Under ordinary book-keeping a man pays tax on amounts owing to him, whereas those who have made this arrangement with the Commissioner, if they die, their estates do not pay income tax on uncollected debts. Why should people lucky enough to be put on a cash basis receive preferential treatment? If it is right for the one man, it should be equally right for the other. The amendment means exempting one section of the community, but making a charge on other people. It is inconsistent, and to me rather childish.

The CHIEF SECRETARY: To put the matter briefly, I may read a note I have here, as follows:—

The deceased elected to pay his income taxation on the basis of his cash receipts and it is thought that his election to do so should bind his executors also to pay on that basis. Otherwise such a person and his estate would escape taxation that has to be paid by a person who chooses to pay on a profit and loss basis.

Briefly that is the position. The Government does not agree with the amendment and would prefer to see the clause deleted.

Hon. V. HAMERSLEY: When previously I voted on this clause I assumed that it was something quite different from the view taken by Mr. Craig and the Chief Secretary. I gave an instance where money that ordinarily would come into a person's income for the year had he lived, did not come into his income because he died before the money was received. Then, before the end of the taxation year, another sum was received. I understand from the clause that the money received after his death would be included in his income, and on that assumption I voted against the clause. In one case the Taxation Department wants to bring that money into the deceased's income, but also wants to make the estate pay probate on that money, because it is called capital. It is either income or it is capital, and the moment a person dies, although the money goes into his income, it goes into his capital account.

Question put and passed; the Council's amendment not insisted on.

No. 5. Clause 81:—In paragraph (a) of Subclause (1), Add after the word "husband" in line 26, the following words:—"or a widow or widower with children or dependants."

Assembly's amendment on the Council's amendment: Delete the word "or" after the word "children" and insert in lieu thereof the words "who are."

The CHIEF SECRETARY: The Council's amendment added after the word "husband" the following words—"or a widow or widower with children or dependants." Another place has struck out the word "or" after children and inserted "who are," so that the sentence as amended reads, "or a widow or widower with children who are dependants." The effect will be to place a widow or widower in the same position as anybody else with regard to dependants other than children. A man may be a widower, and he may have two children. He may also be well off; yet under the strict interpretation he may be entitled to the exemption of £100. That is never intended. It is proper, of course, that this should apply to children who are dependent on widowed parents. I move—

That the Assembly's amendment on the Council's amendment, be agreed to.

Question put and passed; the Assembly's amendment on the Council's amendment agreed to.

No. 9. Clause 167:—Delete Subclauses (1) and (2) and substitute the following:—

(1.) For the purposes of this Part the Governor may appoint a Board of Review consisting of a chairman and two other members as hereinafter provided.

(2.) The State may arrange with the Commonwealth for the holding by the chairman and members of a Board of Review under the Commonwealth Act, known as the "Commonwealth Income Tax Assessment Act, 1936," of the offices of chairman and members respectively of the Board under this Act.

(3.) Any agreement relating to any such arrangement may make provision for any other matters necessary or expedient to be provided for carrying out the arrangement.

(4.) The Governor may appoint as chairman and members of the Board the chairman and members for the time being of any Board of Review under the said Commonwealth Act, and with the same tenure of office as they hold under the said Act; and may remove or suspend the chairman or other member if he is removed or suspended from his office under the said Commonwealth Act.

(5) The Board of Review shall hear and determine appeals from assessments made under this Act and shall have all the powers and functions of the Commissioner in making assessments, determinations, and decisions under this Act, and such assessments, determinations, and decisions of the Board, and its decisions upon appeals shall for all purposes (except for the purpose of objections thereto and appeals therefrom) be deemed to be assessments, determinations, or decisions of the Commissioner.

The CHAIRMAN: The Chairman of Committees in another place ruled Subclause 1 out of order. If the Committee of the Legislative Council now agrees to the proposed amendment made by the Assembly, the remainder of the amendment will be meaningless.

The CHIEF SECRETARY: I cannot help thinking there has been some slight mistake. If Subclause 1 is struck out for the reason given in another place, the same argument could, in my opinion, apply to the other clauses. So that we shall not have more delay than is necessary, it would be as well to send the amendment back to the Assembly. At the moment I cannot suggest what method might be adopted to put the matter in order from the point of view of this House. Therefore I suggest that we reject the amendment made by the Assembly, so that that House may review the clause as a whole.

Hon. H. SEDDON: I agree with the Minister; the matter is certainly one that could be referred back instead of insisting on our amendment.

Hon. H. S. W. PARKER: In the second paragraph there is an obvious error. It refers to the "State may arrange," whereas it should be "the Government may arrange."

The CHIEF SECRETARY: I move—

That the amendment made by the Assembly on the Council's amendment be not agreed to, and that the Council's original amendment be insisted on.

Question put and passed; the Assembly's amendment on the Council's amendment not

agreed to; the Council's amendment insisted on.

Resolutions reported, and the report adopted.

A committee consisting of the Hon. J. Cornell, Hon. H. Seddon and the Chief Secretary was appointed to draw up reasons for not agreeing to the Assembly's amendment No. 9.

Reasons adopted, and a message accordingly transmitted to the Assembly.

## BILL—LOAN, £1,227,000.

*Second Reading.*

Debate resumed from the 3rd December.

**HON. J. J. HOLMES** (North) [5.45]: Year in and year out for a number of years I have been pointing out what is happening to the finances of the State and, without going into details on this occasion, I desire to place on record the position as I view it. In June, 1928, the State's per capita indebtedness was £165. In June, 1937, it was £202, an increase of £37. In June, 1928, the public debt was £67,500,000, and in June, 1937, it was £91,700,000, an increase of £24,200,000. For the period of five years from 1932 to 1936 the increase of births over deaths amounted to 20,300. The increase in population during the same period was only 15,000, so that we must have lost 5,300 of our population. Those figures speak for themselves, and those who run may read. It requires only a few minutes' consideration to show exactly where we are heading. I have told the House often that we are coming to a dead-end, and I see no reason for altering my opinion.

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

## BILL—FREMANTLE GAS AND COKE COMPANY'S ACT AMENDMENT.

*Second Reading.*

Debate resumed from the 3rd December.

**HON. J. J. HOLMES** (North) [5.53]: Since I moved the adjournment of the debate on Friday last, I have had information supplied to me which I think it my duty to put before the House. To begin with, I point out that the Honorary Minister, in moving the second reading of the Bill, in my opinion unknowingly, unconsciously and unintentionally, misled the House. When a Minister puts a Bill before the House, he should explain the position carefully. In the course of his speech, the Honorary Minister referred to two Bills, the Fremantle Gas and Coke Company's Act Amendment Bill, which has to do with private enterprise, and the Perth Gas Company's Act Amendment Bill, which has to do with the Perth gas works controlled by the Perth City Council. He more or less dealt with the two Bills together. When dealing with the Perth Gas Company's Act Amendment Bill, he said, "This measure is complementary to the Bill with which we have just been dealing." That was the Fremantle Company's Bill. He went on to say, "My remarks on that measure have equal application to this Bill," the Perth Gas Company's Bill. A perusal of the two Bills discloses that the Fremantle Gas and Coke Company's Amendment Bill contains a clause which enables the Governor-in-Council to revoke a proclamation, a clause which does not appear in the Perth Gas Company's Act Amendment Bill. There is an important principle involved in that revocation clause. I am told by the Fremantle Gas and Coke Company that if that clause is left in the Bill, the Bill will be of no value. Imagine a private company, the directors of which are business men, embarking upon an expenditure of between £5,000 and £7,000—an expenditure that I understand will be incurred—under a Bill which empowers the Governor to revoke the proclamation that gave authority for the expenditure! A Bill of that description is no good to anyone. Why this clause was introduced into the Fremantle company's Bill and not into the Perth company's Bill I do not know. Presumably we will be told at a later date. The provision to which I object is to be found in paragraph (ii) of Clause 2, and reads as follows:—

> Any proclamation issued by the Governor under this section may be revoked by a subsequent proclamation.

I have been advised that the Fremantle Gas and Coke Company is prepared, given authority under the Bill, to go outside its recognised area for the convenience of people outside that area who require gas. The Bill will give the company permission to go into the other area, and the estimated expen-

diture on this work is between £5,000 and £7,000. The company is not likely to spend that amount of money, however, if the Governor has power to revoke the proclamation at any time. On a previous occasion, when the question of the power of the Governor-in-Council cropped up, we were told by a Minister that the Governor had to do what his advisers told him; otherwise the Government had power to ask for the appointment of some other Governor. Assuming, therefore, that the Governor saw the injustice of revoking a proclamation of this kind after so much money had been spent, it would seem that he would have no option but to agree with the decision of his Ministers, or take the consequences. I understand that the Fremantle Gas and Coke Co. within its own area is spending about £20,000 in the Cottesloe district. It is prepared to go outside that area, as provided in the Bill, so long as it is under the same conditions as the Perth City Council. A word or two as to what Mr. Fraser said in connection with the Bill. He said that the Fremantle Gas and Coke Company was more or less neglecting some of the areas within its present concession, and in spite of that desired to go outside its area. He instanced a place at South Fremantle, in which area a request for an extension of the gas service was denied. I know that area quite well, and I understand that it would cost from £1,500 to £2,000 to extend the gas to that locality. Twenty people living in what are more or less shacks, at a very low rental, might apply for gas, but in order to make it a payable proposition the company would have to ensure that more than 8s. worth of gas per month was consumed by each of the twenty people referred to.

Hon. G. Fraser: The Fremantle council says 55 out of 100.

Hon. J. J. Holmes: The company says that strict inquiry has been made in that suburb as to how many people would be likely to take gas and how many would be likely to pay for it and it was found that there would be 20 people whose consumption would be 8s. each per month. That would be £8 per month or £96 per year. I ask Mr. Fraser is it reasonable to expect the company to spend £1,500 on extensions in order to sell £96 worth of gas a year?

Hon. G. Fraser: I told you that the Fremantle council's figures are that 55 out of 100 would take it.

Hon. J. J. HOLMES: My information is reliable. I do not consider it reasonable to expect the company to spend £1,500 in order to sell £100 worth of gas per annum and I do not think this House would consider it reasonable, either. I shall vote for the second reading, but in Committee I propose to move for the deletion of the objectionable paragraph.

**THE HONORARY MINISTER** (Hon. E. H. Gray—West—in reply) [6.2]: The provision to which Mr. Holmes has taken exception is clear and reasonable, and there is a very good reason why a similar provision does not appear in the Perth Gas Company's Bill. The Perth gas undertaking is a municipal activity and such a provision was not necessary, but the Fremantle undertaking is being operated by a private company and the paragraph is necessary as an ordinary business precaution. This matter has nothing to do with the Government; it is one affecting the local authority and the company. Such a safeguard is necessary when a franchise is granted to a private company. Fremantle is in my province, which is also represented by the Chief Secretary and Mr. Fraser, but we have received no notification from the company objecting to the paragraph. I have been to the office at least three times in the last fortnight and nobody has brought the matter under my notice. The only time when I was approached on behalf of the company was when the Bill was introduced and I was asked to do all in my power to get the measure passed.

Hon. J. J. Holmes: Has no objection been lodged with the Government or any Minister?

The HONORARY MINISTER: The file is here and the hon. member may see it during the tea hour, but I think he will find it contains no letter from the company taking exception to the paragraph. I was under the impression that the Bill was quite in order and met the wishes of the company. The paragraph has been inserted merely as a precaution.

Hon. J. J. Holmes: To police private enterprise.

Hon. J. M. Macfarlane: It would be too effective otherwise.

The HONORARY MINISTER: One cannot imagine a local authority doing anything unfair to the company.

Hon. J. J. Holmes: Not the local authority, but the Government.

The HONORARY MINISTER: If the hon. member reads the Bill——

Hon. J. J. Holmes: I know what is in the Bill. It says the Governor-in-Council may revoke.

The HONORARY MINISTER: But that would be done only on representations being made by the local authority. The Fremantle Gas Company is a well-known concern. Regarding the extensions mentioned, I think my figures are more likely to be correct than are those quoted by Mr. Holmes, but in fairness to the company I must say that any extension to that area would be expensive on account of the nature of the country. If the company operated in that area, it would be an inducement for people to settle there because it is an ideal suburb for working-class homes.

Hon. J. J. Holmes: That has nothing to do with the Bill.

The HONORARY MINISTER: No, but the hon. member mentioned the point. The object of the Bill is to enable adequate facilities to be provided just beyond the company's present boundaries.

Question put and passed.

Bill read a second time.

*In Committee.*

Hon. J. Cornell in the Chair; the Honorary Minister in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 3:

Hon. J. J. HOLMES: I move an amendment—

That paragraph (ii) of the proviso be struck out.

Hon. H. S. W. PARKER: To retain the paragraph would be most dangerous and most unfair to the company. People in the street where I live succeeded in getting the company to lay down gas mains. The houses are supplied with electricity, but owing to frequent cutting off of the current, residents were compelled to dispense with current for bath heating and cooking purposes. Since gas has been installed I have heard of no complaints. If the supply of current continues to be uncertain as it has been in the past, the Government will lose many consumers, and I can see pressure being brought to bear by the Electricity Department to this effect, "Cut out the gas; it is ruining us." Some local authority might, under pressure, move the Government to cancel the proclamation. If that were desired, the matter should be submitted to Parliament in the shape of an amending Bill. The company should not be induced to extend the mains, as they have been extended to Cottesloe and doubtless at considerable expense, only to be told "You are doing all this on sufferance; we can cancel the arrangement at any time we choose."

Hon. J. J. Holmes: Amend the Act when the necessity arises.

Hon. H. S. W. PARKER: That is the proper course to adopt.

Hon. G. FRASER: The deletion of the paragraph would not make much difference. The whole of the negotiations would take place between the local authority and the company, and the Government would not be concerned. Permission to the company to extend the mains is made at the wish of the municipality.

Hon. H. S. W. Parker: It might not be at the wish of the municipality if the Government cut the company off.

Hon. G. FRASER: The whole matter would rest with the local authority.

Hon. J. J. Holmes: No, with the Governor-in-Council.

Hon. G. FRASER: The Perth Gas Company's Bill stipulates that the Governor shall not make any proclamation to extend mains to another municipality without that body's permission.

Hon. J. J. Holmes: That is another matter.

Hon. G. FRASER: But it has a bearing on this proviso.

Hon. H. S. W. Parker: No. The municipality could get it in and the Government could put it out.

Hon. G. FRASER: Regarding the electricity supply, only twice in two years has there been a breakdown in my district.

Hon. H. S. W. Parker: You are on a different circuit.

Hon. G. FRASER: I am surprised that the company should have gone beyond representatives of West Province by asking a member representing the far north of the State to move an amendment. Such procedure is unusual and I hope it will not be repeated.

Hon. L. B. BOLTON: I support the amendment. The company has for years desired power to make extensions, but to

grant it under the condition mentioned would be most unfair.

*Sitting suspended from 6.15 to 7.30 p.m.*

The HONORARY MINISTER: I now find that representations were made by deputation to the Minister, objecting to this clause, but there is nothing on the file to disclose that. These operations come under the local authorities. They are in charge of the position, and they have to be approached by the company. They, therefore, have control over the company. If a proclamation is issued to provide for extensions it will be done on the recommendation of the local authority. Should the company fail to carry out its contract the ratepayers will approach the local authority concerned, and the local authority will ask the Government to have the proclamation revoked. The object of making this provision is to have means whereby the company may be disciplined if necessary. It may be that the company will so extend its operations as to jeopardise the pressure of gas within the area, and thus give rise to much complaint on the part of the consumers. The clause has been inserted at the instance of the Crown Law Department.

Hon. J. J. HOLMES: It is not a question of negotiations between the company and the people concerned. All that has been agreed upon. The clause is nothing else but an attempt to police private enterprise. In this particular instance the company will not operate if the clause remains in the Bill.

Hon. H. S. W. PARKER: If the Honorary Minister wants to go any further in the matter of disciplining the company he should add to the clause words to the effect that any proclamation issued by the Governor may be revoked by a subsequent proclamation, provided the local governing body by resolution requests such revocation. I understand the company pays rates in the area it serves. It is not likely it will ever refuse to supply gas to the people from whom it is drawing revenue. If the company fails at any time to do what is requisite, there is nothing to prevent Parliament from allowing someone else to do the business. We can be sure that the consumers will bring all the necessary pressure to bear upon the company.

Hon. J. M. MACFARLANE: I do not like this policing clause.

Hon. G. Fraser: The company has a monopoly.

Hon. J. M. MACFARLANE: It is already sufficiently policed by the shareholders. Nowadays, owing to the uncertainty that prevails concerning legislation connected with the operations of companies and the like, private enterprise is very shy about clauses of this kind. Despite what the Honorary Minister said, I do not think this provision should be retained in the Bill. If the clause remains in this measure, the company may refuse to extend its operations to the areas in question. In the interest of the consumers we should strike it out.

The HONORARY MINISTER: All that has been fixed is the extension into the Swanbourne area. The company, however, may require to go into Spearwood, outside the 5-mile radius. That additional area would be proclaimed. The power contained in this clause would not be exercised injudiciously.

Hon. H. S. W. Parker: How do you know that?

The HONORARY MINISTER: I cannot imagine any Government doing so.

Hon. J. J. Holmes: There may be another Government to-morrow, for all we know.

The HONORARY MINISTER: That would not only jeopardise the property of the company, but the property, gas stoves, etc., belonging to the consumers. The idea is to keep the company up to its contract.

Hon. H. S. W. Parker: Why was this clause not embodied in the Bill dealing with the Perth City Council?

The HONORARY MINISTER: It is not required in the case of a semi-governmental activity.

Hon. G. FRASER: Municipalities have to give the company the right to go into their areas. If the Government by proclamation ordered the company to stop supplying a given area there would be such an explosion as to shatter any Government.

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

| | |
|---|---|
| Ayes .. .. .. | 13 |
| Noes .. .. .. | 7 |
| Majority for .. | 6 |

| Ayes. | |
|---|---|
| Hon. E. H. Angelo | Hon. H. S. W. Parker |
| Hon. C. F. Baxter | Hon. H. V. Piesse |
| Hon. L. B. Bolton | Hon. H. Seddon |
| Hon. J. J. Holmes | Hon. H. Tuckey |
| Hon. J. M. Macfarlane | Hon. C. H. Wittenoom |
| Hon. W. J. Mann | Hon. V. Hamersley (*Teller.*) |
| Hon. G. W. Miles | |

| Noes. | |
|---|---|
| Hon. J. M. Drew | Hon. J. Nicholson |
| Hon. E. H. Gray | Hon. C. B. Williams |
| Hon. W. H. Kitson | Hon. G. Fraser (*Teller.*) |
| Hon. T. Moore | |

Amendment thus passed.

Clause, as amended, agreed to.

Clause 3—agreed to.

Title—agreed to.

Bill reported with an amendment and the report adopted.

*Third Reading.*

Bill read a third time and returned to the Assembly with an amendment.

## BILL—PERTH GAS COMPANY'S ACT AMENDMENT.

*Second Reading.*

Debate resumed from the 3rd December.

**HON. J. NICHOLSON** (Metropolitan) [7.48]: The Bill differs from the Fremantle Gas Company's Bill with which we have just dealt, in that the position, to which exception was taken, does not appear in the Bill now before the House. When the division that took place on the previous Bill was called for, I did not follow other members who voted against the subclause that had been opposed, for the reason that I thought the division would be called off or withdrawn. However, my presence on this side of the House did not affect the fate of the amendment.

Hon. G. Fraser: Do not apologise.

Hon. J. NICHOLSON: It is quite true, as was pointed out during the discussion on the Fremantle company's Bill, that the provision, which was objected to on very sound grounds, was not embodied in the Bill before us. If it were, I certainly would object to it because no authority, public, semi-public or private, would venture to extend advantages held under the legislation to a district outside the radius provided for in the principal Act, unless assured of some permanence. There is no objection to be advanced in this instance, and I support the second reading.

**HON. J. J. HOLMES** (North) [7.50]: I was rather disappointed in the speech delivered by Mr. Nicholson. I thought that if he wanted the provision that has been debated in connection with the Fremantle company's Bill and could not get it, he would naturally move to have a similar provision included in this Bill.

Hon. W. J. Mann: He may move an amendment in Committee.

Hon. J. J. HOLMES: We will see what Mr. Nicholson does during the Committee stage. I support the second reading of the Bill.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

Bill passed through Committee without debate, reported without amendment and the report adopted.

Read a third time *and passed.*

## BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT (No. 1).

*In Committee.*

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

Clause 1—*agreed to.*

Clause 2—Amendment of Section 4 of the principal Act:

Hon. H. S. W. PARKER: I move an amendment—

That paragraphs (a) and (b) be struck out.

The select committee went into this matter thoroughly and recommended that the clause be deleted on the ground that it would be entirely against the principle of the Act and would work to the great hardship of individuals mentioned, who could be made responsible for breaches of the award in connection with the keeping of time books and so forth for a company, and that was thought to be quite wrong. If the definition becomes law in the suggested form, various servants of a company, individual, corporation, or partnership, would become responsible and, indirectly, would become liable to imprisonment under various headings. The definition of "worker" was considered by the committee, the members of which came to the conclusion that if it were agreed to, it would entirely eliminate the relationship of master and servant, and

the Act itself deals entirely with that phase, so that the definition would be against the principles of the Act. Then, again, the definition of "worker" in the Act refers to a person employed for hire or reward, but under the Bill the worker will be a person "engaged" in connection with any business, trade, manufacture, handicraft or calling. A doctor when he attends a man in the course of a man's business is engaged in that calling for the time being. This definition will have so far-reaching an effect that the committee came to the conclusion that neither the definition of "employer" nor that of "worker" could be altered to improve upon the definitions that appear in the principal Act.

The CHIEF SECRETARY: This is a very important clause and many of the other provisions of the Bill really depend upon it. The clause endeavours to make important alterations in the Act and covers a number of items. In addition to altering the definitions of "employer" and "worker," it attempts generally to describe those who shall be included in those categories. With regard to the proposed amendment to the definition of "employer," on many occasions doubt has been raised regarding the position of persons who are acting in managerial capacities and are frequently conducting the businesses of the real employers. Numerous instances have been noted where it could be accepted as a fact that the person acting in a managerial capacity was really the employer, and the registered employer was a nonentity, having nothing to do with the business operations. We have been very anxious to have the definition of "worker" altered to the form appearing in the Bill because there has been an increasing tendency on the part of some employers to defeat the provisions of various awards and agreements by claiming that the worker is not employed for hire or reward. Cases in that connection are legion. And in altering the definition of "worker" it will be noticed that in another part of this clause we have endeavoured to deal with that question ventilated so many times in this Chamber, namely the question of partnerships formed for the purpose of defeating the Arbitration Act. That is where a number of men who ordinarily would be employees band together in a so-called partnership so that it cannot be claimed that they are working for hire or reward, or that they are workers within the meaning of the Arbitration Act. I should imagine that the evidence given to the select committee on that point would have impressed the select committee with the necessity for something being done to prevent this practice being carried on. Again, in regard to the domestics whom we desired to include in the term "workers," I advised the House on the second reading that the matter had been dealt with by the Arbitration Court on more than one occasion. It may be necessary again to remind the Committee that in 1933 the President of that court said—

> The court sees no reason against, and very many indeed in favour of, raising the status of those workers.

The President was then speaking of domestics. Such efforts made in times gone by and various decisions of the Arbitration Court support me and the Government in endeavouring to have domestics included in the definition of workers under the Arbitration Act. This is not the only State or country where efforts are being made to improve the status of this class of workers by various means. I see no reason why domestics should not have the protection of the Arbitration Court. If this clause be deleted, as recommended by the select committee, it will be tantamount to this Committee saying that there is no necessity to improve their conditions, and no necessity for them to have access to the Arbitration Court. Of course, I know the same old argument will be used, namely, that by giving domestics the right to go to the Arbitration Court we would be assisting to violate the sanctity of the home. I could quite understand the select committee having objection to some portions of this clause, but I cannot appreciate there being objection to the whole of the clause. Surely there is in this clause something of value, even if it be only so much of it as relates to the illicit partnerships. Often has the argument been used in this House that we should leave all such matters to the Arbitration Court. But here we are endeavouring to give the Arbitration Court extended powers to improve the conditions of a section of the community which cannot look after its own interests; yet we find the select committee saying, in effect, "We do not agree with certain points in this clause, so we recommend its deletion."

Hon. H. S. W. PARKER: Apparently the Minister is committing the fault for which he sometimes blames us, namely, that he has not gone fully into the matter. Of all our witnesses, not one asked that domestics be included in the Act. As the Chief Secretary has pointed out, the Arbitration Court in 1933 suggested that the status of domestics should be raised; but it rests entirely with that court as to what it does in regard to all those domestics that are engaged in industry. Outside of that, of course, the court has no authority to express any opinion. There are many domestics engaged in hospitals and so on, who really come under the Arbitration Court, and so the court has a perfect right to deal with them. As to the so-called partnerships, all the words in line 16 dealing with partners are mere verbiage. The first portion of the definition of "worker," if it be passed, will automatically render useless all the words after line 15. The definition of "partner" reads as follows:—

> The term also includes a partner in a partnership in any case where it is shown that the capital holding of such partner is either nothing or of small account, and that the circumstances under which such partner works are such as to lead to the inference that he is substantially an employee of one or more other partners in the partnership.

What the clause says is that if you prove he is not a partner, he is not a partner, and so it proposes to make of him an employee, against all the principles of law. Every item in the select committee's report is based on the evidence given to that committee. That evidence was entirely against the definition set out in this clause. I do not think there was one witness who suggested that any portion of this clause should be put into the Act, but there was evidence to show that it would work hardship.

The CHIEF SECRETARY: What the hon. member has said is true; indeed, if it were not true, there would be no necessity for the Bill. It was for that reason that we desired to get away from the present state of affairs by limiting the term "worker" to certain employees who are engaged in industry, which brings up that vexed question, what is meant by "industry"? It was from that point we worked when we desired to include domestics as workers. I have spent many hours in this Chamber advocating that some alteration be made in the Act to give this fairly large body of men an opportunity to have their conditions governed by an award of the court. I have been particularly interested to read the evidence submitted to the select committee from both sides, and apparently the committee accepted the evidence submitted to it by a leading K.C. who spoke on behalf of the insurance companies, and who placed the position before the committee. It is to get away from that so-called legal position that the amendment has been included in the Bill. I know that canvassers sign agreements and cannot get employment unless they do sign the agreements. It is because they voluntarily sign the document that takes them away from the scope of the Arbitration Act but it is not possible for them to appeal to the court, in addition to the fact that the definition in the Act simply prohibits them from appealing to the court if they do any other business besides insurance canvassing. The agreement they sign makes it incumbent upon them to obtain other business while doing business for their employers.

Hon. G. W. Miles: They take on other work and it is impossible for them to come under the Arbitration Act.

The CHIEF SECRETARY: No, it is not impossible. Many of those men work not only full time, but a good deal of overtime to increase their earning capacity as industrial agents.

Hon. G. W. Miles: On commission.

The CHIEF SECRETARY: It would be worth while reading the evidence given both for and against, and I feel sure that members would then agree with the contention I have submitted so frequently that those men are entitled to the protection of the Arbitration Court. In recent years the practice has grown up whereby certain individuals are engaged by employers to do certain work and various things are done solely with a view to defeating an arbitration award affecting the particular industry. It has been difficult to prove that the relationship between the two is that of master and servant. All kinds of arguments are used and while the definition remains as it is in the present Act so will the difficulty continue to exist. With regard to nominal partnerships there are numerous cases where bread carters for instance, become nominal partners with the employers. For what reason? Simply that the employer might defeat the conditions laid down under an

award. It is significant that in ninety-nine per cent. of those cases the nominal partner sooner or later commences to do those things that the award says shall not be done. Frequently too we find the nominal partner does not even receive the minimum wage prescribed by an award. He works all hours inside and outside those prescribed by an award.

Hon. G. W. Miles: Why was not the evidence produced before the select committee?

The CHIEF SECRETARY: I had no hand in seeing that evidence was submitted to the committee.

Hon. G. W. Miles: It was kept away.

The CHIEF SECRETARY: That is not fair. I understand an advertisement was inserted, but I do not know what other steps were taken to secure evidence.

Hon. G. W. Miles: We wrote to the secretary of the Trades Hall.

The CHIEF SECRETARY: There was some evidence and it was valuable evidence too. I find that where evidence was given on both sides, always without exception the evidence of the employer's representative was accepted in toto. It is a remarkable thing that the weight of evidence is always on one side. The select committee recommended the deletion of this clause notwithstanding that in my opinion there are some points in it that must be of value and will assist to prevent the continuance of some of the abuses that are taking place at the present time.

Hon. H. S. W. PARKER: On the subject of canvassers, the select committee took evidence from Mr. Ulrich who supported the inclusion of canvassers. He was the only person to give evidence on their behalf. In the course of his evidence he stated that his was a Federal body and when asked whether the canvassers could not get before the Federal Arbitration Court he replied that they had never considered the matter as it was purely a State affair. In reply to another question that the legal relationship of master and servant could not very well exist as regards a canvasser for ordinary insurance business, because he was a free lance, the reply Mr. Ulrich gave was, "He is no different from a commercial traveller; he goes out and during the whole 24 hours is looking for business." Asked again who it was that was asking for this alteration of the law the reply was, "the agents." Continuing he said, "To be quite candid, we have not been trying to hold them together; we could not take any contributions from them while we could do nothing for them." Next he was asked whether he was satisfied that if insurance canvassers came under the Arbitration Court, their pay must be on a commission basis. The reply Mr. Ulrich gave was "The men would be quite satisfied to be paid on a commission basis." Asked again whether it would be possible to pay canvassers a fixed salary or whether the remuneration would have to be fixed on a commission basis Mr. Ulrich replied "We are prepared to leave that to the court. The great desire is that the men be given conditions under which they can reasonably earn a satisfactory salary." No canvasser came along to give evidence.

Hon. G. Fraser: They lost hope through previous actions of this Council.

Hon. H. S. W. PARKER: If they have lost hope, why worry about them? Let us wait until they get hope. They will become hopeful as the result of an invitation to lay their views before this Chamber. However, this is not the Act, nor is the Factories and Shops Act the legislation, in which to fix up the question of nominal partners. Let the partnership law be altered so that the ordinary genuine partnership alone can be made a partnership within the meaning of this Act. With all due respect to the Parliamentary Draftsman, I do not think this clause will have the effect he believes it will have.

Hon. H. V. PIESSE: In reply to the Chief Secretary, I asked Mr. Ulrich how many men were employed in industrial insurance canvassing, and his reply was, "From 150 to 200." The number of the question in the select committee evidence is 426. I then asked what were the average earnings and he said, "From £2 to £3 per week." I retorted that I knew of 135 men working in the industry and earning an average of £5 15s. per week. I had returns furnished to me by four or five companies. In fact, these returns were tendered in evidence by Mr. Jackson. At this time I asked my own foreman, who was driving me to the station one day, whether he had not been in the industrial insurance business. He replied, "Yes, for a year; and I was making £6 a week at it. When the Queensland boom was on, I and another man, who was earning £7 a week, went to Queensland. We lasted exactly four weeks there, because new regu-

lations were introduced under which canvassers would not be kept on unless they earned sufficient money to prove their value. At least 50 per cent. of the men employed as industrial insurance canvassers in Queensland lost their employment when they came under the Arbitration Act." In many cases here men have been earning £7 15s. per week as industrial insurance canvassers, in addition to being permitted to earn commissions in connection with fire insurance and other business. Moreover, they are their own masters. The evidence brought forward by Mr. Jackson was conclusive that we should not entertain the suggestion to bring these men under the Arbitration Act.

Hon. G. B. WOOD: The clause is comprehensive—in fact, too comprehensive to pass in one piece. I discussed the question of domestic servants with the proprietress of a large employment agency in Perth since the Bill was introduced, and she told me definitely that if domestic servants were brought under the Arbitration Act it would to some degree overcome the shortage. She said that girls would not go into domestic service because a sort of stigma attached to it. She said also that there was no difficulty in getting girls for hospitals because of the definite hours. Why should not trade union secretaries have come before the select committee and given evidence? They fell down on their job. I do not think the Arbitration Court would fix impracticable hours for domestic servants. If their hours were fixed even at 52 per week, that would be better than what obtains to-day. I have heard of appalling cases where domestic servants have had to get up at 6 o'clock in the morning and work until 10 or 11 at night. This Chamber should not be turned into an Arbitration Court to fix hours of employment. In my opinion, most workers on full time should be brought within the scope of the Industrial Arbitration Act.

Hon. G. FRASER: This question has been debated here in nearly every session since I have been a member. The industrial insurance agents have lost hope simply because this Chamber has refused for years to permit them to approach the Arbitration Court. On a previous occasion the agents were most active in endeavouring to induce hon. members to vote for the proposal to include them. The union of industrial insurance agents was a live body for a considerable period, until the men lost hope. I hope domestic servants will be given an opportunity to approach the Arbitration Court.

Hon. H. V. PIESSE: I remember the chairman of the select committee asking Mr. Ulrich whether he could induce any of the agents to give evidence. The reply was, that they feared victimisation by the companies for which they were working. The select committee then agreed that the names of any canvassers who gave evidence should not be divulged. To this Mr. Jackson agreed on behalf of the companies. But no agent would come forward to give evidence.

Hon. G. Fraser: The agents have no one to protect them if anything goes wrong.

The CHIEF SECRETARY: I do not suppose there is one calling in the metropolitan area that has more changes in personnel than industrial life assurance has. Numerous men try to make a living in that calling when they are well and truly up against it and can get nothing else. They cannot get this until they sign the so-called agreement. The older men in the calling know what has been done in the past. I may mention that I was responsible in the first place for the organising of the agents. Some hon. members have expressed doubt as to the sincerity of myself and others advocating that these men be given an opportunity to be classed as workers within the meaning of the Industrial Arbitration Act, but years ago some of the agents came here and opened the eyes of Mr. Lovekin and other members of the Chamber. On that Bill the same statements were made with regard to earnings as Mr. Piesse has made this evening. I can produce scores of agents who are not earning the basic wage.

Hon. H. V. Piesse: The proof is from Mr. Ulrich himself.

The CHIEF SECRETARY: What Mr. Piesse has told us is no proof at all.

Hon. H. V. Piesse: I have the figures for 135 men.

The CHIEF SECRETARY: I should like to query the figures which Mr. Piesse says he has. I think we will find we are in the position we were in a few years ago. Those figures have to be qualified as the result of the conditions of employment of these men. While many of the men included in the list of the hon. member probably do earn the amount he states, there are employees of other companies who do not earn half as much. Years ago, when the matter was dealt with thoroughly by this Chamber, members

were well satisfied that the men had every justification for requesting that they should be allowed to approach the Arbitration Court so that their conditions of employment might be governed by an award. When the Act was amended it was understood that the amendment would give the men the right to approach the Arbitration Court, but when the clause was recommitted, words were inserted as the result of which because men signed this so-called agreement, they were debarred from taking advantage of the amendment to the Act. When the Act was amended members in this Chamber were under the impression that they had got what they wanted, but I pointed out that it was impossible for the men to have access to the court because of the insertion of those words. That was why a lot of them withdrew from the organisation. What was the use of their remaining with a body which could not do any good for them? I know a lot of these men personally. A number have grown old in the service of the companies, and some have left. It has been my pleasure to talk to them and, almost without exception, when discussing the conditions applying to industrial insurance business, they have said, "We almost got there, but not quite. If we had the right of access to the court, the probability is that certain agents would still be in the service of the companies." But the methods adopted by some companies are such that few men can stand up to them for any length of time. When a man does well in a certain area, portion of the district is taken from him and given to another man. This process continues until eventually there is a number of men working in an area which was once the province of one man.

Hon. H. S. W. Parker: That is against the evidence given by Mr. Jackson.

The CHIEF SECRETARY: He never gave evidence on that matter. I read the evidence of Mr. Jackson and cannot remember seeing that he went into any detail in that connection.

Hon. E. H. Angelo: How do the companies benefit from the practice?

The CHIEF SECRETARY: They bring in a new man. He gets busy trying to make a living. He culls the district allotted to him and must have a certain amount of success. He increases the business. When he reaches a certain stage, say he is bringing in £25 a week in premiums, the company tells him that the area is more than he can successfully handle.

Hon. G. W. Miles: Is it not a good scheme finding work for other men at a decent wage?

The CHIEF SECRETARY: If it were a decent wage, I would agree.

Hon. G. W. Miles: If you take the evidence and study it you will find it is in the interests of the workers as well as the company.

Hon. E. H. Angelo: I cannot believe that an insurance company would interfere with a good man like that.

The CHIEF SECRETARY: What hon. members are saying is all bunkum.

Hon. G. W. Miles: The stuff you are giving us is all bunkum. Do not these men get a book containing certain areas showing the clients they are to canvass? Have not the companies done something for them?

The CHIEF SECRETARY: No.

Hon. G. W. Miles: That shows all you know about it.

The CHIEF SECRETARY: The companies have never done anything at all for them. What happens is what I have just related. The metropolitan area is divided into so many districts. If a company has 50 agents in the metropolitan area and puts in another agent, the company must reduce the area already being covered by existing agents.

Hon. J. M. Macfarlane: And the earning capacity.

The CHIEF SECRETARY: In some areas the earning capacity varies. In some districts it is perhaps big, in others very low. What I have told the House occurs time after time, and it was because of this policy on the part of the companies that the men banded together to improve their position. By the commission the men are paid, and the method of payment adopted, the company reaps a big advantage more often than not at the expense of the agents. Suppose an agent is given a number of clients to canvass, as mentioned by Mr. Miles. If he takes on the work, he accepts the responsibility that if any one of the clients from whom he is collecting decides not to continue with the policy, the agent has to pay back to the company, in one case, 13 times the amount of the weekly premium or else make good with new business.

Hon. G. W. Miles: Is that not just? They are not going to give the business to duds to ruin it.

The CHIEF SECRETARY: The hon. member does not know what he is talking about.

Hon. G. Fraser: A man is not a dud because the client drops out.

Hon. G. W. Miles: He can get another client.

Hon. G. W. Fraser: He tries his best for his own sake.

The CHIEF SECRETARY: This is a subject we could discuss for hours. I am satisfied that the hon. member has forgotten quite a lot of what he was told when the debate took place in this Chamber on a previous occasion, things he then believed. A big percentage of these men are as keen to be covered by the Arbitration Court as were the agents 17 years ago when I first attempted to organise them, and for the same reason.

Hon. W. J. Mann: What would the men to whom you refer earn?

The CHIEF SECRETARY: At that particular time we had the actual figures. They earned £3 a week. Some got £6, but very few. Only to-day I had a conversation with a man who, I would be prepared to swear, has not earned £3 a week for the last six months.

Hon. G. W. Miles: The evidence showed that 50 per cent. of the men lost their jobs when they came under the Arbitration Court in Queensland.

The CHIEF SECRETARY: I do not know that there was evidence to that effect; you had statements made.

Hon. G. W. Miles: Documentary evidence, too.

The CHIEF SECRETARY: The hon. member is prepared to accept all the evidence on the one side.

Hon. H. V. Piesse: We could not get any on the other.

The CHIEF SECRETARY: These men would be satisfied if they had the right to approach the Arbitration Court, a right every man should be given.

Hon. J. M. MACFARLANE: I am bound to support the select committee. The matter was thoroughly investigated and the select committee made these recommendations, but in regard to the insurance canvassers, there is a big discrepancy between the statement of the Chief Secretary and that of the select committee. It would be worth while hearing an independent view from a man who for 8½ years was a canvasser and who is now out of the business. I asked such a man to go to the select committee to give his views but he said, what was the good. The views he expressed to me supported entirely what the Chief Secretary stated to-night and I am satisfied it is pretty correct. I feel so convinced that there is good ground for the statements made that, if the men could be given the right to go to the court, I would feel inclined to support it. On the other hand, I cannot support the proposal to give domestic servants access to the court. I believe the sanctity of the home would be disturbed. I have had considerable experience of domestics in the home, and can say that the housewife is not always in the wrong. Reverting to insurance canvassers, my informant told me that he got a full book on two occasions but was cut down, and his earnings over eight years amounted to little more than £3 10s. a week. He was glad to get out of the business although he was afterwards making less money.

Hon. H. V. PIESSE: The earnings of 150 men, averaging £5 7s. 6d. a week, were taken from figures supplied by the Taxation Department and verified by the department. That should be sufficient proof.

Hon. H. SEDDON: The select committee was assured that, before a canvasser's book was cut up, he was consulted. If a canvasser was prepared to carry on, he could engage others to work with him and build up his book still further. We had no supporting evidence from the insurance canvassers, and had to be guided by the manner in which the evidence was given, and that is the reason for the select committee's recommendation.

Hon. E. M. HEENAN: I hope the clause will be accepted. Some members are not very consistent in their arguments. When the report of the select committee on the State Government Insurance Office Bill was before us, some members completely ignored it, and adduced arguments indicating that they had paid no attention to the evidence or to the findings. On this occasion, it seems to suit them to pin their faith to the select committee's report. We have been told that no evidence was tendered on behalf of domestic or insurance canvassers. The obvious reason is that those workers are not organised.

Hon. G. W. Miles: Miss Shelley did not appear.

Hon. E. M. HEENAN: She has organised certain sections, but the domestics proposed to be dealt with are not organised. That is why we are trying to do something for them. The same remark applies to insurance canvassers. Then there are men who cannot get work under award conditions and are forced into partnerships.

Hon. G. W. Miles: How "forced"? Do you think an owner is going to give them wages they cannot earn?

Hon. E. M. HEENAN: No employer should be allowed to take advantage of their condition to make them dishonest.

Hon. H. S. W. Parker: That is, if it were a bogus partnership.

Hon. E. M. HEENAN: People when out of work will do anything to keep body and soul together, and some employers take advantage of that class. It is wise to allow the Arbitration Court to deal with wages and conditions. We agree with the principle of organised labour. Is it not fair that the workers in question should have a right to go to the court to have their conditions fixed?

Hon. W. J. MANN: To include domestics would be disastrous. Many people would not continue to employ domestics under conditions that could be expected in an Arbitration Court award. Many people treat domestics in their homes almost as one of the family. That section of employers is the largest of all, and such people would decline to submit to what might be expected from union secretaries and award conditions. Thank God, I have had no experience of insurance canvassing, but I agree with the Chief Secretary that many men regard it as a last-resort employment.

Hon. J. J. Holmes: That is not the fault of the job; it is the fault of the men.

Hon. W. J. MANN: Perhaps, through lack of experience, they have been unable to make a living. Many have had a lean time at first, and have afterwards built up a good connection.

Hon. G. W. Miles: The class of man you speak of would not get a job under an award. The companies would not employ him.

Hon. W. J. MANN: The court should be open to everyone who wishes to approach it, and I would be inclined to give those workers an opportunity to go to the court. I have some faith in the court, to which people in industry should be able to look for equity. Not much would be lost if these persons were permitted to go before that tribunal.

Hon. J. J. Holmes: They are not employees; they are commission agents.

Hon. W. J. MANN: We have heard a lot about bogus partnerships. I would have no objection to the court being given power to determine whether or not a partnership was bona fide, but would not care to go as far in that matter as this clause provides. Many partnerships are perfectly genuine and should not be interfered with. Then there is the definition of worker. If a man takes a contract he becomes the principal and is no longer a worker. The clause is too far reaching and contains a great deal with which I disagree. The people for whom relief is sought will have themselves to blame if this amendment is carried, as they neglected to go before the select committee and state their case.

Hon. E. H. ANGELO: I cannot support the clause in its entirety. If it is defeated perhaps the Chief Secretary will have it dealt with again on recommittal, to provide for insurance agents. Objection has been raised to these persons being allowed to go before the court as they are paid on commission, or by results. Other workers such as shearers are paid by results. If they can go before the court, why cannot another section do so?

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

| | |
|---|---|
| Ayes .. .. .. | 15 |
| Noes .. .. .. | 9 |
| Majority for .. | 6 |

AYES.

| | |
|---|---|
| Hon. E. H. Angelo | Hon. G. W. Miles |
| Hon. C. F. Baxter | Hon. J. Nicholson |
| Hon. L. B. Bolton | Hon. H. S. W. Parker |
| Hon. L. Craig | Hon. H. V. Piesse |
| Hon. V. Hamersley | Hon. H. Tuckey |
| Hon. J. J. Holmes | Hon. C. H. Wittenoom |
| Hon. J. M. Macfarlane | Hon. H. Seddon |
| Hon. W. J. Mann | (*Teller.*) |

NOES.

| | |
|---|---|
| Hon. J. M. Drew | Hon. T. Moore |
| Hon. C. G. Elliott | Hon. C. B. Williams |
| Hon. G. Fraser | Hon. G. B. Wood |
| Hon. E. H. Gray | Hon. E. M. Heenan |
| Hon. W. H. Kitson | (*Teller.*) |

Amendment thus passed.

Clause put and negatived.

Clause 3—New section; Registration of Australian Workers' Union:

Hon. H. S. W. PARKER: The evidence before the select committee was to the effect that the A.W.U. could be registered if it gave an undertaking that its rules would be altered to comply with Section 6. It could become registered now if it first altered its rules to comply with Section 6 and then applied for registration. That was the statement made by the Industrial Registrar. To overcome the difficulty the select committee suggests that Section 19 of the principal Act be struck out. If that were done then we could have a multiplicity of unions. Section 19 provides that the Registrar may refuse to register a union if it can be shown that another union exists in the district to which the members of the applicant union can conveniently belong. Evidence was tendered that the electrical trades union desired registration and had been registered at Kalgoorlie and Boulder, but could not secure registration in the metropolitan area because objections were raised by another union on the ground that it catered for electrical workers. If Section 19 were struck out, that position would be overcome, and the A.W.U. among other unions could be registered, provided it complied with Section 6 of the Act.

Hon. L. B. BOLTON: I would oppose the deletion of Section 19 of the principal Act because that would mean a multiplicity of unions and would force the Registrar to register the A.W.U. or any other union that applied. If Section 19 is deleted from the Act, it will mean that in a large factory it will be possible for some sections of workers to have six different unions, and members can imagine the chaos that would ensue.

The CHIEF SECRETARY: The clause represents another attempt to give the A.W.U. registration as a composite union under the State Arbitration Act. What Mr. Parker said was perfectly true regarding the possibility of securing registration if a union complied with Section 6. If that course were followed, it would mean that the A.W.U. would have to be split up into a large number of so-called branches, each of which would have to be specially staffed in order that each branch could have its separate books and could comply separately with all the conditions laid down in the Act.

Hon. W. J. Mann: Was not that the original intention?

The CHIEF SECRETARY: No. If that course were followed, it would mean that the membership fees of the A.W.U. would require to be considerably increased, even if the organisation felt disposed to adopt the suggestion by the select committee which it will not do. The A.W.U. has at all times been in favour of arbitration, more so than any other industrial organisation in Australia. It is desirous of going before the Arbitration Court in order to have its industrial requirements dealt with and prefers to adopt that course rather than embark upon the only other alternative, which is direct industrial action. The Arbitration Court was established in an endeavour to secure peace in industry, but the suggestion advanced by Mr. Parker would certainly not help in that direction. Mr. Bolton has a proper understanding of this particular point. If Section 19 is deleted from the Act it will be possible for any section comprising 15 workers to become a registered union and in those circumstances instead of peace there will be chaos throughout industry. Following the trend of the amendments proposed by the select committee it seems to me that the committee has not had a proper idea of what the Arbitration Court stands for. Its suggestions are really revolutionary and get far away from arbitration as I understand it. If its views are adopted, then instead of having a well-ordered method by which disputes can be dealt with and determinations reached, there will be chaos. It can be claimed for Western Australia that we have had fewer industrial disputes of any magnitude than any other State of Australia.

Hon. G. W. Miles: Would it not be a good thing if a second President of the Court or a Vice-President were appointed?

The CHIEF SECRETARY: The hon. member may have his own ideas and I may agree with him on that point but before I could do so there would have to be radical alterations in the proposals of the select committee. In this particular instance the A.W.U. has arrived at a basis of agreement for registration with the President of the Arbitration Court, the Arbitration Court and every other organisation likely to be affected. The only obstacle in the way of that course being followed is this Chamber, if members agree to the recommendation of the select committee. Why should that be, particularly seeing that such

a course could only end in chaos? The A.W.U. is one of the biggest organisations in Australia, and its policy throughout has been in favour of arbitration.

*(Hon. G. Fraser took the Chair.)*

Hon. G. W. MILES: Why does not the A.W.U. do what is required and go to the court?

The CHIEF SECRETARY: If the hon. member knew the contents of all the sections of the Act, he would know that it was not possible. After years and years of endeavour, the organisation has reached an agreement as to the course to be adopted, and to do as suggested by the committee would mean splitting the organisation into a large number of branches which it is desired to avoid.

Hon. H. S. W. Parker: But the organisation will have to split up under the clause.

The CHIEF SECRETARY: No, the position is entirely different. The agreement has been reached in this respect, and only this Chamber stands in the way. The conditions sought to be imposed are prohibitive.

Hon. G. W. Miles: Why prohibitive?

The CHIEF SECRETARY: Because they will mean splitting up the organisation into a larger number of branches each of which will require a separate staff, a separate set of books, separate returns, and so on. All this can be avoided by Clause 3. It is now being said in effect that the union must split itself up into many sections. Paragraph (b) of the clause provides that registration shall not be effected until the Registrar shall submit to the President of the court an undertaking by the union to alter its rules as applicable to this State. Yet we are going to say that this, the largest union in Western Australia, shall not have the right to registration.

Hon. H. SEDDON: I have listened attentively to the Chief Secretary, but I have not heard anything that will show me why this union cannot effect the necessary alteration of its rules before applying for registration. If the union can give an undertaking to alter its rules, why cannot it alter its rules before applying for registration? This union is controlled in the Eastern States and has to abide by a conference held in the Eastern States. There is nothing to prevent the union getting registration, provided it complies with the Act.

The CHIEF SECRETARY: I thought the hon. member was one who supported the desire of organisations to be registered under the Act.

Hon. H. Seddon: So I am.

The CHIEF SECRETARY: From his argument it would seem that he wants to raise difficulties against the registration of this union. The hon. member said this organisation was governed from the Eastern States. Like many other organisations it certainly has a Federal executive, but there is no other organisation in the Commonwealth with so much decentralised control as has this union. Only in Federal matters is the union governed from the Eastern States. We have now reached the stage where this union could achieve registration if it were not for this House standing in its way.

Hon. G. W. MILES: It is all very well to say that this House is in the way, but the union can achieve registration now if only it will follow out the rules laid down by the Arbitration Court.

The Chief Secretary: It can obtain registration as sections, as it has done in the mining section.

Hon. G. W. MILES: Why cannot there be other sections set up?

The Chief Secretary: That would involve all the cost of separate sections.

Hon. G. W. MILES: Well, you have them all over the country now.

The Chief Secretary: If that is the hon. member's viewpoint, it is useless arguing with him.

Hon. W. J. Mann: What is the position of the A.W.U. in the other States?

The CHIEF SECRETARY: It has to comply with the various laws. In Victoria there are wages boards and in New South Wales the Arbitration Court. Here we have the largest industrial organisation in the Commonwealth endeavouring as it has been for years, to get registration as a composite body. The stage has now been reached when all objections and obstacles have been satisfactorily removed. All concerned agree that this union should have the registration it desires. Apparently only this House stands in the way.

Hon. H. S. W. PARKER: The Minister says the court and various other people want this. What they want they have got, according to the evidence of the Solicitor General and the Registrar. I think the Minister means that the Arbitration Court and the A.W.U. want registration without complying

with the law. The Registrar was definite in saying that no union can be registered unless it is controlled within Western Australia and unless it complies with Section 6 of the Act and submits its rules to the court before registration. Clause 3 was drawn up by the A.W.U. itself. We got that in the evidence. This clause does not do what the Minister has been led to believe that it does. That also is according to the evidence of the Solicitor General and the Registrar. The only effect of the clause would be that instead of amending the rules before applying for registration, the union could apply on giving an undertaking that its rules would subsequently be altered. It was the only way we could suggest for the registration of the A.W.U. It is useless to pass this clause to give effect to what the Chief Secretary desires.

Clause put and a division called for.

The CHAIRMAN: Before the tellers are appointed I shall give my vote with the ayes.

Division resulted as follows:—

| | |
|---|---|
| Ayes .. .. .. .. | 8 |
| Noes .. .. .. .. | 16 |
| Majority against .. .. | 8 |

| Ayes. | |
|---|---|
| Hon. J. M. Drew | Hon. W. H. Kitson |
| Hon. G. Fraser | Hon. T. Moore |
| Hon. E. H. Gray | Hon. C. B. Williams |
| Hon. E. M. Heenan | Hon. G. B. Wood (*Teller.*) |

| Noes. | |
|---|---|
| Hon. E. H. Angelo | Hon. W. J. Mann |
| Hon. C. F. Baxter | Hon. G. W. Miles |
| Hon. L. B. Bolton | Hon. J. Nicholson |
| Hon. L. Craig | Hon. H. S. W. Parker |
| Hon. C. G. Elliott | Hon. H. Seddon |
| Hon. V. Hamersley | Hon. H. Tuckey |
| Hon. J. J. Holmes | Hon. C. H. Wittenoom |
| Hon. J. M. Macfarlane | Hon. H. V. Piesse (*Teller.*) |

Clause thus negatived.

Clause 4—Amendment of Section 26:

Hon. H. S. W. PARKER: Because of the deletion of Clause 3 this too must consequentially be struck out.

Clause put and negatived.

Clause 5—Amendment of Section 27.

The CHIEF SECRETARY: Having decided that the previous clause should go out, there is no question about this one also having to go.

Hon. H. Seddon: Clause 4 should not have been struck out.

The CHIEF SECRETARY: This clause provides for a penalty in the event of the A.W.U. not standing up to its agreement. It is of no use now.

Hon. G. W. MILES: The select committee agreed that Clause 4 should remain. We can recommit the Bill and reinstate the clause.

Clause put and negatived.

Clause 6—negatived.

Clause 7—Repeal of Section 40 and insertion of new section:

Hon. H. S. W. PARKER: The clause is not required. Its object was to make it appear that the court had adjudicated when it really had not.

The CHIEF SECRETARY: I see nothing wrong with the clause. If the two parties to a dispute come together and arrive at an agreement, I see no reason why the court should not be prepared to give the agreement the force of an award. All agreements made a common rule have not the force of an award. Unfortunately that is the ruling that has been given, whereas it was thought that they had the full force of an award.

Clause put and negatived.

[*Hon. J. Cornell took the Chair.*]

Clause 8—agreed to.

Clause 9.—Amendment of Section 69:

Hon. H. S. W. PARKER: I move an amendment—

That after "consolidate," in line 3, the words "or divide" be inserted.

Instances occur where it is necessary to divide references.

Amendment put and passed; the clause, as amended, agreed to.

Clause 10—Repeal of Section 83 of the principal Act and insertion of new section; Effect of award:

Hon. H. S. W. PARKER: Section 83 is one of the main sections of the Act. The effect of the clause would be to make awards vocational instead of, as at present, industrial. The evidence of the Solicitor-General, the Registrar, and others was to the effect that chaos would reign until matters were adjusted, and that the clause would have the effect of throwing all agreements into the melting pot.

The CHIEF SECRETARY: I do not accept that statement in its entirety. For a while there might be uncertainty as to the effect of the alteration, but there is no

need for chaos or throwing all agreements into the melting pot. The clause is intended to get over the difficulty which arises where a tradesman is employed by a person or a firm not engaged in his particular industry—say, a plumber engaged by a departmental house. Why should not that plumber be entitled to the same wages and conditions as apply to other plumbers? That is a ridiculous state of affairs.

Hon. L. Craig: Would not the kind of firm you mention employ a plumber partly at his trade and partly at doing other things?

The CHIEF SECRETARY: No.

Hon. H. S. W. PARKER: Before the select committee it was pointed out by the Registrar that all those cases could be overcome by citing the firms in question. True, it would mean the citing of a great number of people; but the law as it stands can be brought to give effect to all the desires expressed in the second reading speeches.

Hon. H. V. PIESSE: Carters, for instance, would naturally claim the highest wages given to carters by any award. That in itself is a dangerous thing.

The CHIEF SECRETARY: It is easier to say what wages should be paid to a particular tradesman in the metropolitan area. Award rates, however, would not apply to a particular tradesman unless he was employed in his particular trade. Mr. Parker suggests that every firm in the metropolitan area should be cited on the off chance that it might employ, say, a plumber or a carter. By going to that extreme, individuals could be covered. But the suggestion is senseless. Still, I realise from the way in which the select committee's recommendations are being received that this recommendation also will be adopted.

Clause put and negatived.

Clause 11—Amendment of Section 87:

Hon. H. S. W. PARKER: I move an amendment—

That paragraph (b) be struck out.

There was no evidence on this proposed amendment of the law. The effect of the clause would be that whenever a person was dismissed he would have the right of appeal to a board, whether his claim were good, bad or indifferent.

The CHIEF SECRETARY: The percentage of cases in which there would be an appeal would be very small indeed. It would only be made in cases of injustice. There are methods by which an employee who believes himself suffering a severe injustice can get a hearing with regard to this matter, but it is only occasionally that such action is taken. The select committee is putting a very extreme interpretation on the effect of the clause.

Amendment put and passed; the clause, as amended, agreed to.

Clause 12—agreed to.

Clause 13—Amendment of Section 90 of the principal Act:

Hon. H. S. W. Parker: I move an amendment—

That all the words after "such order" in line 23 of subparagraph (ii) of paragraph (a) of the proviso be struck out.

As it stands the clause would give an opportunity to anyone discontented to insist upon an amendment of an award immediately it had been delivered. To make it binding for an award to operate at least 12 months there are various provisions in various sections of the Act. The clause amounts to providing for a contracting out of an award which is prohibited by Section 176 of the Act. As it stands it would give an opportunity to either party to an award to force the other party to enter into a fresh agreement under a period of 12 months.

The CHIEF SECRETARY: I can see the legal mind working in this.

Hon. H. S. W. Parker: You mean intelligence.

The CHIEF SECRETARY: I cannot see any commonsense in the argument.

Hon. L. B. Bolton: The two things do not always go together.

The CHIEF SECRETARY: It should be easy for the hon. member to visualise an award being made and extraordinary changes taking place within a few months in regard to the particular industry the award covers. Both the employers and the employees might be agreed that an amendment was only fair and just. An agreement would be reached and the court applied to to make it binding. What is wrong with that? The Arbitration Act was put on the statute-book with the object of endeavouring to avoid industrial disputes, and making it possible for disputants to approach the court on all occasions on which they are not able to settle their dif-

ferences. The subclause is inserted with the object of preventing possible disputes.

Hon. H. SEDDON: I have in mind an instance where this could have applied, and it would have condoned an act of defiance of the court. Recently the court made an award and the persons supposed to be bound by it immediately defied the court, went on strike, and did all sorts of things for which they should have been brought to book if the court had done its duty.

The Chief Secretary: To which instance are you referring?

Hon. H. SEDDON: The busdrivers. This clause would allow that sort of thing to be perpetuated throughout industry. If a case has been argued out before the court and a decision has been given both parties should be bound by the decision.

The CHIEF SECRETARY: I draw attention to the wording of Paragraph (c) and particularly to the words "subject to the express sanction of the court." If the court is not satisfied that everything is as it should be it will not consent to another agreement.

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

| | |
|---|---|
| Ayes .. .. .. | 17 |
| Noes .. .. .. | 7 |
| Majority for .. | 10 |

| Ayes. | |
|---|---|
| Hon. E. H. Angelo | Hon. G. W. Miles |
| Hon. C. F. Baxter | Hon. J. Nicholson |
| Hon. L. B. Bolton | Hon. H. S. W. Parker |
| Hon. E. H. Gray | Hon. H. V. Piesse |
| Hon. C. G. Elliott | Hon. H. Seddon |
| Hon. V. Hamersley | Hon. H. Tuckey |
| Hon. J. J. Holmes | Hon. C. H. Wittenoom |
| Hon. J. M. Macfarlane | Hon. G. B. Wood (*Teller.*) |
| Hon. W. J. Mann | |

| Noes. | |
|---|---|
| Hon. J. M. Drew | Hon. T. Moore |
| Hon. E. H. Gray | Hon. C. B. Williams |
| Hon. E. M. Heenan | Hon. G. Fraser (*Teller.*) |
| Hon. W. H. Kitson | |

Amendment thus passed; the clause, as amended, agreed to.

Clause 14—Amendment of Section 96 of the principal Act:

Hon. H. S. W. PARKER: The select committee's recommendation is that the clause be deleted. The clause directs the industrial magistrate to impose a minimum fine of £1 for every charge laid. It was admitted by the secretary of the Road Transport Union that he probably had more cases before the industrial magistrate than any other union. He agreed that in the great majority of instances of breaches of an award a number of charges of the same nature might be brought against the one employer. There were also many instances, it was pointed out, where there was a breach in the award, caused through an absolute error on the part of both the employer and the employee. There were also instances involving an interpretation of an award. During the second reading the Chief Secretary said that that could not arise because the interpretation of an award was a matter for the Arbitration Court. Unfortunately there is no appeal from the decision of an industrial magistrate. The secretary admitted that if a union liked to be vindictive, an employer through an honest error could practically be broken financially. A case came under my notice of an award being regarded as dead by employers and employees alike and a multiplicity of charges were laid. Men were working in the bush 20 miles away and the award prescribed that they be paid their wages between certain hours on Friday afternoon. The men requested not to be paid at that time because money had been stolen from their tents. Yet the employers were charged with not paying them at the time stipulated.

The Chief Secretary: Who charged them?

Hon. H. S. W. PARKER: An industrial inspector. Other charges were based on the non-payment of the correct amount by a shilling and on not entering the payments in a wages book. Practically every clause of the award had been broken. If the proviso were inserted the magistrate would have to impose a penalty of £1 on every charge. Mr. Nilsson complained that sometimes the fines were not heavy enough. I have pointed out to him that it would be too rough to proceed on all the charges that could be laid and he has agreed to proceed on two or three charges. The magistrate should be able to impose a fine of £1 for the first offence and perhaps administer a caution on the other charges. To prescribe a minimum penalty might financially ruin an employer who had made an honest mistake or whose staff had made a mistake.

The CHIEF SECRETARY: The hon. member has gone to the absolute extreme.

Hon. H. S. W. Parker: True.

The CHIEF SECRETARY: Union secretaries as a body are reasonable men.

Hon. H. S. W. Parker: That is so.

The CHIEF SECRETARY: Then why quote what would be possible in extreme cases? Penalties inflicted by industrial

magistrates, even when offences have been repeated, have been so light that it has paid the employer to suffer the penalty rather than observe the award.

Clause put and negatived.

Clause 15—Amendment of Section 97:

Hon. H. S. W. PARKER: I move an amendment——

That paragraphs (b) and (c) be struck out and the following inserted in lieu:—"(b) by deleting all the words after the word 'award' in line five of provision No. (5), and substituting the words 'provided that payment of such amount shall be enforced as if the order had been made under the provisions of the Master and Servant Act.'"

Section 97 provides that if an employer is charged with under-paying an employee, the magistrate may award the balance. I could quote many hard-luck stories of people having secured jobs on the plea of relationship, friendship or charity. Payment has been made at less than the award rate and an offence has been committed. Often the magistrate has refused to award the full rate because of collusion. Such claims are made after the employee has been dismissed. The clause proposes to make mandatory the awarding of the amount under-paid. The magistrate may award three days' imprisonment for every pound of wages not paid and imprisonment might total 12 months. This is the only law in Western Australia providing for imprisonment for debt. We should let the industrial magistrate fine the man who does not pay the correct wages and fine the employee who accepts less than the correct amount, but the magistrate should have discretion as to awarding the wages as a penalty because the employee has a remedy in the civil courts.

The CHIEF SECRETARY: There we see the process of legal reasoning that we try to avoid in arbitration matters. Why should a worker who has been deprived of wages have to take proceedings in more than one court to secure payment?

Hon. H. S. W. Parker: He need take action in only one court.

The CHIEF SECRETARY: He has to go to the industrial magistrate.

Hon. H. S. W. Parker: Only to get the employer fined.

The CHIEF SECRETARY: Is not the clause designed to make wages short-paid a part of the penalty? Why should a man with a verdict from the industrial magistrate have to go to another court to recover the money?

Hon. G. W. Miles: What if an employee accepted a lower rate?

The CHIEF SECRETARY: Then the magistrate would not give him a verdict.

Hon. G. W. Miles: He gives part of the amount.

The CHIEF SECRETARY: Why should the man have to go to another court to recover the money?

Hon. H. S. W. PARKER: I do not suggest that the man should go to another court. Under the existing law the magistrate has discretion. That should be retained. The alteration proposed is that the magistrate shall award the full amount.

The CHIEF SECRETARY: Magistrates, unless directed by the Act, do not care to order payment of the amount short-paid and the worker has to take proceedings in another court. If he gets a verdict from a magistrate, why should he have to go to another court? The only way to overcome the difficulty is to lay it down that the industrial magistrate shall decide that the money must be paid.

Hon. H. S. W. PARKER: I know of one employee who was awarded £100 but the employer could not pay and was given time in which to do so. He died, and the employee received nothing, although the employer had left an estate. If the employee had taken action in a civil court, he would have received his money.

Hon. L. B. BOLTON: I hold a brief for the honest employer. When collusion is proved, the full amount of the fine should be inflicted. The employee is just as much entitled to protection as is the employer.

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

| | |
|---|---|
| Ayes .. .. .. .. | 15 |
| Noes .. .. .. .. | 8 |
| Majority for .. .. | 7 |

AYES.

| | |
|---|---|
| Hon. E. H. Angelo | Hon. G. W. Miles |
| Hon. C. F. Baxter | Hon. J. Nicholson |
| Hon. L. Craig | Hon. H. S. W. Parker |
| Hon. C. G. Elliott | Hon. H. Seddon |
| Hon. V. Hamersley | Hon. H. Tuckey |
| Hon. J. J. Holmes | Hon. C. H. Wittenoom |
| Hon. J. M. Macfarlane | Hon. H. V. Piesse |
| Hon. W. J. Mann | (*Teller.*) |

Noes.

| | |
|---|---|
| Hon. J. M. Drew | Hon. W. H. Kitson |
| Hon. G. Fraser | Hon. T. Moore |
| Hon. E. H. Gray | Hon. C. B. Williams |
| Hon. E. M. Heenan | Hon. L. B. Bolton (*Teller.*) |

Amendment thus passed.

Hon. H. S. W. PARKER: I move an amendment—

That the following words be inserted:—"(b) by deleting all the words after the word 'award' in line five of provision No. (5), and substituting the words 'provided that payment of such amount shall be enforced as if the order had been made under the provisions of the Master and Servant Act.'"

Amendment put and passed; the clause, as amended, agreed to.

Clause 16—agreed to.

Clause 17—Repeal of Section 101 of the principal Act, and insertion of new section:

Hon. H. S. W. PARKER: I move an amendment—

That all the words after "hereby" in line 2 be struck out.

The proposal is to alter the qualifications of magistrates for under the clause any person could be appointed to that position. The proposal is a dangerous one. As the law stands at present an industrial magistrate is unique in the legal world in that there is no appeal from him. He can do as he likes. The section in the Act dealing with this matter should be allowed to stand.

Amendment put and passed.

Hon. H. S. W. PARKER: I move an amendment—

That the following words be inserted:—"amended (a) by inserting after the word 'sections' in the second line, the words 'and subsection (2) of Section one hundred and seventy-three';

(b) by adding a further proviso at the end of the section as follows:—

'Provided further that no proceedings before an industrial magistrate may be proceeded with whilst an application in reference to the same or a similar matter is pending before the court.'"

The Chief Secretary: This is an important amendment and it should be explained.

Hon. H. S. W. PARKER: The purpose of the clause is to allow industrial magistrates to deal with matters equally with the court. Where awards are being considered by the Arbitration Court the magistrate should not deal with matters in connection with it. When dealing with one particular subject the court arrived at one decision and the industrial magistrate at an entirely different decision.

Amendment put and passed; the clause as amended, agreed to.

Clause 18—agreed to.

Clause 19—Repeal of Section 106 of the principal Act and insertion of new section; proceedings in the court not subject to appeal except as provided:

Hon. H. S. W. PARKER: I move an amendment—

That all the words after "hereby" in line 2 be struck out and the following inserted in lieu:—"Amended by deleting the word 'and' in the tenth line of the section, and deleting paragraphs (a) and (b) immediately following."

The object of the amendment is to grant an appeal. There are instances where a magistrate has not awarded the full amount of wages claimed, and the employee has rightly felt aggrieved—yet he has no right of appeal. That is wrong. In one instance, the Arbitration Court arrived at one decision and, on exactly the same matter, the industrial magistrate gave a different decision, and yet there is no right of appeal. It is important that there should be that right of appeal. All magistrates are subject to error, hence the necessity for it.

Amendment put and passed; the clause, as amended agreed to.

Clause 20—agreed to.

Clause 21—Amendment of Section 121:

Hon. H. S. W. PARKER: The clause relates to basic wage inquiries, and proposes alterations regarding the granting of costs and fees. The select committee was advised that if the clause were agreed to, it might lead to increased costs through both parties becoming extremely energetic and spending money. The Act already empowers the court to grant what are considered reasonable expenses.

Clause put and negatived.

Clause 22—Amendment of Section 126 of the principal Act:

Hon. H. S. W. PARKER: This clause, too, should be deleted, consequent upon earlier decisions, which render it necessary for Section 106 to be retained in the Act.

Clause put and negatived.

Clause 23—Amendment of Section 164 of the principal Act:

Hon. H. S. W. PARKER: I move an amendment—

That in line 3 of paragraph (a) "may" be struck out and the word "shall" inserted in lieu.

The object is to make it mandatory for industrial agreements, awards and orders to be published in the "Western Australian Industrial Gazette."

The CHIEF SECRETARY: In order to achieve what the hon. member requires, a further amendment will be necessary. As it stands, the clause will mean that the agreements, awards and orders will have to be published in the "Government Gazette" as well as in the "Industrial Gazette." There is no need for duplication, because it is an expensive process.

Hon. H. S. W. PARKER: The question was raised before the select committee and it was suggested that the "Government Gazette" goes everywhere in the backblocks, whereas the "Industrial Gazette" does not. So the select committee concluded that it would be better to have the publication in the "Government Gazette" as well.

The CHIEF SECRETARY: Still we should avoid the duplication that will be involved in regard to quite a number of industrial agreements that do not interest the people outback.

Hon. H. S. W. Parker: I agree with that.

The CHIEF SECRETARY: Under the select committee's amendment it will be necessary to publish the matter in both the "Government Gazette" and the "Industrial Gazette." I prefer to have these awards and agreements published in the "Industrial Gazette" and I would not mind their being published in the "Government Gazette" also.

The CHAIRMAN: This amendment means an appropriation of money.

Hon. H. S. W. Parker: Well, I will withdraw it.

Amendment by leave withdrawn.

Clause put and passed.

Clause 24—Amendment of Section 170:

Hon. H. S. W. PARKER: I move an amendment—

That in line 2 of Subsection 4 of proposed Section 170 all words after "shall be" be struck out, and "prima facie evidence of the matters therein stated" be inserted in lieu.

Although perhaps not impressive in a practical sense, this is very important in a legal sense.

Amendment put and passed; the clause, as amended, agreed to.

Clause 25—New Section:

Hon. H. S. W. PARKER: The select committee recommends that this clause is undesirable. It only assists the militant unions to the disadvantage of those unions who comply with the necessary formalities to get before the court. We have seen in the newspapers much about the difficulty the unions have of getting before the court. Sometimes pressure is brought to bear by a militant union with the result that it gets put up above other unions. This clause gives the court power to grant preference to such a union, and so we recommend that the clause be deleted. Alternatively, the better way would be to appoint another President of the Court.

Hon. J. J. Holmes: Has this House power to make such a recommendation?

The CHIEF SECRETARY: This is a more important clause than the select committee thinks. If the select committee has its way and the Bill is amended as proposed, we shall be putting obstacles in the way of having many industrial disputes settled without much trouble. But instead of the Bill tending towards the easing of the industrial position it will create a still worse position. All that the clause provides for is that the court, if not in a position to hear a case, may appoint a commissioner or commissioners to hear a dispute, and their decision shall have the full authority of a decision of the court. In many instances serious results have arisen solely because the court had not the power that will be given by this clause.

Hon. H. SEDDON: There is already power under the Act, and this clause is simply extending the powers of the court unnecessarily. If there is congestion it can be overcome by the appointment of a deputy president. We of the select committee did not feel justified in including these new suggestions.

The CHIEF SECRETARY: The difference between what is put forward by Mr. Seddon and the proposal in the Bill is that the power at present in the Act only refers to action which may be taken after a con-

ference has been held, whereas the Bill provides for this action being taken before the conference is held, and so prevents serious dispute.

Clause put and negatived.

Clause 26—New sections:

Hon. H. S. W. PARKER: It did not appear to the select committee that this clause was necessary. In the case of the mining industry it would be practically impossible to carry it into effect, largely for the reason that mines nowadays are enclosed with fences, and a watchman is on duty to see that nobody enters the premises at night time. Permission, however, is always granted to union officials to visit a mine at reasonable times.

The CHIEF SECRETARY: The select committee did not appear to have devoted the attention to this clause that it deserves. I hope it will be retained.

Clause put and negatived.

Clause 27—agreed to.

New clause:

Hon. H. S. W. PARKER: I move—

That a new clause to stand as Clause 3 be inserted as follows:—"Section 19 of the principal Act is hereby repealed."

New clause put and passed.

New clause:

Hon. H. S. W. PARKER: I move—

That a new clause to stand as Clause 8 be inserted as follows:—"Section forty-three of the principal Act is hereby repealed and the following substituted:—43. The Court shall consist of a President or Assistant President, who shall be a person qualified to be appointed a Judge of the Supreme Court, and shall be appointed by the Governor."

It would be more expeditious for the work of the court if a president or assistant president were the only person to preside over it.

The CHAIRMAN: Section 43 of the Act says the court shall consist of three members appointed by the Governor, a president and two lay members. Section 49 states that the president shall receive a salary equal to that of a judge of the Supreme Court, and that the other members of the court shall receive not less than £600 per annum. The president to-day receives £1,750 a year. Two laymen draw £1,200 between them. The total is £2,950. Here is a proposal to leave the £1,750. Is it proposed to give the assistant president nothing?

Hon. H. S. W. Parker: If this is carried, it will mean increasing the burden on the people by £550.

The CHAIRMAN: The point is that the assistant president would receive the same salary as the president, £1,750. Then the total would be £3,500. The Bill originated here, and the amendment imposes an increased expenditure of £550.

Progress reported.

*House adjourned at 11.53 p.m.*

# Legislative Assembly,

*Tuesday, 7th December, 1937.*


| | PAGE |
|---|---|
| Question: Mining lecturer .... .... .... .... | 2324 |
| Perth Municipal Administration Select Committee .... | 2325 |
| Motion: Want of confidence, hotel ownership, etc..... | 2325 |
| Bills: Financial Emergency Tax Assessment Act Amendment, Council's further Message .... | 2369 |
| Income Tax Assessment, Council's Message .... | 2369 |
| Fremantle Gas and Coke Company's Act Amendment, returned .... .... .... .... | 2369 |
| Perth Gas Company's Act Amendment, returned | 2369 |
| Land Tax and Income Tax, returned .... .... | 2370 |
| Municipal Corporations Act Amendment (No. 2), returned .... .... .... .... .... | 2370 |
| Factories and Shops Act Amendment, 1R. .... | 2370 |


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

## QUESTION—MINING, LECTURER.

Mr. MARSHALL asked the Minister for Mines: 1, Is Mr. Compton, one-time lecturer at the School of Mines, Kalgoorlie, at present directly employed by the State? 2, If so, what is his particular class of work? 3, What salary does he receive?

The MINISTER FOR MINES replied: 1, 2, and 3, Mr. Compton is a lecturer in mining attached to the School of Mines, Kalgoorlie. His services were in July last loaned for a period of 18 months to Messrs. Paton and Morris, representing the Spargo's Reward, First Hit, and Lady Shenton Gold Mining Companies. Mr. Compton has been granted leave of absence from his official duties without pay during this period.