Legislative Assembly,

Thursday, 27th August, 1925.

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

QUESTIONS (2)—APPRENTICES AND TRADESMEN.

State Implement Works and Private Firms.

Mr. PANTON asked the Minister for Works: 1, How many apprentices trained in the State Implement Works during the last ten years are employed there at present? 2, How many such apprentices are employed at their trade by private firms in the State?

The MINISTER FOR WORKS replied: 1, Twenty-two. 2, The information required is not available.

Midland Junction Workshops and Private Firms.

Mr. PANTON asked the Minister for Railways: 1, How many apprentices trained in the Midland Junction Workshops during the last ten years are employed there at present? 2, How many such apprentices are working at their trade with private firms in the State?

The MINISTER FOR RAILWAYS replied: 1, At Midland Junction Workshops, 111; at Running Sheds, 12; total, 123. In addition 27 returned soldiers, who have been trained at Midland Junction Workshops, are still employed there. 2, No record is kept.

BILLS (2)—THIRD READING.

1, Real Property (Commonwealth Titles.)

2, Transfer of Land Act Amendment.

Transmitted to the Council.

BILL—JURY ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

MR. DAVY (West Perth) [4.38]: This is a simple Bill which attempts to do two things. One is to wipe out special juries and the other is to increase the fees of jurors. With regard to the latter objective, I do not think that anyone can offer any serious criticism. Jurors perform a public function and it is not much compensation to a juror to find himself losing his wages for anything from two to eight days and merely receiving an allowance of 10s. a day.

The Minister for Justice: If the proceedings extend over a week we usually increase the allowance.

Mr. DAVY: But the Minister has not really any power to do so, and the Crown Law Department has no fund from which to draw the extra amounts. Thus everyone will agree that the time has arrived when the jurors' compensation should be a real compensation to them and not merely a small honorarium that leaves them out of pocket. With regard to the other object I find it rather difficult to enter into an argument on the special merits of common or other jurors. I have come to the conclusion after some little experience of juries and in the practice of law that the whole jury system in civil cases is a screaming farce. I propose to say a few words later on in advocacy of the abolition of juries in civil cases. While we have juries, however, I find it difficult to be convinced by the arguments adduced by the Minister for Justice in favour of only one type of jury. He based his argument on this line of reasoning: All people who have a special property qualification of £500 are thereby rendered incapable of honestly deciding a case on its merits. Such a juror must inevitably, as soon as he becomes possessed of £500, decide according to bias rather than justice on the facts.

The Minister for Justice: I did not say that. I said there was a likelihood of it.

Mr. DAVY: Perhaps the Minister will say that the report in the Press is not correct, but this is what I thought the Minister said and what is reported in the Press: "Their environment does not permit them to decide on the evidence. They decide according to their bias." That was the statement the Minister made to the best of my recollec-

tion, and, apparently, to the best of the recollection of the man who reported that part of the Minister's speech.

The Minister for Justice: I qualified it by saying that perhaps such a person was unconsciously biassed.

Mr. DAVY: I do not care whether the Minister qualified his statement or not. If consciously biassed, and the possession of £500, including the value of the clothes in his house and any block of land a man may be possessed of, makes him biassed and certain to decide against justice on the facts before him——

The Minister for Justice: I did not say that.

Mr. DAVY: I assume that that is what the Minister said.

The Minister for Justice: Then you assume something that is wrong. I did not say that at all.

Mr. DAVY: I am glad to know that the Minister did not mean that, but that was the line of argument he advanced. Perhaps he meant that there was a tendency on the part of people with property valued at more than £500 to be biassed. We will assume that that is what the Minister meant. He then says that the provision for such men to act as special jurors should be wiped out because such men will be biassed or will be liable to be biassed. Presumably those people who are not possessed of £500 will not be biassed, one way or another. It is the possession of £500 worth of property that makes a man biassed; those who have not that property are all right.

The Minister for Justice: The man may have £50,000. Why stress the minimum amount?

Mr. DAVY: If the Minister intends to divide the community into two lots——

The Minister for Justice: I do not. That is the whole argument against the principle.

Mr. DAVY: If the Minister divides the people into two lots, those who have £500 and those who have £50,000, will he deny that the proportion of people possessing £50,000 will be very small? On the other hand, people who own £500 worth of property—that is a very small amount indeed—will embrace a large number of people in Western Australia. Every man who possesses a soldier's home or a home under the Workers' Homes Board is qualified under that heading.

Mr. Sleeman: The average man has not even got one.

Mr. DAVY: There are thousands who have them.

Mr. Lutey: Who should have them?

Mr. DAVY: Every man who has real or personal property valued at £500 is entitled to be on the special jury list. The Minister says that because by selecting from the £500 class we are going to get a biassed jury, we should select from the whole class and cut out any qualification, but the whole class have to have at least £100, because he is going to retain the qualification for a common juror at £100. Presumably he thinks there is some magic in the figure of £500 rather than £100.

The Minister for Justice: I say there is no reason for an invidious distinction.

Mr. DAVY: The Minister says the £500 qualification is going to make a man biassed, and he wants a juror who is going to be unbiassed. Of the people of Western Australia the big majority are industrialists. That must necessarily be so, not only in Western Australia but in every other country of the world. If we have no qualification at all and a juror is simply selected on a basis that will give a fair sample of the population, then on every jury we are bound to have a big majority of industrialists. If people with £500 are going to be biassed against an industrialist involved in a dispute, surely the people who are themselves industrialists are liable to be biassed the other way. That is inevitable if the jury is to be a fair sample of the whole population, because a majority of them will be industrialists. There are a great number of people who are industrialists and who have £500 worth of property. I should not like to venture how many there are, but I suggest that the £500 qualification would probably work out so that on a special jury we would get about 50 per cent. of industrialists and 50 per cent. who are not. Consequently, if the Minister is correct and the possession of £500 worth of property causes bias one way, and the non-possession of £500 causes bias the other way, we are likely to have a fair division and a reasonable chance of getting an unbiassed verdict. I do not believe that the ordinary man called to sit upon a jury is going to be biassed either way. Western Australians when called upon to perform that function will endeavour to

decide upon the evidence and upon their idea of what is just. I am not satisfied that because a man is a member of a trades union and involved in an industrial movement, he is going to break his oath and decide against the facts placed before him and the law as explained to him by the judge. I am sure it is not so, and I am equally sure that because a man has £500 worth of property he is not going to be biassed the other way. When the Bill was before us last session, the Minister for Works told the House that on one occasion he was prosecuted for conspiracy, and then found himself with a special jury against him. I pointed out by interjection that "prosecution" was a word to be used in criminal proceedings and not in a civil case, but he still persisted in using the word "prosecution." I do not know whether members are quite clear that special juries are called upon to act only in cases of civil dispute where there are a plaintiff and a defendant, and not where the Crown is prosecuting an accused person. The Minister for Works asked, "Why should not a man be entitled, as he has been since time immemorial and according to the best traditions, to be tried by his peers?" I should like to ask who is the person being tried in a civil case when there is a plaintiff and a defendant? Is it the plaintiff or the defendant that is being tried? Presumably, when the Minister for Works is the defendant it is the defendant who is being tried, and therefore he should be tried by his peers. On the other hand, another hon. member referred to the wicked injustice done to him when he was the plaintiff in an action for libel against a certain newspaper. He complained that the special jury was against him and that he should have been tried by his peers. Apparently the idea is that the industrialist, whether he be the plaintiff or the defendant in a civil action, should have his peers to try the case, and that the other party should not have that privilege. I ask members to clear their minds of the idea that special juries have any application whatsoever in criminal cases. They are only available where they are two parties and where each has an equal right to have the case decided on the merits, without bias and without prejudice.

Hon. S. W. Munsie: Do you think you cannot get that unless you have the £500 qualification?

Mr. DAVY: No.

Hon. S. W. Munsie: Then why object?

Mr. DAVY: I am answering the arguments advanced by the Minister for Justice in favour of wiping it out. The reason why special juries were adopted originally had nothing to do with bias, or with industrialism as against capitalism. It was not in the minds of the people who introduced the special jury that they should have a property qualification to ensure justice being done. Members have only to read the special qualification provided for a special juror to see what was in the minds of the framers. It may be an antiquated idea but the contention was that certain cases required certain men to try them, men more experienced in business and perhaps better educated than were others. Justices of the peace, bankers and merchants and those having the £500 qualification were selected. It might be an old-fashioned idea that the possession of money is any guarantee of education. Thanks to our compulsory education system, the idea to-day is probably quite absurd that because a man has £500 worth of property he is likely to be better educated than is a man not possessed of that amount. That, however, was the idea of the original framers. Clearly, in special cases, men with special qualifications or education were required that they might be able to grasp the facts and to follow with the intelligence born of experience the difficulties placed before them. Be that as it may, probably the £500 qualification does not apply to-day, but the qualification that one should be a justice, a director of a bank or a merchant is some guarantee that a man has had certain experience in life over and above that of his fellows.

The Minister for Justice: Just now you were talking about all those people in war service homes and workers' homes being entitled to sit on a special jury.

Mr. DAVY: I used that in answer to the Minister's contention that people with more than £500 were likely to be biassed against an industrialist. I pointed out that there were hundreds and probably thousands of people in Western Australia who were industrialists and who owned soldiers' or workers' homes.

The Premier: That would not be their property.

Mr. DAVY: It would be; it would stand in their names.

The Minister for Lands: It does not.

Mr. DAVY: In the majority of cases it does. When a man buys a workers' home, the land is transferred to him and he takes a mortgage from the other side.

Mr. Panton: Nothing of the sort. I have one and I know.

Mr. DAVY: I say it is so. Even if it is not, it stands in his name or in the name of a man who holds it in trust for him. In view of the original intention of the special qualification for a special juror it would be logical to extend the first qualification rather than to continue the £500 limit. I admit that is a very clumsy and unscientific way of getting at the aim of the people who framed the special qualification. I regret that the Minister has not seen fit to consider very seriously the question of wiping out juries in civil cases. I am not prepared to go so far as Oliver Twist who described juries as "ineddicated, vulgar, grovellin' wretches," but juries have not the training to pay that close attention to evidence over long periods of time necessary to weigh and balance it and give a correct decision, nor have they the facilities to do so. The judge finds it difficult enough to decide on the complicated issues that come before him in these days, and he is a man trained for many years by experience and education and constant practice in listening to evidence attentively hour after hour. Members know that, even when the most eloquent and interesting speakers are on their feet, they find it difficult to concentrate and listen to every word for more than ten or 15 minutes continuously. How much more difficult must it be for members of a jury who are not trained to sit and listen to the dreary monotony of the evidence adduced in a civil court? I venture to say that if you took the whole of a jury of 12 men, at no given time would more than two be actually listening to what was being said by witness or counsel on either side.

Hon. W. D. Johnson: It depends upon the case, I think.

Mr. DAVY: I do not care what the case is. Evidence may appear from the newspapers to be highly interesting, not to say spicy and intriguing, but when one listens to a case dragging its weary course hour after hour and perhaps day after day, the most interesting and fetching pieces of evidence become monotonous and dreary. There is the everlasting repetition. One witness gets into the box and you may listen to his evidence and enjoy it. It may be interesting and striking. When the next witness gives the same tale with perhaps only slight variations, interest begins to flag.

The Premier: Even Homer nodded.

Mr. DAVY: Yes. It becomes intensely wearisome even to counsel who know that their fees are ticking up each hour the case drags on. How much more palling must it be to the jurors every day when they probably are losing 10s.

Mr. Coverley: While you are making 10s. a day!

Mr. DAVY: Probably. The judge has full facilities for taking notes and he takes careful notes of every piece of evidence put before him. He is trained to pick out salient points as they are uttered and to make notes of them, so that he may refresh his memory and arrive at a proper conclusion. Jurymen have no facilities whatever for taking notes.

The Premier: The fool that did not understand and did not listen overrides them.

Mr. DAVY: Precisely. In criminal cases there is another and very different reason for their retention. It is the sense of security on the part of citizens of any country, which is paramount to anything else. The jury are frequently swayed by sentiment towards a prisoner where the judge is not so swayed. The tendency of a jury in criminal cases is to let guilty people off. They seldom find not guilty people guilty. I should not think it has happened once in perhaps 10,000 times that a person who is not guilty has been found guilty by a jury. If he were found guilty the decision would be upset in due course on appeal. Frequently we find, practically every criminal session, that people are judged to be not guilty when it appears to everyone else but the jury that they are guilty. They come to this verdict on the ground of sympathy or sentiment. Sometimes a particular charge is levied against a man for an offence that is one which some of the jurymen have committed themselves, and so they have a fellow feeling for the prisoner. I could quote one or two remarkable instances of that kind, cases in which men are constantly charged with certain offences and consequently let off, because there is that feeling on the part of jurymen that they may be in the same position themselves at any time.

Mr. Sleeman: What sort of cases?

Mr. DAVY: I can tell the hon. member what I mean later. The time has come when juries in civil cases should be wiped out. I would not suggest that the Minister should accept from me in Committee amendments that would lead to that result, but I suggest that he should have the matter gone into by a select committee, or in some other way have the pros and cons weighed, the opinions of people best qualified to judge listened to and considered, and then see whether the wiser method would not be to wipe out all this old-fashioned and ridiculous method of administering justice. Probably every member read the little remark made by the learned Chief Justice in connection with the jury system, when delivering judgment in a libel case that was recently settled. It was short and pithy like most of his best remarks, and it was the end of the argument as far as I could see.

Mr. Sleeman: That was a special jury.

Mr. DAVY: He referred to ordinary juries. A special jury to-day, as ever, is just as likely to go completely wrong and produce ridiculous complications in difficult cases as any other kind of jury.

Mr. Sleeman: It was a special jury in the case you speak of.

Mr. DAVY: Yes. Under the jury in that case the litigants were put to a great deal more expense. Probably the mistake caused by the jury put them to the cost of hundreds of pounds and endless anxiety, to say nothing of the time of the courts and the money of the country that were also involved. The jury produced results entirely out of measurement with any good effect which the system generally might conceivably have. The Minister seemed to think that the cost of a special jury as against that of a common jury was one which made a special jury available for rich men only and that the poor man had to put up with a common jury.

The Minister for Justice: The last straw breaks the camel's back.

Mr. DAVY: That argument cannot be used by the Minister if he has a knowledge of the facts. A special jury costs about £5 more than an ordinary one. The loser pays such costs. A man applying for a special jury has to pay the costs in the first instance. Probably the Minister never had the good fortune to be involved in Supreme Court litigation, but I assure him that the £5 becomes very easily lost in the total mass of costs. I regret to have to say that. Costs in Supreme Court litigation are very heavy, and I wish they could be reduced. I believe this would be possible in one or two directions. I point this out in the hope that the Minister will not use any arguments in favour of the Bill which are not based on logic. I urge him to consider carefully the question of withdrawing it, having the matter properly dealt with, and this relic of archaism altogether wiped off the statute-book.

MR. E. B. JOHNSTON (Williams-Narrogin) [5.7]: I do not think this alteration of the qualifications of special juries is very important. It does not appear that we shall get a different result from a jury composed of men possessed of more than £500 from that which we would get from a jury drawn from the whole community irrespective of the property qualification. The weak point in the Bill is that we have not been shown any reason for the alteration.

The Minister for Justice: You have not been shown any reason for the retention of the system.

Mr. E. B. JOHNSTON: If there is a qualification for special juries it is logical that it should not be the possession of £500.

The Premier: But this is not based on logic.

Mr. E. B. JOHNSTON: A man is not going to be less just or fair because he has more or less than £500. If there is going to be a qualification for special juries it should be one of education or experience, and not one of the possession of money. I respectfully submit that the Minister has not given any illustration of practical cases of injustice that have occurred under the present system.

The Premier: Common sense tells us it is bad.

Mr. E. B. JOHNSTON: If such cases have occurred, surely the judges would have commented upon them.

The Minister for Justice: Then the law is all right if no instances can be brought forward of any harm that it has done.

Mr. E. B. JOHNSTON: The Minister has shown no necessity for the change.

The Premier: Do you expect him to argue that a particular jury was a fool jury, although we all know it was?

Mr. E. B. JOHNSTON: If cases of that sort had occurred I would expect him to give

us a recommendation from the Chief Justice or another judge of the Supreme Court that a change was desirable.

The Premier: A judge would be more diffident about giving such an opinion than the Minister would be.

Mr. E. B. JOHNSTON: A judge could give an opinion as to the general necessity for a change.

The Premier: The comments of the Chief Justice on the libel case show that. He said the jury did not understand it.

Mr. E. B. JOHNSTON: That was a special jury.

The Premier: That is the one we want to wipe out.

Mr. E. B. JOHNSTON: It is very difficult for laymen to alter the basis under which justice has for so long been administered.

The Premier: The Chief Justice said they did not understand it.

Mr. E. B. JOHNSTON: We should have a lead from someone who is more thoroughly cognisant of the way the system is working.

The Minister for Justice: Tell us some reason why it should be retained.

Mr. E. B. JOHNSTON: It is the Minister's duty to show why the law should be altered, and to quote any cases of injustice that have occurred. If the change was recommended by those administering the law I am sure the House would readily agree to it. If the Minister were making a change I suggest it should be a change to a qualification based on experience, knowledge or education. I admit that the qualification of the possession of £500 is inadequate. With regard to the clause of the Bill relating to fees of ordinary jurors, I consider 10s. a day is utterly inadequate. It should have been altered years ago. I am glad the Government have decided to pay jurors properly. In the country a man cannot get anyone to look after his farm or business, and yet he is taken away from it and paid 10s. a day, which is less than the basic wage.

HON. W. D. JOHNSON (Guildford) [5.12]: I congratulate the member for West Perth (Mr. Davy) on having spoken for a considerable time on a matter that was not contained in the Bill, and practically leaving out that which is in the Bill. It is remarkable to me that these learned gentlemen in other places can get quickly to the point, deal with it in brief terms, and in such a manner as to save time and increase the possibility of understanding; but when they get into this Chamber they seem to talk all round the subject as if they had no experience and no practice in getting to the point, such as their profession would lead one to suppose they would do. The hon. member, however, did not get to the point, and say that the present special jury system was antiquated. I take it he is going to support the Bill.

Mr. Davy: If it is altered.

Hon. W. D. JOHNSON: If we have something on the Statute Book that is antiquated, surely the hon. member will not leave it there.

Mr. Davy: Yes, until you offer a decent substitute.

Hon. W. D. JOHNSON: The hon. member wants to remove that. He can then deal with the question of abolishing juries altogether. When the Minister comes forward with a definite proposal to remove that which the hon. member says is antiquated, I appeal to him to support the Minister so that that which the Minister desires may be done in the speediest possible way. I rose particularly to reply to the member for Williams-Narrogin (Mr. E. B. Johnston), who says that the Minister has produced nothing in support of the Bill. He conveys the idea that the Minister should have shown where special juries have failed to fulfil their functions. I should be sorry to see any Minister attempt to justify a Bill on the ground that some particular case in the court had been badly dealt with, incompletely handled, or wrongly adjudged by any jury. That surely, is not the kind of argument to be advanced in favour of a Bill of this description. What the Minister asked, and what I ask, is why do we want special juries? The member for West Perth (Mr. Davy) said the system was antiquated.

Mr. Davy: I did not say that special juries were antiquated, but that the system of selecting them was antiquated. Surely we can have special juries selected on a sensible system.

Hon. W. D. JOHNSON: The Bill proposes to abolish that which the hon. member says is antiquated. Whether special juries should be retained on some other basis is a matter to which he did not devote any time, nor did he even indicate that he wanted it. The hon. member suggested that a bank manager, or a person in such a position as to possess £500, would be a better judge of

evidence than people possessing less means. But that is not so in actual life. Education and knowledge do not necessarily follow money. The member for Williams-Narrogin (Mr. E. B. Johnston) asks why we want the Bill. We want the Bill because the present system is unfair. Why should one part of the community have the right to form special juries? I will give the hon. member an illustration of the unfairness of the system, an illustration which is already recorded in "Hansard." I was once attacked in a most malicious manner by a newspaper supposed to be respectable, and I put the article in the hands of a well known King's Counsel. He informed me that there were five distinct libels in the article, that it was a political attack, and that while the article was of a libellous character, those guilty of libelling me had the right to call for a special jury, and would exercise their right to the full, and so ultimately arrive at a jury which would be hostile to me to such a degree that although I might get a verdict, the verdict would be so small as not to carry costs, and the case might cost me £1,000 even though I won it. The member for Williams-Narrogin surely knows that one could not get the Chief Justice to express an opinion on this matter. However, I have given him the opinion of a King's Counsel, and if necessary I can let him have it in writing. I had to suffer injustice because I was not prepared to risk the loss of £1,000—I had not got it to risk. Accordingly I let the case go. There are scores of similar cases where the system of special juries has prevented people from proceeding, because it undoubtedly advantages one particular section of the community.

Mr. Davy: It evens up.

Mr. Teesdale: Do you suggest that these special jurors violate their oaths?

Hon. W. D. JOHNSON: No; it is not altogether that. They themselves do not consider that they are violating their oaths, but their training and environment lead them to look at the evidence in a totally different way from that in which other people look at it.

Mr. Davy: You can be a special juror yourself.

Hon. W. D. JOHNSON: I admit that I can to-day, but a few years ago, when possibly I was more capable of judging evidence than I am now, I could not have been, because I had not the £500. I am qualified to-day, and yesterday I was not qualified. A law which dictates a condition of that sort should be repealed. It is a question on which one must use one's common sense. Why was the special jury system introduced? It must have been done for some reason, and that reason can only be that those who introduced the system thought at the time that they could get a special advantage for a particular section.

Mr. Davy: Clearly not.

Hon. Sir James Mitchell: Would you do that?

Hon. W. D. JOHNSON: No; but if that is not so, why do we want the system at all?

Mr. Teesdale: A section of a jury might be got to violate their oaths, but not the whole jury.

Hon. W. D. JOHNSON: I agree with that. The point I wish hon. members to direct their attention to is, why is the special jury system there at all, and what is the use of it? If it is not going to be an advantage, what necessity is there for retaining it?

Mr. Sleeman: There is no answer to that.

Hon. W. D. JOHNSON: I want no distinctions, no special rights, no special privileges for anyone. The only way we can make the position equal for all is to abolish the special jury system, which the member for West Perth admits to be antiquated in admitting that the method of selection is antiquated.

Mr. Davy: No. That only commits me to the alteration of the method of selection.

Hon. W. D. JOHNSON: The hon. member has not suggested anything but the present property qualification.

HON. SIR JAMES MITCHELL (Northam) [5.25]: I cannot quite follow the last speaker, and I was not able to follow the Minister. Both hon. members seem to forget that the men who have the right to sit on special juries have also the right to sit on common juries. If we want what the member for Guildford (Hon. W. D. Johnson) calls common justice, and if these men are not capable of doing justice, had we not better exclude them altogether?

Hon. W. D. Johnson: We do not want to exclude anybody. We know the special juror is entitled to sit as a common juror.

Hon. Sir JAMES MITCHELL: The hon. member may have a case in court and may find that that case is tried by the men to whom he strongly objects now.

Hon. W. D. Johnson: I will not object to any individual. Everybody has the right and the obligation to sit on juries.

Hon. Sir JAMES MITCHELL: The hon. member distinctly said that under the present system justice is not done because the richer the man the more chance he has of being favoured by a special jury.

Hon. W. D. Johnson: No. The rich man should not have the right to select a special jury, is what I contend.

Hon. Sir JAMES MITCHELL: The hon. member does not want any special juries at all.

Hon. W. D. Johnson: No. I want everybody to have an equal right to select a jury in the same way.

Hon. Sir JAMES MITCHELL: Everybody has that right.

Hon. W. D. Johnson: No.

Hon. Sir JAMES MITCHELL: Everyone has the right to get a special jury. What I object to is the manner in which members have reflected upon a section of the people —it matters not whether the men own £50,000 or £500, or nothing at all. I have no doubt that the special jurors do their best, and believe themselves to be doing justice. Of course they cannot please everyone. I understood the member for Guildford to say he did not go on with his case because he did not think he would get justice from jurors possessing £500. I do not know that the jury system has not outlived its usefulness.

Hon. S. W. Munsie (Honorary Minister): The special jury system has; not the other one.

Hon. Sir JAMES MITCHELL: That is the Honorary Minister's opinion. However, there are cases, such as those referred to by the member for West Perth (Mr. Davy), where it is necessary to have a jury—criminal cases and murder cases, for instance. I know of one case in which the accused pleaded guilty, and had in fact written a confession, but the jury knew better and let him off. One could cite many cases in which juries have found men not guilty when they obviously were guilty. I suppose there are many cases in which juries have given accused persons the benefit of the doubt, which is perfectly right. However, everything his its day, and I think the Minister for Justice would do well to consider whether the jury system, except in some special cases, should not be abolished. I do not agree with him, however, when he says that he cannot expect to get justice from men possessing a special qualification. I hope the Minister will not again come to this House and reflect upon people in that way. I do not believe he meant it for one moment, but he did say that not every member of the community could expect justice from special juries. He proposes that some qualification shall still remain. What has the member for Guildford to say to that? Even a common juror must have some qualification.

Hon. W. D. Johnson: But then everybody will have an equal opportunity. Everybody will be in the pool then. There will be no discrimination.

Hon. Sir JAMES MITCHELL: Why have a qualification at all?

Hon. W. D. Johnson: That is what I say. I do not want any qualification.

Hon. Sir JAMES MITCHELL: We must have some qualification.

MR. SLEEMAN (Fremantle) [5.30]: I am pleased that the Jury Bill has been brought forward again this session, and that we are endeavouring to give the citizens who act on juries some little recompense for their services. I am continually being accosted by men who have to leave their work and come up to Perth to sit on juries at a fee of 10s. per day. The very least that should be done would be to give those men something like the ruling rate of wage. Theirs is an important duty and we ought not to ask them, especially the married men amongst them, to discharge it for 10s. a day. I am also pleased to know that an endeavour is to be made to abolish special juries. The member for West Perth (Mr. Davy) admitted that there was no likelihood of the workers on a common jury breaking their oath. That being so, why should they be prevented from sitting on special juries? It has been said that whiskers are wisdom, but in this instance it seems that only property is wisdom. Notwithstanding that a man of property may be an imbecile, yet he is deemed qualified to be selected for a special jury, whilst perhaps the brainiest man in the land, if a poor man, would be debarred. It is not so many years since in this State one had to be possessed of £500 or more before he could become a member of this House. If that were the rule to-day quite a number of us would be missing from these

halls. I am disappointed that the ladies have not been mentioned in the Bill. I was hoping that something would be done for them, seeing that we again have a lady member in the House. I really think ladies should be entitled to sit on juries. In certain cases it is very necessary that women should be represented on the jury, and I am hopeful that when in Committee something will be done to rectify the omission.

Question put and passed.

Bill read a second time.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 25th August.

MR. DAVY (West Perth) [5.35]: I regret that we have not been given a little more time to consider this important measure. It was introduced on Tuesday night, and we now have to debate it on Thursday night. The actual reading of the Bill is a work of at least a couple of hours, and to consider it carefully would take many hours. It is true that the Bill is almost identical with that introduced in the House last session. I have checked it through and I find that the only two alterations of any importance in the Bill now before us are the insertion in the definition clause, under "employer," of the words "also any club employing one or more workers," and the omission of the clause prescribing that every award must contain a stipulation for 44 hours as a maximum week's work. All the other provisions that were objectionable to members on this side are still there. Last session one of the first duties assigned to me in this House was to criticise the Bill. I endeavoured to do so fairly, and I think most members agreed that I succeeded in being fair, at all events from the point of view of a member of the Opposition. If nothing else it was inevitable that in criticising the Bill at all honestly, some strong disapproval of the measure should be uttered, but I do regret that when the Minister who introduced the Bill replied to the lengthy debate last session he thought fit to devote two-thirds of his speech to personal abuse of me rather than to an analysis of my arguments. It struck me at the time as being somewhat ungenerous, particularly as I was unable then to answer it. The Minister, in reintroducing the Bill, said it was unnecessary to make a speech of anything like the proportions of his speech of last year. In the same way, obviously, it would be absurd for me to endeavour to talk to the House on the Bill for the length of time I occupied last session. I cannot imagine anything more tiresom to hon. members than to have a Bill, almost identical with one of last session, debated in the same way for a second time. It would be like that almost unspeakable agony of having to fight a case in the Supreme Court a second time when a re-trial is ordered. But the Bill brought in here is just as objectionable to us as it was last year, and in duty bound we shall have to move the same amendments as we moved last year, and again briefly put up the same arguments on those amendments. The Minister, in re-introducing the Bill, expressed the opinion that the time was even more unfavourable for an arbitration measure than it was last year, because recently there had been two somewhat serious industrial disputes. I cannot admit that the fact that there have been industrial disputes should make us less willing to listen to argument in favour of the improvement of our arbitration system. The majority of the House are convinced that arbitration has come to stay, and that it is the only serious attempt to do away with strikes and their resultant misery, and the industrial and economic interruption that attend upon them. At this stage, when that attempt is only in its infancy—for an experiment of this kind can hardly be expected to be worked out in the course of a mere decade or so—to abolish it would be a crime against mankind. We must persist in our attempts to substitute the rule of reason for the rule of violence. So, if anything, the atmosphere to-day ought to be more receptive to a measure of this nature, when we have industrial troubles fresh in memory, than when there had been a long period of peace. The Bill is an honest attempt by the Minister to improve the machinery. In many instances the improvements suggested by him are wise, while in other instances they are unwise, even reactionary. There are also inserted in the Bill certain provisions that have nothing to do with the improvement of our arbitration system, but have relation to matters

that ought to be dealt with by the court itself. For instance, the question of the 44-hour week that was in last year's Bill was essentially a matter that should be left to the court. Whether the Minister has been persuaded to drop it, or whether he has omitted that provision in the hope that the Bill may pass another House because of the omission, I do not know. I propose to refer to the objectionable features of the Bill, which are as objectionable to-day as they were last year. In the first place it is proposed that the court shall have power to order in an award preference to unionists. We have had a good deal of talk about preference to unionists, even this session, and I expressed my views strongly on the question the other night, so I do not propose to carry it any further now, except to remind members that Mr. Justice Higgins himself, in his work on arbitration, apologised for the existence of that power in the Federal Act. He says it has been used only once in the history of arbitration in Australia, and he says moreover he would not support it for one moment if there were power in the Arbitration Court to order employers not to discriminate against unionists. That, I submit, is what should be provided for. It is a logical and fair way of doing it; but to order an employer that he shall discriminate against non-unionists is utterly unjust.

Mr. Thomson: What about those who discriminate against their fellow unionists?

Mr. DAVY: It is all part and parcel of the same principle. To instance two features, the endeavour to include "domestic servants" and "insurance agents" in the definition of "worker." The former under the heading of "worker" becomes peculiarly objectionable when we remember that there is another clause in the Bill which proposes to give to the secretary and any person authorised by the president or secretary of the union, all the powers of entry and inspection possessed by an inspector under the Factories and Shops Act. If domestic servants are included, and those powers are given, then every home will be open to entry by the secretary of any union, or any person authorised by the president or secretary of that union at any reasonable time. To me it is an intensely objectionable provision that any secretary of a union should be able to enter my house against my will. It would be worse than if an inspector under the Factories and Shops Act were given permission to enter, because such an inspector is a person appointed by the Government after due consideration, and because of the qualifications he possesses to hold such a position. The secretary of a union may be appointed merely at the whim of the union itself, and furthermore the secretary of the union himself is going to be given power to appoint some other person to enter a private house to see whether the provisions of an award are being carried out. Another feature is the question of retrospective awards. Last year we showed, apart from the question of justice, that this might cause serious financial disaster to a big firm. Quite possibly the prospect of an increased award rate might not be anticipated. Subsequently the court might award an increase to date back some time. This would involve a company in a very big financial obligation for which provision would not have been made We have these two clauses, one designed to make an award binding on employers not engaged in the industry in question—the instance I gave last year was the possibility of a humble householder employing a man to paint his fence and finding himself brought within the provisions of an award, of which perhaps he had never heard—and again that clause which provides that awards shall bind employers who are actually not employing any workers at all. That was designed to hit the one-man bakery, that is to say the bakery where one individual does without any assistance. It is contended that such bakeries exercise an unfair competition. So far as I have been able to see from reading the evidence that has lately been given before the Royal Commission now sitting, a man who is prepared to work hard for his own benefit is able to keep down the price of bread to the level at which it should be.

Mr. Panton: You are wrong.

Mr. DAVY: Such a man is able by his own energy and because he is not faced with a heavy wages bill, to sell bread cheaper than the big man.

Mr. Panton: Quite wrong.

Mr. DAVY: Another provision which I said last year was objectionable and which is still objectionable, is that which proposes to deprive persons who are prosecuted in the Arbitration Court for breaches of an award—technically expressed as enforcement applications—of the right to have proper representation. That does not cut one

way only. It is frequently the case that employees are prosecuted for breaches of awards, and I submit that it is a gross injustice to deprive a man who is standing the peril of fine or imprisonment, or employing what representation he thinks fit. The unions themselves frequently find it convenient to employ counsel to prosecute. I have seen learned counsel appear in the Arbitration Court for unions just as I have seen counsel appear for employers.

Mr. Panton: They invariably lose their case when they employ counsel.

Mr. DAVY: That may be, but I think "invariably" is rather an unwise word to use. I can contradict it immediately because I have appeared for employers and employees in connection with these applications and have been successful. I do not wish to give myself a pat on the back, but my friend's interjection must be answered. Again we have an objection to the clause which wipes out the three months' limitation of action by an employee for arrears of wages which should have been paid under an award. It is right and proper, if we are to have an arbitration system, that contracting out should be forbidden. The whole object of arbitration is to protect the individual worker against what may be at times unfair bargaining that he might make with an employer. It is recognised to-day that there is no equality of bargaining between a man who has employment to offer and the man who takes the employment. If a man is to have the special privilege, in spite of the fact that he has agreed to take a certain rate of remuneration of subsequently saying, "I agreed to this but you should have paid a larger sum; now pay me the difference"—if he is to have that privilege, he should not sit on his rights, but should act quickly. As I submitted last year, in the majority of cases where there is a breach of an award it is because there is a doubt as to the interpretation of the award. Both sides are of the opinion that the award means such and such, and it is not until perhaps payment has been on that understanding, for some time, that it is discovered a mistake has been made. As I said last year, some bright young trade union secretary may taste the point after having discovered that a certain grade should have been classified as something else, and that the employee concerned should have got more during the time that has elapsed. If the period for adjusting that is to be six years, which is provided by common law, a disaster may result. A man may be employing hundreds of workers at a rate of wage which was honestly accepted by the employees as being what they were entitled to receive. The employer may subsequently be mulcted in a big sum which would represent payment over some years, and that would cause him considerable embarrassment. Finally, what to my mind is the most objectionable feature of the Bill is the proposal that the President of the Arbitration Court shall be appointed temporarily. That is not an advance on the present system; it is as reactionary as it can be. Centuries ago it was realised that people occupying judicial positions should be given absolute security of tenure. It was realised that if a man was appointed to the position of judge to decide between two parties, it had to be seen to that he would do so without fear or favour and without the slightest chance of his financial position being affected. That must apply even more in matters concerning industrial life. Yet it is proposed that the President of the Arbitration Court shall be appointed for a period of seven years. We must get something nearer an angel than a man who will continue to administer that court without considering to a certain extent how his decisions will be regarded by the Government which happens to be in power as the seven years are petering out. I do not think that the present constitution of the court is good, namely one judge and two arbitrators, but that is a minor point compared with the proposal to make the President merely a temporary officer. I ask the Minister for Works to consider the paramount importance of having whoever occupies that position placed in such a situation that he will be able to carry out his work without the slightest fear that his decisions may influence his re-appointment or otherwise. I shall not say anything more except to reiterate that we in the Opposition are absolutely bound to move the amendments which we submitted last year, and to adduce arguments in favour of those amendments. I hope that we shall be able to get a little more reason from the Minister for Works than he gave us last year, and that he may retire a little from the very adamant attitude he took up when introducing the Bill.

MR. THOMSON (Katanning) [5.58]: I do not know whether it is much use discussing this measure. We had it before us last

session, and if the Minister in charge of the Bill insists on getting it through as he did on the former occasion, I am afraid we on this side will not be permitted to dot an "i" or cross a "t."

The Premier: You can dot the "i's" but not cross the "t's."

Mr. THOMSON: The Bill is on all fours with that which was submitted last year. One wonders whether the Government are not wasting their time. One also hesitates about saying that arbitration as it has been enacted in Western Australia and in the Commonwealth generally is an effective panacea for all our troubles. When the Arbitration Act was first brought in I was the most enthusiastic supporter of it. Everyone believed that we had solved the problem of industrial unrest. Unfortunately, however, that has not been borne out by fact. In my opinion arbitration, instead of bringing employers and employees together, has raised a barrier between them. There is one portion of the Bill that I support and that relates to the appointment of wages boards. I think that system will prove more effective than the Arbitration Court in many instances. Recently those connected with the agricultural industry have had served upon them a citation by the Australain Workers' Union. To say the least of it, some of the conditions embodied in the citation are absolutely absurd. That, however, is a position created by latter-day arbitration. The men put forward most ridiculous claims. That is done in the hope that, according to the law of averages, the union will get more than they can reasonably expect.

Mr. E. B. Johnston: That sort of thing ought to increase membership of the Primary Producers' Association.

Mr. THOMSON: The minimum rate for shearers set out in the citation is £9 a week. If that rate were awarded, it would be more profitable to become a shearer than a member of Parliament.

Mr. Hughes: But the shearers work much harder!

Mr. THOMSON: I am not dealing with that phase. There is a clause in the agreement setting out that the rate per hundred sheep for shearing is to be £3. It is also provided that should a shearer not be able to earn his full quota—some of the shearers may be absolute duffers, while others can earn up to £14 a week——

Mr. Panton: Then £9 is not much of a minimum.

Mr. THOMSON: That is not the point. The man who is absolutely incompetent and can only earn, say, £3 according to the actual work he performs, will have to be paid a minimum of £9 if the citation is given effect to.

The Minister for Lands: That is what the Arbitration Court is for, to settle disputes between parties.

Mr. THOMSON: But when such absurd claims are made it shows to what extent this has become a farce.

The Premier: But that has no bearing on the principle.

The Minister for Lands: I have heard of absurd claims from you, yourself.

Mr. THOMSON: That may be so, but I was referring to the citation we have received from the A.W.U.

The Minister for Lands: It has no bearing on the Bill.

Mr. THOMSON: It has no bearing because, unfortunately, the Arbitration Court awards are binding only upon the employer and not upon the employee. That has been proved time and again. It was proved here only recently and again to-day we have the threatened industrial upheaval in connection with the seamen.

The Premier: That has nothing to do with this.

Mr. THOMSON: I want to show the effect of present-day conditions. In the latest instance there was an agreement arrived at and if we can judge, the instigators of the trouble are those associated with the Australian Seamen's Union. That organisation, by the exercise of job control and by other methods, sought to hold the Commonwealth Arbitration Court up to ridicule and eventually the organisation was de-registered. When we have regard to the position as it is at present, we can well wonder what can be gained by passing the Bill. I am prepared to admit that the Minister is sincere in his desire to overcome existing difficulties, but I fail to discern anything in the Bill that will alter the position as we find it to-day. Under existing conditions an employer can be compelled to do certain things, but it is impossible to compel an employee to work for anyone if he does not care to do so.

Mr. Withers: You cannot compel an employer to keep his industry going.

Mr. THOMSON: I hope the time will never come when we shall compel men to work against their will. The argument used

is all very well in theory, but in practice it is most unfair.

Mr. Hughes: Who do you think breaks awards more often, the employer or the employee?

Mr. THOMSON: There are dozens of instances where the employees have broken the awards.

Mr. Panton: You cannot name four instances.

Mr. THOMSON: I hold no brief for either one section or the other. In my opinion the Arbitration Court merely created a barrier between the employer and the employee and I am strongly in favour of wages boards which would be much more effective. After all, the court has to decide upon the evidence that is adduced, and one wonders often whether the judgment given is just as sound as it could have been. We have a Railway Commissioner to whom we pay £2,000 a year, but he has no control over his employees. He has to observe the rates of pay and conditions laid down by the Arbitration Court.

The Minister for Lands: We have 50 members of Parliament and there is no control over us.

Mr. Latham: The people have that control.

Mr. THOMSON: Yes, and exercise that control every three years. The fact remains that those in charge of our various departments cannot decide what is best in the interests of the general administration of the concerns under them. I am strongly opposed to the clause that provides for the court giving preference to unionists. We have heard a good deal about man's inhumanity to man, but I can conceive of nothing more inhuman than the denial to a fellow man of the right to earn his bread and butter. I hope the time will never come in Western Australia when such a provision will be agreed to. If that clause be agreed to and the court will have power to say that none but unionists shall be employed, then indeed shall we have taken a retrograde step and the workers will have placed around their necks a chain that they will find it difficult to remove.

Mr. Sampson: In any case if such a provision is to be made it should also be laid down that every man should have the right to join a union.

Mr. THOMSON: That is so. I have always opposed preference to unionists and will continue to do so. Another clause seeks to bring domestic servants within the scope of the Act. I realise that we are helpless in this Chamber, and no matter what amendments we may move, we will not be permitted to amend the Bill. It is not right to bring domestic servants within the scope of the Arbitration Act, and it is certainly not right that Parliament should give the secretary or president of a union, or any other person who may be appointed, the right to walk into one's home whether one likes it or not. It has always been the proud boast of Englishmen equally with Australians, that their homes are their castles, and that not even the King of England has the right to enter any one of them without the owner's permission. The principle of allowing a union official to have access to one's house is wrong, and I hope the House will not agree to any such provision. I also hope that those interested in primary production will not be brought within the scope of the Arbitration Act, particularly regarding the curtailment of hours. It is the function of the court to fix the hours of labour. I understand that the Government have eliminated the provision for a 44-hour week from the Bill in order to bring down a measure later on dealing with that aspect. We find, however, that the Government have granted the 44-hour week throughout a number of State departments and the 44-hour week is to be introduced into the State Sawmills operations.

Hon. Sir James Mitchell: And that, too, against the order of the court.

Mr. THOMSON: That is so. At the present time the Government have despatched an officer to the Eastern States to attend the Federal Arbitration Court to deal with matters that will be brought before it in connection with the Timber Workers' Union. One of the most important questions to be decided by the court will be as to whether a 44-hour or 48-hour week shall obtain in the industry.

Miss Holman: There is nothing to prevent an employer giving workers better conditions than those granted by the court.

Mr. THOMSON: I am not debating the point as to whether it is right or wrong that the 44-hour week shall operate in connection with the State timber mills.

Mr. Latham: But it is an interference.

Mr. THOMSON: Yes, and it will seriously affect the finances of the State. Some people will say that the same argument was advanced years ago when men worked 60 or

70 hours a week. There is no getting away from the fact, camouflage it as much as may be, that in other parts of the world men are working longer hours and capturing trade. The trade and commerce of the British Empire is suffering seriously from the competition of Continental countries because workers in those foreign parts are working longer hours than are the men in Great Britain.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. THOMSON: Before tea I was discussing the action of the Government in granting the 44-hour week to the sawmills. It has since been reported in the Press that as a result of the timber workers getting that concession the joiners and carpenters are restive. Of course that is only natural. While the Government are fulfilling their promises in respect of the 44-hour week I think they are exceeding them and are laying down a principle that is an interference with the Arbitration Court.

Mr. Corboy: The Government were elected on that principle.

Mr. THOMSON: No, they were not, for that was by no means the only plank in the Labour platform as placed before the people. Consider the danger in which the Government's attitude is placing us. The number of employees in the Railway Department is 7,616. No doubt since the Government have seen fit to grant the 44-hour week to the sawmills the railway men will demand the same concession. I would do so myself if I were a railwayman. If that concession be granted to the Railways one-twelfth more employees, or 634 additional men, will be required in order that the same work may be done as is being done now.

The Premier: What has that to do with the Bill, anyway? It is entirely out of order.

Mr. THOMSON: We are discussing arbitration and I find that the working expenses of the Railways amount to £2,355,000. So it will be seen that the 44-hour week, if granted to the Railways, will involve an increased expenditure of £190,000.

The Premier: I rise to a point of order. I submit that this matter is wholly irrelevant to the Bill. The hon. member is discussing the probabilities of the Government at some future date granting the 44-hour work to railway employees and is proceeding to show the increased cost it would mean to the Railway Department. That has nothing to do with the Bill.

Mr. SPEAKER: It might have to do with the Bill if the hon. member can make it relative to the subject by showing how arbitration will affect the Railways.

Mr. THOMSON: The Minister for Works, when moving the second reading, referred to the 44-hour week.

Mr. SPEAKER: That is not in the Bill.

Mr. THOMSON: Apparently I will not be able to deal with that subject, although I did want to show what it would mean to the State. Those in country districts view with alarm the possibility of the 44-hour week prejudicially affecting the primary industries.

The Premier: Representatives of primary industries in the country are always whining, always crying out.

Mr. THOMSON: The Premier is not sincere in saying that, for he knows that the primary industries——

The Premier: I know that in no other country in the world do the primary industries get so much Government assistance as is afforded them in Western Australia.

Mr. THOMSON: I know also that the prosperity of the State depends on those industries.

The Premier: Some of them are always whining about a little extra to the workers.

Mr. THOMSON: I am justified in sounding a warning note, but unfortunately I am not permitted to follow it up. I am not an advocate of low wages, or bad working conditions. I have a knowledge of bad working conditions and I have had personal experience of low wages. I am not an advocate of either, but I do want to touch upon the instructions that, if the Bill become law, will be given to the court for guidance in fixing the basic wage. Of course, in view of the present high cost of living it is very difficult for some workers to make ends meet. But it is prescribed in the Bill that the wages awarded shall not be lower than the basic wage, except when a man be incapable of earning the basic wage, either by reason of being a junior worker or being of old age or incapacitated. I want to sound a note of warning in respect of the basic wage. When the president of the Arbitration Court granted an increase to the railway men, the increase was passed on in the shape of increased railway freights. In some industries, particularly the great primary industries that

are carrying the people of the State, it would be impossible to pass on any such increase. Therefore, I hope the Government will agree to the rural workers being omitted from the provisions of the Bill. If the basic wage be forced to too high a point, it may ultimately be disastrous to those very people whom it was intended to benefit. I do not agree with the formula prescribing the method by which the court is to arrive at the basic wage. The clause states that it shall be a sum sufficient for the normal and reasonable needs of the average worker, and in the case of the male worker——

Mr. SPEAKER: The hon. member is not entitled to discuss any particular clause at this stage, but must confine himself to the principles of the Bill.

Mr. THOMSON: It is difficult at times, when one is not allowed to quote the clause. The method laid down in the Bill is quite justifiable in respect of married men, but it unduly favours the single men. It is often said that Queensland presents an excellent example for us to follow in industrial matters. However, I do not agree with the percentage laid down in their Act. It is grossly unfair to the married man and his wife and three children that he who has to pay rent for a five-roomed house, and provide food and clothing for his wife and three children, should be on exactly the same plane as a single man. Of course, if the single man be careful, he will be able to save money against the day when he, too, takes on household responsibilities. However, I think the test should be: what is a reasonable working wage that will keep a man; after which we could devise some method of affording additional assistance to a married man with children. That is not unlike child endowment, but I would not be in favour of child endowment. Of course, in all probability, members on this side are merely beating the air, for we shall not be able to amend the Bill in any way.

The Minister for Lands: You need not advertise your weakness.

Mr. THOMSON: It is a very natural weakness, since we have not the numbers.

The Minister for Lands: You had them for six years.

Mr. THOMSON: I was never in a position to introduce a Bill, and to-day we on this side are not in a position to put our views into effect in respect of the Bill before us. We can only discuss this matter in the hope that the Minister in charge of the Bill will adopt some of the suggestions we are offering. I suggest that a section in the Federal Act might well be included. It will be competent for the Government to appoint as President of the Arbitration Court a layman instead of a man versed in the law. Section 31 of the Commonwealth Act reads—

> The President may, if he thinks fit, in any proceedings before the Court at any stage and upon such terms as he thinks fit, state a case in writing for the opinion of the High Court upon any question arising in the proceedings which in his opinion is a question of law. The High Court shall hear and determine the question and remit the case with its opinion to the President, and may make such order as to costs as it thinks fit.

The Minister for Lands: I thought you objected to the Federal Court having anything to do with industrial matters in this State.

Mr. THOMSON: I do.

The Minister for Lands: And yet you are advocating it.

Mr. THOMSON: I am not advocating for a moment that the President of the State Arbitration Court should appeal to the High Court. We have a Full Court in Western Australia to which the President of the Arbitration Court should be able to appeal. If the Government decide to appoint a layman as president there may be occasions when he might desire to state a case and get a ruling, particularly on a question of law.

Mr. Panton: There should be no question of law in arbitration. It should be a question of facts.

Mr. THOMSON: If it were a question of facts the outrageous claims made to the court would never be submitted. The unions apparently submit the highest claims possible in the hope that the court will grant them a little more than they expect to get.

Mr. Panton: And the other side make it as low as they can.

Mr. THOMSON. If there is anyone who should know a little about arbitration, it is the hon. member, and he is perfectly aware that abnormal claims were submitted by the A.W.U. in connection with the pastoral industry. To look at those claims, one would never think they were drawn up by a body of reasonable men anxious to submit just and proper claims in respect of wages and working conditions. That is the

unfortunate position in which we find ourselves to-day. The organisations claiming increased rates submit the highest claims possible. The advocate for the other side, to combat the outrageous claims made, has to go as far as possible towards the other extreme in the hope that the court, as it usually does, will split the difference.

Mr. Panton: I wish the court would split the difference. We would be a long way better off than we are.

Mr. THOMSON: The hon. member is well aware that the principle of splitting the difference has become the practice of the court.

Mr. Panton: That is absolute rubbish.

Mr. THOMSON: The hon. member is well aware that it is so.

Mr. Panton: I know the court's decision is based on the Commonwealth statistics.

Mr. THOMSON: Last session I dealt exhaustively with the Arbitration Bill, and I recognise the futility of dealing at length with it on this occasion. I recommend the Government to appoint a president for a fixed period, so that he will be in no danger of being removed from his position by any section of the community. The Supreme Court judges cannot be interfered with, and the President of the Arbitration Court should be placed on a similarly secure footing. I strongly favour a court consisting of a president only. I am not in favour of incurring the additional expense of lay members to sit with the president. The decision invariably rests with the president, because each of the lay members of the court naturally looks after the interests of his own side. I have not much hope that even in Committee we shall be able to obtain any considerable alterations to the Bill. We had our experience last year. If the measure does become law, I can only hope that it will prove as successful as the Minister for Works believes it will. As to that I, personally, have very grave doubts.

MR. SAMPSON (Swan) [7.53]: I hope we shall not lose heart entirely as to the prospect of varying some of the clauses of this Bill during the Committee stage.

Mr. Thomson: You are very optimistic.

Mr. SAMPSON: The hon. member has probably voiced the feelings of members on this side of the House.

The Minister for Lands: He was very pessimistic.

Mr. SAMPSON: After his pessimism, optimism may spring anew in our hearts as to our chances of altering some of the more objectionable clauses of the Bill. We are justified in taking encouragement from the fact that the measure already differs somewhat from the Bill of last session. On that occasion it included a 44-hour week provision, because the Government then had in mind taking from the Arbitration Court the duty of determining the number of hours to be worked. It is satisfactory to know that the clause does not appear in this Bill. The Government have evidently realised that to pass that clause would take from the court and give to Parliament a function which it was never intended Parliament should exercise. The clause providing for preference to unionists will not be objected to generally. Unionism is firmly established. There is one phase, however, that should receive consideration, namely that a man of good character and capable of carrying out his work should be able to join a union. Otherwise the preference to unonists clause might preclude a man from earning his living and thereby bring want to his wife, family and himself. There are occasions when men who apply for admission to unions are not received. Members on the Government side will agree that such action is tyrannical and is not calculated to advance the interests of the people generally.

Mr. Panton: Which union does that?

Mr. SAMPSON: I heard of a man who wanted to join a big union. He received a letter stating that because he was not a member of a union, his services could not be retained. He applied for admission to the union and was advised to submit an application form, signed by a proposer and seconder and accompanied by a certain fee. He had the fee, but a proposer and seconder were not available. It had evidently been decided that this man should not be admitted.

Mr. Sleeman: Was he of good character?

Mr. SAMPSON: Yes, and his testimonials as to qualifications were unquestioned. But unfortunately the union did not desire him to become a member. That is a very unfair position brought about by preference to unionists. I could name the person and the union, but I shall refrain from doing so as the matter will be further dealt with. I mention this to show that the clause in the Bill providing for preference to unionists is fraught with very great dan-

ger to the community, and should not be accepted in its present form. Provision is made in the Bill for the appointment of a president, who may be a judge of the Supreme Court. I have great respect for Supreme Court judges. No man can become a judge unless he is highly qualified, has had very good training, and is accordingly capable of judging from the demeanour of those present as to their sincerity, estimating the value of their evidence, and generally acting in a judicial capacity and holding the scales of justice with even poise. He is always of high repute, and that added to his other qualifications must mean that the functions of the court are wisely determined when presided over by a Supreme Court judge.

Mr. Sleeman: I suppose he knows more about workers' conditions too.

Mr. SAMPSON: I should imagine a judge, who is necessarily qualified, would be able to come to a decision better than a layman, however skilled the latter might be in his trade. I do not know to what trade the member for Fremantle (Mr. Sleeman) belongs, but I say without hesitation that the man best qualified to determine the case is he who is used to weighing evidence, and not one who is used to following a trade.

Mr. Sleeman: It all depends on the point of view.

Mr. SAMPSON: The member for Fremantle may be an excellent tradesman, but members would I am sure hesitate, if they had to answer a charge, to agree to being tried by him if the weight of evidence were to determine whether they were guilty or not.

Mr. Panton: He would be a sympathetic judge.

Mr. SAMPSON: It would be necessary to rely on his sympathy rather than his judgment. The president of the court should be a Supreme Court judge and be appointed for a definite period so that he may be independent of political and other questions. The recent catering trouble gave the people of the State occasion for hard thinking. It provided a sad commentary upon the working of our arbitration laws, and was the cause of much disappointment. The employees were working under an award which had not then expired, but it was flouted by those whose conditions were affected. Later on the acting president of the court made an order, which was treated contemptuously. To all who had any belief in the principles of arbitration—I believe everyone has some belief—this position was a very satisfactory one. Not many years ago when arbitration was being fought for in the parliaments of the Commonwealth I recall how great was the expectation of the people regarding the results to be achieved.

The Minister for Lands: And the results have been good.

Mr. SAMPSON: I admit that, but they have not been as good as they might have been if there had been a ready acquiescence on both sides to observe the conditions of the awards of the court. The industrial community would then have been in a better position than has actually been the case. Whilst employers are compelled to observe the awards, the employees, as in the case of the recent catering dispute, obey them only so long as it suits them to do so, and thereafter flout them and do as they please.

Mr. Sleeman: You would not say the employers are forced to abide by them. What about the closing down of the mines?

Mr. Chesson: What about some of the tearooms that closed down?

Mr. SAMPSON: Because of what happened many of the tearooms are not paying. Several of the little shops that were used as tearooms are now used for other purposes. We must not lose faith, however. My hope is that as a result of the debate on this Bill the industrial affairs of the State will improve. All are interested in the working of industrial arbitration awards. I have always disagreed with the principle of making awards retrospective. That creates an impossible position for the employers, who are unable to pass on the additional expense involved where the payment of extra wages is involved. I submit that only in very rare cases, and in unusual circumstances, should retrospective pay be ordered. I am glad that the apprenticeship board that was provided for in the previous measure is also provided for in this Bill, but I regret that, as was the case then, the building trade is the only trade effected. The number of apprentices in various trades is limited to an extent that is too severe. Western Australia offers an opportunity for a large number of tradesmen, and the system of apprenticeship should be liberalised. A tradesman is a comparatively independent man, for he has very little difficulty in securing a satisfactory position.

Mr. Sleeman: There are many of them out of employment.

Mr. SAMPSON: What trades do they follow?

Mr. Lutey: There are engineers.

Mr. Sleeman: And there are fitters.

Mr. Chesson: And there are turners and moulders.

Mr. SAMPSON: In the country numbers of motor garages have recently been erected, and these call for the employment of a particular class of engineer. I do not know whether those men referred to by hon. members would come within the scope of that work. There are more engineers working in Western Australia to-day than previously. The village blacksmith is dying out.

Mr. Panton: Because there are no chestnut trees.

Mr. SAMPSON: But the motor engineer is in demand all over the State. As is necessary in this country the number of motor cars is multiplying, and the number of engineers is increasing all the time. Given a trade a man is, except in rare instances, able without difficulty to secure a position. Parliament might consider the advisability of giving an opportunity to the boys to learn a trade, and thereby secure an insurance against unemployment such as they might otherwise suffer from.

Mr. Sleeman: They will not support the industries they have got.

Mr. SAMPSON: Western Australians do support their industries, though we have very few. The member for Fremantle, who so vigorously espoused the cause of the unemployed, must find himself in a peculiar position if, when the suggestion is made that we should have more tradesmen, he inferentially advocates that it is better for men to remain unskilled.

Mr. Sleeman: I did not make such a statement.

Mr. Lutey: You say it is easy for them to get employment.

Mr. Panton: In connection with what trades did you say that?

Mr. SAMPSON: Painters and printers and other classes of trade that I know of——

The Premier: There are 19 painters out of work in Perth to-day.

Mr. SAMPSON: I am amazed to hear that.

The Premier: The secretary of the union came to see me to-day. There are men out of work in every trade.

Mr. SAMPSON: I do not know that there are any out of work in the printing trade.

Mr. Sleeman: Yes, three have been out of work in Fremantle for some weeks.

Mr. SAMPSON: There are plenty of places in the country where a newspaper would be a God-send to the people. There is a good living awaiting them.

The Premier: Doing what.

Mr. Chesson: Starting country newspapers.

The Premier: We have too many newspapers now.

Mr. SAMPSON: Let us have all the publicity we can get. Newspapers all help towards progress.

Mr. Chesson: A man must have capital to start with.

Mr. SAMPSON: The difficulty is that of securing tradesmen who will go to the country.

Mr. Chesson: Or that of getting credit.

Mr. E. B. Johnston: The best places have gone. Newspapers are already established there.

The Premier: We are going to start a number of State newspapers in country districts.

Mr. Teesdale: A State pub would have more chance.

Mr. SAMPSON: If that were done I could not do other than offer my deepest sympathy. I know what the final result would be.

The Premier: We would confine all Government advertisements to our own papers.

Mr. SAMPSON: That is an opportunity which possession of the Treasury affords, but I know the Premier would not avail himself of it. The board might well give consideration to apprenticing lads to all trades. It may be beyond the power of one particular board to do this, but it might be done by passing this obligation on to inspectors appointed under Arbitration Court awards. At present there are in different trades inspectors appointed by the court. They visit the workshops where the apprentices are employed, test them both orally and practically and see whether they are making proper progress, and report to the court. They are doing fine work. It might possibly be found to be workable to appoint these inspectors as an apprenticeship board for the different trades concerned. The 44-hour week provision is not included in the Bill, and to that extent the Minister is to be congratulated.

Mr. Teesdale: It must be a mistake.

Mr. SAMPSON: The Minister has informed us, however, that it will be brought forward later on in a separate Bill. There are several sections of women who work very long hours, but I do not know that it is possible to reduce those hours. One section working unreasonably long hours is represented by our nurses.

Mr. Sleeman: And what about Mary Jane?

Mr. Davy: Or Mrs. Mary Jane?

Mr. Panton: She should put her old man out and make him do something.

Mr. SAMPSON: If they are to be denied the assistance of those the member for Fremantle (Mr. Sleeman) improperly referred to as the "Mary Janes," the position of the mothers in Western Australia will be much worse.

The Premier: It is the workers' wives who are complaining now that they cannot get maids.

Mr. SAMPSON: There are many workers' wives who should have maids and if the workers' wives worked as many hours as the workers I am afraid many men would have to get up early and get their own breakfasts.

Mr. Panton: And it wouldn't do them any harm either.

Mr. SAMPSON: Irrespective of whether the woman is the wife of an employer or of an employee she works exceedingly long hours, and I am not sure that there is much difference between the homes of the employers and those of the employees so far as the work of the woman is concerned. In both instances the women are deserving of every sympathy. Many girls are happily employed in domestic service and there are many women who are good employers, and extend kindly consideration regarding the conditions under which the girls work. No one would suggest otherwise. Probably no hon. member will oppose the position regarding the five-roomed house. But the trouble facing Australia relates to the payment that has to be made in respect of thousands of children who are non-existent. Awards are based on the requirements of a family of five, comprising the father, the mother and three children. In many homes, however, there are not three children. That is a difficulty that Parliament cannot overcome.

The Premier: It is the Commonwealth that has to face that difficulty.

Mr. SAMPSON: To return to the hours worked by nurses in the Government hospitals, I hope the time is not far distant when those wonderful, patient and industrious women will work under better conditions. The hours they labour represent a disgrace to anyone associated with them.

Hon. S. W. Munsie: What hours are they working?

Mr. SAMPSON: I am informed that they work 60 hours per week.

Hon. S. W. Munsie: They do not work those hours in any Government hospital. The Perth and Fremantle hospitals are not Government institutions.

Mr. Davy: Are the nurses down to a 44-hour week in the Government hospitals?

Hon. S. W. Munsie: No; there are none working 60 hours.

The Premier: There have been many improvements since you were in office. You did nothing.

Mr. SAMPSON: I do not know about that.

Hon. S. W. Munsie: The nurses will be down to 52 hours a week when we can get the necessary accommodation for them.

Mr. Davy: Why not 44?

Mr. Panton: They would have probably got that if they had had a union.

Hon. S. W. Munsie: As a matter of fact the organisation representing the nurses refused 52 hours a week and demanded 60 hours.

Mr. SAMPSON: I regret to hear the statement made by the Honorary Minister.

Hon. S. W. Munsie: It is true. That was at a conference.

Mr. SAMPSON: Because hospital nurses are not members of a trades union they should not be treated with indifference.

The Premier: You know better than that.

Mr. SAMPSON: That is what the Honorary Minister said.

Hon. S. W. Munsie: No, I did not.

Mr. SAMPSON: Then what did you say?

Hon. S. W. Munsie: Some other member interjected to that effect.

Mr. Panton: I did, and I will let the member for Swan know about it later on.

Hon. S. W. Munsie: I would be very pleased if the nurses were in the union.

Mr. SAMPSON: Whether members of a union or not they should receive every consideration from those in authority. I have been in several hospitals as a patient, and I have always left with the greatest possible respect for the nurses and admiration for the magnificent way they do their work. I

am glad that the Minister in charge of hospitals agrees that they should have the best conditions.

Hon. S. W. Munsie: They should have much better conditions than exist to-day.

Mr. SAMPSON: And they should get that consideration whether unionists or not.

Mr. Lutey: You could have done something for them while you were in office.

Mr. SAMPSON: So we did; the hours were reduced.

MR. PANTON (Menzies) [8.23]: There is no necessity to make long speeches on the second reading of this Bill because it was freely discussed last session, and that makes it practically a Committee Bill on this occasion. In view of the statements made by the member for Swan (Mr. Sampson) I wish to make an explanation. During his speech I interjected that if the nurses had been members of a trades union they would probably have been conceded a 44-hour or 48-hour week. I say that advisedly. Without being egotistical I can claim that few men if any have done more in an effort to reduce the hours for nurses in Government and semi-Government hospitals than I have.

Mr. Sampson: It is a pity you were not more effective.

Mr. PANTON: Had I a more sympathetic Minister to deal with than the member for Swan I would probably have secured some reduction. None was forthcoming. Three years ago while in the Repatriation Ward—I have been many, many times in hospital—I learnt something about the work of the nurses. Realising what their conditions were I endeavoured to reduce their hours of labour. I am still a member of the Perth Hospital Board. It was not very long before I found that, unlike our experience with unions generally, I was confronted in my endeavour to better their conditions by a professional etiquette that it was impossible to overcome. The nurses are controlled by an organisation known as the Australian Trained Nurses' Association, better known as the A.T.N.A. The executive of that organisation is the organisation. The nurses are distributed throughout the whole State and rarely if ever do they gather at one meeting.

Mr. Davy: That is like the A.W.U.

Mr. PANTON: That organisation holds a congress every year, and the members from all over the State are represented at that gathering. It is not so with the A.T.N.A. The executive control the organisation absolutely, and strange to say, the executive officers are not even members of the professional nursing staff with the exception perhaps of one or two. The executive consists of one of two doctors—Dr. Officer was the chairman at the time I speak of, although he does not occupy that position now, and another doctor has since been appointed, I believe—and the remainder are either doctors' wives or nurses who have left the profession. It is remarkable that the average nurse when she becomes a sister, who is a fully qualified nurse, is just as hard on the probationer under her as she, when a probationer herself, complained that the sisters over her were hard upon her. It may be a case of getting some of her own back. The great majority of the hospitals are staffed with probationary nurses, with a sister or two in charge of the ward. Probationers are not eligible to join the A.T.N.A., membership of which is confined to certificated nurses. Thus it is that the probationers have no organisation to look after their interests. It would be a difficult matter to organise these girls into a trade union principally because very few of them finish their course and become certificated nurses. The work is too hard for them.

Mr. Lindsay: They usually get married.

Mr. PANTON: No, probably 45 per cent. of them break down inside six months. I said that if they had a union they might have got a 44-hour week. Working in the same institutions as the probationers are housemaids and waitresses. They belong to a union and they have secured regular hours. They have a 44-hour week and are working for more than the probationary nurses. That is why I say that if these girls were able to belong to a union they would have better hours and better conditions than exist now. The reason why the nurses at the Perth hospital have to work so long is that to reduce the hours means an increase of 30 odd nurses, and we have not yet the accommodation for them. The Works Department is about to proceed with buildings that will give room for the increased staff, after which we hope to reduce the nurses' hours, a reform long overdue. If there be any section of the community whose hours should be short, by reason of the arduous nature of their duties, it

is the nursing staffs at the various hospitals. I have told the medical profession time after time that they are the men who should be looking after the interests of the nurses, because if it were not for the good work of the nurses, the doctors would not be able to get half the good results they are getting. A doctor is with his patient once a day, whereas the nurses are with him 24 hours a day.

Mr. Teesdale: Well, you have now a chance to effect this reform.

Hon. S. W. Munsie: I have the plans ready for a building that will accommodate the necessary increase in the nursing staff.

Mr. PANTON: If the probationary nurses would but form a union to-morrow, I would undertake to get their hours reduced. A great deal has been said about preference to unionists. It must not be forgotten that under the Bill preference to unionists is left to the discretion of the court. We have been told to-night that last year's Bill tied the hands of the court in respect to the 44-hour week. If it be not a good principle to tie the hands of the court in that regard, surely the court should be left free to deal with the preference to unionists principle, or any other industrial matter, as it thinks right. If the court sees fit to give preference to unionists, it should have the right to do so. That provision has been in the Federal Arbitration Act from its inception. And what has been the result? The provision has been put into operation on only one occasion, notwithstanding that almost every union appearing before the court has put up a fight for preference to unionists.

Hon. Sir James Mitchell: Then we do not want it in the Bill.

Hon. S. W. Munsie: Yes, we do.

Mr. Davy interjected.

Mr. PANTON: Is there any more reason to doubt the president of the State court than to doubt the president of the Federal court? If it be good enough for the president of the Federal court to have that discretion, there is no reason why it should not also be given to the president of the State court.

Mr. Davy: The president of the Federal court is appointed for life.

The Premier: No; why did Mr. Justice Higgins get out?

Mr. Davy: He was safe, for he had a judge's tenure.

The Premier: He was not appointed president for any given period.

Mr. Davy: But he could not lose his job.

Mr. PANTON: I am surprised at the hon. member putting up that argument. Evidently he believes that, whoever may be made president of the court, he will give awards in accordance with the views of the political party in power. I should be sorry to think that any Government would appoint a man who would truckle to the Government of the day. When that is introduced, goodbye to arbitration.

Mr. Davy: Why not appoint him for life, and so make him safe?

Mr. PANTON: It is not in my hands. If it were, I would appoint myself for life. However, I think that a man appointed for seven years has a pretty good tenure, warranting him in doing the right thing. The member for West Perth deplored the fact that solicitors are not allowed in the Arbitration Court.

Mr. Davy: No, that they are not allowed to defend persons who are being prosecuted.

Mr. PANTON: That has been brought about by reason of the fact that we industrialists believe that the fundamental basis of arbitration is discussion of the conditions of the trade the parties are in. We have found that when there were solicitors in the case the facts of the case were ignored, and it became a question of some point of law. The member for Katanning (Mr. Thomson) suggested that, on the lines of the Federal Act, there should be provision for an appeal, or for the president of the Arbitration Court to state a case to the Full Court. But in the Federal arena that has been brought about through the legal fraternity being allowed to appear in the Federal court, for those gentlemen, realising that the longer they can hang up a case by legal technicalities, the longer are the men deprived of any advantages the court may ultimately give them, never fail to introduce such technicalities.

Mr. Davy: You are now making imputations.

Mr. PANTON: Against the employers. And I am justified in it, for day after day and week after week the Federal court is held up by the discussion of technicalities, not in respect of what a man may be doing in the trade, but as to whether the case is or is not properly before the court. That is the objection we have to the appearance of the legal fraternity in the Arbitration Court. Their very training is responsible for it; that is their job. Arbitration should be be-

tween the employer and the employee. I can assure the member for West Perth that the employers in this State are able to get just as good laymen to represent them in the court as are any of the trade unions. Moreover, when the case is argued by two laymen before the court, there is more likelihood of the court coming to a proper decision, and less likelihood of enmity between the parties being bred.

Mr. Davy: Why should not a man who is being prosecuted take advantage of a technicality?

Mr. PANTON: When finally the Arbitration Court decide a clear issue, the employer has no right to take advantage of any technicality, but should obey the judgment of the court.

Mr. Davy: What about an employee who is being prosecuted?

Mr. PANTON: It has been said time after time in the House that arbitration applies only to one side. Yet I know of only two instances in Western Australia in which a union has directly struck against an award or an agreement made a common rule. One was the late strike by the tearoom employees, whose agreement had not run out, and the other was the strike by the sewerage employees against the loss of the 44-hour week.

Hon. Sir James Mitchell: What about the wharf labourers?

Mr. PANTON: I am referring only to the State court. The Bill does not deal with any other court.

Mr. Davy: Lots of employees have been prosecuted for breaches of an award.

Mr. PANTON: Not lots, although there should have been a lot more. As secretary of the Shop Assistants' Union, I have repeatedly found instances of employees in collusion with employers breaking the award. If the matter had not been quickly rectified, they would certainly have gone into court. But as against those two unions to which I have referred, scarcely a month passes without employers being brought before the court for breaches of an award. The member for West Perth has said that once an employer is caught deliberately breaking an award, he has the right to seize upon a technicality to escape the penalty.

Mr. Davy: But not until he is caught. He is not guilty until convicted. You would have him proved guilty before going into court, and would deny him the right to defend himself.

Mr. PANTON: No, but when he seizes on some technicality, he is doing something that will kill arbitration. To a large extent that is what has brought about the objection to solicitors appearing in the Arbitration Court. The member for West Perth has said that in many cases it is not a question of a breach of an award, but purely a question of interpretation. Most union secretaries, when they find some employer not carrying out the award, are prepared to discuss the matter with him. If they are of opinion that the employer making the breach honestly believes he is right, they invariably take a case, not for a breach of the award but for an interpretation. I have taken scores of cases for interpretation to the court when I honestly believed the employer thought he was right, but I have also known, as have other union secretaries, scores of cases where the employer was aware that he was deliberately breaking the award.

Hon. Sir James Mitchell: Going slow, was he?

Mr. PANTON: The employer takes good care that his workers do not go slow, but he goes slow on the award. One of the troubles under the present system of arbitration arises when an employee is underpaid. To obtain an award involves the union in considerable expense. When the secretary goes around to inspect the record book, he might find a breach of the award. Perhaps an employer is underpaying an employee to the extent of 7s. 6d. or 10s. a week. The breach is pointed out to him, but he refuses to accept the interpretation of the union secretary. Though the provision is laid down in black and white, he continues to underpay that employee. The only remedy the union has is to file a case in the Arbitration Court, and it is sometimes six, 12 or even 18 months before the case is heard, and all that time the employer continues to underpay the employee. Eventually the case comes before the court and is tried, and the employer is fined perhaps £1 or 30s. Yet he has saved the amount of 7s. 6d. or 10s. a week in respect of the employee for the 12 or 18 months during which the breach has been going on.

Mr. Davy: But you could issue a plaint in the police court.

Mr. PANTON: I have done that. When I have gone to the police court, I have found a solicitor representing the employer. He has no difficulty in tying the magistrate or the justices into all sorts of knots with all

the technicalities he can advance, but I am not allowed to appear in a police court. I know the award from A to Z, but I have to hand over a brief to a man who is not so conversant with the award as I am. The magistrate or justice, knowing nothing of arbitration, is loth to give a decision. So we have been forced to go to the Arbitration Court. Having secured a conviction carrying a fine of perhaps 20s. or 30s.—a couple of employers were fined £5 and £10 the other day—we then have to sue as the member for West Perth suggests. But we can then recover the arrears for only three months.

Mr. Davy: You have an amendment in this Bill, a good amendment which will cure that.

Mr. PANTON: And the hon. member is objecting to it.

Mr. Davy: No, I am not. It is a good amendment.

Mr. PANTON: I am pleased to hear that the hon. member finds something good in the Bill.

Mr. Davy: What I objected to was that a man should not be able to defend himself when he is prosecuted.

Mr. PANTON: We have no objection to a man being able to defend himself, but we object to his introducing technicalities into a case that should be decided on the facts. If the Arbitration Court were open to the legal fraternity the employers would have the assistance of the best brains obtainable to put up their case, and the unions would have to obtain the best brains they could get. What would be the position then? A big union like the Railway Union, whose members pay 1s. a week to maintain their conditions, has to spend £1,000 or £1,500 to get an award, but it would cost that union £5,000 or £6,000 to employ King's Counsel and two or three junior counsel.

Mr. Davy: I am asking that counsel be admitted not on ordinary proceedings but only where an employer is charged with an offence.

Mr. PANTON: An employer should be careful not to put himself in the position of being charged with an offence. The member for Katanning (Mr. Thomson) was upset or almost annoyed by the claim of the A.W.U. in respect of shearers. In one breath he said the union was asking a minimum of £9 a week for shearers, and almost immediately afterwards he said that a shearer was probably making £14 a week at present rates. The hon. member did not mention that shearing was a seasonal occupation. Shearers leave Perth under contract, pay their own fares to the North-West and probably do two sheds in the season, or three if they are lucky. If they get six weeks's shearing in the season, they consider they have done well. They have to pay their fares back to Perth and look for work during the balance of the year. Those men travel from one end of the State to the other for the convenience of the employers, and when they ask for something reasonable in the shape of out-of-pocket expenses, their request is characterised as absurd, and we are told that it will ruin the industry. I have not seen a plaint put up in the Arbitration court that did not evoke the answer that it was going to ruin the industry. Yet arbitration has been in operation since 1902 and the industries have continued to expand. The member for West Perth was concerned about the clause providing that a representative of a union should have the same right as an inspector. He has that right under the existing Act with this difference, that an inspector can go into a shop or factory at any time of the day he likes.

Mr. Davy: Or at any time of the night.

Mr. PANTON: Only if the factory is working. A union secretary, under an award, has a right to enter a factory under directions from the court, usually on one day a week between the hours of 10 a.m. and 4 p.m. In the State there are five inspectors who have to look after the shops and factories and carry out duties under various other Acts, and it is impossible for them to do thoroughly the work required of them. If inspectors were appointed to look after awards pure and simple, it would cost the State thousands of pounds a year. Under the existing Act, a responsible official of a union is allowed to inspect the books of an employer; thus the State is saved thousands of pounds and the work is done efficiently. But there is this disadvantage, that sometimes the books are not as they should be.

Hon. Sir James Mitchell: There is no book provided for under this Bill.

Mr. PANTON: The book is provided for under the award, and without it the Bill would not be worth troubling about. On one occasion I went to a boot shop to examine the book and was referred to the lady cashier. It was a week prior to Easter. She handed the book to me, and I

discovered that everyone in the shop, five men and 12 girls, had been booked up to the end of Easter, Good Friday and Easter Monday included. When the lady found her duties as cashier slack, she devoted the time to writing up the time book in advance. That is a disadvantage under the existing Act. The union representative might know full well that work is going on in a bakehouse or other factory when it should not be, but he has no right to enter the premises. Owing to the dearth of inspectors, breaches of awards are being committed all over the place, and we want to remedy that state of affairs. When we wait on the employers, the average man has no objection to giving us the information we want. A majority of them are obeying the awards, and those employers who are not doing so are unfairly competing with the others. The employers who do observe the award tell us it is time that the unscrupulous ones were brought to book. The only way to put a stop to such breaches is to give a representative of the union responsible for obtaining the conditions the right to go in and inspect factories. Difficulty and discontent prevail to-day because there is no set basic wage. Every union that goes to the court has to put up a case on the cost of living similar to the one that preceded it in the court. The Bill provides that the court shall, on its own motion, declare a basic wage at least once a year. If the court did so, there would not be a great many unions clamouring to get to the court, because the whole of the remaining portion of the business would be settled by round table conferences. Any trades union official knows that one of the biggest difficulties when conferring with employers is to arrive at the basic wage. Mr. Andrews, the secretary of the Employers' Federation, a very capable and shrewd gentleman, is continually watching to keep the basic wage as low as possible. I find no fault with him for that because it is his job. Still, we spend days in conference with the employers trying to agree upon the basic wage. Once that is settled, the rest can be agreed upon in 24 hours. If this Bill becomes law and the court declares a basic wage at least once a year, in most cases the union's representatives and the employers' representatives will meet around the table and decide upon the rates for skilled workers and other conditions with very little difficulty. I hope the basic wage clause will be agreed to. It is ridiculous for the member for Katanning to say that the employers suggest as low and the employees as high a basic wage as possible, and that the court merely splits the difference.

The Minister for Lands: He put it the other way, that the employees put forward a high wage, and they had to put in another to counteract it.

Mr. PANTON: If he were right we should be a long way above the basic wage compared to what we are to-day. In the Federal and State courts the basic wage is decided on the statistician's figures compiled by the Commonwealth officials. That is one of the great causes of industrial unrest to-day. The figures are compiled without any supervision on the part of trades unionists who have to live under them. They are based on the harvester judgment that Mr. Justice Higgins gave in 1907. There was no industrial fight in connection with that case. It was something outside the industrial movement, but the judge based his decision on the evidence of, I think, six or seven housewives, who were put in the box and said what it cost to live in 1907. If the same case were heard to-day, with the trades union organisations behind it, I venture to say that Mr. Justice Higgins would give judgment for a much greater basic wage than 7s. a day. That is what he decided then was fitting for a man, his wife and three children. The Commonwealth Statistician's figures have been built up since with the harvester judgment as the basis. By this Bill we say we want the Arbitration Court once a year to give us a basic wage based on the evidence placed before it, and not on that judgment. If that is done I believe the Arbitration Court will have a great deal less work before it than is now the case. The oft repeated complaint regarding the limitation of apprentices has been referred to by the member for Swan (Mr. Sampson). We are led to believe that the trade unions of the State are in the happy position of being able to say to the employers, "You shall not employ so many apprentices." Nothing could be more absurd. The ratio of apprentices to journeymen in the State is not fixed by trade unions. They go to the court just as employers do, and both sides put up their argument. It is the court that decides the ratio.

Hon. Sir James Mitchell: On what you say to it.

Mr. PANTON: When the Leader of the Opposition made that interjection, he must have had his tongue in his cheek. He does not believe it himself.

Hon. Sir James Mitchell: I do believe it. I know you limit the number to the best of your ability and have kept boys away from learning trades.

Mr. PANTON: We are endeavouring to regulate the trades.

Hon. Sir James Mitchell: Of course.

Mr. PANTON: We are doing this as far as possible, but have not been able to do much because there are more apprentices than there should be as the trades cannot absorb them all.

Hon. Sir James Mitchell: You say a father will be afraid of the competition he is going to get when his son grows up.

Mr. PANTON: I am not afraid of my son competing with me in my job. He is not a talker.

Mr. Richardson: You have one advantage over him.

Mr. PANTON: The biggest part of our young tradesmen who are trained are of no benefit to the State. They leave because there is no work for them. It is useless to put up the proposition of placing a boy in a trade when after spending five or six years of his life at it, and he has completed his training, he finds himself out of work. His parents then have to send him to the Eastern States or some other country.

The Minister for Railways: Thirty young tradesmen from this State have gone to the Newcastle Steel Works.

Mr. PANTON: I have been told by a South African that the greater number of the positions in Johannesburg, those of foremen and the like, are held by young men trained in Australia.

The Minister for Lands: That shows the advantage of training them.

Mr. PANTON: Yes, but the member for Swan (Mr. Sampson) did not use that argument. He said we were preventing the boys from being trained, and that as a consequence there were not sufficient tradesmen in the State. It would be very difficult to advertise for tradesmen in the paper without getting a large number of applicants for the position. Whilst I admit that the interjection of the Minister for Lands is a good one, we must remember that an apprentice is not trained by his employer. That may have been the case in the days of the village blacksmith, under the old chestnut tree, who owned his own tools and trained his own apprentices. In very few cases to-day is the tradesman the owner of the tools. The owner of the factory depends upon his tradesmen for the training of apprentices. If there is one apprentice to one tradesman the employer naturally wants his pound of flesh. If he is paying £5 or £5 10s. a week to his tradesman, he wants him to earn that money plus so many shillings a week for himself. That is how he carries on his commercial business. If the journeyman is responsible for training the apprentice and spends his time in doing so he will lose his job. We trade unionists believe it requires at least three men for the training of one apprentice. That is one of the reasons why, if the apprentice is to be properly trained, the ratio should be greater than at present. The ratio now in this State is about one to two. The trades union movement, in conjunction with the workers' representative on the Arbitration Court, has done more for apprentices in this State than any other section of the community. The examination of apprentices was instigated by the workers' representative. The work has been carried out in an honorary capacity by the union and employers' representatives. The member for Swan suggested that these inspectors should be formed into an apprenticeship board. There are two or three men in every trade in which there are apprentices. They are responsible with Mr. Walsh, or the chairman, for the inspection of these apprentices. Trade unions are responsible for the apprenticeship system. Prior to that there was none. I wish to pay a tribute to Mr. Somerville and Mr. Justice Burnside for the work they have done in the matter. The trade unions are paying for the cost of these representatives. I hope members will make some inquiries into the matter. It is easy for a member to get up here when he has no knowledge of the general industrial conditions, and make general statements, and talk about absurd claims, etc.

Hon. Sir James Mitchell: Which is what you have been doing all the evening.

Mr. PANTON: I cannot help it if the hon. member is so dense that he cannot understand what I have said.

Mr. Teesdale: Why are there so many positions in the Government service not properly filled with apprentices.

The Minister for Lands: There is not constant work for them.

Mr. PANTON: It would be absurd to say that because there are 10 blacksmiths there should be 10 apprentices. A blacksmith may be working on four forges. An apprentice must be on the forge so that he can learn something about it. He cannot be jumping out of the way of the blacksmith all the time while that man is handling hot steel. The apprentice wants a forge to himself. In one big place there may be 10 blacksmiths and two or three forges between them.

Mr. Teesdale: The journeyman must be there, or it would not be said that there are vacancies for apprentices.

Mr. PANTON: I am trying to show that this is one of the positions created.

Mr. Teesdale: There are so many apprentices to so many journeymen. The Government say there are these vacancies, so they must have the necessary number of journeymen.

Mr. PANTON: It is all very fine to pick out the Midland Junction workshops. Whilst it may seem strange to have so many boilermakers, fitter's engineer, brass moulders and others engaged in the different callings in proportion to the number of apprentices, we know there are many items to be taken into consideration when we talk of the ratio of apprentices to journeymen.

Mr. Teesdale: I was wondering if the shops could absorb the boys why they did not do so. I was asking for information.

Mr. PANTON: I am sure if the hon. member would have a chat with the foremen engineers, he would find out why it is not practicable to have as many apprentices as they would like. Not being au fait with the position I cannot answer the question myself. I hope members opposite will not adopt the attitude that because they are sitting there they can do nothing. The Minister for Labour is prepared to give consideration to any reasonable amendment that is put up. If they talk about deleting this and deleting that, which the Minister with his lifelong experience knows to be necessary, they cannot expect him to throw it aside and give his experience for nothing. It is no good talking in generalities. If they want the Minister to alter a clause they must put up a reasonable argument and a concrete case. I am positive he will give such a proposition every consideration.

THE MINISTER FOR LANDS (Hon. W. C. Angwin—North-East Fremantle) [9.12]: I do not intend to deal with the Bill as a whole. The speeches that were made last session by my colleague contain so much information that it is unnecessary for anyone on this side of the House to endeavour to improve upon them. Certain statements, however, have been made and wrongly disseminated throughout the country ever since this Bill was brought down and I wish to refer to these. My reason for speaking is the miserable pessimism expressed by the Leader of the Country Party, the member for Katanning, in the course of his speech. If the pastoral, agricultural, and other parts of the farming community are in such a pitiable condition as the hon. member would have us believe, my duty would be not here but in England, preventing people from coming to Western Australia.

Mr. Thomson: That is not quite correct.

The MINISTER FOR LANDS: The hon. member led us to believe that was his view.

Mr. Thomson: Not at all.

The MINISTER FOR LANDS: It is useless for any of us to endeavour to induce people from the Old Country to come here and develop this State if it is in the position indicated by the hon. member.

Mr. Thomson: I was not permitted to illustrate my case.

The MINISTER FOR LANDS: He would have us believe that the poor man on the land must have every consideration, and that a Bill of this kind will ruin him.

Mr. Teesdale: When they refused over 5s. a bushel for their wheat.

The MINISTER FOR LANDS: We are told that the man on the land has to work from morning till midnight, and yet we are trying in England to secure additional settlers. If the people of the State are in the position indicated by the member for Katanning it is a criminal action on our part to endeavour to induce more people to come here.

Mr. Teesdale: The Group Settlement Commission's report has been infectious! It has infected the lot of them.

The MINISTER FOR LANDS: The member for Katanning (Mr. Thomson) dealt fully with the position regarding an Englishman's home being his castle, and as such could not be entered by anyone without the owner's permission. He thought he

was on safe ground in making that assertion because the member for West Perth inadvertently made a statement regarding domestic servants. The member for Katanning thought he was justified in repeating it.

Mr. Thomson: You have got it in the Bill.

The MINISTER FOR LANDS: We have not.

Mr. Thomson: You provide for bringing domestic servants under the provisions of the measure.

The MINISTER FOR LANDS: The member for West Perth (Mr. Davy) made the statement that domestic servants were brought under the Bill.

Mr. Thomson: And they are under the Bill——

The MINISTER FOR LANDS: He also said that the secretary or president or anyone else authorised could at any time in the day or night, visit a person's home in order to see if the award were being given effect to. Of course parrots generally repeat what they hear.

Mr. Thomson: Is that provision in the Bill?

The MINISTER FOR LANDS: I say it is not.

Mr. Thomson: And I say it is.

Mr. SPEAKER: Order!

The MINISTER FOR LANDS: The Bil contains a provision that the secretary or any person authorised by the president or secretary of a union may carry out duties similar to those of an inspector under the Factories and Shops Act of 1920. That Act does not provide for the entry of an inspector into a private home or a dwelling house. Under that Act inspectors have the right to enter a factory, shop or warehouse when they have reasonable cause to believe that any person is employed therein at the time. but they have no power to enter a dwelling house.

The Premier: The point is that the power given is that which applies to an inspector under the Factories and Shops Act and it does not apply to the officers under this Bill.

Mr. Thomson: Then you will not bring domestics within the scope of the measure?

Hon. S. W. Munsie: Yes, we will.

Mr. Thomson: Then these officials will have the right of entry.

Hon. S. W. Munsie: There is no right of entry under the Bill.

Mr. Teesdale: Will the Arbitration Court give the officials that right.

Hon. S. W. Munsie: The court cannot do it.

Mr. Teesdale: Is there to be no inspection then?

Hon. S. W. Munsie: Yes.

Mr. Thomson: Then why have this clause at all?

The MINISTER FOR LANDS: Every inspector under the Factories and Shops Act is an industrial inspector under the Act for the whole State and he is charged with the duty of seeing that industrial awards and agreements are carried out, and that other duties imposed upon him by the Act are satisfactorily carried out. Under the Mines Regulation Act and the Coal Mines Regulation Act the inspectors are industrial inspectors and are charged with a similar duty. In the discharge of those duties an inspector may require any employer or worker to produce for his examination any wages books, overtime books, and other books deemed necessary for examination, and the inspector may put questions to the worker or the employer and may exercise all such powers of entry and examination as are conferred upon him by the Act I have mentioned—the Mines Regulation Act, the Coal Mines Regulation Act and the Factories and Shops Act.

Mr. Thomson: Then how is it that Shelley and Rice can walk into a hotel and demand certain conditions?

Hon. S. W. Munsie: Because that is a public place and not a private house.

Mr. Thomson: But are you not bringing domestics under an award?

Hon. S. W. Munsie: Yes.

Mr. Thomson: Then that will bring with it the right of entry to a private house.

Hon. S. W. Munsie: Nothing of the kind. You can't read English.

The MINISTER FOR LANDS: The member for Katanning has not read the clause, but has merely reneated a statement made by the member for West Perth.

Mr. Thomson: You have no right to say that.

The MINISTER FOR LANDS: The hon. member is justified in saying that the Bill provides that domestic servants can come under these provisions if the Bill becomes law. But no person shall have the right of entry that he suggests. An inspector will

exercise the powers granted to those under the Factories and Shops Act and no other.

Mr. Teesdale: Don't they do that?

The MINISTER FOR LANDS: I pointed out the position to hon. members last year. This statement has been repeated in many quarters and the outside public have been given to understand that the Bill provides power of entry into the house.

Mr. Thomson: And it says so.

The Premier: It does not. You cannot understand it.

The MINISTER FOR LANDS: This is what is set out in the Factories and Shops Act, 1920 regarding the power of entry—

Every inspector may enter, inspect, and examine the factory, shop or warehouse at all reasonable hours by day and night, when he has reasonable cause to believe that any person is at the time employed therein; and enter by day any place which he has reasonable cause to believe to be a factory, shop, or warehouse.

Then we come to the definition clause:—

"Factory" means and includes any building, premises, or place in which four or more persons are engaged, directly or indirectly, in any handicraft, or in preparing or manufacturing goods for trade or sale; but does not include any building in course of erection, or any temporary workshop or shed for workmen engaged in the erection of such building.

Mr. North: I will explain what you say at Peppermint Grove.

Mr. Thomson: Then if an award is issued and I am breaking it, what then?

The MINISTER FOR LANDS: If the hon. member is so dull I will not attempt to drive this in any further. I will read the powers set out in the Arbitration Act:

Sec. 96. (1) Every inspector appointed under the Factories Act, 1904, shall be an industrial inspector under this Act for the whole State, and shall be charged with the duty of seeing that the provisions of any industrial agreement or award or order of the Court are duly observed, and with such other duties as are by this Act imposed upon him. (2) Every inspector of mines appointed under the Mines Regulation Act, 1906, or the Coal Mines Regulation Act, 1902, shall be an industrial inspector, and shall be charged with the duty of seeing that the provisions of any such agreement, award, or order are duly observed in or about any mine or coal mine subject to his inspection.

Then the next sub-section is the one I wish to draw the attention of the hon. member to particularly. It reads—

(3) In the discharge of his duties under this Act an industrial inspector may require any employer or worker to produce for his examination any wages books, overtime books, and other books which he shall deem it necessary to examine, and may put any questions to any employer or worker and may exercise all such powers of entry and examination as are conferred on him by any of the aforesaid Acts.

The Acts referred to are the Factories and Shops Act, the Mines Regulation Act and the Coal Mines Regulation Act. Those are all the powers conferred, and no person authorised by the secretary or president can enter the hon. member's house at Katanning to see whether a girl is employed there or not. On the other hand, such an officer will have the power to go to the house for the purpose of asking questions and examining books if necessary should a girl be employed there. That is an entirely different proposition to the suggestion that the secretary of the union or anyone else can enter one's home at any hour of the day or night.

Mr. Thomson: No such officer would walk into my home.

The MINISTER FOR LANDS: No, because there is no power for him to do so. Does the hon. member think we have no common sense.

Mr. Thomson: I do not say you have none, but what about Ryce and Shelley?

The MINISTER FOR LANDS: I have nothing to do with them.

Hon. S. W. Munsie: When did they go into a private house?

Mr. Thomson: They entered upon a man's private property.

Hon. S. W. Munsie: A factory is a man's private property.

The MINISTER FOR LANDS: It is only right that this position should be made clear.

Mr. Teesdale: You will admit that that was the general understanding, namely, that a union official could enter a person's private house.

The Premier: That impression was spread for the purpose of discrediting the Bill.

Mr. Teesdale: I do not think so.

The Premier: It was in some quarters.

The MINISTER FOR LANDS: And it is time these statements were denied.

Mr. Teesdale: I think the wording of the clause lends itself to a mistake.

The MINISTER FOR LANDS: No. The wording is quite clear.

Mr. Teesdale: Yes, now you have explained it.

The MINISTER FOR LANDS: It appears that the member for Katanning is opposed to arbitration. Fortunately there are

very few men in Western Australia who hold the same views as he does. Arbitration has been the means of avoiding scores of industrial disputes in Western Australia. It has kept our industries going much better than if no such legislation had been in existence. I hope the time is far distant when any section, particularly the leaders of political parties in Western Australia, will attempt, by word or action to remove the Arbitration Act from the statute-book. It is one of the safeguards that we have. There is no Act of Parliament that has not been broken at times, but that does not argue that the Acts should be set aside altogether.

Mr. Thomson: I did not say so.

The MINISTER FOR LANDS: I shall pity Western Australia on the day when the Arbitration Court is abolished. However, I rose only to refer to the clause relating to domestic servants. They are entitled to justice first as are any other workers. No matter what claims are made, whether on behalf of domestic servants, or of the farmers or any other section of the community, the Arbitration Court will conscientiously carry out its duty and give justice to those appearing before it.

On motion by Mr. Wilson debate adjourned.

House adjourned at 9.30 p.m.

Legislative Council,

Tuesday, 1st September, 1925.

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

QUESTION—GROUP SETTLERS' COTTAGES.

Hon. J. M. MACFARLANE asked the Colonial Secretary: With reference to group settlers' cottages, 1, How many were contracted for in last year's contract? 2, Who was the successful tenderer, and at what price per cottage? 3, Was there a penalty clause? 4, What were the conditions of delivery? 5, Has the contractor fulfilled the conditions in regard to delivery? 6, If not, how many are short delivered? 7, If so, has the penalty clause been enforced? 8, Has an extension been granted, and for what period? 9, Has any increase in price, per cottage, been granted to the contractor? 10, What was the price per cottage of the next lowest tender? 11, What was the name of the firm or person tendering? 12, How many group shacks have remained unfloored through the winter?

The COLONIAL SECRETARY replied: 1, Labour only, 362; labour and material, 362; total, 724. 2, Labour only: numerous contractors at prices varying according to locality, contracts let without tenders. Labour and material: John Carrigg, £241 6s. 3, Labour only: no. Labour and material: yes. 4, Labour only: period varied according to locality. Labour and material: four per week, commencing three months after notification, on 13th August, 1924, of acceptance of tender. 5 and 6, Labour and material: 28 cottages completed, 29 under construction, 8 materials on site, scantling and weatherboards cut at mill for a number.