tuted as defined by the said proclamation." I shall be quite satisfied with that.

Question put and passed.

Bill read a second time.

IN COMMITTEE, ETC.

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

Standing Orders suspended.

Bill read a third time, and *passed*.

INDUSTRIAL STATISTICS ACT AMENDMENT BILL.

SECOND READING.

THE MINISTER FOR LANDS (Hon. J. M. Drew): This Bill simply cancels one of the provisions of our present Act. By Clause 2 of the present measure it is proposed to strike out certain words in the Industrial Statistics Act of 1897, which measure enacts that the Registrar General shall get statistics from all industries, including the mining industry, and among the information sought for is the number of persons employed in connection with this industry. The present Bill asks that this be struck out because there is no necessity for it whatever. The Mining Act declares that the same statistics must be provided for the Mines Department, and at the present time mine managers have to send these statistics both to the Mines Department and to the Registrar General. The Bill provides that the Registrar General shall get these statistics from the Mines Department; and this will save a lot of trouble to the mine-owners and leaseholders, and will prevent unnecessary duplication of work. I beg to move that the Bill be read a second time.

Question passed.

Bill read a second time.

IN COMMITTEE.

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

ADJOURNMENT.

The House adjourned at three minutes to 5 o'clock, until the 4th October.

Legislative Assembly,

Wednesday, 21st September, 1904.

THE SPEAKER took the Chair at 3·30 o'clock, p.m.

PRAYERS.

QUESTION—LEGAL PRACTITIONERS, ADMISSION.

MR. BATH, for Mr. A. J. Wilson, asked the Minister for Justice: Do the Government intend to liberalise the Legal Practitioners Act, so as to remove the barriers which prevent poor but competent men from gaining admission to practise at the Bar?

THE PREMIER replied: A measure dealing with this subject is at present in the hands of the draftsman.

QUESTION—PERTH MUNICIPAL LOAN (£40,000).

MR. WALLACE NELSON asked the Treasurer: 1. Has the Municipality of Perth refunded the loan of £40,000 received from the Government some years ago? 2. If not, why not?

THE TREASURER replied: 1. No. 2. As it was to be treated as a portion of the total capital sum to be devoted to Perth sewerage, and provided from loan funds.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, East Fremantle Municipality, Building By-laws; 2, Fremantle Harbour Trust, additions and amendments to Regulations.

INDUSTRIAL CONCILIATION AND ARBITRATION ACT AMENDMENT BILL.

SECOND READING.

Debate resumed from the previous day; the MINISTER FOR RAILWAYS AND LABOUR (Hon. J. B. Holman) in charge of the Bill.

MR. H. GREGORY (Menzies): In dealing with this small Bill to amend the Industrial Conciliation and Arbitration Act, I wish to raise my very strong objection to the measure; and I hope those members sitting on the Government side who believe in the Arbitration Act will resist the passage of the measure. If this Bill be passed, it will destroy the whole of the jurisdiction of the present Act, and alter completely the working of the Act. I cannot comprehend what can be the object of the Minister for Labour in bringing forward a Bill of this sort. Is it a matter of expediency? What can be the object of the Government in desiring to bring in a Bill enabling the court to a very great extent to be conducted without the presence of a Judge? When the Arbitration Act was brought before the House in 1901-2, it was recognised by all parties that we should have a Judge as the final arbiter, one who would not be likely to be influenced to any degree by either party to a cause.

THE MINISTER FOR LABOUR: You have him now.

MR. GREGORY: In quite a different degree. We are going to have in the future the nominee of labour and the nominee of capital touring the country taking evidence; and then these two gentlemen will come back to the Judge and argue before the Judge the merits of the respective sides. The Judge himself will not be in a position, as a Judge usually is, of listening to the evidence and knowing what reliance can be placed on the evidence. He will have to rely on the arguments of the other two members of the court. We were very earnest, when the Arbitration Act was before the House, in insisting that there should be a Judge of the Supreme Court acting as the president of the court. I asked the Minister, when moving the second reading of the Bill, if the Government had the power to appoint a Commissioner or an acting Judge, and I find that the Industrial Conciliation and Arbitration Act says:—

> In case of the illness or absence of the president at any time, the Governor shall nominate a Judge of the Supreme Court to act as president during such illness or absence.

We know the present president of the court is not in good health, and declines to travel outside. It is unfair and improper to compel him in the circumstances to travel about the country. Why cannot the Government appoint an acting Judge or Commissioner? Why not appoint a Judge of the Supreme Court to act as president of the court? I want to see the court carried on with equity and good sound administration. The Government are proposing quite a new departure, and the Minister in charge of the Bill says it is quite new, and he cannot find out if it is the law in any other country. I do not think that we are justified in passing this Bill. I say it is a matter of expediency on the part of the Government, and they should explain why they will not, knowing the present president is not in good health, appoint an acting Judge for the purpose of carrying out the work of the court, which I understand is in a very congested state. I warn the members who believe in the Arbitration Act that they will be taking a false step in passing this measure. Those who believe in arbitration and want to see an Arbitration Act continued in Western Australia, as I for one do, should see that anything tending to destroy the prestige of the court must reflect against the Arbitration Act.

MR. MORAN: Besides believing in arbitration there is belief in an arbitrator.

MR. GREGORY: The jurisdiction of the court is the whole essence of the Act. If we did not know that a Judge of the Supreme Court was to be the final arbiter, I do not think many of us would agree to arbitration. A Judge who hears the evidence is better able to decide as to the case before him.

MR. BATH: He will have the advantage of the evidence.

MR. GREGORY: But he does not hear the evidence. He can only get the evidence second-hand. He is not in a position to give an unbiased or fair decision. I have always been under the impression that a Judge likes to see the witnesses and to decide for himself how far he can rely on the evidence given. Where is the objection to appointing an acting Judge?

MR. HOPKINS: No one is eligible over there (Government side) yet.

MR. GREGORY: Where is the objection to appointing an acting Judge to

relieve the congested state of affairs? Is it because the Labour Government will not trust any other Judge?

THE COLONIAL SECRETARY (Hon. G. Taylor): Don't say that.

THE PREMIER: Absurd! Don't make that assertion.

MR. GREGORY: I am only asking the question. The president of the court should hear the whole of the evidence. Why should there be an attempt to alter the very essence of the Arbitration Act, for this Bill contains something new? It is like some of the old promises we have heard from the members on the other side. I remember the Premier, when that Bill was before the House, telling us how badly we wanted preference for unionists; and the Colonial Secretary said he would rather lose this Arbitration Act if it did not include preference to unionists.

MR. HOPKINS: The elections were coming on then.

MR. GREGORY: Now those members are silent on the question. Here is an opportunity for those members who went before the country and said they believed in preference to unionists—I am opposed to it—to carry out some of their pledges. Where are they? Why cannot the present Government tell us what their policy is?

THE COLONIAL SECRETARY: You do not like this.

MR. GREGORY: It reminds me of a sort of snake-in-the-grass policy; all these bantlings coming forward.

THE SPEAKER: One member must not address another personally.

MR. GREGORY: It seems as if the Labour Government were afraid to put their ideas into print. They believe certainly in preference to unionists, but the time is not ripe for them to let the public know how far they will go in matters of this sort. They are trying to lull the public and make them think "Oh no, there is nothing of that sort about their policy, but it is merely a simple little thing like this." I hope the House will refuse to pass this small Bill. I appeal again to those who believe in the Arbitration Act not to pass a small Bill like this, which is going to destroy the essence of the court. The principal feature of the Arbitration Act was that we insisted that the final arbiter in cases of this sort should be a Judge of the Supreme Court; a man whose position rendered him perfectly independent of either party, and whose decision was such that it could not be assailed by either party. I think that is the principal reason why this Arbitration Act has been such a success up to the present. I hope members—even if they do belong to the Labour party—will see that a clause of this sort is likely to do injury to the Act itself. I want to appeal to those who believe in the Arbitration Act and urge that there is a likelihood, if we pass a clause like this, of destroying the Act altogether. I can see no reason why an acting Judge is not appointed. The present Act can easily be carried out by the appointment of an acting Judge, and therefore I can see no reason whatever why such a Bill as this should be passed.

MR. E. NEEDHAM (Fremantle): As one who supports this Bill, I may say at the start I am certainly in favour of the Arbitration Act, and I do not at all desire to impute anything to the president of the Arbitration Court. I take a different position altogether from that taken by the member for Menzies (Mr. Gregory). That member appears to cast upon the members on this (Government) side of the House who desire to vote for the Bill an imputation that they cannot trust the Judge. It is nothing of the kind; but we know that at present he has other duties to attend to besides those of the Arbitration Court. We desire to give full sway to that Act; but there has not been a chance in the past owing to the fact that either through illness or some other causes the court was not in a position to hear many cases that were pending. If two members of the court can travel to another portion of the State and hear evidence, it does not mean that they will decide upon that evidence, but they will bring it before the Judge. Surely the hon. member will not say that the shorthand writers are—if I may use a vulgar expression—going to "fake" the evidence. Hitherto we have not had a chance of demonstrating to the people of this State the good results of the Arbitration Court. The gentleman who has had the honour conferred upon him of being president of that court was unfortunately struck down with illness. We

all regret that. The man who was appointed to succeed him has had other duties to attend to so far as the law of this country is concerned. What has happened in the interval? Unions of workers and unions of employers who have been desirous of going before the court have not had an opportunity, and I assert that if we pass this Bill we shall give them an opportunity of bringing their evidence before the representative of the employers and the representative of the employees, and if, as has been argued, the president of the court, who must necessarily be a Judge of the Supreme Court, is able to weigh the various points of evidence, apart altogether from the technicalities of it, when he can read it, ought he not to be able to judge just as well as though he had heard it? I think sometimes that the very fact of this gentleman being present takes away from the virtue of the case. He is surrounded too much with the atmosphere of law, and forgets the technical portions of the evidence which are put before him. The member for Menzies (Mr. Gregory) asks why not appoint a Commissioner or an acting Judge? With all due respect to him and to the legal fraternity, I consider we have quite a sufficient number of these gentlemen at the present time. If the duties were allocated in a different manner, perhaps we might have one of them now to go round this State. I know the State is of vast dimensions, but the introduction of this Bill will, in my opinion, give the people of this State a chance of seeing the utility of the Act. I say unreservedly that they have not had a chance of judging upon that point, and if this House in its wisdom considers the Bill should be passed, the measure will, when it becomes law, give a chance to the members of the court, apart from the Judge, to travel to the various places where cases are accumulating. They will there hear the evidence of both sides. We can surely rely not only upon their integrity but upon the integrity of the gentleman appointed to take a note of the evidence, and if the president of the court be not present at the hearing he can judge on the weight of evidence just as well upon reading it in the paper. I sincerely hope the Bill will not only pass this House but will ultimately become law.

MR. C. C. KEYSER (Albany): I certainly agree with the principles of the Arbitration Act; but I think the points raised by the member for Menzies (Mr. Gregory) deserve our best consideration. It was my privilege at one time to be a police-court reporter for a certain newspaper of this State, and I had opportunity of knowing that it was necessary for the magistrate in every case to have the witness before him; that in coming to a decision the magistrate not only weighed the words of the witness, but was governed to a great extent by the mannerism of the witness, by his cunningness, and by his shiftiness. It is highly necessary for the president of the Arbitration Court to be present at the hearing of the evidence. The shorthand man may take down the evidence carefully and truthfully, and it may be placed before the Judge as the evidence delivered; but we find that the president in coming to a conclusion must not only read the evidence, but be governed by the two members who constitute the court. If the workers have a representative who has strong feelings, who is a good representative, he may place views before the president which may have an undue effect. On the other hand, the representative of the capitalistic class might have a private interview with the president, and place views very strongly before him, which might considerably or most unduly weigh with him. So in my opinion, at the present time the views of the member for Menzies (Mr. Gregory) are certainly worthy of our greatest consideration. Personally, if I were a Judge I should prefer to see the witnesses and get the evidence direct from them, and not to read it in cold print from the shorthand reporter. I venture to say even that most witnesses, if they had the privilege, would choose not to face the magistrate in open court, but would prefer that their evidence should be given in a private room and then be conveyed to the magistrate. I had an opportunity of proving how very easy it was for a stipendiary magistrate to get evidence from witnesses that an ordinary lay magistrate was not able to get.

LABOUR MEMBER: What are you dealing with?

MR. KEYSER: It does not matter. These are my honest convictions, and I have come to a conclusion on them after

hearing the member for Menzies. I certainly believe it is far better, even if costs a great deal more money, to have a Supreme Court Judge always present when evidence is given, both for the sake of capitalists and for the sake of workers. I am positive that it is highly necessary for those who believe in arbitration to have the best Judge possible. In cases of dispute when the two lay members only are present, as to the advisability of admitting evidence, who would be the arbitrator between them? It is as the old woman said when she sued a person for abuse. After hearing her evidence, the magistrate said, "My good woman, there is no abuse in it." She said, "But it is the nasty way he said it." I think that will occur in the evidence in these cases. It is not altogether what the witnesses say, but the very shifty manner in which some may give their evidence, and which the Judge ought to be present to note. It is my honest opinion that, if possible, the Judge ought to be present, and that the evidence ought not to be taken in the presence of the two lay members of the court only.

MR. FRANK WILSON (Sussex): I have listened to the member for Albany, and I must say that I endorse his remarks in connection with this Bill. It seems to me that, having constituted an Arbitration Court of this description, which has in reality the very existence of our industries in its keeping, which has to decide between employer and employee as to the amount of remuneration which should be paid, and as to the conditions under which an industry is to be carried on, we ought to endeavour to keep that court as dignified and give it as much power as any court of law in the land. It is now constituted so that this may be done. The power is vested in the Judge who presides over the court. The other parties are not represented—I do not like to use that term—but they have men appointed to the court on their nomination who are supposed to be specially qualified to judge of the matters that come before the court by their special knowledge, either from the employers' point of view or the workers' point of view. We cannot do better than uphold the constitution of the court as at present provided. If we are going to destroy its constitution and take away the leading factor (that is the Judge who presides) and allow the lay members to proceed to distant parts of this country to take evidence, and evidence alone, providing that those members have to come back to the court and fight the case before the Judge, we shall have the other members of the court merely descending to the position of advocates on one side or the other. I think it would be regrettable in the extreme. Certainly it would not expedite the work of the court. The Minister for Labour, in moving the second reading of this Bill, said that the reason underlying the measure was simply to expedite the business of the court so that a large number of cases could be heard without delay. Let us see how he proposes to expedite the business of the court. He proposes that the two lay members shall proceed to the distant parts of this State to take evidence; and he provides in the Bill that, although they may do this, they shall not be deemed to constitute a court. Therefore they go on a special mission, simply to sit and accept evidence as it is put before them, and to take a note of it so that it can be referred to the Judge later on. Farther, it is stated in the Bill that the evidence—and I think justly so if the Act is to be carried out—is to be taken down in writing by the members or by someone deputed by them, not in shorthand but in longhand writing. Is that going to expedite the business of the court? Another clause provides that all evidence must be taken without regard to its admissibility or otherwise. If there is some doubt as to whether evidence is to be accepted by the court or not, the question must be left over until these gentlemen return to Perth and place the matter before the Judge.

MR. MORAN: They will need a special train to bring down the evidence.

MR. F. WILSON: Exactly. All classes of evidence offered to the members must be recorded by them, and the question of admissibility or otherwise of evidence must be brought up and argued before the Judge after they return to Perth. It seems to me that we are building up a court within a court. By this Bill we have the lay members taking the evidence and I presume examining the witnesses, as they have power to do under the Act; and we have the representatives

of either side cross-examining these witnesses before the court. All the evidence has to be taken down in longhand, and then the lay members must return to Perth, where the Judge will be, and thresh out the whole question over again.

THE MINISTER FOR JUSTICE (Hon. R. Hastie): Why in longhand?

MR. F. WILSON: Because it is in the Bill.

THE MINISTER FOR LABOUR: There is power in Section 75 to take the evidence in shorthand.

MR. F. WILSON: Does it not appear to members, with all this procedure to go through—the fact that we have practically two sittings and that not only the people who are conducting the cases on the fields but the lay members of the court also must come down to Perth to thresh the whole question out again before the Judge when the whole of the evidence must be re-read in open court—that it is going to take considerably more time than with the court as at present constituted? I think it goes without saying. The Minister for Labour also said that conciliation boards were not utilised, and he gave as a reason why they were not utilised either by employers or workers that it was because cases when cited to the Arbitration Court from the Conciliation Board had to be practically reheard and the whole of the evidence gone over afresh. That is so, and so far as I am concerned—I have had some little experience in this court—the sooner we abolish the conciliation boards the better, for they are neither use nor ornament. If this be an argument for the Minister to use against conciliation boards, it is a ten times stronger argument against the proposal the Minister now makes in the Bill to let the lay members take evidence and then come back to Perth and fight the case out again. It means that we are simply going to perpetuate the "circumlocution office." [MR. HOPKINS: Mark time.] Mark time; create work, increase cost, and get less efficiency. I admit that the work of the court is congested at the present time. I regretfully admit that the president of the court is too seriously ill to carry on the work of the court properly. I admit, and with regret, that not only is he in such a condition that he ought not to be asked to travel to distant centres of this State, but to my mind it is a great injustice to him to expect him to preside over the Arbitration Court in his present state of health. He is too ill to do active work, according to the Minister; he is too ill to conduct the hard work that devolves on the president of the court; and out of consideration to the president himself in his present state of health, he ought to be relieved of the work of the Arbitration Court until he can recover his usual state of health. He has offered to resign. The Government did not wish him to resign.

THE MINISTER FOR JUSTICE: Who said that?

MR. F. WILSON: I say it. The Judge himself said it in the Arbitration Court the other afternoon, in reply to some query I put to him with regard to the Norseman case. He intimated in open court that he had offered to resign, but that the Government did not wish him to do so, and that the Minister for Labour was taking into consideration certain suggestions that would obviate delays. These are the suggestions, I suppose—this Bill which is introduced to enable the lay members of the court to travel and take evidence, and then submit the whole question to the Judge on their return to Perth.

THE MINISTER FOR JUSTICE: Did the Judge say he had offered to resign, and that the Government did not wish him to resign?

MR. F. WILSON: Those are the very words he used in the Arbitration Court. I was objecting to the Norseman case being rushed on and being heard in Perth.

THE MINISTER FOR WORKS (Hon. W. D. Johnson): Naturally you objected.

MR. F. WILSON: Naturally. The workers also objected to that case being heard in Perth. It is strange how great minds think alike, sometimes, both sides on this occasion objecting to the case being heard in Perth. It goes without saying that momentous questions—and they are momentous, these questions on the relation of the men to employers and the remuneration of workers—should be judged on the ground. The court ought to see the conditions under which people are living and under which they work, so as to give a correct and just decision. I was preferring this objection to the Norseman case being

heard in Perth, and the Judge replied saying that he was not fit to travel, and that he could not and would not leave Perth. I sympathised with him and thought he was perfectly right in refusing to travel; and the Judge then said that he had offered to resign but that the Government did not wish him to do so, and that the Government were going in some means or other to endeavour to expedite business. These are the means they have proposed. The Minister for Labour also made the alarming statement yesterday afternoon (I do not know whether it was a threat or not) that we are threatened with a big upheaval in the industrial world of this State if we do not take immediate steps to pass this Bill.

THE MINISTER FOR LABOUR: An upheaval is probable.

MR. F. WILSON: Why should we have an industrial upheaval? I cannot see any sign of it. It is against the law to strike.

THE MINISTER FOR WORKS: It is not against the law for employers to dismiss workmen.

MR. F. WILSON: It is against the law to threaten and intimidate; and the Minister for Labour may well bear that in mind when he makes such statements. What sort of an upheaval can there be when it is against the law to strike? I hope that the Minister, instead of making alarmist statements, instead of suggesting an upheaval which can mean only labour difficulties and labour struggles, will discountenance anything of that nature, and will use his high position and great power to cast oil on the troubled waters, if there be any troubled waters, and not to suggest warfare between capital and labour. The question naturally arises, what can be done in the circumstances? We all admit that the court must necessarily visit each centre so as to become personally acquainted with all the conditions of the industries on which the court adjudicates. It goes without saying, and the member for Albany (Mr. Keyser) has put it clearly, that the president of the court must hear the evidence. Anyone who has been in the Arbitration Court will at once admit that each member of the court must see the witness under examination in order to note his demeanour and to judge of his veracity. Otherwise the decision of the court will simply be a counting of heads. Take the number of witnesses on one side, accept their statements without question, take the number of the other side and do likewise. Then the court will say, "Ten for, five against; verdict in favour of the ten." That is not the proper method of deciding arbitration cases. All must agree that the president should be there, and should be given an opportunity, not only to examine witnesses himself if he thinks fit, but to judge for himself by the demeanour of the witnesses whether they are speaking the truth, the whole truth, and nothing but the truth. Such cases should not be judged by the volume of evidence but by the weight of evidence; and if it comes to counting numbers only, I am afraid that one particular side will gain the verdict in every case. Another matter which seemed strongly to influence the Minister when he introduced this Bill was the question of diminished cost He seemed to argue, though he did not argue but simply asserted, that the Bill would decrease the cost of working the court.

THE MINISTER FOR LABOUR: No; that it would decrease the expense of the parties before the court.

MR. F. WILSON: I join issue with the Minister. It cannot for a moment be argued that to have a double hearing of a case will lessen the expenditure. Why, the agents of the parties must then appear in the two courts.

THE MINISTER FOR LABOUR: To bring witnesses from Peak Hill to Perth must increase the expense.

MR. F. WILSON: Exactly. That is my argument, that the court must go to the centre where the dispute exists, in order to keep down the expenses of the parties. Why should not the Government, as the member for Menzies (Mr. H. Gregory) suggests, appoint a Commissioner of the Supreme Court to act as president of the Arbitration Court? I know the Government have not that power, but they can easily take the power. They can pass an amending Bill of one clause, providing that the president of the court shall be a Judge or a Commissioner of the Supreme Court; and they at once overcome the difficulty. Let Mr. Justice Burnside resign—he says he is willing to resign; appoint a Commissioner

of the Supreme Court in his place; and if there is not a Commissioner at liberty—and the Government say there is not a Judge—then let the Government create another Commissioner of the Supreme Court. Such a Commissioner must be a gentleman with legal training, in fact a lawyer; and I think it very desirable that the president of the Arbitration Court should be a lawyer. Points of law often crop up in that court, though we know all the cases have to be decided in equity and good conscience; and though great latitude is allowed in the conduct of the cases, yet times out of number points of law arise on which a legal mind must be brought to bear to arrive at a correct solution. If the president is not now in good health—and I regretfully admit he is not—then it is the duty of the Government to see that he is relieved of his work, and, if necessary, that he is farther relieved of his Supreme Court work, in order that his health may not suffer, and to appoint some one else, so that the work of the Arbitration Court may proceed without interruption, and that we may avoid those terrible upheavals promised by the Minister for Labour. I shall certainly oppose this Bill; I hope every member will adopt a like attitude, and that the Minister will withdraw the Bill and bring in another with the object I have indicated.

MR. A. E. THOMAS (Dundas): For several sessions past, members on either side of the House, especially those representing country constituencies, have urged on successive Governments the need for circuit courts to facilitate the administration of justice in outlying districts. Those members, myself included, have repeatedly urged that people in outlying centres should not be compelled to have their cases heard in Perth, necessitating heavy expense in bringing their witnesses here. I am surprised that Ministers should see fit to introduce in one of their first Bills a proposal to continue the centralising of justice in Perth, instead of doing everything in their power to let the Judges travel in the country districts. It may be urged in reply that the Bill allows the lay members of the Arbitration Court to take evidence outside Perth; but I say the essence of justice in any British country is that a litigant shall be heard by the Judge who is to deliver the verdict, and not by deputies who are unacquainted with law. I know well that Mr. Lobstein, also Mr. Vincent the employers' representative in the Arbitration Court, do not claim to be trained barristers; and I think the crucial point was touched by the member for Albany when he stated that for proper regard to be had to the weight of evidence, the Judge himself should be present when that evidence was tendered. Another point occurs to me. I should be sorry to have my case heard by a court constituted as proposed in the Bill; for we know full well that under the principal Act solicitors are not allowed to appear on either side. Some members say they do appear, but no solicitor can lawfully appear, and if solicitors are wrongfully appearing the Government should see that the Act is properly administered. It is necessary for any layman who brings his case before the court to have a legal adviser to protect him, in case the other side try to bring evidence which is not admissible. The Bill seeks to empower two laymen to take evidence, to be afterwards handed to the Judge; and neither of the lay members may have any legal training whatever, while both parties are represented by agents also without legal training. If a witness attempts to give evidence which a Judge would immediately rule to be inadmissible, that evidence may be accepted and may be prejudicial to the other side; yet by the Bill it must be accepted. And if only two members of the court are to preside, one may be biased on one side, being elected to represent one side, while the other may be equally biased on the other side. Then if any evidence is objected to, who will say whether it shall be admitted? I think the proposals of the Government are absurd and would defeat the end they claim to have in view, to make the Arbitration Act a more workable measure. I have always been a firm believer in the principle of arbitration, in passing laws to make strikes impossible; and I have always spoken and voted in favour of that principle. Therefore I shall not vote for a Bill which I consider retrograde, which will injure an Act that has every merit in its favour; an Act which should certainly be amended, but not in the direction proposed. I am surprised

to find in this Bill that the Government have not gone farther. All sections interested have expressed the opinion that the part of the Act providing for conciliation boards is unworkable and ought to be struck out. Then why have not the Government introduced clauses with that end in view? If we are to amend the parent Act, do it once for all, instead of bringing in small amendments at different times during this Parliament. If we are to amend the Act, take the task in hand and carry it to a proper conclusion; but do not tinker with it in a number of short amending Bills like this. I should have been glad had the Government seen fit to bring in a proper amending Bill, so that all desirable changes could have been at once passed into law, or so that the House might have had an opportunity of declaring their opinion on the whole question. I think the points we have to consider are those mentioned by the member for Albany, and those I have indicated as to the tendering of evidence and its admissibility. True, the president of the court is ill; but that should be no reason why a special Bill should be framed to allow the other members of the court to travel through the country and the final hearing to be in Perth. A little economy could be effected by not appointing another Judge; but if the work of the court is congested, I would point out that both on the workers' and the employers' sides a vast expenditure is being incurred by sending their agents to Perth, making applications for the hearing, and also in preparing the witnesses; and the cases are being postponed week after week and month after month. A considerable expense has been going on in that way which will not be alleviated by this amending measure. I think the Bill is totally opposed to the methods of British justice, and I shall cast my vote and do everything in my power to see that the Bill is defeated.

THE PREMIER (Hon. H. Daglish): I am somewhat surprised at the amount of attack made on the measure. I really cannot understand the basis on which we are told the measure, if carried, will destroy the jurisdiction of the Arbitration Court, or will remove the Judge as the final arbiter in any case submitted to the court. The proposal is purely one to enable the two lay members of the court to take evidence, which afterwards can be submitted to the court; evidence that may be recorded in shorthand. On this very point the member for Sussex ought to know, but he has assured us that the evidence must be taken in longhand, and that the court has no power to order the evidence to be taken in shorthand.

MR. J. M. HOPKINS: The court is not present; only two-thirds.

THE PREMIER: The same power in regard to taking evidence is conferred by the Bill on the members of the court present as on the court itself.

MR. HOPKINS: What sort of supervision?

THE PREMIER: If the member will allow me, I want to point out that in the Act itself provision is made in Section 75 that the court may order all or any part of the proceedings to be taken in shorthand.

MR. HOPKINS: If all the members of the court are present.

THE PREMIER: If there be any doubt, we are quite prepared to meet that doubt in Committee. The member for Sussex is perfectly aware that this is hardly a point that need be introduced into the second-reading discussion of a measure. The whole question whether one word should be struck out and another be substituted is hardly a matter which should be introduced into a second-reading discussion. What we have to deal with now is the principle of the Bill. The mere word the hon. member spoke of will hardly alter the principle of the Bill. I am surprised at the attack made by the member for Sussex on the Minister for Labour this afternoon on the ground that he made a threat to the House. The Minister was perfectly justified in expressing his opinion as to what might happen if the work of the Arbitration Court was not allowed to go on.

MR. HOPKINS: Is this the only way out of the difficulty?

THE PREMIER: I am replying to the accusation made against my colleague when he refers to evil consequences, and what would be the result of the want of opportunity to deal with cases. The Minister only expressed an opinion which he was perfectly right in expressing, and no other member has a right to

translate his remarks into a threat. Surely a member, because he happens to belong to the Labour party and refers to industrial trouble, should not be blamed for saying that trouble may be kindled. We have to recognise the possibilities of the law being broken by the emyloyee as well as the employer. In the ranks of both we will find individuals who ignore the laws, and commit breaches of them. The hon. member was therefore justified in referring to possibilities that might happen under provocation, and I may say, that in my opinion, provocation is given in regard to this very matter. I have known of certain corporations reducing wages without giving an opportunity or time to get a decision from the court in regard to those wages.

MR. HOPKINS: We had ours reduced lately.

THE PREMIER: You had your hours reduced also, so that the reduction was not more than proportionate in reduction to the work. Another point which the member for Sussex referred to was in regard to the Government and their relation to Mr. Justice Burnside. I want to say that I have not heard that Mr. Justice Burnside wishes to resign except from the member for Sussex. I heard that statement yesterday. The hon. member was good enough to tell me privately that he believed it was so.

MR. F. WILSON: I told you so?

THE PREMIER: I had a private conversation with the hon. member on the lines of the speech which he delivered this afternoon.

MR. F. WILSON: May I explain? I mentioned the fact that the Judge stated that he offered to resign, and I repeat that statement now. I told the Premier the fact that the Judge stated in open court he had offered to resign, and that the Government did not want him to resign.

THE PREMIER: The hon. member this afternoon said in one sentence that the Judge offered to resign, and in another sentence he said that the Judge wished to resign.

MR. F. WILSON: No.

THE PREMIER: I insist that the remark that the Judge wished to resign as well as the statement that he offered to resign were made, because I took down both statements at the time they were made. I have not heard, except in the House, that the Judge has offered to resign. As a member of the Government I have received no intimation to that effect. I believe the Minister for Justice likewise is without intimation to that effect. The Minister for Labour tells me that he is without knowledge of the fact. I myself having heard that this statement had been made, saw Mr. Justice Burnside to-day, and I find as far as Mr. Justice Burnside is concerned he has no wish to be relieved of his duties as president of the Arbitration Court. I want to say that the Ministry have never yet expressed a desire in any way in regard to the Judge who should fill that position. The Ministry have never discussed that matter in one way or the other. Therefore I entirely repudiate the statement that we wish Mr. Justice Burnside or any other member of the Supreme Court Bench to be in that position. In regard to the illness of Mr. Burnside, which we all deplore, I consulted that gentleman as to whether it would be to his advantage to be relieved of the work, and as far as I am able to judge he prefers to continue in the position, if his travelling through the country is not taken as a necessary consequence of his position.

MR. C. J. MORAN: Hence this Bill.

THE PREMIER: The conversation only took place to-day; the Bill was introduced last week. This is the only conversation I can speak of. It is the only conversation I have had.

MR. F. WILSON: The Minister for Labour has had many conversations with the Judge.

THE PREMIER: I have said all I intend to say in regard to that one point. We recognise as fully as any members in the House and desire as earnestly to maintain the arbitration principle; and we likewise yield to none in our desire to see the work of the Arbitration Court carried out effectively and impartially. We desire, in other words, to see the Act not a dead letter but a living reality, securing the object intended when it was passed—the entire prevention of industrial disputes, or, when they arise, their early settlement. We went into the effect of this measure with the highest authorities we could get. We went to

the acting Attorney General, Mr. Sayer, and I simply quote the opinion of that gentleman against the opinion of the member for Albany. I think that I may quote the opinion of Mr. Sayer, and take his experience against the experience of the member for Albany as a reporter in a police court; and Mr. Sayer did not see anything likely to interfere with the principle or the efficient working of the Act in the amending Bill.

MR. GREGORY: I wonder he did not introduce something of that sort when he drafted this Bill.

THE PREMIER: I cannot give any history on that point. Possibly he may have done so, for all I know. We likewise consulted Mr. Justice Parker, the acting Chief Justice, on the subject, and he was good enough to put in writing his opinion in regard to the very points raised. He writes as follows, under date of to-day:—

> As I gather there may be some opposition to your proposed amendment of the Industrial Arbitration and Conciliation Act, I may be permitted to say it has my unqualified approval. When evidence is required from a person residing abroad, the court issues a commission to some person to take such evidence, and at the trial the evidence so taken is read. In like manner the evidence of persons about to leave the State is taken by a Commissioner or special examiner, and read at the trial. A Judge in Chambers often decides matters on affidavit; and in all appeals to the Full Court from the decision of a Judge, or of a Judge with a jury, the court has no other mode of arriving at a conclusion whether the Judge or jury decided questions of fact rightly, but by a perusal of the evidence taken at the trial in the court below. So there is abundant precedent for a court to determine questions of fact on the evidence of witnesses whom the court has not seen or heard.

MR. WALTER JAMES: Very misleading, that.

MR. J. L. NANSON: Why call witnesses at all in any case?

THE PREMIER: I am just reading an expression of opinion from the acting Chief Justice, who has had the largest experience of the Arbitration Court. He goes on to say:—

> If the proposed Bill be carried, the Arbitration Court will in this respect be placed in a better position than the Full Court, as at least two of its members must have seen and heard the witnesses, and will be able to report to the president anything in their demeanour which throws doubt upon their testimony. I may also add that from my experience as acting president of the Arbitration Court there is in that court, as a rule, but slight differences between the parties on questions of fact. The disputes usually arise upon admitted facts, and the court in determining its award must be guided in a great measure by what it deems fair, reasonable, and expedient, as regards both the workers and employers, in the industry to which the award relates.

The position seems to me to be this, that while demeanour may be a very important matter in criminal cases, also in civil cases where evidence is given in regard to what individuals did or said or saw on a certain occasion, the demeanour of a witness is not a vital matter when the question is how much an individual was paid in wages during a certain term. In fact, there are in most instances certain books needed which can be produced if required by the court. The court has power to call for them and the right to inspect, so there is no likelihood of any grave difference of opinion in regard to the evidence given by the two sides in respect to wages paid. There are subsidiary considerations like the cost of living and the cost of various provisions. These are matters which come under the consideration of the Arbitration Court, but here again there is no great likelihood there will be very widely divergent opinions expressed in the evidence given by the two sides.

MR. HOPKINS: There have been in many cases on the goldfields.

THE PREMIER: I of course am not prepared to say that occasionally there may not be divergences, but those divergences if they arise can easily be settled by the preponderance of evidence on one side or the other; not by the preponderance in the number of witnesses, but by the preponderance of evidence. The member for Sussex (Mr. Frank Wilson), who complained of the preponderence of the number of witnesses determining the question, would not, I think, object to due weight being given to the preponderance of the evidence itself, upon whichever side it might happen to be. I want to impress upon the House that the sole desire of the Government in introducing this measure is to do what the Minister introducing it mentioned—reduce the existing congestion of the Arbitration Court. We have taken this course because we believe it is the readiest and most efficient means of

achieving that purpose. I trust the House in debating the matter will at all events give us the credit of acting with that object, and I assure members that so long as that object be achieved we are not by any means particular as to the method by which it is done.

MR. WALTER JAMES (East Perth): I have to thank the Minister for Labour (Hon. J. B. Holman) for introducing the Bill, and giving the clearest possible contradiction to the oft-repeated statement of the member for Collie (Mr. Henshaw) and others, who before the election alleged that the whole of the congestion in the Arbitration Court was due to the maladministration of the Act by the department which I controlled. I am glad indeed to see another instance of how improved and how more just people become when they realise their responsibilities and see both sides of a question.

THE MINISTER FOR LABOUR: You must admit the Minister for Labour did otherwise with the Act.

MR. WALTER JAMES: I pointed out when we were discussing the subject that there was need to amend the Act in several particulars, and I had hoped that during this session a comprehensive Bill dealing with the amendments would come before the House, for none of us can be satisfied with the congested state in which the business of that court stands; and certainly those of us who believe in that Act and the principles upon which it is based should do all we possibly can to overcome the existing difficulties, and enable the Act to bring about those benefits which we believe it can. Moreover, we should not shut our eyes to the fact that there never has been a more unfortunate court than that, owing to the fact that nearly every Judge who has been connected with it has suffered from illness and has been incapacitated from carrying on the work. As a consequence the progress of the court has been extremely slow. I admit that there is need to amend the Act, and the only point for consideration now is whether this proposed amendment is on the whole the wisest that can be adopted. None of us who followed the discussion which took place in connection with this Bill when first brought forward in this Parliament, and who followed the discussion which took place in other Parliaments can fail to remember how much importance was attached to the fact that the president of the Arbitration Court was a Judge of the Supreme Court.

MR. MORAN: That was the whole question in every place.

MR. WALTER JAMES: When questions of controversy arose as to whether solicitors should be admitted, as to whether rules of evidence should apply, the objection raised was always answered by saying, "We will place in the position of president a man with judicial and legal training, and who by applying that can prevent the proceedings of the court from becoming unduly prolix and unduly difficult." Those of us who advocated the Bill also knew it would tend to give a greater feeling of security to those who are affected by this legislation if the president of the court were a man occupying a position so high as that of a Supreme Court Judge. None of us can shut our eyes to the fact, and I think experience has emphasised it, that however honestly the two arbiters may attempt to carry out their work, they would on that bench either consciously or unconsciously take up a position of advocacy. I think we felt that in the great majority of cases the ultimate decision would fall upon the president himself, owing to the disagreement between the two arbiters. We are departing from that principle in this instance, and the question is whether it is wise. There are two or three ways, I think, by which not only the present difficulties might be overcome, but by which we might make the Act more effective. These two instances I mentioned previously, I think in this House and on the public platform, when dealing with this Bill three years ago. I urged then that our Conciliation Boards should be made more effective than they are likely to be under the present Act. A Conciliation Board consisting of the number of members of the present board is absolutely useless for any purpose, and the only chance of such board doing good is, in my opinion, by limiting the number of members to three. My suggestion was that if you had a Conciliation Board, one member should be appointed by the workers, one by the employers, and the third by the Government for the time being. We

should then get an effective local body able to deal with the great majority of disputes. Then, if we said that every dispute must in the first instance come before the Conciliation Board and we gave the right of appeal to the Court of Arbitration, we should, I think, limit to a large extent the work of arbitration, and give an increased status to the proceedings of the Conciliation Board. [MEMBER: You would prolong the dispute.] We should overcome the difficulty which now exists, and not prolong the dispute. It is in fact because that law does not exist to-day that we have disputes so prolonged that one of them is over 12 months old. I do not think that amendment would prolong disputes more than that period. If we had a condition of affairs like that, making our primary court an inferior court and paying the men appointed as they ought to be paid, and if power was given to appeal to the Court of Arbitration, we should have such a position as arose when an appeal was made from the Supreme Court to the Full Court. Where we had an appeal on the ground that the verdict was against the weight of evidence, the court of appeal would always bear in mind that the primary court had the benefit of seeing the witnesses and coming into contact with them, and if we desire to prove that the inferior court is wrong, we have to show very clearly that such is the case. Even then we do not succeed in upsetting the lower court's decision on the ground of the weight of evidence. In the great majority of cases, the result of an appeal is to send the case back for re-hearing. I rather regretted to hear the letter written by the acting Chief Justice, because I think that the practice opens the door to great misconstruction. I think it is and should be the practice for one concerned with these cases to consult the Judges dealing with matters of this sort; but I regret that, following on it, there should be a voluntary expression of opinion, giving reasons, by a gentleman occupying a position on the judicial bench. We can, I think, overcome the difficulty by amending the Conciliation Boards and making them more effective.

THE MINISTER FOR WORKS (Hon. W. D. Johnson): We tried that.

MR. WALTER JAMES: Where?

THE MINISTER FOR WORKS: At Kalgoorlie; there was a case which lasted about six months.

MR. WALTER JAMES: My suggestion is to have three members of the board appointed—one by each side and the third by the Government, with power to give a final decision. The difficulty now is that they have no power. People treat them with contempt. We might take three highly-qualified men, but, under the present system, whatever decision they came to would be really waste-paper, because they would not have the power. Either party could go to the Court of Arbitration, so their efficiency would be destroyed.

THE MINISTER FOR WORKS: Would you make their decision final?

MR. WALTER JAMES: There should be the right of appeal.

THE MINISTER FOR WORKS: They have the right of appeal.

MR. WALTER JAMES: I would not for one moment suggest that they should have the right of appeal in every case. I think we all recognise in connection with the present Act, that one of the evils is that the court is put into motion too frequently in connection with disputes which ought to be settled before they reach the court. We could, perhaps, check that if we had a primary court and also a higher tribunal.

MR. THOMAS: You opposed that.

MR. WALTER JAMES: Pardon me, I expressed my opinion in favour of it, but I was not prepared then to test it.

THE MINISTER FOR RAILWAYS AND LABOUR: In cases of appeal, would they not take evidence given in the other court?

MR. WALTER JAMES: They would.

THE MINISTER: It is the same as this.

MR. WALTER JAMES: No. I was endeavouring to point out that in this case a determination will be come to by the president on written evidence. Where one appeals, say to the Full Court, from the decision of an inferior tribunal, the ground of appeal is that the verdict is against the weight of evidence. The Full Court never grants an appeal on such grounds unless one can show conclusively that the lower court was wrong. The onus is thrown on the appellant of showing that the lower court must have been wrong in arriving at its decision. It is recognised

how valuable it is to a Judge to see the witnesses and their demeanour and acts, on the assumption that one is more likely to be right by seeing the witnesses than by simply reading the evidence. But while we may all recognise that the tribunal would be a long way more satisfactory if we had a Judge under our present Act to attend all these cases, what we have to realise now is I think that we cannot get that Judge to do it. It is no use gainsaying that we have not got the judicial power to enable us to carry on this work effectively. If we insist upon the work being done by a Judge, my own suggestion is to make provision by which, in case of illness of the president or temporary causes which would satisfy the Governor-in-Council, we could appoint some other legally qualified person to act as president for a fixed time or in connection with certain fixed cases. That would still, I think, preserve the value which we all recognise of having as president a gentleman with legal training. Unless we alter the constitution and power of the Conciliation Boards by giving them greater power and lessening the burden of the work on the Arbitration Court, or, failing that, unless we give power to appoint in certain temporary cases a person with legal knowledge—not necessarily a Judge—as president, so far as I can see the only alternative is to carry out the suggestion in this Bill.

MR. MORAN: The usual method would be to appoint an acting Judge. This is an entirely new departure.

MR. WALTER JAMES: True; but there is no power to appoint an acting president other than a Judge.

MR. MORAN: But we have acting Judges to decide matters of life and death.

MR. WALTER JAMES: The acting president must be a Judge; and if there be a Judge who can act as acting president, he can act as president also.

MR. MORAN: Can we not appoint an acting Judge, and make him president?

MR. WALTER JAMES: No.

MR. THOMAS: We can appoint a Commissioner to take the place of a Judge in the Supreme Court.

MR. WALTER JAMES: We can meet the difficulty in that roundabout way; but while we are dealing with an amendment of the Arbitration Act it is well for us to face the difficulties which exist. I ask, if the Government are of opinion that my suggestions are too comprehensive and that there is a need to pass promptly an Amending Bill, then its provisions ought to be made temporary only, and not a part of the parent Act. I should like to see Clause 4 struck out, because it assumes that its provisions will be permanent, and a clause inserted to the effect that this Act shall continue in force for 12 months or two years or so. Thus we could overcome the difficulty; and I do not believe the expedient could do much injury in the course of two years.

THE MINISTER FOR WORKS (Hon. W. D. Johnson): The sole idea of this Bill is to overcome the difficulty which exists to-day on the goldfields in connection with the Arbitration Court. Workers in our mines are now accepting reduced wages, and the reductions were made within the last month or so. The delay in hearing the cases cited before the court is all right for the mining companies, but not for the workers. The workers at a place called Yundamindera, where wages have been recently reduced, decided that, as some considerable time must elapse before the court can settle their dispute, they would not accept reduced wages, but would go on strike. I desire to point out to the member for Sussex (Mr. F. Wilson) that the Minister for Labour (Hon. J. B. Holman) and I visited the district, and succeeded in getting the men to return to work pending settlement of the dispute by the court. But members must realise that this sort of thing cannot go on for ever. We have thousands of men on the Eastern and the North-east Goldfields working at a rate of wages lower than they were receiving two or three months ago. The mineowners have recently posted notices on nearly all the large mines on the North-east Goldfields to the effect that after a given date wages will be reduced. The workers have naturally protested. Moreover, the rate of wages at the time those notices were posted had been fixed by the Arbitration Court; but the award had expired, and immediately after the expiration of the award, notices of reduction were posted. The men naturally resented the reduction and protested against it; but the fact

remains that we have no power to debar the mineowners from reducing wages pending the sitting of the court. It is true that the court when they sit can make their award retrospective to the date when wages were reduced; but the workers on the North-east fields find that there are so many cases before the court that months must apparently elapse, in existing conditions, before their cases can be heard. The men are getting impatient; and I may say, without threatening the House at all, that the men will presently decline to wait any longer. They will say, "We have worked for reduced wages for three or four months, and we will not carry on indefinitely." It is to cope with this difficulty that the Government bring in the Bill. Another point. The congestion in the court is purely temporary. The goldfields cases now pending were heard by the court some 18 months ago. Mr. Justice Burnside and the other members visited the goldfields, heard the disputes, and gave their award. The term of the award has expired, and the disputes have revived; but immediately existing disputes are decided, we shall have industrial conditions settled on the fields for the next 18 months or so, as the court may decide. Consequently, the congestion is but temporary; and if we get those cases disposed of, I believe the court will be competent to deal with any other cases that may come before it. We have no desire that this amendment of the Act shall be permanent; and I believe the Government will consider the suggestion of the leader of the Opposition (Mr. Walter James), so as to make this amendment apply till we have overcome the present difficulty, and no longer. Then we shall have the goldfields cases tried, and the conditions of labour and the rate of wages settled for 18 months, or for a longer period if the court think fit. I should like also to reply to the leader of the Opposition's suggestion for the remodelling of the Conciliation Boards. The hon. member practically suggests that we constitute district courts by appointing Conciliation Boards of three members—a representative of the workers, another of the employers, and a Government nominee as chairman, and that unless the decision of the board is to be final we shall have appeals to the Arbitration Court. We have tried these boards on the fields; and unquestionably the Conciliation Board on the fields delayed the settlement of disputes. The workers waited nearly three months, I think, for the board to sit, and after the board sat the employers I think appealed against the decision. Thus the workers had to wait another three or four months until the court could sit; and seven or eight months were required to get disputes settled. The Conciliation Boards were then constituted exactly as the leader of the Opposition now suggests; and that should clearly demonstrate that his proposal will not work. There is only one way of overcoming this difficulty: to completely abolish Conciliation Boards, and to let all cases come to the court. It is said by the member for Dundas (Mr. A. E. Thomas) and others that we should adopt some other method; that, if remodelling the Conciliation Boards will not meet the difficulty, we should appoint a Judge. But members will surely realise the difficulty of getting a legal practitioner to take temporarily the position of president of the court. The appointment would be temporary; for the congestion will last for a short time only.

MR. FOULKES: I question that.

THE MINISTER FOR WORKS: It is true. The decision of the pending goldfields cases will settle all disputes on the Eastern and the North-east Goldfields, and the Murchison disputes have recently been settled; consequently, if we had the pending cases settled, we should have industrial peace on the fields for a term of 18 months, or even three years if the court thought that advisable. Industrial conditions would be settled for a considerable time; the appointment of a president of the court would be only temporary, and such a temporary appointment would not be accepted by a barrister.

MR. FOULKES: How do you know?

THE MINISTER FOR WORKS: No barrister would leave his practice to take such a position for three or six months and no longer. I doubt whether the Government could induce a practitioner to take it; and if we succeeded in passing a Bill with that object we should be faced with the difficulty that no one would take the post. We have realised all these objections, and discussed

them with the Chief Justice and the president of the Arbitration Court; and they as well as we have decided that the only mode of overcoming the difficulty is by passing the Bill as drafted. I hope members will recognise that there is no alternative. True, I think we could accept the leader of the Opposition's suggestion by amending Clause 4 so as to make this Bill a purely temporary amendment of the principal Act, to last say for 6, 9, or 12 months. I believe we can do this, and if we do it I hope the House will pass the Bill, so as to assist the Government to relieve the congestion with which we are now faced.

MR. J. C. G. FOULKES (Claremont): I think we all agree that the Government honestly desire to do their duty by giving every possible convenience to litigants in the Arbitration Court; and the existing state of affairs is undoubtedly very unsatisfactory. For many months there has been considerable industrial disagreement, and we have had various accounts of the many parties anxiously waiting for the decision of the court. Undoubtedly the Government should give every facility to litigants, in order that justice may be promptly administered. I much regretted to hear from the Premier of the statement written by Mr. Justice Parker. I humbly deprecate all influence brought to bear by Judges on parliamentary debates. I believe the statement was prepared by Mr. Justice Parker with a view to helping the House to form a correct opinion as to what should be done; but I respectfully and humbly submit that this House and another place are the proper authorities to determine what legislation should be passed by Parliament. I purpose later on to discuss the various matters mentioned; but I shall first deal with the case of the president of the Arbitration Court, who has the sympathy of the whole House on account of his severe illness, which I believe was caused by the manner in which he performed his duties. It is well known that he developed typhoid fever when visiting Cue to try cases before the Arbitration Court. I hope that the remarks I am about to make concerning Mr. Justice Burnside will not be reported by *Hansard* or by the Press. [Short statement made.] There have been many cases in the other States and in England where it has not been found possible for a Judge to hear the various witnesses and parties to a case. In some instances a Commissioner is appointed to receive the evidence of a particular witness. Sometimes it happens that a witness is so ill that he cannot leave his house to come to the court to give evidence. In some cases the witness is a very old man, and owing to the weakness of old age he is unable to travel and attend at the court. In other cases it happens that a witness is out of the country, and in all these cases full provision is made by the judicature by which a Commissioner is appointed to receive the evidence. The forms that have to be gone through are these. A Commissioner is not lightly appointed, he is not appointed by the parties to a dispute, but there is a practice laid down which has to be followed. The parties attend before a Judge of the Supreme Court and place before him the facts as to the inability of a witness to attend, and the Judge decides that a Commissioner shall be appointed, and then the Commissioner attends before the witnesses to give their evidence, and that evidence is taken down in writing. The evidence is submitted afterwards, and read at the hearing when the case is tried. What I want particularly to impress upon the House is that in all these cases the Commissioner appointed is a member of the legal profession. He is in all cases a lawyer, and the reason for appointing a lawyer to receive evidence is that he is presumed to know and to give full weight to the rules of evidence. I hardly know of a case in which a layman has been appointed to receive evidence, and the reason is that a professional legal man has more experience in dealing with evidence than an ordinary layman has. He knows the kind of evidence the court expects to have placed before it, and that is the reason why the Judge, in all cases, takes care to appoint a legal man to act as Commissioner to take evidence. There is a considerable amount of evidence brought forward sometimes by litigants, and it is what we call a trick of the profession to try and place evidence before the court that the court is not entitled to receive. The House can understand that in some cases it is most important to a partisan on one side that certain evidence should be

excluded, and it is quite as important to the other side that the evidence should be admitted. But in all cases the practice is that one of the first duties of a counsel appearing on either side is to see that no evidence damaging to the case is adduced before the court. That is the reason why, in many cases, litigants secure the services of lawyers. Litigants have every confidence in the impartiality of the Judges, but they want to see that no evidence is brought forward that is damaging to themselves. The Bill provides that the two laymen to assist the Judge are to be sent to take evidence. There is no power given them to reject evidence; they have to take down any evidence which is brought before them, whether admissible or not. That evidence is taken down, and afterwards it is read before the court. Litigants in civil cases are particularly anxious that inadmissible evidence should be excluded in some cases, because they are afraid that if it is read in court it may affect the minds of the Judge and the jury who are trying the case. It is all very well to say, as Judges sometimes do say to a jury, "You must not pay attention to that particular evidence, because it is inadmissible," but the harm has already been done. The jury have heard the evidence which has been placed before them, and it is exceedingly difficult to erase it from the minds of the men. A Judge may be able to do that, but we are all human, and it is a difficult thing to erase from one's mind parts of evidence brought forward when one sits down to decide what the verdict shall be. The Bill provides that the two assessors—I call them —are to take evidence. They take the whole evidence. There is no instruction given them as to what they must take. They must take all they hear, and from what one knows of cases it will be interesting to see the enormous amount of evidence taken. Clause 2 of the Bill does not compel the two assessors to take this evidence. There is no compulsion on them to attend at outlying places, and if one of the assessors refuses to go, there is no means of compelling him. Nothing can be done to compel either of the assessors to go and take the evidence.

THE MINISTER FOR LABOUR: The fees for sitting may do something.

MR. FOULKES: I understood that the reason for the Bill was to expedite the business of the Arbitration Court. If this Bill means creating another deadlock it means that all an assessor has to do is to refuse to attend, and no evidence can be taken. Another difficulty that has occurred to my mind is that supposing the evidence is taken by these two assessors, it is reported and read out before the court. The Judge may say, "The evidence you have taken is all very well as far as it goes, but it is not sufficient. You should have brought farther evidence on certain facts. I am unable to come to a decision, and therefore it is necessary that you should go back again and get farther evidence as to these certain facts." That will mean farther delay. These two assessors may think they have all the evidence necessary, but it is difficult for two laymen to decide. They may have sufficient evidence to satisfy themselves, but it is difficult for them to say that they have sufficient evidence to satisfy the Judge of the court or any other individual. In that way it may often happen that however desirous the assessors may be to take sufficient evidence, they find they have taken evidence which is incomplete and in many cases inadmissible. There has been a great deal of criticism, one deeply regrets to say, as to the decisions given by the various Judges who have sat in the Arbitration Court. I am sure it is the desire of the House that the verdicts of Judges shall at all times be respected, but there has not been a Judge presiding in the Arbitration Court whose verdict has not been fearlessly and hostilely criticised in some directions. There are always disappointed litigants, but we want to protect Judges of the court as far as possible. If a Judge is to depend upon the evidence written down, he is not so likely to give satisfaction to litigants as he is at the present time. We are not placing Judges in a fair position to come to a conclusion as to a verdict. We have seen, up to the present time, the difficulties in coming to decisions. If it had not been for the action of the Minister for Labour there would have been a very serious dispute in the timber districts nine or twelve months ago. Some very cruel statements were made at the time by one of the

parties to the dispute as to the impartiality of the Judge. We heard him severely criticised by one of the parties to the dispute; therefore we should do nothing that will create farther difficulty in a Judge coming to a correct decision as to disputes brought before him. I feel certain he will find it far more difficult to come to a conclusion as to what should be the correct verdict to give, from written evidence, than when he has heard the evidence himself. In that way I fear, much as we regret it, that the verdicts in the court in future will be met with greater hostility than they have done in the past. The arguments of the Minister for Labour in introducing the measure weighed very much with me, because he pointed out what a great quantity of work there was waiting for the decision of the Arbitration Court. He said the number of cases was being piled up every day, and at present there were 20 or 30 cases waiting to be dealt with. On the goldfields he said 16 cases had been cited and several others were pending. This goes to show how necessary it is we should put our Arbitration Act on a proper footing, and that we should have a fully-qualified, as regards health, person to act as president of the Arbitration Courts. I fear very much that owing to ill-health Mr. Justice Burnside will not be able to carry out, as he would like, the duties of the Arbitration Court, and I feel sure the time will arrive when the Government will have to appoint another Judge, either to assist Mr. Justice Burnside in doing this work, or generally assist in doing judicial work. The Minister for Works said it was impossible to obtain other legal men to act temporarily in taking these cases. I do not know what experience the Minister has had of legal men—probably the Minister for Justice has supplied him with full information as to the qualifications of the legal men in the country—but with all due respect to the Minister, it is utter nonsense for the Government to say, "We cannot get a legal man." I feel sure that one can be found to take a temporary appointment of this kind. I do not like temporary appointments, but I like to see properly, duly qualified legal gentlemen appointed to act in this court. [MEMBER: Permanently?] Yes; let them be appointed permanently. Only the other day when the amending Local Courts Bill was introduced, a member pointed out what a great disadvantage it was to other parts of the country. I cannot help thinking this matter has been brought forward in too great a hurry. The Government are honestly impressed with the idea of having some steps taken to remedy the present position of affairs; but the steps taken to appoint two advocates—because after all they are two advocates, one being appointed by the employers and the other by the employees—are not wise. When those appointed leave Perth, we will say, and go up to the goldfields, they are both going to fight their case up there. How can we possibly expect those two men to agree? In civil cases one never hears of two counsel being expected to agree as to the steps which should be taken. I look upon these members of the court as counsel. I know one member of the court was taken severely to task by one party for not having done his duty in fighting more than he did for the party he represented. We have a large class of people in the State who look upon those two members of the court as being advocates for their particular parties.

MR. MORAN: Are they not appointed by the interested parties?

MR. GREGORY: They are not appointed by the interested parties.

MR. FOULKES: Whether it is right or wrong, they are, I assert, looked upon by a large section of the people as being nothing else but advocates. I can only judge from what I hear and read. Mr. Justice Parker mentioned that a Commissioner may be appointed to take evidence; but he omitted to say—I have no doubt the point did not occur to him—that when a Commissioner is appointed to take evidence, in all cases the man appointed is one who has legal experience. His Honour farther went on to say that the Full Court have had to consider cases on written evidence, that is evidence which has been brought forward in another court, and the Full Court have had to give their verdict on such written evidence. His Honour omitted to mention that the facts were that a case is tried, we will say, before a Judge and jury in the Supreme Court, and evidence

is brought before the Judge and jury. The verdict is given in the end for the plaintiff, and the defendant not being satisfied with the verdict appeals to the Full Court on the ground that it is not correct. A verbatim report is taken of all the evidence given in the first court, and that evidence is read by the three Judges who constitute the Full Court. Of course, in that way it may be said they decide on the written evidence. But the principal point dealt with by the Judges in the Full Court is, was the verdict in the first court against the weight of evidence? It is not a question whether that evidence is correct or not. The Judges in the Full Court take that evidence as being correct. They do not go into the question of the credibility of such evidence. They decide from the evidence given whether the verdict in the first court was contrary to the weight of evidence.

MR. MORAN: That is purely a legal matter, after all.

MR. FOULKES: Yes. Another point always brought before a Full Court is this: Was the learned Judge who tried the case in the first court satisfied with that verdict? I have often heard the late Mr. Justice Hensman lay great stress upon that point. When sitting in the Full Court, one of his first questions was: Was the learned judge who heard the first case satisfied with the verdict given? The House can understand why importance should be attached to that particular point, because the Judge who heard the case in the first court had the opportunity of examining the witnesses for himself and watching the demeanour of those witnesses. There is a great deal of importance to be attached to the demeanour of the witnesses, and also at times importance should be attached to what the evidence is which a particular witness gives. I can quite corroborate the remarks of the member for Albany (Mr. Keyser) with regard to his experience in the police court at Albany. The leader of the Government does not appear to rely very much on the experience of the hon. member; but from what experience I have had of the Full Court and the Supreme Court, and also the police court in Perth, I can say—and I am certain no one can contradict it—that it is of the utmost importance that a person who has to give a verdict in a case shall have heard the evidence. Otherwise it is a matter of impossibility to form a correct conclusion as to what the verdict should be. I am particularly anxious that our Judges shall have the utmost protection, and I hope the Government will see that proper protection is given to them. The manner in which our Judges are criticised is discreditable to this State. It will be found that unless ample opportunities are given to Judges to hear the evidence, they will be likely to make mistakes. We do not want to have appeals. We want to have finality, and therefore it is the duty of the Government to see that proper officers are appointed to consider not the written evidence but the whole case from the commencement.

MR. T. F. QUINLAN (Toodyay): I am wholly in accord with the last sentence of the speech by the member for Claremont, in which he said it was absolutely necessary that the Judge or magistrate, whatever the case may be, should hear the evidence. I contend it is impossible for a Judge to do justice to any party in a suit unless he hears the evidence himself; because not only numbers are to be taken into account, but the manner of the witnesses in the witness-box. My experience, and doubtless that of many other members, is that you can rely very little indeed on the number of witnesses in any case. If witnesses appear before a Judge or magistrate, he is able to judge fairly well whether they are speaking the truth. We know that on the goldfields or elsewhere it would be easy to obtain numbers, and numbers would have some weight with the Judge to whom the evidence would be carted down. I think that to pass this measure would interfere with justice, because it would not be carried properly into effect. If, as has been said, it is a good thing to make this provision temporary, those who have suits at the present time to be dealt with by the Arbitration Court will be entitled to be heard in this matter; and if the proposal is good in itself, the measure should be lasting and not temporary. If it is a fair system of hearing cases in the Arbitration Court, it should be continuous; and there would be no need to appoint a Judge if, as the Minister for Works thinks, these cases

could be cleared up in six months. With regard to that, however, I entirely differ from him, because I am inclined to think these cases will continually increase. This Arbitration Court has not been long established, and we know the Judge and those other gentlemen have been fully occupied since its establishment. As to the question of another Judge being appointed, I think the appointment is necessary, and the sooner it is made the better. Men who have had their wages in question have had to wait, and doubtless that is unfair to them. The best way to get over the difficulty would be to appoint another Judge. To make this measure temporary would in my opinion interfere with the purity of justice, and I am utterly opposed to Clause 2. I gave the Government credit for having more common sense than to ask the House to agree to such a proposal. I shall certainly give my vote against the proposed measure.

MR. A. J. H. WATTS (Northam): I object strongly to the Bill at present before the House. The reason given by the Minister for Labour in regard to the introduction of the measure was that it would expedite the settlement of many disputes which have arisen, and which have to be dealt with by the Arbitration Court. I cannot see that the hearing and deciding of these cases will be expedited to a very great extent by the hearing first by two members of the court, and then the rehearing or at any rate a perusal of the evidence, and a final decision by the Judge. I believe the better course would be to appoint a Judge straight away. As everyone knows, we have had a congestion of affairs in the Supreme Court for some time past, as well as in the Arbitration Court, and in my opinion we could well do with another Judge. I should be in favour of some measure of that kind to expedite the settlement of disputes which have arisen in the Arbitration Court. I strongly object to witnesses being obliged to travel from far distant centres to Perth, as they do at the present time, and I think it should be stipulated that the three gentlemen—the Judge and the other two gentlemen appointed to act with him—should travel to the various districts and hear the cases there. In fairness to the litigants whose cases will have to be heard, I think it is absolutely necessary that the final arbitrator—the man who has to give the final decision in regard to these cases—should hear the verbal evidence of the witnesses on either side. As the member for Claremont said, I think it is almost impossible that the Judge should be able to arrive at a correct decision in all cases unless he hears the evidence as given by the witnesses in the court. For myself I should very much like, if I had a case, that it should be heard by the Judge who had to decide it, that is by the final arbitrator, the person who has to give the final decision in the matter; and I think those who are interested in cases to come before the Arbitration Court will desire that their cases should be heard, not only by the two gentlemen who are appointed to assist the Judge, but also by the Judge himself. I should certainly think that facilities should be given to persons to give their evidence in this way. In regard to the remarks of the Premier concerning the expert evidence of the Attorney General (Mr. Sayer), and his (I think) sarcastic reference to the credibility or the expert knowledge of the reporter in the police court, which the member for Albany (Mr. Keyser) was at one time, I think that perhaps the Premier should have considered the hon. member to be a more expert judge in these matters. If the Premier's knowledge had been gained in connection with the police courts of this State, I have no doubt it would have been considered very much superior than it is at present. I shall vote against the Bill as it stands at present.

THE COLONIAL SECRETARY (Hon. G. Taylor): I am sorry to see this Bill meet with so much hostility in this Chamber. I can assure those who are opposing it that there is necessity for some alteration to the Arbitration Act to enable the cases that are now pending to come before the Arbitration Court. The member for West Perth (Mr. Moran) reminds me that this is not the only way it can be done. The leader of the Opposition has pointed out very clearly (and he is a legal gentleman) that there are two other courses open, but failing these courses it is necessary that this Bill should be become law. I should like to point out to the House that most of these cases pending are not

new cases; they are cases which are the outcome of awards that have already expired. Any member who has watched the proceedings in the Arbitration Court will readily recognise that before the court questions are decided practically on the cost of living and on the conditions under which people are carrying on their industries. I had the honour to represent the workers before the Arbitration Court some 18 or 20 months ago. The award in the case has expired, and this is one of the cases at present pending. On that occasion the whole of the evidence taken was on the cost of living and on the conditions under which the people worked, that is from a climatic point of view. In most of these cases now pending, which will be heard under the Arbitration Act as amended by this Bill, the president heard the evidence some 18 or 20 months ago and travelled through the districts, so that he is thoroughly aware of the circumstances surrounding the cases.

MR. GREGORY: Do they not vary?

THE COLONIAL SECRETARY: It is a matter for the court to decide as to whether the conditions have varied or not. The member for Menzies has pointed out that if this Bill becomes law it will be, in effect, a death blow to the principle of arbitration. I think I have been mixed up in industrial strikes more than any other hon. gentleman in this Chamber, and I may say without fear of contradiction more than any other man in Western Australia.

MR. GREGORY: Principally industrial strikes.

THE COLONIAL SECRETARY: Yes; industrial strikes, which this Bill aims at preventing, and which it is the desire of the Minister for Labour to prevent, and the desire of this Government to prevent. During the debates that took place on the passage of this Act the present arguments were then advanced concerning Conciliation Boards. If, in the Eastern States, we had had an Arbitration Act when conflicts took place between the employers and the employees, some of our best men in those States would not have suffered the privations and hardships they had to undergo, nor would their families have had to suffer privations and hardships. Those of us who know this realise the necessity for this Bill. We have an Act, but it is unworkable, and this short measure is necessary to make the Act workable. The Act is unworkable at present, and I feel confident that if we pass this measure it will enable the evidence to be heard on the spot where the dispute arises. I may point out that the gentlemen who represent the court—one representing labour and the other capital—do not appear in the court as advocates while the court is sitting. Their advocacy appears only when the case is before the president, after the evidence is all heard, on questions on which they cannot agree, and they argue from each side in front of the president. That is the position. The statement of the member for Sussex regarding piling up evidence so that it will take a special train to bring it from the goldfields to Perth is all moonshine.

MEMBER: It was not the member for Sussex, but the member for West Perth.

THE COLONIAL SECRETARY: The member for West Perth put it into the mouth of the member for Sussex, and he concurred by saying "Yes." In the Arbitration Court all the evidence is taken in shorthand. There is a man specially appointed for the purpose. That is well known, and not better known to anybody than to the member for Sussex. The evidence is taken in shorthand and then typed. I fail to see where there is any additional cost. Any organisation of labour or association of employers can obtain a copy of the evidence by paying a certain fee. I do not think the member for Menzies (Mr. Gregory) knows this, because since the Act has been working he has been a Minister of the Crown and has not been mixed up in this particular phase of labour disputes; but I am sure the member for Sussex (Mr. F. Wilson) knows that what I say is true.

MEMBER: What has that to do with the case?

THE COLONIAL SECRETARY: One of the strongest points of the member for Sussex was that of piling up expenditure by going into needless longhand or some other handwriting.

MR. FRANK WILSON: I did not refer to expense.

THE COLONIAL SECRETARY: You referred to time or expense.

MR. F. WILSON: Only to time.

THE COLONIAL SECRETARY: It will not mean more time or expense. As pointed out by the Minister for Labour, this will reduce the cost to litigants in conducting their cases. So far as this aspect of the question is concerned the House need have no fear, because it is already done under the present Act and under the present procedure of the court. I recognise that the Bill may, on the face of it, suggest to hon. members or to anybody that it would turn the representatives of the court into advocates; but having appeared before the court and knowing the procedure of the court, I say it will not do so. The two representatives will go before the president as advocates only on the points on which they cannot agree. That is all they do now. The president now takes no part in ending a dispute except on the points on which the advocates disagree. Practically that is so when the president gives any decision now.

MR. F. WILSON: Quite wrong.

THE COLONIAL SECRETARY: The intention when the Act was passed was that the president should be the final arbiter when the other two disagreed.

MR. F. WILSON: The majority settles a point.

THE COLONIAL SECRETARY: That merely means the president. When two disagree and a third party decides it is always that.

MR. F. WILSON: When the two agree and the president does not agree he is in the minority.

THE COLONIAL SECRETARY: The president is then not called upon to give a decision. It was the intention of Parliament that the president should only be called upon when the other two persons could not decide a point.

MR. MORAN: We cannot contemplate the two sub-advocates agreeing on any points.

THE COLONIAL SECRETARY: They do agree on many points.

MEMBER: Not on matters of detail.

THE COLONIAL SECRETARY: Yes; if we only knew the points of dispute that the president is called upon to decide as final arbiter, it would surprise the House. The member for Sussex (Mr. F. Wilson) has been a representative of the court, and I have not, but I have been an advocate representing labour before the court.

MR. F. WILSON: How do you know this?

THE COLONIAL SECRETARY: I know what the intention of the House was when it passed the measure, and that is the ground upon which I speak, and also from my experience and observance in conducting a case before the court and in finally arranging certain things in connection with an award. The president allowed the final arrangement of boundaries of the area to be covered by the award to be decided by my opponent, who was representing capital or the employer, and myself on behalf of labour. When we decided the lines the president was perfectly satisfied.

MR. F. WILSON: If you had decided the rate of wages also, it would have been accepted.

THE COLONIAL SECRETARY: Certainly. That only goes to prove that the president is the arbiter when the other two cannot agree. I fail to see how this Bill is going to deal any blow to the principle of arbitration. If I saw that it would, I should certainly oppose the measure. But I say it is absolutely necessary to pass some measure to enable these pending disputes to be heard. The member for Sussex pointed out that there was no danger of an upheaval. I say there is a danger. I speak after many years' experience in the Labour movement, and am confident that there is a breaking point. I say that while employees in this State are to have their wages reduced and no possible chance of redress, there is every probability of an industrial upheaval.

MR. GREGORY: Why not make the appointment?

THE COLONIAL SECRETARY: Members know well that before we can appoint a fifth Judge we must pass a special Act.

MR. GREGORY: You can amend this Bill to that extent.

THE COLONIAL SECRETARY: Members know that we should have to pass a short measure to appoint a fifth Judge; whereas this Bill needs little or no discussion, and will overcome the difficulty which, as pointed out by the leader of the Opposition, is only temporary and can be disposed of by a temporary

arrangement. I believe it is the desire of the Minister for Labour that the Bill shall not operate longer than is necessary to relieve the present congestion in the Arbitration Court.

MR. GREGORY: Then why is Clause 4 in this Bill? Have you read the Bill?

THE COLONIAL SECRETARY: I have read the Bill; but I listened to the Minister for Labour and gathered from his introductory speech that the intention of the measure was as I state. I hope the hostility to the Bill will disappear when it is found that these supposed objections cannot be sustained. I was twitted by the member for Menzies (Mr. Gregory) for opposing a similar measure two years ago.

MR. GREGORY: You said you were prepared to sacrifice the Bill.

THE COLONIAL SECRETARY: I said then, as I say now, that rather than give one section of the community any advantage over another, I should oppose the measure. I feel that in supporting this Bill I am not giving that advantage. I feel that the workers of this country whom I have here the honour to represent, are perfectly safe in putting their cases before the court proposed to be constituted by the Bill. Three years ago, when the Arbitration Bill was before the House I opposed it. Why did I say I would sacrifice the Bill rather than a certain clause? That clause gave the employers preference in the employment of union labour. Unionist employers have preference over non-unionist employers; that is, if an employers' association exists and one of its members needs men, and there is an organised body of labour in the district, any employer, being a member of the employers' association, can say to the organised society of workers, "I want men." He has the first claim on the members of the union; that is, of course, if given it by order of the court. The Bill gave the court that power; and similar power should be given to the employees. Any employer outside the employers' association has to come second. The members of that association have the first call; and we desire that the organised workers shall have a similar privilege. [Interjections: This matter is not in the Bill.] The member for Menzies attacked me because of the course I adopted some years ago. The Government have no desire to alter the Arbitration Act; and this Bill is not an alteration of the Act save in so far as it will enable us to bring certain cases before the court. The Bill speaks for itself. True, numerous alterations are needed in the Act; but an alteration of the Act would involve a long discussion which we do not desire, because we wish to have the cases pending heard immediately. That is the position; and I feel confident that the Bill if passed will not at all interfere with the future alteration of the parent Act; though I am fully convinced that if we pass the Bill, ordinary parliamentary procedure will not allow us again to touch the parent Act this session. At all events, that was the argument used yesterday in reference to another Bill.

THE PREMIER: It is wrong.

THE COLONIAL SECRETARY: I am glad to hear that; though I am sure the legal element in this Chamber, including the learned member for Claremont (Mr. Foulkes), informed us yesterday that if we altered a certain Act by a Bill then before the House, we could not deal with the same subject this session. If that held good of the Bill in question, it must hold good of this; but I am pleased to hear the Premier state, no doubt with authority, that this is not so. The Bill will not alter any of the provisions of the existing Act. In reply to the leader of the Opposition, the absolute futility of the present Conciliation Boards has been pointed out. Members who heard me speak on that provision of the existing Act know that I opposed it then as now, on the ground that to go before such a board would be absolutely futile; and in every case, the Conciliation Board has failed to give a decision acceptable to to the parties. As soon as a decision was given we had an appeal to the Arbitration Court. *Hansard* will prove that I pointed out that defect; and I am pleased that I had an adequate notion how industrial disputes were fought between employers and employees, for I realised years ago the difficulty that would attach to that portion of the Bill, and that difficulty has been found in respect of every detail of the verdicts of the Conciliation Boards. If the Conciliation Board provision is left

in the Act, it will have to be as I desired then. The evidence given before the board should be the only evidence put before the Arbitration Court. If the parties are allowed to bring new witnesses before the court, they will never accept the decision of the board. I hope that this Bill will be passed, so that we may dispose of the cases now pending. Most of these are goldfields cases, covering an area from Cue to Peak Hill and from Mt. Magnet to Peak Hill. The cases have already been tried, and the awards have expired by effluxion of time. The president of the court has travelled through that country; he knows everything connected with it; he has heard the evidence; and the new decisions will be purely on the question of the cost of living. On that practically all the argument will hinge. Having been an advocate before the court, I know this. Practically all the way from Southern Cross to Mt. Leonora the awards have expired; hence exactly the same cases must be tried again, the awards having unfortunately not been made for a long period, otherwise we should not experience the present congestion. The member for Toodyay (Mr. Quinlan) said he believed that this Bill would involve an increase in cases. That is not so. I fail to see why there should be any increase. All the cases now pending have already been tried; they are not new cases; and they are again pending because the term of the award was so short. That term has expired, and the employers have taken advantage of its expiry to reduce wages. I am reminded by the Minister for Works that they have reduced wages by from 10s. to 15s. a week.

THE SPEAKER: I think the hon. member is wandering slightly from the subject.

THE COLONIAL SECRETARY: The Bill deals with special cases, and it is necessary that those cases should be pointed out to enable members to vote intelligently. The wages have been reduced in the mines which were for 18 months affected by the awards; and there is no possibility of the cases being heard under the existing law. The interests of the workers of those districts are invariably protected by labour organisations, and those of the employers are wholly protected by the employers' associations, practically the Chambers of Mines. The instructions for the reduction of wages were issued by the Chambers of Mines; so we are dealing with organised labour on one side and organised employers on the other, and to deal with those special cases it is necessary that this Bill should pass. I hope that the Bill will receive fair play; and if any details need alteration in Committee, I shall do my best to point out where improvements are possible.

MR. J. M. HOPKINS (Boulder): I am sure this at least is one question we can all approach unbiased by party feeling. The question of conciliation and arbitration is of quite as much interest to members on this (Opposition) side of the House, of quite as much interest to those representing commercial and perhaps agricultural interests, as to representatives of mining constituencies, and to those who, having been called on by their associations to appear before the court, have as it were, at least in public estimation, enjoyed almost a monopoly of conciliation and arbitration legislation. For my own part, I keenly regret any reduction in the wages of men engaged in the mining industry. I agree with the Minister for Works that any delay in settling these cases is to be deprecated, and deplore the fact that serious delays have already taken place; but what I deprecate still farther is that this Bill will not remove the obstacles which have already arisen. What assistance can it give? What would the people of the Eastern Goldfields say if the Minister for Justice announced that the Circuit Court, instead of sitting as usually constituted, should hold a session at Kalgoorlie while the Judge remained in Perth, and the associate and clerk of the court put in an appearance at Kalgoorlie to take evidence?

LABOUR MEMBERS: There is no analogy.

MR. HOPKINS: It strikes me that the cases are very similar. Then again, what expedition can we hope for in a court two-thirds of which have to go abroad to take evidence in the country, while the other third has to remain in Perth, where the whole of the work must be again performed? I wish to know, why cannot the whole court travel and dispense conciliation and arbitration at the centres where these are needed?

It is no use for members of Government to disguise this fact. I am sure all parties in the House are perfectly satisfied that an appointment could be made to the judicial bench with perfect safety, and with the approbation not only of Parliament but of the country.

THE MINISTER FOR JUSTICE (Hon. R. Hastie): Will you agree to the appointment?

MR. HOPKINS: Personally, I unhesitatingly agree to it; and I invite the Government to take back this measure and to reconsider it with a view to making that appointment; and so far as I am concerned I am only too happy to give them loyal support in order to farther that expedition which they are anxious to secure. I think the measure as it stands now is a startling proposal, and the simile which I have given in reference to Circuit Courts appears to be one that fits the case.

MR. BATH: Does an associate ever sit on the bench?

MR. HOPKINS: He does not.

MR. BATH: Nor the clerk of the court?

MR. HOPKINS: No; but it appears to be the same thing, and it justifies me in saying that this is a startling innovation. Perhaps the member for Brown Hill (Mr. Bath) contemplates dispensing with the judicial member of the court. Is it not a common thing for parties on either side in courts of law to submit a series of questions to witnesses, and they are satisfied they have made the issue clear; but to the Bench the issue is more involved, and a Judge by submitting one or two brief questions will have the whole position laid clearly before him to the satisfaction of his own conscience? Two-thirds of the court are to be sent into the country and one-third is to remain, I suppose in idleness, in Perth. What justification can there be for such a departure as this? The more I think of it, the more seriously do I regard the proposal which the Bill embraces. What we all desire is efficiency and despatch. We have agreed to conciliation and arbitration, and it is said that we should increase the status of the Conciliation Boards. I do not think that we can achieve much from that.

MR. MORAN: It would never be accepted.

MR. HOPKINS: Apparently it never would be accepted, and therefore we should increase the facilities for arbitration so that all cases may be dealt with efficiently and properly. It would appear to me that if there be any sweating going on in the community, it is to be found on the Supreme Court Bench in this country. It is a regrettable and unfortunate circumstance that any person occupying the position of Supreme Court Judge should be expected to deal with far-reaching issues when tired and weary. It is said that Commissioners often take evidence; but I believe with the member for Claremont (Mr. Foulkes) in regard to Commissioners that there is no instance on record in which the work of a Commissioner has been entrusted to anyone but to a legally trained gentleman, one who is used to asking questions and eliciting points which a Judge would require. I was very sorry that the Premier should read what might almost be taken as a recommendation from the acting Chief Justice. I really believe when Mr. Justice Parker gave that recommendation he gave it probably in all sincerity, desiring to help the Premier; but I cannot think that Mr. Justice Parker could have contemplated that the statement would be used in the House for the purpose of farthering the arguments used by the Government.

MR. MORAN: It ought not to have been.

MR. HOPKINS: I do not know how many cases are pending at the present time. I do not think the Minister for Labour told the House.

THE MINISTER FOR LABOUR: Between 20 and 30.

MR. HOPKINS: And how long have they been pending?

THE MINISTER FOR LABOUR: Since September 29th, 1903.

MR. HOPKINS: That is an indication that there is plenty of room for the appointment of an additional Judge. This is a matter of great interest to me and to my electorate; of quite as much interest to the people in my electorate as those in any other electorate represented in the House. I suggest that the Government shall take the Bill and reconsider it with a view to an appointment being made, and I have not the slightest doubt every member in the House would then agree to the measure. The difficulty could easily be overcome in the direction

I have indicated. I desire to see the work of the court carried on with expedition, but the Government only wish to meet the case by an expedient which will mean greater delays. In submitting my views as I have done I am entirely apart from what those on this side of the House may think. I have not consulted the leader of this party. I have given my own views and the views of my constituency. This is not a matter for party politics, and we should not deal with the measure from that standpoint. If members treat it as a non-party question, they will earn the gratitude of the employers and workers of the State.

MR. WALLACE NELSON (Hannans): I desire briefly to deal with this measure. I may say I entirely, and I believe all the members on this side of the House entirely, respect and endorse the sentiments uttered by the member for Boulder (Mr. Hopkins) when he declares that this is a purely non-party question; a question concerning which we are all, I believe, practically unanimous. I may say that personally I differ from some of the ideas, in fact from the fundamental idea, of the Bill which has been submitted by the Government to the House. I am of opinion that the measure would tend first to the lowering of the status of the Arbitration Court, and I think that would almost be a calamity. I am of opinion that the effective settlement of industrial disputes, and the faith in the mind of the general public that these disputes can be satisfactorily settled, has been very largely determined by the fact that there is a court with ability enough, with intellectual capacity sufficient, and with care sufficient to deal successfully, fairly, and impartially with the issues placed before it. I think the idea of getting the evidence in one place and allowing the Judge to give a verdict in another place would not very much assist matters. I do not think it would lead to more satisfactory results, but rather to less satisfactory results than we have obtained up to the present. Another thing I think we should bear in mind in these matters is that in anything we do in this House we should remember that we create a precedent, and precedents are sometimes dangerous. A great German philosopher named Immanuel Kant, laid down the idea that if you want to know if anything is wise or otherwise, ask the question as to what would take place if this principle were universally applied. We might ask ourselves, what would take place if the principle were universally adopted? If this is a good principle, why not apply it universally? If it is a just principle, why not apply it to all the law courts in the country—send men collecting evidence from one end of the country to the other, and have gentlemen in Perth sitting in a room giving decisions.

MR. WATTS: The two layman will help in giving the decision.

MR. NELSON: The idea of the member for Northam is that the representatives of capital and labour will help to give a decision. Even admitting that is so, is it not an unwise thing to split up a court as it were into two pieces, and allow one portion of the court to come in contact with the evidence and have an opportunity of forming a judgment which another portion of the court would be deprived of? I think it would be an unwise thing, and no member in the House would dare to apply the principle to law generally. It has been introduced, in my opinion, not from any deep desire to alter the law in this respect, but to meet an immediate necessity. I am afraid measures are introduced into the House not on broad principles and not the result of profound reflection, but to meet urgencies as they arise; and measures of that nature are apt to be dangerous. We should think very closely and ponder very deeply before accepting measures of that nature. I have a number of other reasons which I may submit to the House. In one respect I think this would be a very unfair thing to the Judge. I think all are aware how well we can enter into a difficulty when we meet a person face to face. Sometimes I have to judge "copy." I get some "copy" which may be badly written, the handwriting may irritate me; and in judging "copy" there is nothing like seeing a man write and get him to read it over afterwards. I can assure members that in a matter of this kind personal converse, coming into contact with the person, has a great deal to do in influencing one's judgment. Take the great act of judgment in a man's life,

who would select a wife by proxy? There is nothing like a personal interview. I think, therefore, it would be an exceedingly difficult thing for a Judge. I think the point raised by the member for Boulder (Mr. Hopkins), that a Judge can frequently, after several members of the court have put questions and possibly failed to elicit the point, do what others have failed to do. I can well remember being present at an arbitration case in Kalgoorlie—I think it was the first that was tried there, when the late Judge Moorhead presided—I can remember being very deeply struck by the marvellous intellectual capacity of that man, in eliciting by a few wise questions what a few hours of desultory examination had failed to elicit.

At 6·30 the SPEAKER left the Chair.
At 7·30, Chair resumed.

MR. WALLACE NELSON (continuing): I was trying, before the adjournment, to give my reasons for opposing the Bill. I tried to show firstly that it would constitute an exceedingly dangerous precedent; secondly, I endeavoured to indicate that it would be extremely unsatisfactory to the Judge, who, under the peculiar circumstances, would not be able to give so valuable and so accurate a judgment as could be given if he took his place in the court and sat face to face with the witnesses. I also think the law will be exceedingly unsatisfactory to the litigants laying their cases before the Arbitration Court. Even now, unfortunately, the results have not been accepted in the spirit in which, in the opinion of most of us, they should have been.

THE MINISTER FOR LABOUR: Where at?

MR. NELSON: I say that generally speaking the results have not been accepted with that degree of satisfaction which, in the opinion of some people, myself included, would have been desirable. My own opinion, in other words, is that if this court were constituted in the manner suggested, if part of the court took evidence in one part of the country whilst another part gave a decision in another place, the dissatisfaction existing now with regard to the results would be considerably extended; that the employers' representative would feel he would have got a better verdict had he been privileged to appear before the Judge in person, and that the employees' representative would have exactly the same feeling; and the degree of dissatisfaction with the results of the court which unfortunately has existed up to the present would, I repeat, be much greater. Therefore this would be a departure not to be viewed with favour by the House. I have already tried to point out the importance of maintaining as far as we can the status of the Arbitration Court. I think the principle of arbitration is one of the most remarkable facts in the whole history of civilisation. I regard it as a most marvellous thing that we are able in this State, and in other States and other parts of the world, to settle disputes by reason, by argument, by the threshing out of great subjects face to face with those who hold different views on them. It is one of the most remarkable things in connection with modern history and industrial labour. We have on the one hand the representative of capital, and on the other the representative of labour, and both these representatives stand in a position of absolute equality. The status of the worker, who only a few years ago was practically an alien in his own land, and who had not a vote in the affairs of the country in which he lived, is now recognised by the State as being as good as that of his employer. In a court established to settle industrial disputes, we have the law recognising the humblest as having rights as sacred as those of the wealthiest in the country. Therefore it is an important thing that we should maintain as far as we can the status of this court with all its marvellous responsibility, and we should make the court such that its decisions would have weight not only with the employees but with the employers. I hold, therefore, that this departure suggested unfortunately by the Government would tend to weaken the court by bringing it into comparative contempt; to take from it even what status it already possesses. I do not desire to labour the question unnecessarily, but I would like simply to say in conclusion that personally I recognise, and I believe the members on this (Government) side and even the members on

the other side recognise, that the Government have been actuated by distinctly laudable motives in introducing this measure. There can be absolutely no doubt that the work of the Arbitration Court is so great that at the present moment that work cannot be efficiently done; but I feel certain that if the Government have the courage to bring in some measure by which another Judge will be provided, in order that this work will be done, this House will unanimously, or almost unanimously, support them. [SEVERAL MEMBERS: Hear, hear.] I should like to say that unfortunately during the last few months, in fact during the last year, we have heard on both sides feelings of dissatisfaction expressed at some of the decisions of the court.

MR. KEYSER: It is a very healthy sign.

MR. NELSON: I do not know. I think the dissatisfaction is perfectly right, if it is properly expressed. I have never had any sympathy with those who have impugned the integrity and good motives of those who have taken part in that court. I have always held it as our duty, unless there is clear evidence to the contrary—and it is the most difficult thing in the world to get evidence of motives, for you cannot enter a man's soul—to attribute to our Judges that purity of motives which I think has generally characterised those who have dispensed justice throughout the British Empire. In fact, there is nothing more calculated to bring about the defeat of the aims of the Arbitration Act than the ungenerous motives that have frequently been attributed, on both sides, to those who have given awards. No doubt even the best Judge we could find may be unconsciously biased, but we have no right to impute conscious bias. It is the duty of the labourer on the one hand to select the best kind of man as his representative in that court, and it is the duty of the capitalist to do the same, whilst it is the duty of the State to select the most upright and able Judges to deal with those difficult and delicate matters which come before that court. It is our duty to raise the status of the court, and not to lower it; to increase respect for it in the public mind; and I believe that will not be done by this measure, which will tend to make litigants dissatisfied, and will take away from the court's importance, making many people defer cases which otherwise might be brought before the court. I believe all this will tend to lower the status of the court, will tend to make it difficult for litigants to get satisfaction and for the Judges to do their duty. For all these reasons I regret it is my duty to oppose this measure. It is sometimes said that members of the Labour party are slavishly given to follow their leaders; but in this matter, which is a purely non-party question, the House will find there is no characteristic of that kind amongst our members; that we have agreed freely and openly to differ on this question. It is our duty, so far as we are free in matters outside the principles to which we are pledged, to come to this House and, whether we vote for the Government or against them, try to pass those laws which will make for the wellbeing of the whole of the people of this State.

MR. A. J. DIAMOND (South Fremantle): I do not intend to take up the time of the House very much on this question; but if the Bill is pressed to a division, I will vote against it, and I want to give the reasons for my vote. From the first day when the idea of conciliation and arbitration was introduced into Australasia I have supported it with my pen and voice, and, later on, with my vote in this House. I glory in the Act, and equally would I condemn what I thought likely to take away from the influence of the court. This proposition, in my humble opinion, would take away from its influence. I think it has been made clear by the previous speaker and other speakers that such would distinctly be the result; and therefore, it is for this House to carefully weigh what has been said on both sides, and to see that nothing is done to take away from the influence of that valuable court which has saved this State, short-lived as the Act has been, thousands of pounds, and which will not only continue to save it thousands and tens of thousands of pounds, but will prevent the ill-feeling that is always engendered by brutal reference to strikes as a way out of the difficulty. We should do everything in our power to prevent any damage being done to the reputation

of this court. I think the Government have a splendid opportunity in front of them. They should take the bull by the horns, and see their way to appoint either a Commissioner or a Judge. I do not pretend to be an expert or a referee on these matters. We can call him what we like: I think myself he should be a Judge. It appears to me that the Supreme Court Bench in this State is generally under-manned. The business of the court is nearly always in arrear, and at the present time the arrears in the Arbitration Court are a serious menace to industrial matters. No one regrets it more than I do; but in some cases the remedy is worse than the disease. I think the remedy will be worse than the disease in this case. The framer of the Bill should carry out his idea to its logical sequence and apply it to all Supreme Court legislation. The procedure would be cheaper by supplying a few self-registering phonographs which could be placed in a suitable apartment, the witnesses turned on, one man standing down as the other comes in, and the whole record passed on to the Judge. However, I feel I owe it to my constituents to vote against this amendment. No Act is perfect; and should this Government or any other Government tackle the question of certain amendments to this Act, I for one will be prepared to assist them. I believe no Act is perfect. This Act cannot be perfect. There are certain flaws in it, and some of them of great importance. Amendments to an Act such as this would be very popular. The majority of members in the House would support the Government if they grasped the nettle firmly, if they "took the bull by the horns" and decided to appoint another Judge of the Supreme Court. I do not think I shall take up the time of the House. I have just given a few reasons which actuate me in voting against this amendment to the Act.

HON. W. C. ANGWIN (Honorary Minister): It was not my intention to speak on the second reading of this Bill; but after hearing the arguments on both sides of the House, I must state that I am in rather a confusion as to what constitutes the Arbitration Court at present. We are told that the court consists of three members, one being a Judge of the Supreme Court and the others advocates representing either the employers or the employees in this State. The term used is "capitalist," but I fail to see where the large number of employers represented on this court comes under the category of "capitalist." I think the word "employer" is more suitable to the occasion. My reason for failing to understand the position is this. If I think aright, when it is proposed to appoint members to act on this court, the employees and employers are asked to recommend gentlemen to fill the positions. Then I think it is the duty of both parties to recommend to the Government for appointment to the court gentlemen who will hear and consider every case brought before them with purely unbiased minds. If any person appointed to this court should make up his mind on the evidence brought before him by one side or the other previously to sitting on the court, the sooner he is moved from his position the better. The Bill just brought forward by the Government on the recommendation of their legal advisers proves clearly, I think, that the Government have every confidence in the gentlemen appointed to act in conjunction with the Supreme Court Judge in carrying on the business of the Arbitration Court; and seeing that this is so, I consider that those who on either side are opposing the measure should praise the Government for the confidence they have in the two gentlemen elected to the court. The member for Claremont (Mr. Foulkes) dwelt strongly on the question of advocates. If I am not mistaken, there are advocates on either side to lay every case brought into the court before the members of the court. I believe the employers appoint some person to conduct their cases, very often (I have been informed) a person who has legal training but has not been accepted to the bar of this State. On the other side the workers also appoint someone to advocate the position which they wish to lay before the court; and no doubt they follow the same example so far as they possibly can. Therefore, I cannot see how it can be said that members sitting on the court as members of that court are advocates of either side.

MR. FOULKES: I said there was a distinct impression on the minds of a

great section of the community which caused people to look upon those two members of the court as advocates, and that while that impression prevailed it was impossible for the people to be satisfied with the decisions of the court.

THE MINISTER FOR WORKS: That is your opinion.

MR. FOULKES: It is the opinion of the outside public.

HON. W. C. ANGWIN: I do not know what is the opinion of the public, but by referring to *Hansard* it will, I think, be seen that the intention of Parliament was for those two gentlemen, elected to sit on the court in conjunction with a Judge, to be entirely unbiased and able to give an award fairly and freely to all parties concerned; and I believe that those gentlemen do, to the best of their ability, carry out the intentions of the framers of the Act. The time has arrived, however, when through the pressure of the cases listed before the court, and owing to the illness of one of our Supreme Court Judges, it is found expedient that some other method should be adopted to get over the difficulty into which the court has got. The Government will put that confidence in the two members who are elected to the court, so as to let them take evidence and lay it before the Judge, who shall purely and simply be the arbitrator, if his services are required. The member for Sussex (Mr. F. Wilson) stated that the Judge was not an arbitrator and that he was only called on in case there was a disagreement between the two other members.

MR. F. WILSON: I did not.

HON. W. C. ANGWIN: I think the hon. member interjected to that effect when the Colonial Secretary was speaking. If it be the case, we shall see clearly that two members of the court have full power to arrive at a decision without the presence of a Supreme Court Judge; so I cannot see any change that will take place in regard to these two members taking evidence. When they cannot agree, they can put the matter before the Judge; but if they do agree, all they have to do is to report to the Judge and say, "We have agreed to an award, and ask you to confirm it." As a new member, it has struck me forcibly to-night, concerning the advice tendered from members occupying the front Opposition bench that we should appoint another Judge, that notwithstanding this advice they wish to infer we should carry out immediately, they have for some considerable time, in fact for close on two years, appointed a Commissioner when they ought to have appointed a Judge. No doubt had a Judge been appointed instead of a Commissioner to carry on the work of the Supreme Court, there would now be a Judge whose services could be utilised for the cases the Minister for Labour wishes to have immediately dealt with.

MR. F. WILSON: Why not use the Commissioner?

HON. W. C. ANGWIN: Because, as the law stands, it would be a matter of impossibility.

MR. F. WILSON: Amend the Act.

MR. A. E. THOMAS: Use the Commissioner as a Judge.

HON. W. C. ANGWIN: The leader of the Opposition stated that the president of the Arbitration Court must be a Judge of the Supreme Court.

MR. A. E. THOMAS: Let the Commissioner continue his work, and put one of the other Judges to the Arbitration Court work.

HON. W. C. ANGWIN: That might not be to the advantage of the various cases listed before the Supreme Court at present. I think the Bill laid before the House is one which, in a few months' time, will get over the difficulty that has cropped up in dealing with the various arbitration cases. No doubt there are one or two matters in connection with the Bill that can be remedied in Committee. I think that the second reading of this Bill should be passed; and then these matters can be altered in Committee.

MR. C. H. RASON (Guildford): I desire to say but a few words, for few are necessary, and I have never yet been in the habit of repeating arguments already advanced by other members; arguments which have in this, as in many previous instances, been advanced with great force. It must be apparent to the Minister in charge of this Bill that both on the Government and the Opposition sides the feeling against the measure is strong. I wish to assure the Government that I, and I believe many other Opposition members, would gladly assist in passing a

measure which would tend in any way to lessen the accumulation of work in the Arbitration Court. We regret that accumulation as much as they. Without going into the reasons which may have led to that accumulation, we admit the necessity for remedying the existing state of affairs, and would gladly assist the Government; but we cannot be parties to a Bill such as this, which, though it may temporarily remove the difficulty, would strike a very serious blow at the principle of arbitration, would, as has been said by many members, seriously reduce the status of the Arbitration Court, and would, in many ways already pointed out, do considerable harm. If I may make a suggestion to the Minister in charge, I say that in my humble opinion he would act wisely if he withdrew the Bill for the present, with a view to amending it in the direction indicated from every part of this House—amending it so as to appoint either another Judge or a Commissioner. If the Minister proposes to ask for an adjournment for that express purpose, I do not think the adjournment will be opposed. I state merely what I feel to be my duty. If the House be asked to grant an adjournment without any assurance of that kind, then I think it will be our duty to resist the motion for adjournment.

THE MINISTER FOR MINES AND JUSTICE (Hon. R. Hastie): The discussion to-night has served some useful purposes. It has shown us that practically all the members of the House are much concerned about the continuance and the effective administration of the present Arbitration Court; indeed, it was apparent from the start that members' feelings were so strong that the very manner in which it was proposed to increase the efficiency of this court was on all sides actively criticised. It must by this time be apparent to all that the Government are not particularly wedded to the form of this Bill, and that we brought it forward solely because we believed it the best possible way out of the difficulty. I wish to assure members of the exact position of the court. Mr. Justice Burnside is acting president. In this State a Judge is appointed for life; and so long as Judge Burnside is acting president of that court we are unable to consider any other appointment; and none of us would like to ask him, while he can perform some of his duties, to retire from a position which, as most members will admit, he has filled with some credit. Before his illness he devoted much time to the performance of his duties as president; indeed, it was because of his anxiety to overtake a large amount of work in that court and in connection with other cases that he was seized with his present illness. The question now is, what is the best way to dispose of the great glut of cases? The Government considered the problem from various aspects. We could not propose the appointment of a new president of the court. That appointment could, I dare say, be made by Act of Parliament; and if we proposed to introduce a Commissioner who was not a permanent Judge of the Supreme Court, we must have faced most intense opposition not only here but throughout the country—[OPPOSITION MEMBER: No]—because, as the member for East Perth (Mr. Walter James) has stated, the Arbitration Court was founded on the principle that the president should be a man in an altogether independent position, a man in the life-long position of a Supreme Court Judge. That is the law here, in New Zealand, in New South Wales, and in every country I know of where there is compulsory arbitration. Hence we did not expect that we should easily find a remedy of that sort. However, so many strong objections have been taken by various members, by almost all the members who have spoken, to the manner in which the Bill is drafted, that I feel sure the idea just mentioned by the member for Guildford is a really good one: that we should agree to adjourn this discussion so that the Government may reconsider the matter.

MR. RASON: With an assurance that you adopt the course suggested on all sides.

THE MINISTER FOR JUSTICE: Half-a-dozen courses are suggested; and I shall not undertake on the spur of the moment to point out the exact course the Government will follow. If I were in a position to point it out, the Government would be asked for interpretations of what I said. I feel sure that the hon. member will appreciate our difficulty—[MR. RASON: Hear, hear]—and unless

he is very anxious to take a party advantage, I cannot for a moment believe that he will refuse to accept the assurance I have given him.

MR. RASON: I think I have shown the contrary.

THE MINISTER FOR JUSTICE: Does the hon. member expect that the members of a Ministry, during a discussion, can withdraw a Bill and state all or the principal features to be contained in another Bill?

MR. RASON: I never asked that. I wanted an assurance from the Minister that the Government would consider the suggestions made.

THE MINISTER FOR JUSTICE: I gave that assurance at the outset. I said that after all the criticisms, we required to reconsider the position.

MR. RASON: Then you need not have objected to repeat the assurance.

THE MINISTER FOR JUSTICE: I did not think that necessary. I made my statement as clear as I could. However, I ask the House to bear with me while I point out the position. As the Industrial Conciliation and Arbitration Act stands, no one but a Judge of the Supreme Court can be president of the Arbitration Court. In the case of absence through illness of the president, some other Judge of the Supreme Court must be appointed.

MR. FOULKES: What authority are you now quoting?

THE MINISTER FOR WORKS: The highest authority in the land.

THE MINISTER FOR JUSTICE: I do not think the hon. member (Mr. Foulkes) was present when we passed the Arbitration Act. Every member in the House at that time will recollect the unanimous vote that a permanent Supreme Court Judge should decide practically all industrial disputes; and we hedged round that provision by every possible safeguard. The Supreme Court Act of 1880 and the amending Act of 1903 authorise the appointment of Commissioners; but a Commissioner is not a Judge. Commissioners are given civil and criminal jurisdiction only; and the duties of the president of the Court of Arbitration are neither civil nor criminal, but are special statutory duties. A Commissioner appointed under the present law could not therefore be president. To permit of a Commissioner being appointed president, special legislation would have to be passed by Parliament, namely an amendment of the Arbitration Act.

MR. H. GREGORY: Whose opinion is that?

THE MINISTER FOR LABOUR: The Attorney General's.

THE MINISTER FOR JUSTICE: You may consider it my opinion until I have finished. I do not think that any member who has secured an authoritative opinion on the matter will say anything contradictory to what I have read to-night. I mention these points to show the difficulty in which the Government are placed, and to assure the House that we shall take advantage of the adjournment of this debate to consider what can be done. We certainly have no wish to try to force the House to follow our directions. We ourselves do not like the idea we have embodied in this Bill, which was introduced as the best thing we could do in the circumstances; and I believe members will give us credit for good motives. As we have had this Bill before us for a considerable time, I suggest that some other member be good enough to move that the debate be adjourned.

MR. A. J. WILSON (Forrest): I regret that in this my first speech in the Chamber I have to take exception to a measure brought in by the Government. I do so because I do not think the proposal embodied in this Bill will meet with the approval of the majority of the people whom I represent here, nor of the majority of the Labour unions throughout the State. We have to consider whether or not the object sought to be attained by this amending Bill may not with greater advantage be attained by some other proposition. It is patent to all of us who have followed the proceedings under the Arbitration Act that there are now in this State three tribunals which are practically without anything to do. We have three Conciliation Boards which I think ought to be made use of, and the labours of which would materially facilitate the conduct of cases in the Court of Arbitration if, instead of passing an amendment of this nature, the powers of those boards were extended. The main reason why the boards are now inopera-

tive is that an appeal lies from the board to the Court of Arbitration; and instead of that appeal lying on special points taken by the board, the whole of the evidence heard by the board has to be considered by the court; hence delay is occasioned in getting appeals heard, and additional expense is entailed on the parties. If an amendment were suggested in that direction, giving the Conciliation Boards more extensive powers and making the appeals from these boards only on special points to be stated, this would materially facilitate the work; and instead of having one Arbitration Court to cope with the numerous disputes, we should practically have four courts to overcome the difficulties. Then the question of the courts sitting in different localities would not arise with the same force as it does now, because there would be local tribunals in most cases and a better chance for the people appointed to those tribunals being conversant with the industries affected. Personally I find a good deal of objection to the present court, the objection being on the ground that persons are appointed to represent interests in disputes who are familiar with only one phase of industrialism. We have at present representing the workers a person who is a plumber by trade. Whilst as a plumber he would have a wide range of knowledge in connection with that industry, it is not feasible to assume that he would have the same essential qualifications for adjudicating in an industry such as the tailoring industry, or in various other industries in which there are registered organisations in this State. It has been suggested that another amendment should be introduced into the measure. The various parties to industrial disputes should have the selection of their own arbitrators, in which case persons so selected would naturally be more familiar with the details of the industry in which they were called on to adjudicate or decide. If that were done there is no reason why the 32 disputes now pending could not be heard almost simultaneously and the vexatious delay which exists now would not prevail. That has been suggested, and I merely make mention of the matter now so that there may be an opportunity to consider the question on farther amendment. Personally I am of opinion that this departure is one that will not be in the best interests of the administration of the Act, and while I appreciate the honesty of purpose of the Minister for Labour in bringing forward this measure to facilitate the hearing of disputes, I do not think the Bill is calculated to bring about the boon which he and other members think it will. I regret at this early stage in this Chamber that an attempt has not been made to cope with the many more serious disabilities we are labouring under in connection with the Industrial Conciliation and Arbitration Act.

THE COLONIAL SECRETARY: There is something more serious than pending cases.

THE MINISTER FOR WORKS: Men are working for £1 a week at recognised trades.

MR. A. J. WILSON: If those members will consult some of the workers interested in the trades to-day, they will be forced to the conclusion that there are matters of far more vital import than the pending disputes. Any one of the disputes pending now, so far as the workers are concerned, would be gladly postponed if there was a possibility of an amending Bill going through so as to deal more satisfactorily with industrial matters. The difficulty in that connection is that the present Act is not being administered properly. Here we have a constitutional means for the purpose of obtaining certain results; and I venture to express the opinion as a layman—the Minister for Justice unfortunately is not present—that in cases where arbitration awards exist at the present time, no party or person is justified in making any variation from the industrial conditions or terms of award until such time as all the existing means have been availed of. [MEMBER: Have they done so?] They have done so, if what the Colonial Secretary has said is true. I offer my emphatic protest against the position which has always been forced on the workers—they have always been forced to take the initiative in these matters; and whilst it would be wrong for any organisation of workers to go to their employers after the expiration of an arbitration award and say, "Unless we get a rise on the existing schedule of wages or a reduction in the schedule of hours we refuse to work for you," whilst

I admit it would be wrong to do that, it is equally wrong for an employer to do exactly the same thing when he says "I refuse to employ you any longer unless you work for less wages or work for longer hours." If the onus is thrust on the employees every time an injustice is done to the workers, it is a state of things which the administration of the Act ought to remedy and not require an amendment of the Act. If it is necessary to appoint another person to visit different places and hear evidence as to the disputes, then it is the duty of the Government to appoint that person, and I think they would be amply covered by the present Act, Subsection 2 of Section 59. It is said the reason why the president of the court cannot attend to hear disputes in certain centres is on the ground of serious illness. That is a justifiable excuse for the Government in appointing someone to adjudicate in these localities. The very fact that a Commissioner is doing work as a Judge of the Supreme Court is sufficient evidence of the necessity for the appointment of a Judge, if there was no farther evidence.

THE MINISTER FOR WORKS: You know a Commissioner's powers are limited.

MR. A. J. WILSON: Quite so; but a Commissioner does work which is ordinarily done by a Judge of the Supreme Court. I take this opportunity of saying that so far as some of the work which I have been connected with myself is concerned, the people are so utterly dissatisfied with the constitution of the present court and dissatisfied with a member on that court who in their opinion does not represent the interests of the party, but misrepresents the interests of the people he is appointed to represent. It may be said this person occupies the position of a judge in that court. I venture to think that the language of the Act all through is that both of these parties are selected at the instance respectively of the workers and the employers, and they are nothing more than the representatives of those various interests, otherwise they would not be specially selected for the purpose. In passing I may be justified in calling attention even to the selection of members not having always been what it ought to have been under the Act. I would call attention to the part of the Act which says that a person receiving the major number of votes or nominations for the position should be the person appointed to the various interests. This is not being done, and I hope the Government will not follow the precedent which has been set in this connection when an appointment has to be made in the future. It is impossible for me to support the second reading of the Bill also because the point has not been settled to my satisfaction whether, if we admit of the amendment of the measure, there will be an opportunity later on in the session of bringing in an amendment to the Arbitration Act.

On motion by MR. F. GILL, debate farther adjourned.

TRAMWAYS ACT AMENDMENT BILL.

IN COMMITTEE.

Resumed from the previous day; Mr. BATH in the Chair, the MINISTER FOR WORKS in charge of the Bill.

Postponed Clause 1—Short title and incorporation with 49 Victoria, 43:

THE MINISTER FOR WORKS: When the Bill was last before Committee, a point was raised in connection with the retrospective nature of the clause; and having then promised farther consideration, which he had since given to the matter, he was still of the same opinion as he held when the Bill was last before Committee. In order to justify the inclusion of this clause, it was necessary to deal with other clauses of the measure. The object of Clause 4 was to remove a doubt that existed, whether the agreement that had been entered into between the Perth Electric Tramways Company and the Municipal Council of Perth, to pay a composition of 3 per cent. in lieu of all rates, was valid. Under Section 46 of the principal Act, power was given to the council to take a composition of rates in connection with roads, but it was not made clear that such composition was to cover the rates that could be struck in connection with the power-houses and car-barns. When the agreement was drawn up, the parties to it were of opinion that it gave the council power to take a composition of three per cent. in lieu of all rates, but on farther consideration it was thought the

section did not make this perfectly clear. He was strongly of opinion it was the intention of Parliament to give that power, and in order to make it perfectly clear and validate the agreement entered into the Government had to make the present Bill retrospective. He presumed the member for Guildford did not object to the Bill dating back to the time the agreement was made, but to its dating back to 1885 when the principal Act was brought into force. Unless the Bill was retrospective, however, it would be of no value. It was made to date back to 1885 because it had to be retrospective, and there were other sections in the principal Act in regard to which mistakes had been made in the drafting, rendering it absolutely necessary for the Bill to date back, so that the present amending Bill could be read in conjunction with the principal Act of 1885. The member for Guildford said he was not aware of a precedent. When the James Government introduced the Health Act of 1902 they brought in certain clauses dealing with infectious diseases, and made those clauses date back to the time of the passing of the principal Act.

MR. RASON: In this case the Government made the whole Bill retrospective.

THE MINISTER: No; they simply made the clauses of the Bill retrospective, but they did not deal with other portions of the principal Act. This was exactly the same as was done by the James Government. Again, we found exactly the same thing in connection with the Public Service Act Amendment Bill introduced in the Commonwealth Parliament recently. There would be strong objections to make retrospective a Bill taking away some vested rights that existed previous to the introduction of such Bill, and he hoped the present Government would never be a party to introducing anything of that sort; but they were justified in bringing in amendments dealing with defects in the principal Act which were the result of pure oversight or mistakes in drafting. It was absolutely necessary to validate the agreement entered into. The member for West Perth suggested that the difficulty could be got over by introducing a validating Bill; but such validating Bill would have to be introduced by a private member, because it would deal with an agreement between a corporation and a private company, and the introduction of such private Bill would cost the company and the corporation something like £50. Seeing that the mistake was through neglect on the part of the Government or the Government draftsman, it would be absolutely unfair to ask the City Council or the Tramway Company to go to such expense. That was the reason why a validating Bill was not introduced, and why the Government brought in the present Bill. By Sections 33 and 34 of the principal Act, power was given to the City Council to make regulations. The Bill, when introduced in 1885, dealt with those regulations under one clause, but for some reason that clause was cut into two, one part being Clause 33 and the other Clause 34. Those who dealt with the measure neglected to say the corporation would have power to enforce the regulations specified in both clauses. Power to enforce the regulations framed under Section 34 was given, but not powerto enforce those in Section 33; and in order to remedy that defect this Bill was made to date from the passing of the Act, so as to be read in conjunction with the principal Act.

Mr. H. BROWN (Perth): For two or three years after the provisional orders had been granted none of the municipalities partook of the three per cent. of receipts of the Tramway Company. At the present time, the Perth Municipal Council was the only body participating in the three per cent. It was thought that in the original Act power was given to rate the car-barns and electric light works, but the provision was not clear. The council was quite able and eager to look after the wellbeing of the ratepayers, and it thought there was such power as he had mentioned. In fact an agreement had been entered into and signed by the Municipal Council and Tramway Company, and this measure was solely to ratify that agreement. Seeing that the council representing the citizens was satisfied, this House, he thought, would be doing a graceful act in passing the measure.

Clause put and passed.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

METROPOLITAN WATERWORKS ACT AMENDMENT BILL.

IN COMMITTEE.

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

Clause 1—agreed to.

Clause 2—Governor may appoint Minister for Works to exercise functions of board:

THE PREMIER: The members for West Perth and Guildford had asked for certain information in regard to the Bill. One point raised was as to a larger measure being impossible, if this short one were passed. He had made careful inquiry on the subject, and found the position was as he had stated yesterday, that the passing of this measure would in no way affect the power of the Government to introduce another Bill dealing with the question of water supply and sewerage. It would be impossible for him to introduce another measure containing specific provisions of the same description as those contained in this Bill; but he found that previously measures having the same title had been passed in one session. In 1902 no less than three Bills were introduced and passed to amend the Municipal Institutions Act, one of them being introduced in the session which had commenced in 1901. In the latter end of the 1901-2 session, a measure known as the Municipal Institutions Act Amendment Act was passed; and in the following session there was a second measure which became the Municipal Institutions Act Amendment Act of 1902 (No. 2); while later in the same session there was a third measure, which took the title of No. 3 amending Act. All these were amending the same Act, and were passed within the same year on the title.

MR. MORAN: Would the new Bill affect the question of the board?

THE PREMIER: Undoubtedly; but the new Bill would not contain clauses to supersede the board, as this Bill did. This Bill simply proposed that the Government might supersede the Metropolitan Waterworks Board, but did nothing more. All the machinery in regard to the constitution of the Metropolitan Waterworks Board would remain in existence. The board would, under the powers contained in the 1896 Act, remain in existence, but in a state of supersession, and would be replaced temporarily by the Minister for Works until the Order in Council might be cancelled by a subsequent order referring the same powers to the same board, or until an Order in Council might be issued dismissing the board so superseded, or again until the Act of 1904 might be proclaimed, by which Act the Metropolitan Waterworks Board would be dismissed as provided for in one of the sections of the Act, necessitating the immediate appointment of another board. Power was given to the Minister for Works under the 1904 Act to carry out certain works in connection with sewerage, but there was no power of administration so far as he (the Premier) could make out. The power to carry out works was at present being used in the preparation of working plans.

MR. MORAN: How could the power be used, if the Act were not proclaimed.

THE PREMIER: The Government were somewhat anticipating the proclamation of the Act. When the Act was passed, the then Minister for Works stated that this anticipation would be made; and with the will of the House the present Government had been carrying on the work to a certain stage. There was a previous instance of a superseding by the Minister.

MR. RASON: It was very unfortunate.

THE PREMIER: The late Minister for Works superseded the Canning Roads Board, under the provisions of the Roads Act, which gave him power similar to that contained in this Bill.

MR. RASON: It ought to be a warning to the Premier.

THE PREMIER: The Minister exercised all the powers of the Roads Board under an Order in Council; but later on he wanted to have a new board elected, and there his trouble began, because he did not possess the power given under the Waterworks Act of 1896 to dismiss the board, appoint a new board, or have a new board elected. He had the power to supersede, but not to dismiss the existing board. The Minister's trouble in superseding the Canning Roads Board was not in superseding it or in carrying out any act it could lawfully discharge; but it was in arranging to dismiss the board and send it back to the body which created it, and in securing a new election.

The Minister's whole trouble arose from the fact that he had to get a new measure passed enabling him to dissolve the board, because the power to dissolve the board did not exist in the then Roads Act. The power to dismiss the Metropolitan Waterworks Board existed in the 1896 Act. All the Government needed was power to supersede. The Bill did not necessarily contemplate any dismissal, though it contemplated superseding the board. The whole machinery would remain, as in the case of the roads board supersession, for the carrying out of the work of the board under certain limitations and restrictions embodied in the 1896 Act. Section 10 of that Act quoted on the previous night would remain in force should the board be superseded; and then if the supersession were removed, the board would continue to operate with the same responsibilities and liabilities as it had at present. These responsibilities and liabilities would not affect the Minister for Works in the discharge of his functions any more than the regulations and restrictions of the Roads Act affected the Minister in carrying on the Canning Roads Board. For instance the provision that there must be two members present only applied when the board was in full operation. The Minister for Works would not be troubled by such a section any more than he would be troubled by the fact that there must be a certain number of members of the roads board present to form a quorum. In the same way the procedure of the present Metropolitan Waterworks Board would cease to operate whilst the Minister carried out the functions that would otherwise devolve on the board. In the same way the provision debarring a member of Parliament from being a member of the board would not apply to the Minister for Works, because the Minister would be the board itself. He would supersede the board and, during the time he was administering the Act, would have all the powers of the board and do all its work; but the board would, unless actually dismissed by an Order in Council, still remain in existence without the power of session and without the power of drawing fees. Though not doing any work it would be in existence and could be called back into active operation at any time, until an Order in Council should be issued dismissing it, or until the new Act was proclaimed, in which case a new board would have to be constituted. Furthermore, if the Government made an order dismissing the present board and afterwards deemed it necessary to work under the Act of 1896 and appoint a new board, then the provsion that there must be four members of the board including the Mayor of Perth would remain in operation; but this provision, like Section 10, in no way restricted the powers of the Minister for Works. Those were the only points touched upon during the discussion. In regard to the question of the power of the Government to introduce a second measure of a somewhat similar title he (the Premier) had taken the precaution of consulting the Hon. the Speaker, and he had quoted the decision of the Speaker to the House. It was necessary to permanently safeguard the right of the House to have farther discussion on a measure dealing more thoroughly with the Waterworks Act at a later stage in the session. The House should, under the circumstances, carry this measure through the Committee stage.

MR. C. H. RASON: Though obliged to the Premier for his explanation, he (Mr. Rason) still thought it would have been infinitely better to have proclaimed the Act passed last session, with an assurance from the Minister for Works that he only intended to apply such portion of it as was covered by this Bill. There would not be the slightest difficulty in doing so.

THE MINISTER FOR WORKS: The same power would not be given.

MR. RASON: The Government would receive the power they required in the direction indicated by this Bill and powers in any other direction which were not covered by the Bill.

MR. MORAN: Certainly; that was a point.

MR. RASON: Of course, on the legal position of the matter the statement of the Premier must be accepted, as the Premier had consulted his legal advisers. He (Mr. Rason) discharged his duty in having called attention to what appeared to be a difficulty. The responsibility now rested with the Government who were

prepared to undertake it. The statement of the Premier was undoubtedly a clear one; but it seemed to make more manifest how complicated the matter really was. We would have a board which was not a board.

THE PREMIER: There was a board already.

MR. MORAN: It was overboard.

MR. RASON: It was a board that was overboard, as the member for Perth aptly put it, but which might come inboard at any time. The Minister for Works was not a member of the board because he was the board, which seemed to be a very fine process of reasoning, none the less complicated. He (Mr. Rason) could not understand why there should be the necessity for all this complication. Why not have taken the plain course and taken the powers which the Act undoubtedly gave, powers which were quite to the extent contained in this Bill and undoubtedly greater in other directions? Unless the Government had the power contained in the Act of 1904 they could not go on with the sewerage or with a more comprehensive and satisfactory water supply. No such power was given under this Bill. However, he did not wish to fight the passage of the Bill if the Government were prepared to accept the responsibility, as they must be.

MR. C. J. MORAN: Though not desiring to impede the Government in dealing with this very important question, he was still of opinion that Parliament should have had before it, as the first Government measure, the reconsideration of the important Act drafted by the last Government and passed *pro formâ* last session on the understanding that none of its provisions would be put in motion until it had been revised or reconsidered by the new Parliament. If Parliament could accept the promise of the Government for the time being that they would not proclaim that Act, surely we could accept the same honourable promise from the same honourable Government to proclaim the Act for one purpose only; and the House was quite willing to give the power as long as the Government did not make use of the other provisions of the Act. It was not of great importance to him as a city representative to have an Act of Parliament introduced simply to supersede the present board by the Minister for Works. It was of insignificant importance. What would be of greater importance, however, was the work of extending and completing a water supply scheme, and still greater and more important and more urgent was the work of starting the sewerage of Perth, which work should be taken in hand vigorously by the Government. Thus the measure was scarcely worth considering compared with the major proposition. Members said the Government needed time for consideration. That had been the answer for years past; and it seemed almost a mistake to change the Government if we wanted work done. Our responsible engineers should now determine what water and sewerage schemes were needed, and should recommend to Parliament. The Government, not being experts, must take expert advice. On the sewerage of Perth we had eight expert reports, embracing every possible form of sewerage from the old and surest method of taking the matter to the ocean, to the latest and allegedly most perfect proposal, the large septic tank system. If the Bill passed, the Minister would consider whether Mr. Traylen and the Waterworks Board should be superseded. That would not give Perth a better water supply, nor could the Minister put a pick in the ground to start sewerage. What mattered a delay of three months? Surely the burden of the Waterworks Board could be borne for that period by the ratepayers. Abolish the board, and the public might find water just as scarce and the service just as bad at the end of that time. For years to come it might be wise to let the Works Department have control, as in South Australia, where the system was highly satisfactory; but he feared this session would pass without any action, and the Bill would be made an excuse for putting off members with the promise of a comprehensive measure next session. Let us at once decide on drainage and sewerage schemes, and start immediately. Mr. Davies, of Sydney, and our own engineers, recommended an up-to-date scheme. Undertake either that or the old and tried schemes. [MEMBER: A bore water scheme.] The ex-Minister for Works favoured bore water; the present Minister was not unfavourable;

and it was questionable whether wholesome deep-seated bore water was not suitable. Anything was preferable to continuing in this slipshod manner. The acting leader of the Opposition (Mr. Rason) deserved credit for promoting this discussion. The rules of the House should be carefully observed, and we should not drift into loose legislation. It was well that we could subsequently introduce a larger scheme without contravening those rules. The Government would not secure the approval of any section in the metropolitan area unless some sewerage scheme was promptly undertaken to remove what was constantly becoming a graver menace to the health of the people.

THE MINISTER FOR WORKS (Hon. W. D. Johnson): All the Government asked was power to supersede the Metropolitan Waterworks Board. The members for Guildford (Mr. Rason) and West Perth (Mr. Moran) still seemed to think that if the Act of 1904, not yet proclaimed, were put in force, the Government would have the power sought in this Bill. Section 178 of that Act provided that the Minister for Works might exercise all the powers of the board with respect to works constructed under the Act, until such works were transferred to the board; hence, if the Act were proclaimed to-morrow, another board must be appointed. The Act provided that the Works Department should construct works and hand them over to the board; but the Act if proclaimed to-morrow would not give the Government power to supersede the present board. The members of the board would be dismissed, but other members must be appointed. That was not desired. The Government wished to supersede the present board and to amend the Act so as to give the Minister the power the board now possessed. Personally he deemed it regrettable that questions of water supply and sewerage should be introduced in this discussion. These questions were distinct. The burning question now was whether the people could get cheaper water; and that was a small question in comparison with the need for a sewerage scheme, the main problem for the people of Perth. To proceed with that work the Government were hastening the preparation of working plans. True, the last Government did proceed with the survey plans for sewerage; but these were unimportant compared with the working plans, which were now in hand.

MR. MORAN: What was the scheme?

THE MINISTER FOR WORKS: The septic tank system decided on by the last Parliament. It was possible, if desired, to sewer a section of Perth, and complete the work section by section, on the septic tank principle.

MR. MORAN: Parliament never decided on any scheme.

THE CHAIRMAN (Mr. Bath): The discussion was wandering from the clause.

THE MINISTER FOR WORKS: The Bill dealt purely with water supply; and sewerage questions could be fully discussed later.

MR. H. BROWN: Let us have a division to-night. The Bill would affect practically none but the Perth ratepayers, who could not be worse treated by the Government than by the Perth Waterworks Board. The City Council were protected by the fact that the board could not increase the price of water above 2s. per thousand, the present rate. The Minister ought not to undertake a portion only of the sewerage scheme. Mr. Davies's report stated that a complete septic tank system of sewerage would cost only £112,000. Tenders for that work should at once be called for. It was no use allowing the Works Department to carry out portion of the scheme by day labour, to find that the ultimate cost was probably a quarter of a million. If the cost were £112,000, the City Council would save nearly £5,000 a year lost under the present system.

HON. W. C. ANGWIN: Did the hon. member know that other metropolitan municipalities must share the cost of this water scheme?

MR. H. BROWN: Yes; and it was surprising that they had undertaken the responsibility of sharing that burden of £400,000 when Sir John Forrest made the proposition. The suburban representatives generously took that responsibility; and it was to be hoped that they would assume their share of the burden when the Act was proclaimed.

HON. W. C. ANGWIN: And Perth also should bear its share.

Clause put and passed.

Clauses 3, 4—agreed to.

Preamble, Title—agreed to.

Bill reported without amendment, and the report adopted.

FRIENDLY SOCIETIES ACT AMENDMENT BILL.

SECOND READING.

THE MINISTER FOR RAILWAYS AND LABOUR (Hon. J. B. Holman): In rising to move the second reading of the Bill, I desire to state that there are no contentious clauses in the measure. Members of the House who were here two years ago will remember that a Friendly Societies Bill was brought in containing several clauses, and there was great contention over them. All those contentious clauses have been struck out of the Bill. The chief object of the measure is to amend Section 8 of the Act providing for the registration of specially authorised societies. Applications for registration have been received by the Registrar of Friendly Societies from united friendly societies, unions, and associations, which do not themselves provide medical, sickness, funeral, or other benefits such as are enumerated in Section 7 of the principal Act, but are formed to look after and represent the joint funds and interests of the registered friendly societies affiliated thereto, or to manage property jointly held by such societies. Two registrations were refused this year, namely the Perth United Friendly Societies Association and also the Friendly Societies Association or Council at Northam. Both these associations were desirous of registration under the present Act, and the intention is, as will be seen by Clause 3 of the Bill, to repeal Section 8 of the principal Act which does not permit of the registration of such unions or associations unless they provide for some "purpose of mutual benefit and advantage to the members only, which the Attorney General certifies to be legal as a purpose to which the facilities afforded by this Act ought to be extended." We find that when applications are received from associations or friendly societies—associations formed from various friendly societies—they are unable to become registered, but if the Bill is passed it will enable all these bodies to become registered under the Act. The matter had been brought under the notice of the late Attorney General (Mr. Walter James), and it was his intention to bring forward a measure like this. The position at present is that while individual societies and branches can be registered, the association which these branches make cannot be registered, and Clause 3 of the Bill is framed to remove this disability and to provide farther or in addition that societies which have specially authorised objects together with one or more ordinary objects may be registered. In England, New Zealand, Queensland, South Australia, and Tasmania, specially authorised societies may be registered in the manner and of the nature provided in the Bill by Clause 3 The amendment to paragraph 3 of Section 7 is to remove doubt as to whether sums payable at death as well as sums for funeral expenses may be provided for in the rules. Some doubt has cropped up, and this amendment is inserted to make sure that these sums shall be payable at death. The amendment to the proviso at the end of Section 7 is for the purpose of making it clear (which has already been laid down in the regulations) that the maximum funeral benefit shall be £25 on the death of a member, and £15 on that of a member's wife. It is deemed that the providing of sums at death of a larger amount should be left to life assurance societies. This will not prevent societies such as the Widow and Orphans Funds, which exist in other States, being registered. To make it clear that the restriction or limit of funeral benefits or sums at death in Clause 2 of the Bill does not prevent a society from affording farther funeral benefits in a separate fund, the words "from any one fund" have been inserted after the word "burial." Subsection (*a*) of Section 12 of the principal Act is to identify the registered address with the term "registered office" used in other parts of the Act, as in Section 18. "Registered office" is the customary term in other Acts. The section, as it now stands, reads as follows:—

> Every registered society shall have a registered address, to which all communications and notices may be addressed and sent to the Registrar, notice of such address and of every change therein.

The provision added in paragraph 1 of Clause 4 enacts that the offices of sec-

retary, treasurer, and trustee must always be held by separate persons. The present Act does not provide for that, and it is not necessary for these offices to be held by separate persons, although the Registrar has always insisted on these offices being held by different persons. This provision is found in the English Act of 1896. The amendment of Section 12, Subsection 2, is to regulate the following: in cases where, upon the death of a member, the body is not or cannot be recovered, as a certificate of death cannot be issued, no sum at death could at present be legally paid to the survivors. The amendment gives the trustees discretion to pay in such cases. If a member of a lodge is lost at sea, and the body is not recovered, then the trustees of the society may pay the amount which is due to the person entitled. The last amendment embodies a provision which is found in the Imperial Act of 1896, to bring the effect of a marriage upon a previous nomination, into line with the effect of a marriage upon a will previously executed. In each case marriage annuls. At present, under the Act a person who is a member of a society registered under the Act not of the age of 16 may, by writing, nominate any person, not an officer of the society, to whom any moneys payable by the society on the death of such member shall be paid at his death. The intention of Clause 5 is to revoke that order in the event of the member being married, so that any money may be paid to the person most entitled to it, the widow. There is no material alteration made in the Act by the present Bill. It is brought forward merely for the purpose of allowing associations to become registered, and there are one or two small amendments made which the Registrar has found to be necessary. In 1902 an effort was made to amend the Friendly Societies Act, and a great deal of discussion took place in the House. The Bill did not pass at that time. All the contentious matter has been taken from this measure, because we find in the Truck Act there is provision to do what an endeavour was made to be done by the Friendly Societies Bill previously. We intend, as far as we possibly can, to enforce the Truck Act, and therefore it is not necessary to bring forward contentious matter into the Friendly Societies Bill. I do not anticipate any opposition to the measure. I move the second reading.

On motion by Mr. RASON, debate adjourned.

ADJOURNMENT.

The House adjourned at 26 minutes past 9 o'clock, until the next afternoon.

Legislative Assembly,

Thursday, 22nd September, 1904.

THE SPEAKER took the Chair at 3·30 o'clock, p.m.

PRAYERS.

QUESTION—THEATRICAL PERFORMANCES ON SUNDAY.

MR. A. J. WILSON, without notice, asked the Colonial Secretary: 1, Was permission given recently to the J. C. Williamson Company to hold a theatrical performance in Kalgoorlie on Sunday? 2, Was similar permission refused to the Charles Holloway Company? 3, If so, on what ground?

THE COLONIAL SECRETARY replied: The Williamson Company were granted permission to play "The Sign of the Cross," a sacred drama, in Kalgoorlie last Sunday night. I do not remember the name of the company to whom permission was refused, but the hon. member may be right. If he refers to the company who applied for leave to