Legislative Council,

Tuesday, 2nd December, 1924.

The PRESIDENT took the Chair at 3 p.m., and read prayers.

SELECT COMMITTEE — METROPOLITAN WATER SUPPLY, SEWERAGE, AND DRAINAGE DEPARTMENT.

Extension of time.

Hon. A. LOVEKIN: I regret having to ask for a further extension of time before bringing up the committee's report. Only this morning did we receive a set of figures we required from the Department. I move—

That the time for bringing up the committee's report be extended to the 17th December.

Question put and passed.

BILLS (2)—THIRD READING.

1, Inspection of Scaffolding.

2, Albany Loan Validation.

Read a third time and passed.

BILL—FIRE BRIGADES ACT AMENDMENT.

Second Reading.

The HONORARY MINISTER (Hon. J. W. Hickey—Central) [3.7] in moving the second reading said: This small Bill has raised quite a controversy both in the Legislative Assembly and in the Press, and I venture the opinion that it has been based on a misunderstanding. A brief explanation at this stage may be helpful. The Fire Brigades Board consists of representatives of the Government, of the underwriters and of the metropolitan and country local governing authorities. They have power under the Fire Brigades Act to borrow money, but they are limited to the payment of 6 per cent. interest. The Bill provides authority for the Board to pay 6½ per cent. for loans floated. It is evident that money cannot be procured at 6 per cent., but it will be available if legislative sanction is given for the payment of the extra half per cent. The Board desired in the first instance to borrow money for the purpose of erecting quarters for the staff, but there are other necessary works that have to be undertaken. At present the Board are entirely without loan funds. At Narrogin a fire brigade district has been declared for some months, but the board are without a penny with which to provide a fire station or even a shed for the housing of material. I visited Narrogin recently and from what I ascertained, both from reports and from my own observation, the position there is deplorable. Unless funds are obtained as a result of the passing of the Bill, no money will be available for installing the fire brigade or erecting the necessary building. At Kalgoorlie and Boulder it is necessary to instal a turbine fire engine, particularly for the protection of the mines. The Chamber of Mines have agreed to grant £150 annually towards the cost of the engine. Hon. members who have had experience on the Golden Mile are aware of the disastrous fires that have occurred there and of the necessity for some such engine to cope with conflagrations that may occur. The present fire fighting conveniences are altogether inadequate. That inadequacy has always been a source of annoyance to the Chamber of Mines, the local riflemen and others interested. The Bill will enable the board to borrow the necessary money to procure the turbine fire engine. In some country districts new fire stations are required and in others, additions to the existing buildings are necessary. Further, money is required to assist the work of voluntary firemen who have proved such a fine asset in the work of fire fighting. As to the recent controversy, it was never contemplated by the board that the firemen should be housed under the "barrack" system, as suggested in the Press. On the contrary, the board's idea was to secure successful administration by having a contented staff housed respectably and decently. The board proposed to house the men under conditions that would have been an improvement on those obtaining to-day and at a reduction of 50 per cent. on the rentals now paid. Since the board put forward their scheme regarding quarters, much opposition has been manifested by the firemen themselves. As a result of representations made to them, the Government have deemed it advisable to express an opinion contrary to the board's plans, and undoubtedly the board will take cognisance of that fact. That means that the firemen will not be housed in quarters and the board will not require funds for that purpose. When the board represented the position to the Mitchell Government some 12 months ago, they were perfectly frank and admitted that they wanted funds for the erection of quarters to house the staff, their idea being to secure more successful and effective administration with increased economy and efficiency and also to obviate the

possibility of developments at a later stage which would mean the introduction of what is known as the two-platoon system. The Government of the day approved of the object of the board, but unfortunately the matter was not finalised and consequently the present Government were approached upon the matter. They also agreed that the board should have an opportunity to float a loan. In the meantime the firemen raised certain objections to being housed in the proposed quarters. They claimed they should be entirely free and should be allowed to live under conditions other than those known as the barrack system. Be that as it may, the board in their wisdom or otherwise, decided that they were acting in the best interests of the firemen and of the administration of the fire brigade work. They were frank in stating that their object in raising the loan was for the provision of quarters and other matters to which I have referred. I mention these points to place the position before members. The Fire Brigades Board have arranged to meet the firemen to-morrow to discuss the two-platoon position with them. As the matter is sub judice I shall not express any opinion beyond saying that the board were entirely honest in their proposal. They thought they were acting in the best interests of the men and of the administration. As a member of the board I shared in that opinion. The men thought otherwise, and they are entitled to their own opinions. The men having put up their case to the Government, the Government have made a recommendation to the board, and I am sure that recommendation will be adopted. Apart from that phase of the question, it is essential that the board shall have funds to carry on their administration. The Bill will give them power to borrow the necessary money at an increase of ½ per cent. in the interest. I move—

That the Bill be now read a second time.

Question put and passed.

BILL—PEARLING ACT AMENDMENT.

Second Reading.

The HONORARY MINISTER (Hon. J. W. Hickey—Central) [3.18] in moving the second reading said: For many years the existence of dummying in the pearling industry has been stoutly affirmed, and from time to time suggestions have been made for overcoming the difficulty. The matter was brought under my notice when I assumed control of the Fisheries Department. Various bodies approached me, not only by correspondence, but also by deputation. I promised that I would go into the matter and that, if my investigations confirmed the statements made, I would recommend the introduction of legislation to deal with the position. It is in consequence of the thoroughness of those investigations that the Bill is somewhat late in coming down. In the meantime, for various reasons no effective Government action has been taken. I am hopeful that the Bill will meet the position. Without going so far as some people desire, the measure contains drastic reforms. Practically everybody in the pearling industry, certainly the Pearlers' Association and the Returned Soldiers' Association are desirous that the dummying system should be entirely eliminated. I have here a whole sheaf of letters and telegrams supporting the object of the Bill. I propose to lay them all on the Table in order that members may peruse them, but in the meantime I wish to read at least two of them. Here is one from the secretary of the Pearlers' Association, Broome—

> I confirm telegram, as per attached copy, conveying to you contents of the resolutions carried at the public meeting of citizens on the 10th inst., called with the object of considering methods for the suppression of dummying. The resolutions carried have the unanimous support of the committee of this association, and also the executive of the Returned Soldiers' League with whom they collaborated prior to the meeting, both representative bodies being unitedly and unanimously in accord in deciding to submit the recommendations to the public meeting, and which were carried without dissent. We have to thank you for your reply, addressed to the chairman of the meeting, Mr. Percy, conveying the assurance that the recommendations will receive earnest attention. We trust that the whole of the recommendations will be brought into effect as speedily as possible, as we are firmly convinced their operation will have the desired result of abolishing the evil practice complained of. I am, sir, yours faithfully, H. Kennedy, Secretary.

On this file are communications from Captain Bardwell, Broome; the State secretary of the Returned Soldiers' League; the secretary, Returned Soldiers' and Sailors' League, Broome; telegrams from Messrs. Miles and Holmes, Ms.L.C.; notes of deputation of Broome pearlers and an explanation of the methods of dummying. Then I have here a telegraphic report of a public meeting held at Broome as follows:—

> At public meeting representative of every class of citizen held last evening the following resolutions were carried with unanimous approval and meeting directed us telegraph you contents with request that immediate action be taken to give effect to the recommendations made. Resolutions read, "That this meeting of the residents of Broome give their full and unqualified support to the following recommendations (a) For the better suppression and dealing with dummying the

Government be asked to appoint a special commissioner in Broome with powers similar and equal to a royal commission, the appointment to be a permanent one. (b) That the Resident Magistrate be appointed the commissioner. (c) That the pearling inspector be empowered to refuse any or all applications for pearling licenses in all cases where he has reasonable grounds for suspecting that such pearling boats are being worked or are intended to be worked irregularly and that the onus of proof be on the individual. (d) That the pearling inspector be empowered to cancel any or all pearling licenses previously granted in all cases where he has reasonable grounds for suspecting that the pearling boats are being worked irregularly and that the onus of proof be on the individual. (e) On the refusal of a pearling license or the cancellation of a license by the pearling inspector the commissioner to have power to deal with same at once and be empowered to call for all evidence he may require, to examine all bank accounts and to call for and examine all books, papers, and accounts he may think necessary belonging to the applicant or any person whatsoever, to subpoena witnesses and take evidence on oath, and appoint when considered necessary a duly qualified auditor to investigate all books, accounts, etc. (f) That any person guilty of dummying or irregular working of a pearling boat be prosecuted and all his plant forfeited to the Crown and further prosecuted for making a false declaration. (Signed) Secretary Pearlers' Association, Secretary Returned Soldiers' League, Percy, Chairman of meeting. 11-7-24.

Hon. J. J. Holmes : Does the Bill contain all the provisions asked for there?

The HONORARY MINISTER: Not all of them, but it represents the consensus of opinion. It will, I think, meet all objections to the existing position. I want the co-operation of members representing the North in my endeavour to make the Bill effective. There are here many letters and telegrams respecting the position in Broome, including telegrams from Mr. Miles and Mr. Holmes. This State produces more than half the world's supply of pearl shell. Last year, although there were only some 90 boats operating, and notwithstanding that prices were much below those obtaining in pre-war years, over £237,000 worth of shell and pearls were obtained. Such an industry, of course, should be supporting a big white population, but, unfortunately, practically all the divers employed are Japanese. Just now an experiment is being carried on in Broome, where the Pearlers' Association have imported a number of Chinese with a view to teaching them diving. Even though we may not be very partial to the Chinese, their entry into the business will at least prevent the Japanese from holding a monopoly. The Chinese are adapting themselves to the diving work, and it is considered they will make effective divers in the near future.

Hon. J. Cornell: What is wrong with giving Australians a chance?

The HONORARY MINISTER: Exhaustive inquiries have been made by the Federal Government and I have made a close study of the voluminous reports of the Commission that investigated the question, and I assure the hon. member that the white diver is quite out of the picture.

Hon. G. W. Miles: They tried the white diver some years ago.

The HONORARY MINISTER: That is so, and the Commission took the view that pearl diving was no occupation for a white man. I do not desire to see white men engaged in the diving business.

Hon. J. Cornell: Is it not as good as mining?

The HONORARY MINISTER: I am not keen upon white men engaging in mining.

Hon. J. J. Holmes: White men have an opportunity to engage in diving if they wish to take it on.

The HONORARY MINISTER: Considering the ill-effects suffered by miners, it might be better for the State if no more mines were opened up. That has been the experience at Ballarat. A pearl diver would probably last longer than would a miner, because he could not continue in the industry, as could a miner, after his health had become impaired. However, I do not wish to see white men employed as divers.

Hon. J. Nicholson: Would you import labour to do it?

The HONORARY MINISTER: It is all Asiatic labour. The pearling industry is fast falling into the hands of Asiatics. The white population of Broome is decreasing rather than increasing, and if the dummying that is alleged to exist has anything to do with it, the sooner we put a stop to dummying the better. We do not wish to have at Broome a repetition of what has occurred at Thursday Island.

Hon. J. J. Holmes: Or at Darwin, either.

The HONORARY MINISTER: I am afraid affairs at Broome are fast drifting towards what prevails at Thursday Island, where, apart from 10 white men in the industry, the whole business is in the hands of Asiatics. Dummying prevails there, but it is tolerated. Unless legislation such as I am proposing be adopted, I am afraid the same thing will prevail at Broome before very long. Darwin is not affected to the same extent as is Thursday Island, but even there the result of the operations of Asiatics is noticeable. A great percentage of the children attending the Darwin school are half-castes or quarter-castes. During the war the price of shell declined to bedrock, and many people were frozen out of the pearling industry. Orientals, with

characteristic cunning, squeezed into the industry and have a stranglehold upon it. If we allow that to continue, we shall have only ourselves to blame if the control of the North-West passes out of our hands.

Hon. J. Nicholson: We in the South would be in rather a bad plight if that happened.

The HONORARY MINISTER: Yes. If we allowed Asiatics to obtain control of our industries in the North, their influence would spread to the South, and the experience of other countries would be repeated here. In 1913 and in 1916 the Federal Commission on pearling visited this State. After taking evidence in Perth and in Broome, certain recommendations were made, but on the question of dummying, nothing helpful was suggested. Attached to the report are certain proposals made by the Pearlers' Association. This Bill contains provisions largely on the lines of those proposals. Some members might consider that this Bill goes too far, while others may be of opinion that it does not go far enough. The measure certainly does propose to give drastic powers, the like of which I have opposed in the past. We propose to throw the onus of proof on the individual.

Hon. G. W. Miles: Gold sellers have to submit to it.

The HONORARY MINISTER: It was a bad clause and I opposed it. Pearling, however, is a peculiar industry and drastic measures are essential if we are to achieve anything.

Hon. E. H. Harris: In what way is it different from mining?

The HONORARY MINISTER: In mining we were dealing with our own people; in pearling we shall be dealing with Asiatics.

Hon. E. H. Harris: There are foreigners in the mining industry.

Hon. J. Cornell: There are dagoes in the industry who cannot say "beer."

Hon. J. R. Brown: But they can drink it.

The HONORARY MINISTER: No Asiatic is permitted to engage in gold mining. My experience of Asiatics convinces me that they are not to be trusted; they have to be watched all the time. Drastic powers are necessary to make pearling legislation effective, and that is the only reason why I approve of giving to a pearling inspector power that I would not grant to another inspector. A special inspector is to be appointed who is to be given wide powers; in fact he will have the powers of a Royal Commission.

Hon. G. W. Miles: He will need them, too.

The HONORARY MINISTER: Yes, he will need them if this legislation is to be effective; otherwise it will be useless to go on with the business. The magistrate at Broome has been suggested as the special inspector. A magistrate may hold an inquiry in the first place and recommend prosecution. He will then try the case. Those who know the business, including the officers of the department, agree that it is not in the interests of justice that that practice should be followed. Under the Pearling Act the licensing officers have certain powers, but are restricted in several directions. Should the Bill become law, it is considered that the licensing officer will be able effectively to deal with such a matter. When any unqualified person acquires or holds any interest in a pearling vessel, or has a right to share in the proceeds of pearling, he commits an offence, if he does not hold a license, and a heavy penalty is provided in the Bill. Dummying has not been declared an offence under the Act, and it is now desired to take steps to stop it. It has to be declared an offence, and that is why the Act is being amended in this particular. I am advised that Section 717 of the Criminal Code, as amended by Section 38 in the amendment passed in 1918, can be brought into operation in support of this Bill. At present divers or other pearl fishers are signed on for certain wages and under certain conditions. One means of defeating the objects of the Bill may be in the granting of an excessive lay. A clause has, therefore, been inserted that the lay shall be fixed by regulation. A good deal of evidence was given before the Pearling Commission of 1912 with regard to the lay. Every witness appeared to do his best to evade the question. The conclusion was, therefore, arrived at that the lay was anything the pearlers were prepared to give as a result of some mutual arrangement. The Commissioner under this Bill will be able to investigate the question and find out what these conditions are.

Hon. G. W. Miles: What amount of lay is it proposed to allow?

The HONORARY MINISTER: I understand that the recommendations of the Royal Commission fit in with the proposals contained in this Bill. The matter will be subject to regulations. Probably not more than a certain lay will be allowed, or it may be determined on the fluctuations of the market for shell for the time being.

Hon. G. W. Miles: There should be a limit.

The HONORARY MINISTER: One will be provided. The amount fixed by regulation cannot be exceeded. It is understood that another way of defeating the objects of the Bill would be for one or more unqualified persons to lend money. Some of the people up there are very wily, and find many means of evading the law. It is possible that some unqualified persons who cannot get a license themselves would lend money to licensed pearlers, thus creating dummying. Such unqualified persons would charge high rates of interest, as has been done in the past. We are attempting by

this Bill to prevent such offences against the Act. The rate of interest will not be allowed to exceed 12½ per cent. That is a high rate, and gives a good margin. It is possible, no matter how we tighten up the law, that offences against it will still be committed. Another clause in the Bill provides for the holding of an inquiry by a special inspector in cases of suspected dummying. Before any such inquiry is held, authority must be obtained from the police or resident magistrate. Everything possible is being done to safeguard the individual. The special inspector holding the inquiry will have all the powers of a Royal Commissioner under the Royal Commissions Act, 1902, as amended in 1914. The inspector, in case of necessity, will be able to obtain a search warrant in order to bring to light any concealed documents that may have a bearing upon the inquiry. Such documents may include books, papers, etc. This is probably the most drastic clause in the Bill. When one travels along the coast one cannot help gaining some insight into the pearling industry. It is sometimes said that if some official were armed with the necessary powers he would find ample proof that dummying existed in Broome. This Bill is designed to afford an opportunity of probing the matter. There is a sentimental side to this industry. It is our endeavour to see that every industry that is worth fostering is catered for by white labour. The pearling industry cannot continue successfully except by the employment of Asiatic labour for diving. No one objects to that, because white labour is not available for the purpose. We do, however, object to any industry drifting into the hands of Asiatics, such as is the case with pearling at Broome. We do not want the Thursday Island conditions to exist here. The proportion of whites to coloured races in Broome is comparatively small. That is inevitable because of the conditions appertaining to the industry. There is, however, no necessity to employ more coloured people than is necessary. It is a reflection upon us as Britishers to subscribe to any arrangment whereby white men are allowed to be made use of by the inferior races. Some white men are prepared to sell themselves for a mess of pottage, and have allowed their names to be used in the interests of Japanese. Although we have known of this, we have been powerless to put the law into operation. By means of this Bill we hope to overcome the difficulty. In the past many attempts have been made to legislate to cover these questions, but for some reason or other such legislation has not been brought down. I have given this matter careful consideration and have probed deeply into it. In Broome people accuse each other of dummying and some do not scruple to say, "I am the only honest man in Broome." We know that dummying does exist, and in order that this may be proved I have made the Bill as comprehensive as possible, after consultation with the departmental officers concerned. The advice of members who may be closely acquainted with the industry will be appreciated when we come to the Committee stage. I have here a large file of correspondence on the matter, and members may refer to it if they wish. There is other information available on that file to hon. members, information enabling them to appreciate the justification for this Bill, which has been introduced at the instance of almost every section interested in the pearling industry. Practically all sections have made requests for the passing of such a measure as this. I trust that as the result of our efforts we shall have an enactment which will achieve the object in view, namely, that this very valuable asset of Western Australia, instead of continuing to drift into the hands of Asiatics, shall be controlled by the white people of this State, and particularly the white people of Broome. I move—

That the Bill be now read a second time.

On motion by Hon. J. J. Holmes debate adjourned.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

In Committee.

Hon. J. W. Kirwan in the Chair; the Colonial Secretary in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 4 of principal Act:

Hon. A. LOVEKIN: I move an amendment—

That in Subclause 4 there be added to paragraph (h) "but so as not to limit the right of an employer to employ or dismiss whom he pleases."

The object of the amendment is to prevent an award being made, or an industrial agreement being made a common rule, which will give preference to unionists and carry with it the doctrine advocated by many unions that the last man on must be the first man put off. Under such conditions no one could carry on business successfully. With preference to unionists in operation, one perhaps sends to the Trades Hall for five men, who come one to-day, and the next to-morrow, and the third the day after, and so on; and one finds in the course of employment that the last man taken on is the best man.

Hon. J. NICHOLSON: I had not noticed that Mr. Lovekin's amendment comes at the end of the subclause. Speak-

ing on the second reading I mentioned that I intended to move the striking out of paragraph (h). I think that such an amendment should take precedence of Mr. Lovekin's amendment to add something to the paragraph.

The CHAIRMAN: Perhaps it would be better to allow Mr. Lovekin to proceed, and subsequently Mr. Nicholson will have an opportunity.

Hon. A. LOVEKIN: If Mr. Nicholson's amendment precedes mine, I shall not have an opportunity of moving mine. The last man engaged being the best man, it would be impossible for me, under this paragraph, if work became slack to get rid of men numbers one, two, and three until I had got rid of the best man, number four, the man I wished to retain. That would be an intolerable position. If, under this provision, I did not get rid of the last man first, obviously I would get no more men. Even the Labour Party must admit that if a business is to be carried on successfully, the employer must have the choosing of those whom he employs, and must have the right to dismiss them. While I have no objection to conceding preference to unionists, I must try to conserve the right of employers to conduct their own business in their own way.

The COLONIAL SECRETARY: Mr. Lovekin's amendment goes much further than I think desirable. In fact, it gives the employer statutory license to indulge in victimisation. Section 107 of the existing Act makes it an offence to indulge in victimisation. The passing of this amendment will nullify that section. I am, of course, only speaking about unscrupulous employers, who are a very small percentage, but who might victimise a man prominent in the Labour movement. The man might be a good and competent worker, but by reason of his attitude on industrial matters he might incur disfavour. No such provision as Mr. Lovekin's appears in any Arbitration Act of the Commonwealth. If it be inserted, the unions may revolt.

Hon. A. LOVEKIN: The point raised by the Minister has no application whatever to this amendment. Here we have a provision to give preferential employment to members of unions. I contend that if preferential employment is given, we must then reserve the right to the employer to choose whom he employs and whom he dismisses. Otherwise the employer cannot carry on. It is a totally different matter when we come to some offence contemplated by Section 107 of the principal Act. That section reads—

> No employer shall dismiss any worker from his employment or injure him in his employment or alter his position to his prejudice by reason merely of the fact that the worker is an officer or member of an industrial union or association or of a society or other body that has applied to be registered as a union or association or is entitled to the benefit of an industrial agreement or award.

That is the provision against victimisation. But this clause does not provide against victimisation, and it cannot possibly come in. If under my amendment a man were dismissed, and the union thought it was victimisation, they would proceed under Section 107; and then the charge would have to be answered, and the employer would have to show that the dismissal was for good cause and had nothing to do with victimisation. I do not think men should be victimised for any action they may take in connection with their union, but if we are to have successful businesses the principals must have control of the working, and therefore must have the right to select their men. I will take on a unionist in preference to anybody else, but I must be conceded the right to employ which unionist I please, or to dismiss which unionist I please. That position seems to me quite fair.

Hon. W. H. KITSON: This clause does not provide specifically preference to unionists, but gives the court the right to award preference to any individual or individuals the court thinks fit.

Hon. E. H. Harris: Even to the non-unionist?

Hon. W. H. KITSON: Yes.

Hon. E. H. Harris: And you approve of that?

Hon. W. H. KITSON: I am raising no objection. Mr. Lovekin's amendment goes much further than he would indicate, and appears to be an endeavour to interfere with what may be termed a custom of trade or industry in a particular direction. If an organisation secures preference to unionists, that does not necessarily mean that the first on shall be the last off, and that the last on shall be the first off. However, I do know that in certain industries that is a custom of trade; and if we are going to attempt to legislate for customs of trade and industry by adding paragraphs to our arbitration legislation, we shall soon have our arbitration law loaded to such an extent that it will be unworkable.

Hon. A. Lovekin: We are only putting in what the court has decided.

Hon. W. H. KITSON: If the court in a particular case has decided that the first on shall be the last off and the last on the first off, we should not complain. The court will have decided in that particular case on the evidence submitted, and no doubt will have a good reason for inserting a provision of that kind in the particular award. But I do not think that should go into the Arbitration Act, and therefore I oppose the amendment.

Hon. J. NICHOLSON: It would have been better had I been permitted to move my amendment to strike out the whole paragraph.

Hon. G. W. Miles: You want to do away with preference to unionists altogether.

Hon. J. NICHOLSON: As it stands the Bill provides that preference may be given to either unionists or non-unionists without regard to qualifications. If it meant that this would place the hall-mark of qualification upon the best man for the employer I could understand it. I cannot understand why we should provide for an award containing a provision that the employer should engage a particular man because he happens to be a unionist. I do not object to unionism so long as it is used for proper purposes. I would like to move my amendment that the paragraph be struck out.

The CHAIRMAN: Whether Mr. Lovekin's amendment be agreed to or not, it will be competent for the hon. member to move his amendment later.

Hon. J. NICHOLSON: If my amendment were moved now it would save the necessity for Mr. Lovekin's amendment.

The CHAIRMAN: As it is now, the Committee have an opportunity to improve paragraph (h) should they so desire.

Hon. E. H. HARRIS: Members waited for the Minister's reply at the conclusion of the second reading debate in order to get some information regarding this paragraph as well as other matters. That information would have governed the attitude of members.

Hon. E. H. Gray: Surely you would not be governed by that.

Hon. E. H. HARRIS: Yes, I would like information from the Minister and from the hon. member. As I read the clause this pargaraph empowers the court to give preference to non-unionists. Is that so?

Hon. J. R. Brown: No.

Hon. E. H. HARRIS: The words are capable of that construction.

Hon. J. Cornell: Can non-unionists cite a case before the Arbitration Court?

Hon. E. H. HARRIS: They can, on the authority of the Minister.

Hon. J. R. Brown: They should be taken there by the scruff of the neck.

Hon. E. H. HARRIS: The clause says that the court may grant preference to unionists or non-unionists.

Hon. A. Lovekin: That is what it says.

Hon. E. H. HARRIS: I want the Minister to say if that is correct. In another place the words "industrial union" were added to the clause and until that was done preference could not have been given under the terms of the Bill. As applause has been showered upon the Government for introducing provisions for preference to unionists in the Bill, the same people are waiting to applaud still further if the Bill be agreed to with that provision. That being so, I want to know what the position really is before I vote for the clause, quite apart from Mr. Lovekin's amendment.

The COLONIAL SECRETARY: The court will have power to grant preference to non-unionists under this clause. The whole thing is left to the court. As a matter of fact, this does not give preference to unionists. It gives power to the court to deal with the question.

Hon. E. H. Harris: The industrialists do not want that sort of thing.

The COLONIAL SECRETARY: A somewhat similar provision is contained in the Commonwealth Arbitration Act and empowers the court to give preference to unionists. I do not think that section has ever been put into operation by the president of the Arbitration Court. It is in the Act, however, and has done no harm. I hope a similar provision will be included in our Act.

Hon. J. J. HOLMES: I would not have spoken on the amendment had it not been for the remark by the Leader of the House to the effect that if the amendment were agreed to the unions would revolt. Surely we have reached a stage of absurdity in discussing such a position, because the unions have revolted. To-day the industries of the country are held up.

Hon. J. R. Brown: In what way?

Hon. J. J. HOLMES: The trade of the country is paralysed.

Hon. C. F. Baxter: What about the shipping trade?

Hon. J. J. HOLMES: We have the Arbitration Court and we have the Government looking on helplessly.

The CHAIRMAN: I will ask the hon. member to confine himself to the amendment.

Hon. J. J. HOLMES: The question before the Chair is as to whether unionists or non-unionists shall be allowed to work, and I am addressing my remarks to the standpoint that men will not work and apparently do not want to work.

Hon. J. R. Brown: If we have this provision in the Bill, you will not have scabs.

Hon. J. J. HOLMES: Apparently no unionist wants to work, and the unionists will not allow others to work.

Hon. E. H. Gray: That is nonsense.

Hon. C. F. Baxter: No, it is not. That is what is happening to-day!

Hon. J. J. HOLMES: We have our State and Federal Arbitration Courts and yet this goes on! We are asked to sit an hour and a-half earlier each day, and to sit a day extra in the week in order to discuss provisions relating to arbitration, yet the Arbitration Courts cannot enforce their judgments.

Hon. J. R. Brown: No, they cannot enforce all awards.

Hon. J. J. HOLMES: I do not care what time I devote to the work of the country, but we are reaching a stage of absurdity when we argue about giving power to the court to award preference to unionists or non-unionists at a time when men will

not work, will not permit others to work, and the Government have not strength enough to compel them to work. The Minister's remark that if the amendment be agreed to the unions will revolt does not affect me one iota, because the unions have already revolted.

Hon. A. LOVEKIN: The reply by the Minister opens up a new avenue of thought regarding the clause. Are we to provide power for the court to select the employee, be he unionist or non-unionist or anyone else, and tell the employer that that is the man he must give preference to? As Mr. Holmes put it, we are bordering on the absurd.

Hon. T. MOORE: I have definitely decided that victimisation can become rampant if Mr. Lovekin's amendment is agreed to. I have been through the industrial field and seen these things happen. I know that victimisation has been practised in the past.

Hon. J. M. Macfarlane: It is going on to-day.

Hon. C. F. Baxter: And it is not on one side only.

Hon. T. MOORE: I am not one of those afraid to work. My record from that standpoint will bear comparison with that of any other member. When we read Mr. Lovekin's amendment together with the Bill as it stands, it must be recognised that the former would lead to an absurdity. Why do not hon. members say they are against these provisions altogether, and not show their opposition by bringing forward a proposal that does not mean what it says? The amendment conflicts with the Bill. Mr. Holmes remarked that the unions were in revolt to-day. That is so, and as long as the old globe rocks no legislation will give us a perfect world. In the industrial ranks we have men who will revolt when other men would be content to work on and gain their ends by other means. I do not approve of strikes at all. I was in the industrial field long enough for employers to be able to say that I was always reasonable when I proffered a request. When we set up a committee to do things we should leave it to that body.

Hon. C. F. Baxter: Are they doing things now?

Hon. T. Moore: They are not in a position to do things. The Federal Arbitration Act is most unwieldy. As for those who are out on strike to-day, I do not think they want arbitration at all, but there are others who do want it.

Hon. C. F. Baxter: Well, what do the others want?

Hon. T. MOORE: Ninety-five per cent. of the unionists of Australia to-day adhere to the principle of arbitration and desire to abide by it.

Hon. J. M. Macfarlane: It looks as though the 95 per cent. are the other way.

Hon. T. MOORE: If Mr. Macfarlane can prove that statement, I will vote against the Bill. That hon. member makes absurd statements. Why cannot he be reasonable? He knows nothing about the business and always takes a narrow view of things.

The CHAIRMAN: Order.

Hon. T. MOORE: The hon. member will not allow me to proceed. Why does he not get up and say what he means. Regarding preference, is there anything wrong with giving the court power to say what it will decide? What is the use of setting up the court at all if we do not give them that power? Of course there always will be trouble amongst a small percentage of the workers; but 95 per cent. of the unions in this State stick closely to their principles. Why, then, should we not allow the court to say how an industry shall be carried on?

Hon. G. W. Miles: The amendment will not prevent that.

Hon. T. MOORE: It will open wide the door to victimisation. There are unscrupulous employers—not many of them—and I myself have seen men victimised. The amendment, if carried, will wreck the clause and abolish a principle that has stood for so long.

Amendment put and negatived.

Hon. J. NICHOLSON: I move—

That paragraph (h) of Subclause (4) be struck out.

I do not think the provision is a proper subject for any award of the court. Having regard to the wide interpretation capable of being placed on the paragraph, the court might order almost anything; any person at all might be brought within the scope of the court's award. This is not a Bill to determine the qualifications of the men. The court does not submit the men to a test of their qualifications; it was not appointed to determine these matters and so this provision should not be in the Bill. If, as is so frequently said, unionists are better qualified than are non-unionists, the unionists will have nothing to fear. The paragraph, if we were to pass it, would give the court power to order the employment of any type of person whatever, and to that extent it is much wider than Mr. Moore suspects.

Hon. J. CORNELL: I am surprised at the admission of the Minister that the paragraph will give the court power to grant preference to non-unionists.

Hon. E. H. Harris: And that introduced by the Labour Party!

Hon. J. CORNELL: It is stretching the principle to an absurdity. This paragraph claims preference for unionists.

Hon. T. Moore: It claims freedom for the court.

Hon. J. CORNELL: I do not think either the Minister or Mr. Nicholson is aware of the interpretation the paragraph would bear in court. Only registered unions can approach the court, and so no non-unionist will be in the picture. All that

the court does is to decide the issue submitted to it. What would be the issue submitted by the trade unionists, the only bodies entitled to approach the court? The idea is that because it is necessary to have a union before men can get to the court, preference should be granted to unionists. The position should be plainly stated so that we may know where we stand.

Hon. A. J. H. SAW: In 1915 I stated emphatically that I was opposed to preference to anyone, and I stand by that to-day. I, therefore, intend to vote for the amendment. It is not a proper thing to give preference to anyone except the returned soldier. When he went away he was told that employment would be found for him on his return. Preference will undoubtedly be given to prevent from earning a living those people who are prepared to work. It should be optional for anyone to say whether he will join a union or not.

Hon. E. H. Gray: Does that apply to doctors?

Hon. A. J. H. SAW: It is not necessary for any doctor to be a member of the British Medical Association. There is no preference inside our ranks. It is certainly the desire of the Association to protect the public from quacks and such like people.

Hon. E. H. GRAY: An unregistered organisation would be described as comprising non-unionists. There are small, compact and well-organised bodies of tradesmen who would have nothing to do with the Arbitration Court; but they might start a dispute and embroil a large section of the community.

Hon. H. Stewart: To whom do you refer?

Hon. E. H. GRAY: The plasterers represent one of the bodies to which I refer.

Hon. A. J. H. Saw: They do not need to go to the court. They are the highest paid workmen in the State.

Hon. E. H. GRAY: But they may start some dispute and hold up registered organisations.

Hon. E. H. Harris: What about the unions which close their books and prevent others from coming in?

Hon. E. H. GRAY: That is a mere bogey. I do not know of any union that has restricted its membership to the detriment of others.

Hon. E. H. Harris: There is the tally clerks' union.

Hon. E. H. GRAY: Its membership has been overloaded.

Hon. J. J. Holmes: Do you deny that the books of the lumpers' union were closed recently?

Hon. E. H. GRAY: There have always been more men than there has been work for them to do.

Hon. J. J. Holmes: Why are all these ships held up?

Hon. E. H. GRAY: The less said about that the better.

Hon. J. J. Holmes: Why?

Hon. E. H. GRAY: No good can be served by intemperate language on the other side.

Hon. J. J. Holmes: Then it must be all on the one side.

Hon. E. H. GRAY: On either side. The whole trouble will be over in a little while.

Hon. J. M. Macfarlane: They are the more intemperate. Actions speak louder than words.

Hon. E. H. GRAY: They are not as intemperate as the Employers' Federation, who have tried to beat the men down. Every precaution is taken by trades unions to ensure that its members are skilled and able to do their work. No employer is ever asked to take a man who is unskilled.

Hon. J. Nicholson: Tell me where it is provided that the workers must be qualified.

Hon. E. H. GRAY: I hope the paragraph will remain as it is, for it will tend to bring about industrial peace.

Hon. E. H. Harris: Are you sure of that?

Hon. E. H. GRAY: Certainly. It is a vital principle of the Bill. The more trust that employers place in their workers, and the more freedom the workers are given in the workshops, the less trouble there is. Where workshop committees are established there is very rarely a strike.

Hon. J. Cornell: Job control!

Hon. E. H. GRAY: In such cases there is less loafing, and more work turned out. Give the men more power and responsibility and you will cut out the loafers.

Hon. J. J. Holmes: Do you want them to have more power at Fremantle than they have to-day?

Hon. E. H. GRAY: They should have more power.

Hon. C. F. BAXTER: Apparently the only qualification necessary for the worker under this Bill is that he shall belong to a union.

Hon. E. H. Gray: You do not know much about it.

Hon. C. F. BAXTER: Preference to unionists will operate against good work being done. Years ago men would speed up and do their best, but to-day they are brought back to the same level as the medium worker.

Hon. J. R. Brown: What about giving preference to orphans?

Hon. C. F. BAXTER: The hon. member interjects a lot but never says anything. If this paragraph remains in the Bill it will create a monopoly for a few. A union may close its books when a certain membership has been attained, just as has been done in the case of the Fremantle lumpers.

Hon. T. Moore: Do you think the court would grant a union preference on that account?

Hon. C. F. BAXTER: It would have to do it.

Hon. T. Moore: This is an open cheque to the court.

Hon. C. F. BAXTER: We know what has occurred in the past. Mr. Gray knows how industry is being held up to-day, and the enormous waste that is taking place. The trouble is the men are being paid too well. I will vote for the amendment.

Hon. W. H. KITSON: It is a fact that the waterside workers' union have at different times closed their books, but they have done so under the authority of the court.

Hon. J. J. Holmes: And sometimes without authority.

Hon. W. H. KITSON: I do not know that they have. No member of this Chamber can say that there is always enough work for the entire membership of the union, or that the average wage of its members equals the basic wage. That should justify a limitation in the number of men who are entitled to work at this calling. On the water front 500 or 600 men may be waiting to be picked up at eight a.m., and 300 or 400 may have to walk away. In the course of the week they may get only a few day's work.

Hon. H. A. Stephenson: Some of the men get the work all the time.

Hon. W. H. KITSON: Some men are indispensible, and must take charge of certain skilled portions of the work. Those are the men to whom the hon. member refers.

Hon. H. A. Stephenson: Not at all.

Hon. W. H. KITSON: This clause goes no further than to give the court the right to grant preference to unionists. We would make a mistake if we restricted the court in this direction. Experience has shown that wherever it is possible for two bodies of men—unionists and non-unionists to work together, there must be trouble sooner or later. There has been trouble in Sydney over this.

Hon. E. H. Harris: What was that trouble due to?

Hon. T. Moore: Preference was given there to scab soldiers, nothing less; the riff-raff of the army.

The CHAIRMAN: Order! I remind members that in Committee each may speak for himself and he may speak more than once. If an hon. member does not agree with any speech that has been made, he is not entitled to interject so as to prevent another member from speaking. I ask members to reply to speeches not by way of interjection, but by taking the opportunity to speak when that opportunity arises.

Hon. W. H. KITSON: The trouble in Sydney has arisen because of the employment of unionists and non-unionists on the wharf, and because the employers were not prepared to abide by the decision of the Federal Arbitration Court in that matter. The employers there were prepared to give preference to returned soldiers who are members of the Shipping Labour Bureau, and not to returned soldiers who are members of the Waterside Workers' Federation. I assure members that if the court has the right to give preference to any organisation, it will do so only after due consideration being given to the facts presented. The same clause, word for word, appears in the Federal Act. If we give the court power to award preference to unionists, it will do so only where the union itself makes it part and parcel of its claim. In effect it will mean that if there are workmen in a given industry where there are two sections of workers, the court will have power to give a decision that will help to solve any difficulty that may be in existence. In all industries there is no time for the man who does not belong to the organisation that has jurisdiction over that industry. I hope the clause will remain as it is because I believe, from past experience, that it will have a tendency to solve some of the troubles we have been faced with in recent years.

Hon. H. A. STEPHENSON: I came to this State 27 years ago and in the whole of that time I have been importing goods. During the first 10 or 15 years I averaged several thousand tons a month. I saw the goods being handled and observed that the greater part of the work was carried out by the lumpers on the wharves, and it was done by the same men, always. At the same time there were many men who scarcely ever got a job on the wharf. Many of those who were not able to get work often came to my place to ask that I should help them to get employment. They were never called on at the wharves and many times I was able to find work for them elsewhere. That kind of thing went on for about 15 years and many good men who could not become unionists, because the union would not have them, were never able to get employment on the wharf.

Hon. J. CORNELL: The cause of the present trouble in New South Wales is the decision of the court in that State which gave preference to returned soldiers.

Hon. W. H. Kitson: That was only one of the reasons.

Hon. J. CORNELL: If similar preference were given here the same trouble would arise. All that is required is preference to unionists. Why camouflage the position? I have already indicated that I am supporting the proposal. I gave it my support in 1912.

Hon. W. H. KITSON: I alluded to the trouble in Sydney because of an interjection from an hon. member and I said that it had arisen partly from the fact that the court had given preference to returned soldiers and that the employers had not

carried out that decision because they were prepared only to give preference to returned soldiers who are members of the shipping bureau and not to members of the Waterside Workers' Federation.

Hon. T. MOORE: I hope that the clause will be allowed to stand. I cannot understand anyone agreeing that 95 per cent. of the members of an industry should go to the court, put up their sixpences and shillings weekly in order to fee an advocate, bring witnesses from every part of the State at their own expense, secure an award and then allow parasites consisting of five or ten per cent. of those engaged in the industry to come in and upset everything. Those parasites are the poorest type in the industry and in respect of what I have said, they are certainly not manly or decent. If they were either, they could get away from all the trouble by joining the union. Mr. Holmes, I know, does not believe in arbitration and therefore I ask other hon. members not to follow him. Mr. Holmes would have the old order of things, but I cannot believe that the majority of members here will agree to that. Mr. Holmes is against everything in the Bill. I cannot understand the reasoning of a man who thinks that one section shall bear the whole of the expense and that the infinitesimal section shall batten on the others by agreeing to take all without paying anything. We have had more trouble over that in the past than anything else. Regarding the Sydney difficulty I interjected that those who were working on the wharf were soldier scabs. In every army we have that riff-raff. Did we not in the army have men who had come out of gaol? That was the class that gave us the odd five per cent. that we never wished to have at all. A strike took place in 1917 and a bureau, called the loyalist bureau, was established. When I returned to Western Australia, I found that two sections of men were working on the Fremantle wharf. One was known as the loyalist section on account of some action taken to ship commodities in 1917.

Hon. J. J. Holmes: Food for the soldiers.

Hon. T. MOORE: Bunkum! I can judge those loyalists by the few that I know. They were the riff-raff who would not get a job where decent men were employed.

Hon. A. Lovekin: I was one of them.

Hon. T. MOORE: But the hon. member did not remain on the wharf. I do not blame those who went to the wharf as a result of some lofty motive, but those who remained did so with the object of getting into that work.

Hon. J. J. Holmes: Why should not they get in?

Hon. T. MOORE: They were the riff-raff who ordinarily would not get a job. Afterwards they received compensation from the Government, and very soon drank it all. After that one of them asked me to get him a job, and I told him to go away.

Hon. J. J. Holmes: And you talk about victimisation!

Hon. T. MOORE: He was a man the like of whom the hon. member would not have about his place.

Hon. H. A. Stephenson: There was only 3 per cent. like that.

Hon. T. MOORE: We want to guard against a recurrence of similar troubles. I wish members possessed a more intimate knowledge of the masses of workers. No one desires industrial peace so much as do the workers, and they join organisations with the idea of getting industrial peace. They go to the court periodically and abide by the conditions laid down. Yet we are asked to deny preference to such men and to give equal treatment to the parasites. In New Zealand years ago there was a provision that men working under an award should contribute to the union that obtained the award. That was fair. If the court decides that preference is warranted, it should be able to award preference. I appeal to members not to follow Mr. Holmes, who would like to kill the Bill, but to stick to arbitration and give us a chance to secure industrial peace.

Hon. J. J. HOLMES: Mr. Moore says I would like to kill the Bill. On the second reading I explained that I was in a hopeless minority, but that if I had the following, I would kill, not the Bill, but the Arbitration Court. No court should exist if it cannot enforce its judgments. Such a court brings law and order into ridicule, and represents the first step towards rebellion. The other day I came across a definition of a unionist by one of the cleverest writers of the present day. He said that a man of disrepute, a drunkard, or one with almost anything against him, could join a union conditionally upon his agreeing not to work more than a certain number of hours or do more than a certain amount of work. That is the opinion of a man who has studied the situation. The only qualification for unionism is that a man should agree to do the minimum amount of work and work the minimum number of hours. To such men we are asked to give preference.

Hon. T. Moore: Tell us the author of that definition.

Hon. J. J. HOLMES: If we grant preference the only effect will be to paralyse industry. The more we load up industry, the less profit there will be, and the fewer the number of people to participate in the profit.

Hon. H. SEDDON: The provision in the Bill does not meet requirements. It provides for men whether being or not being members of an industrial union. As a member of an industrial union, I maintain there is every reason why men should belong to a union. The clause should have been framed

frankly to give preference to members of industrial organisations. An attempt has been made to justify the closing of union books against applicants for membership. If we are going to give preference to unionists, we should insist that any person qualified to join a union shall be admitted. There is no provision in the engineers' rules to prohibit a man from joining provided he is qualified. Why should an organisation close its books to any qualified man?

Hon. J. R. Brown: Which organisation is closing its books?

Hon. H. SEDDON: A friend of mine working in the mines some years ago found he was suffering from dust. He went to Fremantle and tried to get work on the wharf, but he was not allowed to join the Waterside Workers' Union.

Hon. J. R. Brown: Why not?

Hon. H. SEDDON: He was a foundation member of the Coolgardie Miners' Union and there was nothing against him as a unionist, but he had to return to work in the mines. Therefore, if we grant preference, we should insist upon the right of any qualified man to become a member of a union. If we do that, we should also give the court power to deregister a union in the event of its disobeying an award of the court.

Hon. J. A. GREIG: I feel somewhat of the opinion of Mr. Holmes, seeing that the court has been unable to enforce its awards. I would be prepared to give preference or almost anything if I could be assured that those asking for arbitration would abide by the awards. If the court could be empowered to enforce its awards by deregistering unions, denying them preference or inflicting some other punishment, I would be prepared to give them a long run.

Hon. J. R. Brown: Suggest an amendment to that effect.

Hon. J. A. GREIG: I cannot do so. Twenty years ago I got away from wage earning, and arbitration has been such a farce since that I have not taken it seriously. If I expressed my opinion of arbitration, I should probably disgust some of my Labour friends who have such faith in it. When members talk about 95 per cent. of unionists sticking to principles, I have to sit back and think. If 95 per cent. did stick to principles, they would condemn most of the strikes that occur to-day. I am jealous of giving more power to a court which cannot enforce its awards. Victimisation applies to both sides, employers as well as employees. Thus, I find myself in a quandary at the very beginning of the Bill. I know it is hard for unionists to pay contributions year after year for the purpose of obtaining better conditions, while other men refuse to pay. But the same position obtains in other walks of life. Fifty per cent. of the farmers do not belong to the farmers' organisation. Being a believer in freedom of the subject, I would not use any compulsion on those farmers to enter the organisation.

Hon. A. LOVEKIN: I was willing to vote for preference to unionists, but at the same time I asked that there should be some consideration for the employer giving the preference. I have had no support for that. Preference, according to the Government, means that the employees are to control businesses. Mr. Moore says it does not mean that. I reply, "Then please say so in this Bill." I have altogether lost faith in union promises. Members of unions do not object to a little tyranny now and then, and I do not wish to give them the opportunity to tyrannise over me or other employers. A gentleman named Walsh comes from Timbuctoo, or somewhere else, and calls out a number of men who have no quarrel with their employers or with the State Government, which is a strong Labour Government. Mr. Walsh simply tyrannises over those men. Therefore I cannot agree to preference to unionists without some safeguard, and in the circumstances I must vote against the entire clause.

Hon. T. Moore: Didn't you decide in caucus to vote against it?

Hon. A. BURVILL: I quite agree with Mr. Seddon that there should be some safeguard, such as deregistering a union that will not keep its agreements, and also a safeguard to prevent the closing of the books of a union. However, there may be a union enjoying good conditions and good wages, and therefore liable to be swamped with new members. Having been a working man, I consider it impossible for working men to get their rights without unions; and I am certain that the only way for the worker is to have preference to unionists, which, however, should be subject to proper safeguards for the employer and the public.

Hon. H. STEWART: There is nothing very much to be said in favour of this clause, and nothing very much to be said against it. It allows the court to do practically what it likes. Mr. Kitson pointed out that the provision is taken almost word for word from the Commonwealth Act; but in the clause the words "industrial union" have been added to "organisation, association, or body." I do not know whether the addition of "industrial union" makes any difference. I should say that an industrial union is an organisation.

Hon. E. H. Harris: Under the Commonwealth Act, but not under the State Act.

Hon. H. STEWART: I see no objection to giving the Arbitration Court a general power to regulate who shall, or who shall not, be employed, with a view to making the jurisdiction of the court effective. The tendency of our industrial legislation has been to wipe out the small employer and foster the growth of the larger employer, thus giving rise to combination and eventu-

ally monopoly. The court should have power to investigate the affairs of any union, whether of employees or employers. On the other hand, if the court is going to be a one-sided affair without disciplinary power over all industrial organisations, whether of employers or employees, the result cannot be satisfactory.

Hon. H. SEDDON: If the clause is deleted, as I hope it will be, I intend to move an amendment providing for preference of employment, other things being equal, to the members of any industrial union, body, or organisation registered under the measure, providing that no such industrial union, body, or organisation shall have the right to refuse membership to any person qualified to work in the industry, and, further, to amend Section 104 so as to provide that any union of employers or workers indulging in a cessation of work or a strike shall be deregistered, and deprived of any benefit under the measure.

The COLONIAL SECRETARY: This clause does not provide for preference to unionists. It could provide for preference to non-unionists, though I can hardly conceive that any president of an Arbitration Court would grant preference to non-unionists, since arbitration is only possible with unions. Arbitration would perish straight away if unionism were abolished. The clause is different from the section of the Commonwealth Act, which does provide preference to unionists. Section 40 of the Commonwealth Conciliation and Arbitration Act reads as follows:—

> (1) The Court, by its award, or by order made on the application of any organisation or person bound by the award may (a) direct that, as between members of organisations of employers or employees and other persons (not being sons or daughters of employers) offering or desiring service or employment at the same time, preference shall, in such manner as is specified in the award or order, be given to such members, other things being equal; and (b) prescribe a minimum rate of wages or remuneration (in which case the court shall, on the application of any party to the industrial dispute, or of any organisation or person bound by the award), make provision for fixing, in such manner and subject to such conditions as are specified in the award or order, a lower rate in the case of employees who are unable to earn the minimum wage so prescribed. (2) Whenever, in the opinion of the court, it is necessary, for the prevention or settlement of the industrial dispute, or for the maintenance of industrial peace, or for the welfare of society, to direct that preference shall be given to members of organisations as in paragraph (a) of subsection (1) of this section provided the court shall so direct.

The whole matter is left to the discretion of the court. In the Federal legislation there is provision for preference to unionists but it is not set out in the Bill. There is no doubt that the court would give preference to unionists, because the unions are responsible for arbitration.

Hon. J. Cornell: It is discretionary under the Federal Act.

The COLONIAL SECRETARY: Yes. Mr. Justice Higgins has had great experience in the Federal Arbitration Court, and I draw attention to the following extract from a statement by His Honour regarding preference to unionists—

> The truth is, preference is sought for unionists in order to prevent preference of non-unionists or anti-unionists—to prevent the gradual bleeding of unionism by the feeding of non-unionism. It is a weapon of defence. For instance, some employers here hired men through the Independent Workers' Federation, a body supported chiefly by employers' money, and devised to frustrate the ordinary unions; and those who applied for work at the office of this body would not be introduced to the employer unless they ceased to be members of the ordinary unions and became members of this body. What is to be done to protect men in the exercise of their right as free men to combine for their mutual benefit, seeing that the employing class has the tremendous power of giving or withholding work? The only remedy the Act provides is an order for preference; and it is doubtful whether such an order is appropriate or effective. It is, indeed, very trying for men who pay full dues to a legitimate union to work side by side with men who do not, with men who look to their own interests only, seeking to curry favour with the employers, getting the benefit of any general rise in wages or betterment of conditions which is secured without their aid and in the teeth of their opposition, men who are preferred, other things being equal, for vacancies and promotion. Every fair man recognises the difficulty of the position—every man who is not too much of a partisan to look sometimes at the other side of the hedge.

The present Government stand for arbitration and have given some proof of that since we have been in office. We have endeavoured to carry out the pledges we made during the general election. We restored to those workers who had been deprived of it, the 44-hour week, but since then we have pointed the way to the Arbitration Court in every instance. Many claims for increased wages and improved conditions have been made to the Government, but I do not know of one instance where they have been granted. We have referred the matters to the Arbitration Court. We

stand by arbitration and we trust that the Bill will be passed in such a form as will enable us to carry out our policy fairly.

Hon. J. J. HOLMES: Mr. Justice Higgins's remarks would be apropos if the unions complied with their contract to the court and to the employers, but the trouble is they do not do so. The unions comply with awards when they suit them; when the awards do not suit they go their own way. The carters went to court and secured an award which provided that as the cost of living went up so their wages would go up. It was all right so long as the cost of living went up, but when it commenced to come down and the question of reducing wages correspondingly cropped up, the men wanted a new award. They went to court for it but they received a refusal. The result was that stop-work meetings were held and now the position is that the men will get what they want or there will be no more carting. The unions do not carry out their contracts with the employers or with the courts, and in my opinion, Mr. Justice Higgins's remarks are not worth the paper they are printed on.

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

Ayes	12
Noes	10
Majority for	2

AYES.

Hon. C. F. Baxter	Hon. J. Nicholson
Hon. J. Ewing	Hon. A. J. H. Saw
Hon. J. J. Holmes	Hon. H. Seddon
Hon. A. Lovekin	Hon. H. A. Stephenson
Hon. J. M. Macfarlane	Hon. H. I. Yelland
Hon. G. W. Miles	Hon. J. Duffell (*Teller.*)

NOES.

Hon. J. R. Brown	Hon. E. H. Harris
Hon. A. Burvill	Hon. J. W. Hickey
Hon. J. M. Drew	Hon. W. H. Kitson
Hon. E. H. Gray	Hon. H. Stewart
Hon. J. A. Greig	Hon. T. Moore (*Teller.*)

PAIRS.

AYES.	NOES.
Hon. V. Hamersley	Hon. J. Cornell

Amendment thus passed.

Hon. H. SEDDON: I move an amendment—

That in lieu of the paragraph struck out, the following be inserted:—"(h) The preferential employment, other things being equal, of members of any industrial union, organisation, association, or body registered under this Act, provided that no union, organisation, association or body shall have the right to refuse membership to any person qualified to work in the industry.

Hon. A. LOVEKIN: I suggest that we should have an opportunity of looking into the amendment. It has not been placed upon the Notice Paper and I do not think we should be asked to deal with such an important amendment at this stage without having a chance to see what it means.

Hon. J. R. Brown: It is loaded.

Hon. H. STEWART: Mr. Lovekin has been in the fortunate position of being able to put his amendments on the Notice Paper, but if every other hon. member exercised his right to the same extent, we would not know where we were. The amendment is quite in order and is perfectly simple.

Hon. A. Lovekin: It may be to you but not to me.

Hon. H. STEWART: I do not want any member to be placed in the position that his amendment will not be considered unless it is on the Notice Paper. Every endeavour is made to have amendments placed on the Notice Paper, but we should not be debarred from moving amendments because they are not included.

Hon. H. SEDDON: I have no objection to consideration of my amendment being postponed, but I do take exception to the interjection that the amendment is loaded. It is an honest endeavour to meet the position, and I resent any suggestion that it is loaded.

Hon. J. CORNELL: I have perused the amendment and portion of it should apply to the Bill as a whole. Mr. Seddon is endeavouring to secure preference of employment to members of industrial unions, and if that be granted by the court he suggests there be a proviso that that preference be granted only on condition that the books of the unions are not closed against membership.

Hon. H. Seddon: Those are the two points.

Hon. J. CORNELL: Then the amendment is a simple one. All that we should be asked to put in now is preferential employment to unionists; then later on we could provide that the court in granting preference to unionists should make it a condition that the union books be kept open. It is perfectly simple.

Hon. J. EWING: The Committee has decided to delete the reference to preferential employment. We are not in possession of Mr. Seddon's amendment. I do not know what it is. I should like first to peruse it. However, I have always understood that when a question of principle is decided by the Committee, an hon. member cannot at the same sitting move again in respect of that principle. I think Mr. Seddon's amendment is out of order.

The CHAIRMAN: There is sufficient difference between the two questions, and I rule that the amendment is in order.

Hon. J. EWING: I accept your ruling, although I do not agree with it. In my opinion the question cannot be properly raised at his stage. At all events I am opposed to the principle of preference of employment. I regret that Mr. Moore should have talked about riff-raff soldiers.

Hon. T. Moore: So there were riff-raff soldiers.

Hon. J. EWING: Such references should be kept out of the debate. Mr. Holmes regretted that Arbitration Court awards could not be enforced. If we are in favour of arbitration, let us have arbitration, but let us not put in the Bill any direction to the court. Then we shall have arbitration pure and simple.

Hon. T. Moore: How many instances do you know of unions refusing to obey awards?

Hon. J. EWING: If arbitration is to work smoothly, unions must abide by the decisions of the court. Notwithstanding all the Arbitration Acts, men are idle today, and so in discussing some of these points we are only wasting time.

Hon. E. H. HARRIS: The amendment will amend Section 7 of the principal Act, for it is provided that no union shall have the right to refuse membership to any person. Section 7 of the Act provides that the rules shall specify the purpose for which a society is formed, and amongst other things, the terms and qualifications upon which persons shall become or cease to be members. So it will be seen that the amendment will be amending the principal Act. The amendment will preclude any union from barring from membership any person, though he be the biggest scoundrel in Western Australia. It would materially help me if this point were decided before we come to Clause 6, providing for the registration of one big union.

Hon. J. CORNELL: The simple issue is whether the Committee is in favour of preference to unionists with conditions. If a union did not desire a man they could not oust him on the score that he would not join a union. The whole proposal is preference to unionists, conditional on the union's books being kept open.

The CHAIRMAN: I am satisfied that the amendment is in order, because on several important points it differs from the original paragraph that has been struck out. However, it would be only fair to the Committee if Mr. Seddon withdrew his amendment and brought it up again on recommittal. That would give members an opportunity to study it.

The COLONIAL SECRETARY: The Committee should have opportunity to study the amendment. I suggest to the hon. member that he withdraw it, and move it again on recommittal.

Hon. H. SEDDON: I will withdraw the amendment.

Amendment by leave withdrawn.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. A. LOVEKIN: I move an amendment—

That in Subclause (6) all the words down to "worker" inclusive in line 3 be struck out, and the following inserted in lieu: "By inserting after the word 'service' in the interpretation of 'worker' the words 'except such persons as are employed as domestics or nurses in private or public hospitals, boarding-houses, hotels, restaurants and public institutions.'"

The Government propose to strike out of the Act the words "but shall not include any person engaged in domestic service," thereby permitting an industrial agreement or award to be made in the case of domestics. I object to having the sanctity of the home invaded by officers of the union, and to the posting of notices, the keeping of time books, etc. It is sufficient to have that in one's business. I feel, however, that in some restaurants and other places these unfortunate girls are called upon to do a little more than they ought to do. I, therefore, propose to allow them to get an award where they are employed in any industry, but that this should not apply to domestics employed in private houses. I would go further than the Government, and apply this Bill also to nurses who are employed in institutions. I am told that some of the nurses in the Perth Hospital have to work seven days a week for three weeks at a stretch, and about 12 hours a day. That is too much. I am surprised that the Government did not include them in this Bill, and that it should be left to a private member of this House to put forward the proposal. Of course, the contention of Labour supporters is that if they cannot get the whole loaf, they will not accept any.

The COLONIAL SECRETARY: Mr. Kitson is very anxious to deal with the paragraph relating to insurance canvassers, but has been called away to Fremantle tonight. I move—

That further consideration of this clause be postponed.

Motion put and passed.

Clause 3—Amendment of Section 6:

Hon. A. LOVEKIN: I move an amendment—

That all the words after "omitting" in line 1 be struck out and the following inserted in lieu: "in paragraph (a) the word 'fifty,' and substituting the word 'fifteen.'"

It takes 50 employers to form a union, but only 15 workers. In my view, employers who employ 15 workers should also be entitled to form a union, and should be placed on the same plane as the workers. There are various industries, but there is no com-

posit union of employers. They cannot take their employees to the court, although the employees can take them. There are a lot of small industries and the employees, if they number 15, can take the employer to the court. In the case of the employer, however, two would have to join up in order to approach the court. In the case of a company, if it is employing 50 persons, that company can register. The position is not fair. Take the printing industry as an example. The "West Australian" has been able to register, because it is a company, but if I want to go to the court I must do so through the "West Australian." That does not seem to be quite fair. I am not wedded to the number 15, but I think "50" should be reduced, otherwise we shall cut out those employers engaged in small industries, and at the same time we shall give employees the right to worry the employers in the court.

Hon A. J. H. SAW: As a matter of equity, if 15 employees can take two or more employers to the court, two or more employers should be able to take 15 employees to the court.

Hon. T. MOORE: Mr. Lovekin wants an employer to be a union unto himself if he employs 15 or more persons. That would lead to chaos; instead of industrial peace there would be turmoil. I hope the Committee will not agree to the proposal because it would only mean endless trouble.

Hon. J. NICHOLSON: The original Act provides that any society consisting of (a) in the case of employers, of two or more persons who have in the aggregate throughout the six months next preceding the date of the application for registration employed on an average taken per month not less than 50 workers, or (b) in the case of workers of any number of workers not less than 15; then it goes on to say that they may, on passing the necessary resolution, register as an industrial union.

Hon. T. Moore: Do you wish that to happen in the printing industry, as suggested by Mr. Lovekin? There would then be a multiplicity of unions.

Hon. J. NICHOLSON: If the hon. member will refer to paragraph (b) of the section in the Act he will see that there must be not less than 15. There can, however, be as many more as anyone likes. Take, for example, some of the small trades. There may be only a few men engaged, and if there are 15 they can register as a union of workers. Take the case of the employers. Suppose the trade is such that there are only 15, 20 or 40 engaged in it, the workers themselves could, under the clause as it exists, become registered as a union, but because there is not a sufficient number of employers employing actually 50 workers, they could not register as a union. The employers could not register themselves as a union, and accordingly they would be deprived of the advantage of citing a case before the Arbitration Court. If 15 is a sufficient number of workers to form a union, surely in the case of two or more employers who employ 15 persons, it is a fair thing that they should be able to register as a union. The court would not allow indiscriminate registration of unions; the court has complete control over that. The mere fact of there being 15 members would not entitle them to form a separate union. I support the amendment.

Hon. J. M. MACFARLANE: I feel satisfied that Mr. Lovekin is correct. If Mr. Lovekin is not in harmony with the body through which he has to work, he should be allowed to proceed on his own account.

Hon. A. LOVEKIN: I had no intention of citing a personal case. There are small industries that cannot muster 50 men.

Hon. E. H. HARRIS: I see no reason why an employer should be denied registration, or why he should not be permitted to take his employees to court, even if it is not convenient for him to employ 50 men. The South Australian Act provides that the court shall have jurisdiction to deal with matters submitted to it by an employer or employers of not fewer than 20 employees in the industry concerned, or by a registered association of employers whose members, or some of whose members, employ 20 employees.

Hon. J. CORNELL: The amendment is not a serious one because it would apply only to small industries in which there was no registered body of employers.

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

Clause 4—Amendment of Section 10:

Hon. J. CORNELL: Consequential on the amendment just passed, we should delete this clause.

Clause put and negatived.

Clause 5—Amendment of Section 19:

The COLONIAL SECRETARY: I move an amendment—

> *That the following words be added to the clause—"and by adding thereto the following words: 'but this section shall not have effect so as to prevent the registration of the Westralian branch of the Australian Workers' Union.'"*

It is practically impossible for the A.W.U., as a union, to get to the court, though sections such as those covering the pastoral and mining industries are registered. It is practically impossible for the A.W.U. to carry out the provisions of the Act as regards taking a ballot. Its members are widely scattered throughout the State and are engaged in various occupations. It is desirable that the A.W.U. should be registered.

Hon. J. CORNELL: I would like the Colonial Secretary to defer his amendment in order that we may first decide whether a principle that has operated for 22 years shall be altered. I want to leave the Act as it is, saying that the registrar "may," whereas the clause proposes that the registrar "shall." There has not been a single instance during 22 years of the abuse of the power implied by the word "may."

The CHAIRMAN: Does the hon. member wish to move an amendment?

Hon. J. CORNELL: I shall vote against both proposals.

The CHAIRMAN: The amendment before the Chair is that which has been moved by the Colonial Secretary.

Hon. J. CORNELL: The Colonial Secretary has said that his amendment is necessary to secure registration of the A.W.U. That means that by Act of Parliament we are going to register a union, putting that union above the law. Under the existing law, a union before it can be registered must apply to the registrar for registration; and that officer may refuse registration if, in his opinion, there is in the locality another union to which the members of the proposed union may conveniently belong. I understand that the A.W.U. has applied to the registrar for registration, and on its constitution has been refused registration by him, and also, on appeal, by a judge of the Supreme Court. Registration by a registrar or by a judge does not mean registration for all time; but registration by Act of Parliament means registration for all time, until the Act has been repealed.

The COLONIAL SECRETARY: There is a precedent, of which Mr. Cornell must be aware, in the Act of 1912, Section 5 of which practically registered the Metropolitan Shop Assistants and Warehouse Employees' Union of Workers. Section 101 in the same way registered, in effect, the Government railway workers.

Hon. J. Cornell: Do any qualifications attach to those provisions?

The COLONIAL SECRETARY: We understand that at present the A.W.U. cannot be registered, for the simple reason that it does not belong to a specified industry. It is desirable that the A.W.U. should be registered, and that is the reason for this provision.

Hon. E. H. HARRIS: When the 1912 Act was framed, one of its objects was to prevent the registration of composite unions. Registration was to be confined to people working in a specified industry. The scope of the A.W.U. in Western Australia covers practically all the industries, primary and otherwise, existing here. Under this clause a union of 15 members could be formed to cover all the industries from Wyndham to Eucla; and that union could obtain from the Arbitration Court an award for any and every trade or calling coming within the union's scope. If the A.W.U. comprised one domestic servant, or even if it had not one in its membership, yet it could take the employers to court and obtain an award for domestic servants. That was never contemplated when the Act of 1912 was framed. Several attempts have been made by the A.W.U. to obtain registration. The last on record is in 1922. That application was opposed by 20 odd unions registered in Western Australia, including 15 of the largest organisations here. After a very lengthy hearing the president of the Arbitration Court decided that under the constitution of the applicant society, and having regard to the Act, registration could not be granted. Opposition to the application came from the Western Australian Amalgamated Society of Railway Employees' Industrial Union of Workers, the Amalgamated Society of Engineers, the Australian Society of Engineers, the Federated Engine-drivers and Firemen's Union, the Australian Meat Employees' Industrial Union, the Master Butchers' Union of Employers, and the Master Builders and Contractors' Industrial Union of Employers. In the course of a lengthy judgment Mr. Justice Draper clearly stated that as the A.W.U. was constituted, it could not secure registration. The A.W.U. has, in fact, two registrations. One of them covers the employees in the metalliferous mining of Western Australia. I claim that the A.W.U. can now be registered. On several occasions it has been pointed out to that union that it can register in sections. Certainly it was never contemplated that there should be one big composite union catering for every class of employee in Western Australia.

Hon. J. Nicholson: It could take the power out of the hands of the individual unions.

Hon. E. H. HARRIS: I do not know that; but if this amendment is carried, and also an amendment which will come up later, there could be one big organisation which would be able to prevent the registration of any other organisation, and thereby create a monopoly of unions in Western Australia. Such a monopoly, I submit, would not be in the interests of the workers.

The Honorary Minister: Where has the A.W.U. opposed registration of unions? You have been speaking of opposition to the A.W.U.

Hon. E. H. HARRIS: The A.W.U. opposed the registration of the engine-drivers and firemen's union. If the registrar does not grant registration, or even if he does, there is an appeal to the president of the Arbitration Court, who, I submit, is the proper authority to decide finally whether registration should be granted or not. The argument has been used that it is inconvenient to belong to other organisations. That is a point for the president of the Arbitration Court to decide in the last resort.

Hon. J. R. Brown: Politically inconvenient.

Hon. E. H. HARRIS: It may be politically inconvenient or industrially inconveniently. If registration is given to the A.W.U., as suggested, it may lead to the creation of one big union in Western Australia, and that will not be in the interests of the State.

The HONORARY MINISTER: The amendment is the outcome of a promise given by Sir James Mitchell, when Premier. Hon. members realise the ramifications of the A.W.U., which extend into the back country. They are registered in some sections such as the shearers and the metalliferous section.

Hon. E. H. Harris: Why not have a shearing section of the union?

The HONORARY MINISTER: The hon. member is well aware that Sir James Mitchell assured the A.W.U. that provision would be made for the registration of the organisation. Mr. Dodd is a recognised authority in these matters and he contended that the A.W.U. could be registered. We discussed the matter but he arrived at the conclusion that they could not be registered. Every avenue has been explored to secure registration but without success.

Hon. E. H. Harris: With one exception.

The HONORARY MINISTER: There was no exception at all. We endeavoured by every means to secure registration.

Hon. V. Hamersley: In order to become an octopus.

The HONORARY MINISTER: Mr. Harris was endeavouring to mislead the Committee, unconsciously, of course.

Hon. E. H. Harris: I did not attempt to mislead the Committee, and I ask for a withdrawal of that remark.

The HONORARY MINISTER: I did not suggest that the hon. member attempted to mislead the Committee wilfully, but his long experience in industrial matters may have influenced the Committee to some extent. Sir James Mitchell, when approached on the subject, contended that the A.W.U. could be registered. His assertion was combated and he told the A.W.U. representatives that if they had explored every avenue and could not secure registration he would introduce legislation to make it possible.

Hon. J. Cornell: Was that at election time?

The HONORARY MINISTER: No, long before the election. No opportunity offered, however, for the introduction of that legislation and it is now advanced. Even the Minister for Labour (Hon. A. McCallum) was satisfied that the Bill in its original form was adequate to overcome the difficulty, but now he recognises that that is not so, hence the amendment. I have played some little part in the settlement of disputes, particularly in the back country, but those disputes would have been settled more amicably and more satisfactorily had the men been able to approach the Arbitration Court to have their grievances redressed. One hon. member said he was puzzled how to deal with this proposition. The way is easy, if we provide for the registration of the union so that they may approach the court and settle their difficulties. There is no question of the union being an octopus, as suggested by Mr. Hamersley. It is better to provide for registration, the alternative to which is resorting to the cranky method of striking. If we permit the A.W.U. to be registered, the question whether awards are accepted or rejected is a matter for future consideration. If the union is registered, we can then deal with it.

Hon. J. Nicholson: Could not the union be registered in sections applying to the various industries?

Hon. J. R. Brown: Divided we fall.

The HONORARY MINISTER: That is not possible, because the union includes a large proportion of men who work some months in the year as shearers, later on in the mines, and perhaps drift to Perth, where they work as navvies. In the interests of industrial peace let us agree to the organisation being registered.

Hon. J. Nicholson: Could not you provide safeguards?

The HONORARY MINISTER: That might be possible but I do not see the necessity.

Hon. J. Nicholson: The organisation could create strikes in the various sections of industry.

The HONORARY MINISTER: But if the union is registered we could get busy.

Hon. J. Cornell: Why camouflage the position? Part of the organisation is registered already.

The HONORARY MINISTER: The shearers' section relates to a specific industry. The casual employment is what we want to cater for. I do not desire any industrial strife that can be avoided. The amendment will make for industrial peace.

Hon. E. H. HARRIS: The point is whether or not we should have a composite union. Mr. Hickey knows that all the various sections of the A.W.U. could be registered individually. The "Industrial Gazette" for the quarter ended 30th June last shows that amongst the unions registered at the Arbitration Court is the A.W.U. West Australian Pastoral and Agricultural Union of Workers with 142 members, the mining branch of the A.W.U., Kalgoorlie, with 1,592 members, and the mining branch of the A.W.U. at Cue, the number of members not being stated. According to the list, four registrations have already been effected. I submit that all the various sections of the A.W.U. could be registered, but not as one composite union. Another

important feature of that union is that it may not be governed in Western Australia; for, under Rule 34, the rules of the union are binding on all members, whether working in New South Wales, Victoria, South Australia, Queensland, Western Australia, Tasmania, the Northern Territory or Papua. That in itself is enough to induce members of industrial organisations who believe in craft unions to strenuously object to any registration that may seek to cover all the members of the A.W.U.

Hon. J. CORNELL: Mr. Hickey has had a fairly long connection with the A.W.U. and I myself was with that union in 1891. The amendment entails a violent change in the old order. Previously all unions have had to satisfy the registrar that their ambit is confined to a recognised industry. The A.W.U. in this State is but a late-comer. When the parent Act was passed, that union was restricted to shearers. If and when a representative conference of registered unions in this State say they are prepared to throw overboard the form of registration they have worked under for the past 22 years and come out as one big union, I will withdraw my opposition to the amendment. But until then I am not prepared to give consideration to a union that broke away from the law and organised on a new basis. Several sections of the A.W.U. are registered, and all the other sections could register. But what they want is specific recognition on a basis different from that with which 80 per cent. of the unions of the State are satisfied.

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

Ayes	4
Noes	16
Majority against ..	12

AYES.

Hon. J. M. Drew	Hon. T. Moore
Hon. J. W. Hickey	Hon. J. R. Brown
	(Teller.)

NOES.

Hon. A. Burvill	Hon. G. W. Miles
Hon. J. Cornell	Hon. J. Nicholson
Hon. J. Ewing	Hon. A. J. H. Saw
Hon. J. A. Greig	Hon. H. Seddon
Hon. V. Hamersley	Hon. H. A. Stephenson
Hon. E. H. Harris	Hon. H. Stewart
Hon. A. Lovekin	Hon. H. J. Yelland
Hon. J. M. Macfarlane	Hon. J. Duffell
	(Teller.)

PAIRS.

AYES.	NOES.
Hon. W. H. Kitson	Hon. J. J. Holmes

Amendment thus negatived.

Hon. J. CORNELL: I am opposed to the clause, because I desire to leave with the registrar the same discretionary power he has enjoyed for 22 years, We have been fortunate in having as occupants of that position such a man as Mr. Bennett and Mr. Walsh, neither of whom has ever exceeded his authority.

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

Ayes	4
Noes	16
Majority against ..	12

AYES.

Hon. J. R. Brown	Hon. J. W. Hickey
Hon. J. M. Drew	Hon. T. Moore
	(Teller.)

NOES.

Hon. A. Burvill	Hon. G. W. Miles
Hon. J. Cornell	Hon. J. Nicholson
Hon. J. Duffell	Hon. A. J. H. Saw
Hon. J. A. Greig	Hon. H. Seddon
Hon. V. Hamersley	Hon. H. A. Stephenson
Hon. E. H. Harris	Hon. H. Stewart
Hon. A. Lovekin	Hon. H. J. Yelland
Hon. J. M. Macfarlane	Hon. J. Ewing
	(Teller.)

PAIRS.

AYES.	NOES.
Hon. W. H. Kitson	Hon. J. J. Holmes

Clause thus negatived.

Clause 6—agreed to.

Clause 7—Amendment of Section 42:

Hon. J. EWING: I move an amendment—

That all the words after "forty-two" in line 3 be struck out and the following inserted in lieu:—"The Court shall consist of a President appointed by the Governor. The President shall be a Judge of the Supreme Court. The President shall not be required to perform any duties of Judge of the Supreme Court during his appointment as President of the Court of Arbitration, and his appointment shall not prejudice any rights or privileges he may have or be entitled to as Judge of the Supreme Court.".

It has been said that in the past the court has not been able to sit as continuously as people desired, and that this has led to a great deal of congestion. Of late, however, many matters have been cleaned up. My amendment will overcome a great deal of the trouble. The President would not be called away from his work, and would be available at all times for these particular duties. If at the end of 12 months' trial of this proposed system, congestion was in evidence, it would be possible to consider the advisability of introducing the system of appointing a deputy president. The amendment also provides for doing without lay members of the court. I found, when I was a Minister of the Crown, that the lay members were working morning,

noon and night in the interests of the parties they represented. It has been said that they sat in the pockets of the judge. After the court had adjourned they were still with him, and the judge, instead of quietly and judicially coming to a conclusion on the evidence placed before him, had the representatives of the two parties urging him towards one side or the other. The abolition of these lay positions would make for greater efficiency and more expedition in the work. We must abolish the present pernicious system. There never has been any necessity for the lay members. Under Section 66 of the Act provision is made for assessors. I suggest that the judge should sit as the sole arbiter. If he required information regarding any particular industry he could call in an assessor from each side. Such assessors would sit on the bench with him only so long as that particular case lasted, and would advise him on matters of a technical nature. I acknowledge the good work that is done by Mr. McNeil and Mr. Somerville, the present lay members of the court.

Hon. J. R. Brown: They are better than any judges.

Hon. J. EWING: One, however, is opposed to the other, and it is the judge alone who decides. My object is to get a full time court so that there shall be no delay in arbitration matters. I know there will be controversy over this clause, because it is practically the crux of the Bill. For the first 12 months at any rate we may well be satisfied with a judge of the Supreme Court. An important line in the clause reads, "The President may be but shall not necessarily be a judge of the Supreme Court." I hope the Committee will be with me in connection with the amendment I have submitted.

Hon. J. R. BROWN: I have not altered my opinion that a judge is not a fit and proper person to adjudicate in the Arbitration Court. A judge has to get his information from laymen. I do not think Mr. Ewing knows what a judge's duties are and what are the duties of the laymen who are on the Arbitration Court bench. The laymen sit on either side of the judge and the judge goes along soliloquising and then falls asleep. He is not taking any notice of anything; the other fellows are doing the work. They take their notes home at night time, study them till midnight, and when the case is finished they compare their notes, and if they cannot agree, they wake up the judge and get him to have a look at them. Mr. Ewing wants to do away with the laymen. They are essential. The judge would be lost without them. The late Mr. George McLeod, of Kalgoorlie, once entertained Judge Rooth for an hour and a half in explaining the difference between the Industrial Arbitration and Conciliation Act and the Trade Unions Act. Mr. McLeod kept Judge Rooth awake for that length of time, and you cannot get a judge to listen for so long unless you are talking sound sense to him. Mr. Ewing has never had anything to do with the Arbitration Court or he would not have moved the amendment.

Hon. J. Ewing: I have indeed.

Hon. J. R. BROWN: If we are to cut out the laymen we shall be moving from the sublime to the ridiculous.

The COLONIAL SECRETARY: A Supreme Court judge cannot be expected to know all the technicalities of a trade. It is the business of the representatives of the employer and the employees to study these matters and they do so. If a judge had no assistance in that way, he would be entirely at sea.

Hon. A. LOVEKIN: The Minister has not grasped the point of Mr. Ewing's amendment. The Minister suggests the retention of the laymen and he said that were it not for them the judge would have some difficulty in arriving at a decision. The fact is that all three sit together, and if a new industry is before the court each of them has to learn the peculiarities of the particular trade, and as I have said before, the language of the industry. When the case is over they go into court, not as judicial and impartial assessors, but purely as partisans. I intend to propose a further amendment, having in view the same principle, and it is that when these matters are before the court the proper people to decide them shall be the judge who has a technical training to be able to weigh the evidence, and two practical assessors. The assessors are already provided for, but are useless because they have to sit with the court, and therefore instead of having a court of three, we get a court of five. If a judge requires help in any particular trade, he calls in two assessors with a knowledge of the industry. Under the present system neither of these gentlemen is of the slightest use to the judge. Many days have been taken up in trying to teach the court the terms used in the trade, so that the court may understand what it is arbitrating on. If there were two assessors, one an employee and the other an employer, possessing a knowledge of the industry, there would follow expedition in dealing with the case, and that would eliminate the congestion about which so much complaint has been made. Mr. Ewing's plan is sound.

The HONORARY MINISTER: Experience has shown that the laymen of the court are peculiarly fitted to cultivate an acquaintance with every industry and they are of great assistance to the judge. I have never seen a judge stampeded into giving a decision by the lay members or anyone else. Lay members have been of great assistance to the judge and a great factor in maintaining industrial peace.

Hon. T. MOORE: I hope the clause will be retained. I have yet to learn that either the Employers' Federation or the unions have asked that the lay members who represent them should be removed from the bench.

Hon. E. H. Harris: Did not they agree to it at a conference?

Hon. T. MOORE: I have not heard of it. In time to come this court will have greater work than it has had in the past. Some time ago I expressed the opinion that too much of the court's time had been occupied in dealing with the same kind of evidence in various cases. The setting up of a basic wage will overcome many difficulties and save much time in future. This is work for three men, and when they have determined the basic wage, we can expect industrial peace. Notwithstanding the disparaging remarks regarding the knowledge of the lay members, they are in a position to advise the judge of the effect of an award on other industries. It will be necessary to ascertain the effect of the basic wage on every industry.

Hon. A. Lovekin: But that is an economic question.

Hon. T. MOORE: And I do not desire a judge alone to deal with it.

Hon. A. Lovekin: No; get two competent economists.

Hon. T. MOORE: We have two competent economists in the lay members, who have acquired considerable knowledge. It would be a mistake to remove them for someone having a theoretical but not a practical knowledge. A supreme court judge could not delve so closely into the question of the basic wage, which is the crux of the whole position, as could a judge with the two lay members.

Hon. A. Burvill: Have those three men given satisfaction in the past?

Hon. T. MOORE: They have held the scales fairly. They have studied the cases, and they have a good grasp of economics and of the position occupied by this State in industry. This aspect should be carefully considered before the lay members are abolished. In many instances laymen have been appointed arbitrators and have given satisfaction to both parties. A judge has a knowledge of law, a tremendous study in itself, and while studying law he loses touch with industry. A judge is competent to decide points of law, but he is no more competent to decide matters of economics than is a man who has studied economics and is not a judge. There are several men in the State who, if placed on the bench, would give satisfaction because of their thorough knowledge of our industries.

Hon. H. SEDDON: If the court is to decide the basic wage, we must have a competent bench, and Mr. Moore has made out a strong case for the retention of the lay members. The deciding of the basic wage is almost purely a question of economics, and while I am not wedded to having a judge as president, a judge has the advantage of legal training and the ability to analyse evidence. Still, there are men trained in economics and possessing analytical minds, and thus a professor of economics would be able to give satisfaction equally with a judge. The basic wage will have to be determined once every 12 months, and the rest of the time will be occupied in dealing with technical matters. A judge with two assessors would be competent to deal with technical matters. The representative of the worker, able though he may be, could not give a practical decision on such diverse industries as the meat, electrical and blacksmithing trades. The employers' representative, on the other hand, could not give a decision on matters affecting banking, office practice, and engineering. For that reason neither the amendment nor the clause meets the case. There is ground for retaining the assessors for the determination of the basic wage.

Hon. H. STEWART: It is wrong in principle to have in a judicial capacity representatives of two sides that bring cases. Mr. Moore rightly pointed out that the present representatives of the employers and the employees, respectively, have had a good deal of practical experience, which would prove of great service in the determination of the basic wage. To my mind, the future success of the court depends firstly on the ability of the president, and secondly on a proper method of arriving at an economically sound basic wage. I fail to see that the experience of the present assessors must necessarily, in that connection, be the best available. Two assessors possessed of economic knowledge might be appointed by the Governor in Council to determine, in conjunction with the president of the Arbitration Court, what is an economically sound basic wage. Once the proper method has been arrived at, it probably will not matter much whether the basic wage is determined by one man, or three men, or five. On the second reading I said I was not wedded to the idea of having as president a man with the qualifications of a Supreme Court judge. Certainly, the president should be able to sift evidence; but one man who now graces this Chamber affords an illustration of what, apart from Supreme Court judges or professors of economics, are the qualifications that would admirably suit the position. My reference is, of course, to Mr. Dodd. The president of the Arbitration Court should be appointed for life. If the Chamber favours a president without assessors, then at the outset one or more deputy presidents should be appointed, so that, whether the judge is well or ill, there shall from the very inception be one or two understudies. This would ensure

continuity of policy and of purpose. The deputy presidents should have the same security of tenure as the president. While not actually engaged in the determination of cases, the deputy presidents could employ their time to great advantage in probing matters arising out of the functions of the court. The question of their salaries would be relatively unimportant.

Hon. A. J. H. SAW: A year or two ago, when the question of the appointment of a judge or otherwise to the position of president of the Arbitration Court was before this House, I expressed my opinion somewhat emphatically. I regret that Mr. Ewing's amendment brings up for simultaneous discussion two different principles: whether the position of president should be filled by a judge, and whether the Arbitration Court bench should include assessors. Personally, I would like those two entirely different questions to be separated, in order that one might exercise discrimination in voting. As regards the presidency, I am one of those who favour a judge for that high position, one of the most important offices in the State. The particular qualifications of a judge for the position are his legal training, which enables him to analyse and weigh evidence, and his experience and practice in the courts, which give him knowledge of the personal equation of witnesses —an important phase in judging of evidence. There is not only the spoken evidence, but the value of the person giving the evidence. A still more important prineiple is that we expect to have as occupant of this office a man of the highest probity and the strictest impartiality. It has been a tradition of the Australian and English benches that a judge shall be a man of the highest honour and strictest impartiality. Such a man is required for the position in order that his decisions shall carry due weight with the community. There must be the feeling that in giving his decisions the president is swayed by no personal consideration whatever. From the fact of a man being a judge and having security of tenure, he is more likely to be able to give absolutely impartial decisions. Therefore, I consider there are weighty reasons why the president should be a judge. As regards the assessors, I have said here previously that they are partisans, and that as partisans they should be on the floor of the court. I have thought over that statement of mine a good many times since. The remark, whether made previously or now, has no bearing whatever on the present lay members of the court, for both of whom I have a very high regard, and both of whom I know intimately. Both are men of the highest honour and of lucid mind. I am thinking more particularly of Mr. Somerville, with whom I have been associated in some respects for many years. One cannot meet that gentleman without being impressed with his lucidity of intellect and grasp of principle. The other lay member of the court, Mr. McNeill, has been a personal friend of mine for many years; and it is not necessary for me to speak of the esteem in which I hold him. However, the weakness of the position is that the lay members are appointed, the one by the Employers' Federation, and the other by the trade unions. From the very method of their appointment, they are expected to be partisans on the bench; and that undoubtedly is a great weakness. I think it would be much better if one man intimately acquainted with the needs and views of the workers, and another knowing thoroughly the outlook and viewpoint of the employers, were appointed by some other method. Once they are appointed, it would probably be better if they merely sat by the judge to give him advice on any matters regarding which he might desire information, or which they specially desired to bring under his notice; and then the award of the court should be the work of the judge himself, the laymen not participating in it otherwise than by advice. At present, I understand, the court's award is usually determined by the judge and one or other lay member, the other lay member nearly always dissenting. He is there as a partisan, and the particular award he would wish to give is one favouring the people who appointed him. They would not act quite the same as technical advisers, who might be called in occasionally. These particular gentlemen have a pretty wide knowledge of many industries because of the close attention they have devoted to that subject for many years past. While I was at one time prejudiced against the appointment of those members and thought that the verdict and judgment should rest with the president of the court, a good many objections to that have been removed. I am sorry that we cannot deal with the different matters concerned in the question before the Committee, but if the amendment be carried we may be able to differentiate between the position of president and those of the lay members of the court when before us in the form of a substantive motion. I hope that whatever happens the position of president will be left to be filled by a judge of the Supreme Court.

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

Ayes	12
Noes	6
Majority for ..	6

AYES.

Hon. J. Cornell	Hon. J. M. Macfarlane
Hon. J. Duffell	Hon. J. Nicholson
Hon. J. Ewing	Hon. A. J. H. Saw
Hon. V. Hamersley	Hon. H. A. Stephenson
Hon. E. H. Harris	Hon. H. Stewart
Hon. A. Lovekin	Hon. C. W. Miles (*Teller.*)

NOES.

Hon. J. R. Brown	Hon. J. W. Hickey
Hon. A. Burvill	Hon. H. Seddon
Hon. J. M. Drew	Hon. T. Moore
	(Teller.)

PAIR.

AYE.	NO.
Hon. J. J. Holmes	Hon. W. H. Kitson

Amendment thus passed.

Progress reported.

BILLS (3)—FIRST READING.

1, Supply Bill, No. 2 (£2,150,000).

2, Stamp Act Amendment.

3, Forests Act Amendment.

Received from the Assembly.

BILL—WAROONA-LAKE CLIFTON RAILWAY.

Received from the Assembly.

The COLONIAL SECRETARY: I move—

That the Bill be now read a first time.

Hon. A. LOVEKIN: I would like a ruling as to whether this is new business and whether, as such, it can be taken after 10 p.m.

The DEPUTY PRESIDENT: Under Standing Order 62, messages from the Legislative Assembly and formal business consequent on the receipt of such messages may be dealt with after 10 p.m.

Question put and passed.

Bill read a first time.

House adjourned at 10.11 p.m.

Legislative Assembly,

Tuesday, 2nd December, 1924.

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

QUESTION—FOREIGN IMMIGRANTS.

Mr. MANN asked the Minister for Lands: Is he aware that a large number of foreign immigrants, including Albanians, Serbians, and Slavs, are regularly arriving in this State, that many of them are stranded in the city, are sleeping in empty houses and are without food or means of obtaining food. Has he read the following paragraph appearing in the "Daily News" of 26th November:—"Jugo-Slavs. Migrants for Australia. London, November 25. A message from Marseilles states that the emigration of Jugo-Slavs is being diverted from America to Australia. The 'Cephee,' an ex-German mail boat, has arrived to undergo alterations for the purpose of emigrant traffic. She will proceed on December 1 to Ragusa, where she will embark 700 Jugo-Slavs. She will take on another 500 at Port Said. All are proceeding to Australia"?

The MINISTER FOR LANDS replied: I am aware that migrants other than British are arriving in this State. From 30th October to 23rd November the number was 529. Thirty-eight Albanians are receiving assistance from the State. I have noticed the Press paragraph referred to, but have no knowledge respecting it. This is a question that concerns the Commonwealth Government, to whom representations will be made.

BILLS (2)—FIRST READING.

1. Transfer of Land Act Amendment. Introduced by the Minister for Justice.

2. Plant Diseases Act Amendment. Introduced by the Minister for Agriculture.