Legislative Council,

Tuesday, 9th October, 1900.

Papers presented—Federal House of Representatives W.A. Electorates Bill, third reading—Public Service Bill, in Committee, reported—Contractors and Workmen's Lien Bill, second reading (rejected)—Truck Act Amendment Bill, second reading—Constitution Amendment Bill (Members of Federal Parliament, to disqualify), first reading—Distillation Bill, first reading—Kalgoorlie Municipal Loans Reappropriation Bill, first reading—Industrial Conciliation and Arbitration Bill, second reading (adjourned)—Adjournment.

THE PRESIDENT took the Chair at 4·30 o'clock, p.m.

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: 1, Returns relating to the import, export, and shipping trade of colony for half-year ended 1900, with gold export and production for seven months ended July, 1900; 2, Statistical abstract for September, 1900; 3, Department of Agriculture, supplementary report for the half-year ended June, 1900.

Ordered to lie on the table.

FEDERAL HOUSE OF REPRESENTATIVES W.A. ELECTORATES BILL.

Read a third time, and returned to the Legislative Assembly with an amendment.

PUBLIC SERVICE BILL.

IN COMMITTEE.

Resumed from 3rd October.

Clauses 44 and 45—agreed to.

Clause 19 (postponed)—Compulsory Insurance:

Hon. J. M. SPEED moved that the clause be struck out, and the following inserted in lieu:—

(1.) The Minister of every Department shall and is hereby empowered to deduct monthly from the salary of every civil servant a proportionate amount equivalent to Two pounds per centum per annum on the salary for the time being paid to any such civil servant, and such amount shall be paid into the Government Savings Bank to the credit of a fund to be called the Civil Service Fund.

(2.) Upon the retirement of any civil servant from the Public Service by reason of retrenchment, retirement, resignation, or otherwise, such civil servant shall be entitled to receive from such fund the amount of such deduction with, if such amount shall be under One hundred pounds, interest after the rate of three per centum; if such amount shall be One hundred pounds or over, interest after the rate of two and a half per centum, to be calculated upon the amounts from time to time paid into the credit of the said fund on behalf of such civil servant.

(3.) In the event of the death of any civil servant the amount standing to the credit of such servant, with interest as aforesaid, shall be paid to the widow or representatives of such civil servant: Provided that such widow or children shall be entitled to receive the same freed and discharged from all debts, claims, and demands provable against the estate of the deceased, save funeral expenses, and that the receipt of such widow or children, as the case may be, shall be a sufficient discharge therefor.

(4.) Notwithstanding anything in this section to the contrary, it shall be lawful for the Minister, in addition to any other remedies, in the event of the misconduct, defalcation, or wilful negligence, or default of any civil servant, to retain all amounts standing to the credit of such civil servant in the said fund, and to receive and pay the same into the Treasury to the credit of the General Revenue, subject to right of inquiry as in this Act provided.

The Committee were not satisfied that the original insurance clause was one which could be properly applied to civil servants. By the clause now proposed, provision would be made in the event of death, resignation, or retirement, and it would also act as a guarantee fund to the Government. He had seen several civil servants about the amendment, and they did not appear to object to it. If the Committee desired, amendments might be made, because he was not wedded to the exact wording of the proposed new clause, which would, however, prove more satisfactory than the original clause.

HON. R. S. HAYNES: The proposed amendment would not be advisable, because it would apply to every person in the civil service who made provision by insuring his life, and he suggested that the following words might be inserted in Sub-clause (1) in line three, after "civil servant," "who has not insured his life in any insurance office to the satisfaction of the Minister." He regarded the original clause as a good one, and he hoped it would not be struck out.

HON. A. B. KIDSON: It would be exceedingly inadvisable for the Committee to hurriedly pass a clause of such a far-reaching nature. There was no provision as to how interest was to be charged or how the fund was to be invested, and the clause opened the door to wide

possibilities. Neither the original clause nor the proposed new clause was acceptable, and it would be far better not to tinker with this question, but to let it stand over until a proper scheme of State insurance had been decided on, as in other places. For these reasons he would vote against the amendment.

HON. F. WHITCOMBE suggested that in lines seven and eight of Clause 19 the words "and increased from time to time" be struck out. He was perfectly in accord with the proposal to strike out the clause, but, supposing it were the opinion of the Committee that the principle of insurance be included, the power of the Minister to increase the policy of insurance should not be allowed.

HON. A. JAMESON: The clause ought to be struck out, because, to allow it to remain would do an injustice to civil servants. The Truck Act, by Section 4, already provided that there should be no contract or stipulation as to how wages should be spent, and the Government, like outside employers, ought not to be allowed to make such a stipulation. It was not right in principle, and appeared to him unjust, not to say immoral, to dictate to individuals what they were to do with the fruits of their industry. It had always been recognised that a man might do what he liked with what he earned, and it was a first principle that Parliament had to protect those who might be dealt with in that way. He should be very sorry to see the clause pass, because, in addition to the reasons he had given, it was impracticable in so far as there might be very many useful civil servants, who were physically unfit to pass an insurance office examination, and might have to pay an enormous fee. The old system of pensions was much better, because it rendered the service secure, and practically gave the man a life interest instead of a mere passing interest in the service. The clause would act very harshly, and he hoped it would be struck out.

The COLONIAL SECRETARY: The proposed new clause would not meet the necessities of the case by any means, but would probably put civil servants in a worse position than would the clause. Clause 19 was inserted in the Bill in the other House, and perhaps had not received that full consideration it would have done had it been in the original Bill. As Dr. Jameson had pointed out, the clause might possibly work hardship to some of the civil servants, who were excellent officers, but who might not be able to pass a medical examination. He took it that the insurance clause would not apply to those already in the service.

HON. A. B. KIDSON; It would apply to every fresh appointment.

THE COLONIAL SECRETARY: In that opinion he was not inclined to concur; but, in any case, this was a minor matter. Mr. R. S. Haynes had pointed out a fatal defect in the clause in reference to those civil servants already insured, and another objection had been indicated by Mr. Kidson in regard to the interest and investment of the money. The proposed new clause was complicated, and he would have liked to ask Mr. Speed whether he had thought it out carefully and ascertained how it would work in practice. He recognised that the desire of the person who moved the clause in the other House, and also that of Mr. Speed, was to encourage thrift on the part of civil servants.

HON. F. WHITCOMBE: To compel it.

THE COLONIAL SECRETARY: If thrift could be encouraged it was most desirable, but it would be very much better to bring in a special Bill for that purpose. Apart from Clause 19, the Bill would be a useful measure, and he had no objection, so far as the Government were concerned, to the clause being struck out.

HON. J. M. SPEED: It appeared to be admitted that Clause 19 should be struck out. As to the investment of the money, if it were paid into the Government Savings Bank, it would be invested in the same manner as by any other person in the community. No Act of Parliament was required to enable a man to pay a sovereign into the Savings Bank.

A MEMBER: The Savings Bank Act did that.

HON. J. M. SPEED: In regard to the interest, he did not pretend to be an authority, but he did not see there could be much trouble under that head, because it was clearly shown that the interest was on the amounts paid, and not interest on interest. He did not

think it would be an injury to civil servants, and by having the payments made monthly officials would not feel the amount of money being taken from them. The Truck Act was passed on very different grounds. If the people themselves said that the Government could withhold a certain portion of the money for a certain purpose, that was different from a private employer doing so, but there was no objection to an employer withholding money from an employee if it was done in a proper way.

HON. D. M. McKAY: In the event of a civil servant dying a few months after contributing in the way suggested, there would only be a few pounds left to the widow and children, whereas if the officer's life had been insured the full sum would be paid.

Motion (to strike out the clause) put and passed, and the clause struck out.

Clause in lieu put, and negatived on the voices.

Preamble and title—agreed to.

Bill reported with amendments, and the report adopted.

CONTRACTORS AND WORKMEN'S LIEN BILL.

SECOND READING.

HON. J. M. SPEED (Metropolitan-Suburban), in moving the second reading, said: This Bill is practically taken from the New Zealand Act. We passed the Workmen's Wages Act in 1898, but that law only applies to questions between workmen and contractors. It affords no protection to contractors and sub-contractors. This bill should have been passed along with the Workmen's Wages Act, in order that contractors would be able to obtain certain remedies against owners. In cases were a man mortgages his property, it is possible for a contractor to put a large amount of labour and time into a work on another man's property, and it may be that the mortgagee will step in and take the benefit which the contractor has put on the land. In other cases, such as the repair of a steam engine, if a man takes a steam engine to a workman to get it repaired, the workman who does the work has the right to hold that steam engine until he is paid, but if the workman goes to where the steam engine is and does not take the steam engine to his workshop, then he has no right of lien. This Bill provides that the workman shall have a right amongst other creditors. I do not know that it is necessary for me to go into the Bill at length. The law has been in force for a considerable time in New Zealand, and I am informed it has worked satisfactorily there.

HON. F. WHITCOMBE: That is no recommendation.

HON. J. M. SPEED: I do not say that every Act that comes from New Zealand should be passed here, but when we find that an Act has worked well in another colony, and has proved satisfactory, there is no reason why one-half of the measure should be adopted here and the other half not adopted. I have no doubt that if the Government draftsman who prepared the Workmen's Wages Act had been aware that this Bill was in existence and was worked in conjunction with the Workmen's Wages Act, he would have been in favour of introducing both of those measures to the House at the same time. No doubt next year we shall have a consolidating measure passed embracing the Truck Act, the Workmen's Wages Act, and this Bill, because having a number of Acts on the statute book is confusing: it is far better for those who have to deal with these Acts to have one consolidated law. I have no doubt hon. members have been through this Bill; therefore it is unnecessary for me to refer to it clause by clause. The Bill deals with the declaration of the rights of lien and charge, and how the lien or charge is to be established. The duty and obligations of employer and superior contractor, and then there is the enforcement of the lien or charge, and proceedings can be taken in the Local Court, Supreme Court, or Warden's Court.

HON. F. WHITCOMBE: Or Resident Magistrate's Court.

HON. J. M. SPEED: There are also remedies against land, and then there are general provisions in regard to enforcing liens on personal chattels. The last clause of the Bill repeals Sub-section 2 of Section 4 of the Workmen's Wages Act, which provides that proceedings can be taken under that Act for any sum under ten pounds. It seems absurd that if an employer owes a workman £10 5s.,

no proceedings can be taken under the Act, but if he owes £9 15s. proceedings can be taken. Whatever the claim may be, the right ought to be exercisable by the contractor or the employee, as the case may be

HON. H. BRIGGS (West): I second the motion.

HON. D. M. McKAY (North): I protest emphatically against the second reading of this Bill. It is nothing short of a bold attempt to outrage the common sense of this House. It is an *ex parte* Bill; it is an audacious Bill; it is a piratical Bill; it is a rabid, radical innovation that should not be tolerated. Its effect would be to put owners at the mercy of unscrupulous men, and to create no end of litigation, two possibilities certainly to be deprecated. I can speak to my sorrow as to the latter one. I may say there is not an hon. member in the House who is more solicitous to see the employee get justice than myself, but I want to be just to both employer and man at the same time.

HON. J. M. SPEED: How many of your electors will this Bill affect?

HON. D. M. McKAY: From ten years of age, up to the time I came to this colony, I was an employee, and perhaps I may be so again, but I hope I am not snob enough to forget the fact. I mention this to show that I am not biassed to one side or the other. I trust members will relegate this Bill to six months hence.

Question put, and negatived on the voices.

Second reading thus rejected.

TRUCK ACT AMENDMENT BILL.

SECOND READING.

HON. J. M. SPEED (Metropolitan-Suburban), in moving the second reading, said: I suppose this Bill will meet the same fate as the one which has just been rejected, and it would seem that measures of this kind have to be passed in another place before it is possible to pass them here. The Bill is merely an amendment of one section of the Truck Act dealing with the right of the employer to retain money for medical attendance on working men. This system of deducting from wages for medicine and medical attendance has been found on the goldfields and elsewhere to work a large amount of injustice to the men, and not only to the men, but also to friendly societies, the unanimous support of which is given to the Bill. These societies urge, and rightly too, that men who are obliged to pay their employers a shilling a week for medical attendance, cannot afford to, at the same time, contribute to friendly societies; and, furthermore, workmen have no means of obtaining from employers a proper return of the manner in which the moneys have been expended. The Bill only strikes out a few lines in the various sub-sections of the Act.

HON. A. P. MATHESON: It would be better to show the House how the section will read as amended.

HON. J. M. SPEED: Sub-section 2, when amended, will read:

> Where an employer or his agent supplies or contracts to supply to any workman any fuel, materials, tools, appliances, or implements to be used by such workmen employed in his trade, labour, or occupation.

Sub-section 7, as amended, will read:

> Nor to prevent such employer from making or contracting to make any deduction or stoppage from the wages of any such workman for or in respect of any such rent, fuel, materials, tools, implements, hay, corn, provender, victuals, or drink as aforesaid.

Sub-section 8, as amended, will read:

> Nor shall prevent any employer from advancing to any workman any money to enable the workman to take up his engagement or to be by him contributed to any friendly society, life assurance company or association, savings bank, or other society or association whatever, or from advancing any money for the relief of such workman or his wife or family in sickness, or from advancing any money to any member of the workman's family by his order, nor from deducting any such sum or sums of money as aforesaid from the wages of such workman.

The object of striking these words out is to prevent the employer contracting *in futuro* with the employee. If the employer choose to pay any sum, it is a proper thing that the employee should pay it back, but if the employer makes a contract *in futuro* and is allowed to deduct the amount from wages, the principal effect of repealing the words in the other sub-sections will be lost.

HON. M. L. MOSS (West): I have much pleasure in seconding the motion for the second reading of the Bill, which I regard as a beneficial measure. Representations have been made to me by a very large section of the friendly societies in the colony, in reference to an abuse which exists at the present time in per-

mitting employers to deduct from wages contributions for medicine and medical attendance. I have it on the authority of persons of large experience in the working of friendly societies, that the present method is operating very detrimentally against these societies, and particularly, I believe, in reference to the Foresters 'lodges on the goldfields. The principal officer of that order resides at Fremantle, and he has made direct representations to me in the matter, and he, having travelled throughout the length and breadth of the goldfields and visited all the lodges, says the methods adopted by large employers operate to the very great detriment of the societies. I presume in other portions of the colony where large numbers of working men are banded together, such as we may find at the Collie and other places, the same kind of thing exists; and this small Bill deserves favourable recognition at the hands of hon. members.

HON. C. SOMMERS (North-East): I have much pleasure in supporting the Bill. I have seen it stated in the goldfields Press that one medical man at Kalgoorlie receives something like £2,000 annually, consisting of sums deducted for medical services. It is a crying shame that such a thing should be allowed; and the working men say that if they had the disposal of the money, they would make a better arrangement than paying one man such an enormous sum.

HON. A. JAMESON (Metropolitan-Suburban): I will just say a word in support of the Bill. It is very desirable that medical attendance should be provided for all classes, but at the same time it is utterly opposed to the spirit of the Truck Act to deduct any sum from wages, however good the purpose may be. We have just passed a provision, refusing to allow a similar sort of thing to be done, and the House should support the Bill. I know great hardship has arisen in many cases from the deduction of moneys for medical attendance, and I can speak from large experience of friendly societies, which act very well indeed and answer all purposes. It is in every way better to leave this matter to the voluntary effort of the working man, and allow him to join any society he may choose; and I strongly support the Bill.

HON. A. P. MATHESON (North-East): I think Mr. Speed has made some slight mistake in his third amendment. Sub-section 8 of section 19 of the Truck Act empowers employers to advance sums of money to a workman "to take up his engagement or to be by him contributed to any friendly society, life assurance company, or association." The employer may also advance money for the relief of the workman and his family in sickness, or "to any member of the workman's family by his order"; and the employer may deduct or contract to deduct "any such sum or sums as aforesaid from the wages of such workman." I think Mr. Speed has been a little misled by the word "contracting," and thought it to apply to some power given to the working man or employer to contract out of the operation of the Act, or something of that sort.

HON. J. M. SPEED: If the words do not mean anything, why are they there?

HON. A. P. MATHESON: The words mean a good deal. They mean that the employer, before he makes advances which he is entitled to do under Sub-section 8, may contract with the person to whom he is making the advance, because obviously very few employers would be inclined to make advances without some agreement in writing as to repayment. I am prepared to support the other amendments proposed in the Bill, but I think Mr. Speed has been mistaken as to the intention of Sub-section 8, and I suggest he look into this matter when in Committee.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clause 1—Amendment of Section 19 of 63 Vict., No. 15:

HON. A. P. MATHESON moved that in lines 4, 5, and 6, the following words be struck out, "and the words 'or contracting to deduct,' in Sub-section eight of Section nineteen of the said Act." He had just looked into the Act again with Mr. Moss, who agreed that it would be a great hardship, both to employers and employed, if these words were omitted from the original Act, seeing they were the only security an employer had in making a contract with a workman to advance money for any purpose. This

proposed amendment of the Act had nothing to do with the main object of Mr. Speed's Bill, with which he (Mr. Matheson) was thoroughly in accord, because he knew a good deal of feeling had existed on the goldfields in regard to the deduction of a shilling a week for medicine and medical attendance.

MR. SPEED said he was prepared to accept the amendment proposed.

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

Preamble and title—agreed to.

Bill reported with an amendment, and the report adopted.

CONSTITUTION AMENDMENT BILL.

[MEMBERS OF FEDERAL PARLIAMENT, TO DISQUALIFY.]

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

DISTILLATION BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

KALGOORLIE MUNICIPAL LOANS REAPPROPRIATION BILL.

Received from the Legislative Assembly, and, on motion by the COLONIAL SECRETARY, read a first time.

INDUSTRIAL CONCILIATION AND ARBITRATION BILL.

SECOND READING.

THE COLONIAL SECRETARY (Hon. G. Randell), in moving the second reading, said: I think all hon. members will admit this is a very important Bill, and I think, speaking generally, it appeals to the sympathies of members of this House; at any rate I hope such is the case. A few years ago it would have been almost impossible to introduce legislation of this description into the Parliament of this country, but matters of social legislation are moving apace, and legislation of this kind is taking place in various parts of the world, especially in these Australasian colonies, and, in some respects, these colonies, in this direction, are setting an example to other and older States. The value of labour is recognised, and the rights of labour are much more recognised than they were a few years ago. As one who can almost remember the passing of the Reform Bill (at any rate I was acquainted with the excitement which had not subsided, and I was old enough then to take notice of it), and as one who had something to do with the repeal of the Corn Laws in England, I can estimate perhaps more fully than some hon. members can, the advances made in legislation of this description. In introducing a Bill of this kind I feel I may not be able to do justice to it. It is a Bill that requires very careful study, and I would have been glad if the measure had been placed in the hands of some hon. and learned member of this House to move the second reading; although I do not know that the legal aspect of the question is very difficult or intricate. The Bill, roughly, may be divided into two parts: the establishment of Boards of Conciliation, and a Court of Arbitration. That applies to the parties who will be affected by this Bill, and the unions may increase in number, so that the Bill in its scope may reach far and wide. This law has already been in operation in New Zealand for about four years, I believe. Although there have been differences of opinion expressed as to its working by persons of different sympathies I suppose, yet I believe the Bill is working very well indeed in New Zealand. I think I am justified in arriving at that conclusion from the fact that at this moment the Legislature of New South Wales has before it for consideration a Bill of a like nature. It was introduced by the Hon. B. R. Wise in a speech which is described as one of the most eloquent ever delivered in Australia on any subject.

HON. R. S. HAYNES: It has been severely criticised.

THE COLONIAL SECRETARY: No doubt the more eloquent the speech, the greater the opening for effective criticism upon it afterwards. I do not know that we need care very much about that, if the Bill is founded on principles of justice and equity and the provisions are carried out rightly and loyally to promote the interests of the community: that will be the test applied to this measure. The Bill may not be long in force before it is brought into operation. I hope it may be a considerable time before the provi-

sions of the Bill are called into requisition, and I hope that is the opinion of hon. members.

Hon. J. W. Hackett: Not the conciliation provisions.

The COLONIAL SECRETARY: Even conciliation, because if labour were on a good footing in the colony, and no grievances crop up to be conciliated, but that the employer and the employee were working in harmony together, that would be a most desirable state of affairs. That we have not had a great deal of trouble in this country, all of us, no doubt, are glad to say. We have had one specimen, however, which has made us look carefully into these things—I refer to the strike which took place not long ago, and which was likely to be very disastrous to the colony; the strike in the Railway Department. In that case the strikers found they did not carry public opinion with them, therefore the trouble came to a more speedy end than would otherwise have been the case. Possibly a lesson has been learned by the workers in this respect, which will be an advantage to them in dealing with employers in the future. I believe the Bill has had very careful consideration. As I have already said, it has borne the test of time and experience in another colony. It has also not only been introduced in the New South Wales Legislature, but I believe it is about to be, if it has not already been introduced, into the Parliament of Victoria. Therefore there will be three of the colonies of Australasia, at any rate, having this law in operation, and if the Bill is passed in this colony there will be four, the example no doubt being followed afterwards by other colonies of the group adopting the law. The Bill was very carefully and considerably amended in its passage through the Assembly, and we have now before us a measure which has therefore fully and fairly been considered from all points of view, every effort having been made to pass a workable and efficient measure. The first part of the Bill, in fact the whole question, I studied some few years ago, a little carefully, but I may say not very fully, and in studying the question I came to the conclusion that conciliation without a Court of Arbitration to follow would be of very little use indeed. I am borne out in that by what I have read since, and by what has been carried out in England. A considerable number of pamphlets were placed in my possession by a friend of mine a short time ago, and these assisted me in coming to the conclusion which I have mentioned. I think when a measure of this kind is to be introduced it should not stop short at conciliation, as it only deceives and disappoints. We should have a court which will be beyond question in its composition. I may say, first of all, that the country is to be divided into districts, and Boards of Conciliation appointed in the districts, under the provisions of the Bill. But there is to be a central power, a Court of Arbitration, which is for the whole colony, and over the deliberations of which it is intended a Judge of the Supreme Court shall preside. It perhaps will be only right and proper for me to say that two of the learned Judges of the Supreme Court have raised objections to their being called upon to sit as the presiding officer or judge of this Court of Arbitration.

Hon. R. S. Haynes: Not "presiding" at all: he is one of three.

The COLONIAL SECRETARY: The word "president" is used, that is the reason why I used the word "presiding." It is one Judge of the Supreme Court, not necessarily the same one always. Sitting with him will be one person chosen by the employers, and another chosen by the workers; and these will be experts selected for their intelligence and character, and especially for their knowledge of the disputes referred to the court. I will read to hon. members some of the objections which have been raised by two Judges and transmitted to the Government through the Chief Justice. These are two of the objections:

> Under this Bill a Judge presiding in open Court would be liable to have his opinion summarily overruled by two laymen, the one an employer the other a workman, whose decision is to be final. We can hardly imagine anything which would be more likely to lessen the respect of the public for the judicial office than such a procedure. But, again, this Arbitration Court will be called upon to adjudicate at times of great social and political excitement, and a Judge presiding would be brought, as it were, into the political arena. He would be exposed to the criticisms of hostile parties, as to his opinions on matters upon which the public would consider themselves as competent to give an opinion as the Judge himself.

On that point Mr. Wise, in introducing a similar Bill in the New South Wales Legislature, said he would have the concurrence of all hon. members, once they admitted the necessity for establishing a tribunal, that the tribunal must be a special one outside the present law, and one which must command universal respect. Mr. Wise went on to say he did not know how that respect could be better obtained than by the appointment, as president, of a Judge of the Supreme Court, and fortunately there were some Judges in that colony who had a good commercial training.

HON. R. S. HAYNES: What do the Judges in New South Wales say?

THE COLONIAL SECRETARY: I have not heard of any objections raised by Judges there, and a similar Act has worked very well in this particular in New Zealand. We must, of course, pay every respect to the opinions of gentlemen who preside over our courts, and give every weight to the opinions thus expressed; at the same time, I cannot help thinking the Judges have somewhat magnified the difficulties that will arise.

HON. R. S. HAYNES: Will the Colonial Secretary put the Judges' letter on the table of the House?

THE COLONIAL SECRETARY: I am not prepared to put the letter on the table, but there will be no objection to hon. members reading it. I may say it is the wish and desire of the Judges that the purport of the letter, at any rate, should be made known to hon. members, and it was requested that this should be done in the Assembly, but it was too late, the Bill having passed the third reading. This protest, if I may call it a protest, deserves every consideration at the hands of hon. members.

HON. J. W. HACKETT: Does the Chief Justice agree with those objections?

THE COLONIAL SECRETARY: I am unable to say. The objections were transmitted to the Chief Justice as Administrator, and I am not informed whether he has expressed an opinion, but probably he is in sympathy with the letter, as I think most English Judges would be, especially those who were a considerable way on the road of life. The answer to the objection is that a similar provision has acted very well in New Zealand, and no difficulty has occurred.

HON. J. W. HACKETT: It is the keystone of the whole Bill.

HON. F. WHITCOMBE: In New Zealand they appoint an acting Judge to preside over the court.

THE COLONIAL SECRETARY: There is apparently no such opposition in New South Wales. I do not know whether we can say the Judges of Western Australia have had good commercial training, but one, at any rate, has a great knowledge of colonial affairs, and of the business transacted in the colony.

HON. R. S. HAYNES: Only one Judge in New South Wales has commercial experience.

THE COLONIAL SECRETARY: Mr. Wise speaks of more than one Judge, but I do not know that it matters particularly. When we find New South Wales, and probably Victoria, following the example of New Zealand, we need not have much fear of the result, and, possibly, when we get the court into operation, the Judges will find none of the difficulties they anticipate. For instance, supposing, as is stated, the Judge was overruled by the two who sat with him; in that case, the Judge would not be called upon to express an opinion at all. I think we may safely accept the verdict of the representatives of the workmen and of the employers, if they agree, because, no doubt, they would be right; at any rate, the question would be ended at once, and, therefore, the Judge, who is the President of the Court, would not be in conflict with those whom I may call the assessors.

HON. R. S. HAYNES: Indeed, they are not assessors, but are equal judges with the Judge.

THE COLONIAL SECRETARY: There are further objections by the Judges, but these objections were removed during the passage of the Bill in the Legislative Assembly. The Board of Conciliation having met and considered the case submitted to them, and they being unable to arrive at an arrangement, the proceedings would fail if a Court of Arbitration were not established; but the court being established, the case is submitted for decision, and I do not know any court would give satisfaction

to the people of the country unless a Judge of the Supreme Court presided. The Judges are above suspicion, and their decision would be received with great respect by all persons, whether parties to the suit or not. This provision I regard as very wise, because I believe conciliation would be an utter failure unless we have further a court of arbitration. I do not know I need say anything more as to the general principle which prevails in the provisions of the Bill, and the object which the measure seeks to accomplish, and I will simply enumerate some of the matters dealt with in the Bill. It is a Bill composed of a number of clauses, and I find I shall have to move two small amendments in Committee; and I am sure hon. members will give every consideration and care in their treatment of the Bill. No doubt hon. members realise from our experience of two troubles in Fremantle, how necessary and desirable it is, if possible, to prevent war between employer and employed, and to constitute machinery to remove difficulties. Such, I am sure, is the opinion of members of this House and of the country at large; because nothing could be more disastrous to the community, except, of course, civil war, than to have the relationship between employer and employed—between capital and labour—in a strained condition, ever ready to unite their forces one against the other. If we can provide machinery to deal with these difficulties in a pacific, righteous, and proper way, a great deal will be accomplished; and I feel sure the Bill, which is very much a copy of the New Zealand Act, suited to our circumstances, will be a step in this direction. Without being considered a prophet, I feel sure both employer and employed will be very glad to make use of the machinery provided in the Bill, and we may reasonably anticipate that the best results will follow. There are, of course, infinite details in the Bill, and infinite speculation as to how this provision or that provision will act. There is an old saying, "You may take a horse to the water, but you cannot make him drink," and we may be unable perhaps — though I am not quite sure it is the case —to carry out to the fullest extent any decision which may be arrived at, or to compel any unwilling worker to return to work, or an unwilling capitalist to continue his factory or business if he find that it will not be to his interest to do so. But so far as I can gather, there is a desire on the part of both employers and employed to support the Bill, and take advantage of its provisions when necessity arises. In passing, there is another argument why a Judge of the Supreme Court should be President of the Arbitration Court. The railway system of the colony has been brought under the operation of the Bill, and the Government can, of course, go to the court at any time on any question which may arise. That being so, it is very desirable, where a decision has to be made between the Government and Government employees, to have the best tribunal, and for that reason it is exceedingly desirable a Judge of the Supreme Court should preside. In Part 1 of the Bill, Clause 3 defines an "employers' society" to be a society of five persons and over, and a "workers' society" has to be seven persons and over, while any incorporated or registered company may be registered as an industrial union of employers, and a single employer can, I believe, be brought under the operation of the Bill as a union, if his employees are in a union. Clause 4 provides the mode of application and terms of rules, while Clause 9 provides that branches of unions may be considered distinct societies for the purposes of this Bill. Unions must not be registered by similar names, and provision is made for the cancellation of registrations and for the substitution of others. Clause 13, Subclause 2, deals with associations, and Clauses 14 to 18 provide general rules as to duties. Part 2 applies to industrial agreements, and defines what they are, and "parties" are also defined. The agreement which is made between these parties has to be filed in the Supreme Court, and to be binding on them, and the effect of that agreement, if made before or after the passing of the Bill, has the force of law. Part 3 deals with conciliation and arbitration, gives power to divide the colony into districts, and, as I have already mentioned, provides for the constitution of the board. Clause 38 deals with the details of election, and Clause 44 provides the mode of referring disputes. Clause 45 deals with the

sittings of the Board, and Clause 46 makes it imperative on the board to inquire. When a complaint or information is laid before the board, requesting their consideration, the board have no option but to take up the question and deal with it; and if the board fail to effect a settlement then a reference has to be made to the Court of Arbitration, the members of which hold office for three years. The Governor, may, however, remove a member from time to time, and if anyone resigns, another may be appointed in his place; and these are very necessary provisions to which I need hardly refer. Clause 58 defines the jurisdiction of the court, and Clause 59 sets out that the sittings of the court have to be fixed by the President. Clauses 60 to 63 provide machinery for the discharge of the power, and the exercise of the duties of the court; and these powers and duties are very complicated in their character. Clauses 84 and 85 deal with the enforcement of the decisions, and Clause 86 gives the court power to deal with all offences against the Act, while under Clause 87 the court may, of its own motion, do certain things without any action being taken outside. The court may, in the course of consideration, employ experts and take evidence on the questions submitted, and they also can conduct their preceedings in private. Clause 92, to which I have already referred, brings the Government under the operation of the Bill, and it is provided that the management of the Government railways shall be deemed to be an industry within the meaning of the Bill. The clause reads as follows:—

> The Commissioner of Railways may make an industrial agreement with any association or society of railway servants to be registered under this Act, and either the said Commissioner or the association or society may refer any industrial dispute between them to the Court established under this Act; and the Commissioner may give effect to any terms of an award made by such Court.

Then there is an amended clause which I think hon. members have before them, which provides that the Commissioner may appoint some officer of his department to take his place in any inquiry which may be held.

HON. J. W. HACKETT: Why have you excluded the postal department.

THE COLONIAL SECRETARY: I have not; I do not think it possible to include the Postal Department. I do not think it can be called in any sense of the word an industry, and this Bill is intended to be confined to industrial pursuits. The Railway Department has a large number of skilled mechanics employed, therefore it is an industry. A large number of the workmen come under the category of skilled mechanics; whether engine-drivers, or engine-fitters, or boiler-makers, or any employee of that kind. The remaining part of the Bill deals with the regulations to be made by the Government. I think I have stated the principles of the Bill, and what is likely to be their operation. I take it the measure will be beneficial to the country, though some of us, two or three years ago, might have thought it undesirable to accept such legislation as this, but the march of events are so unmistakable that I think hon. members will see it is quite necessary to have a measure of this kind to prevent disastrous strikes between workmen and employers. I move the second reading of the Bill.

HON. H. BRIGGS (West): I second the motion.

HON. R. S. HAYNES (Central): I do not think ever in the history of the colony there has been greater necessity for the existence of this House than at the present time. There seem to be epidemics coming over the colony from time to time: if there is a murder, frequently four or five follow; if there is a robbery, we have an epidemic of robberies. Years ago I remember in London there was the cry of "the poor crushed down"; General Booth drew the attention of the public to the state of the poor, and most people went in for what is called "slumming," going round the slums visiting. There seems to be now an epidemic in this colony for trying to injure the capitalist and to pass all legislation in the interest of the employees. Whilst it is necessary that workmen should be protected, because history has proved that if they are not they may be ground down, on the other hand we must take care not to go too far. Labour has its just demands, so has capital, and I look with a great deal of suspicion on the Bill for this reason. Another place, the

Assembly, will be going before the country soon, and it is unfair to the country to introduce such a measure as this on the eve of a general election. Hon. members are scarcely free to exercise their opinion; therefore it is well for the colony that there is an Upper House at this time; because we are not sent to the electors with cap in hand to ask for votes for the reason that we have voted for the passing of this Bill. It is not usual for the Government to bring in measures of this kind on the eve of a general election. It is not fair to members of Parliament or to the people. Fortunately this Bill has to come before us, and before I sit down I shall endeavour to point out where the Bill is absolutely ineffective for the purpose for which it is brought in. Generally speaking the Bill is aimed as a blow at the capitalist, the employer; but if the Bill goes through there will be no longer capitalists, or rather employers: they will soon swell the ranks of the unemployed. No provision is made to see that the awards of the court are carried out. I shall refer to some of the clauses which are absolutely useless. On the one hand the employer is liable to a penalty of five hundred pounds if he does not carry out the award, and on the other hand the employees are liable for the same penalty. I am speaking as a lawyer, and I should say it will be absolutely impossible to enforce the award. On the one hand we have the employer bound, on the other hand the employee not bound: that is a provision that strikes at the root of the Bill. Without ample provision for carrying out the award by both parties I am prepared to vote against the Bill. If the Colonial Secretary is prepared to refer the Bill to a select committee, I think that is the best tribunal to deal with the amendments, with a provision that the committee report in seven days—I would not extend the time—and the House will accept the amendments of that committee, I will not vote against the measure. There is no definition of what a "worker" is; I do not know why the word "worker" is introduced. I do not know if it is for the purpose of stigmatising every man who does not belong to a union as a drone; but there is no definition of the word "worker," and it is absolutely essential that there should be a definition. Unless we have such a definition it seems that the provisions for forming industrial unions are so wide that any seven persons can club together and form a union, consequently we shall have hundreds of unions composed of boys and men—I do not know why women should not join them. We shall have countless numbers of unions; consequently some definition should be given of the persons who are invested with this right of clubbing together and compelling a person to do that which no law in the world ever compelled him to do before. I admit there is an Act in New Zealand, but I join issue with the Colonial Secretary when he says that that Act is beneficial. The better quality of people in New Zealand say that this Act has scared capital away; it has closed manufactories.

HON. J. M. SPEED: That accounts for the surplus of five hundred thousand pounds in the year, I suppose.

HON. R. S. HAYNES: It may account for that. Instead of the money being in the pockets of the people it is in the pockets of the Treasurer. New Zealand may be prosperous, but I have heard that there is such a thing as good seasons making a place prosperous and adding to the prosperity of a country; I have also heard of good prices in meat making a country prosperous; but I do not think anyone is foolish enough to attribute the success in New Zealand to the passing of industrial legislation. It is said that the number of conciliations will be few: let me point out that in New Zealand between 25th May and the 5th August, about two months, the number of applications made to the Court of Arbitration was forty-nine, and these disputes were settled by that court. It has been pointed out by several writers that the conciliation boards cause constant applications to be made. If the parties frequently make applications they get something, and therefore all that the unions have to do is to keep hammering away at the courts, and in the end they get all they want; which is more than the employer can give. I am speaking of expressions of opinion contained in various journals published in the Eastern colonies which have criticised the Bill introduced by Mr. Wise. Mr. Wise proposes to go further in New South Wales than the Act of New Zea-

land goes, and for that he has received very severe criticism. It has been pointed out that the Act of New Zealand contains several clauses, and the judges decided in a certain way. It was thought the parties would be able to appeal to the Privy Council, but it was pointed out that there was no need to appeal to the Privy Council, because long before the appeal was heard the working men in New Zealand, who compose a majority of the members of the House, would pass a Bill making law that which was not law before. Referring to this Bill, I may say that only seven persons can form themselves into an industrial union, and consequently any seven persons can pass rules and invoke the aid of the conciliation board. They have only to pass rules for their own guidance, and I suppose some enterprising labour leader will print these rules and send them broadcast over the country, so that we shall have unions all over the place. The object should be to have strong unions, not a countless number, and these unions should not be anxious to go to the court. Professional assistance is practically forbidden: that is another step in New Zealand legislation; the trend of legislation in New Zealand is to abolish all professional distinctions; whether that is good I leave the House to judge. The only part of the Australasian colonies that has gone as far in that respect is New Zealand. By Clause 29, if a strike occur, an employer is at once bound hand-and-foot. How long this novel court will take for the purpose of settling these disputes I do not know, but there was a court appointed to settle the value of land taken from persons compulsorily, and for the last three years that court has not been able to sit. I do not know whether the court under the Bill will be more prompt, but an inquiry may take some months, and in the meantime an employer cannot dismiss a workman. Once application is made under the Bill, an employer cannot dismiss any of his men, and it will be seen that if a person wish to get another six months work, all he need to do is to apply to the conciliation board, which costs nothing, and he can then defy his employers. Surely that is a blot on the Bill which only requires attention to be drawn to it to be remedied. With regard to the appointment of a judge of a Supreme Court, I can only say I quite sympathise with the judges in their refusal or protest against presiding over such a tribunal. In the first place there is a loose principle in the admission of evidence which can only lead to confusion. The proper course in all cases is to adhere to the usual well defined rules of the admission of evidence, but under the Bill there may be hearsay evidence, and alleged copies of documents are admitted which may afterwards turn out to be not copies at all; there is no limit, because the court can by a majority decide what evidence they will admit. The judge may say he will pay no attention to certain evidence as having no weight, but the other two members of the court can tell the judge that though he knows something of law, they are men of the world; and they will overrule him in this respect, with the consequence that the position of the judge would be dragged into the gutter, and the respect essential to a judge of the Supreme Court and to the proper administration of the law, would be absolutely gone. As the learned judges have pointed out, they would be brought practically into conflict, and in nearly all cases the judge himself would have to decide in times of social disorder; and you might just as well try to mix oil with water as to ask the representative of the employers and the representative of the workmen to agree. The judge under such circumstances would try to split the difference, asking one side to come down and the other side to come up, and see if they could not meet. That is not arbitration at all; and if the two representatives disagree, and the judge disagrees with them, what is going to be the award? Has the decision of the president to be final? Suppose the question were one of the rate of wages, and the men wanted 15s. a day, while the employer would only give 10s.; in such a case the judge would probably suggest 12s. 6d., and, should they both refuse, what is the decision to be? The judge would either have to come down to one or go up to the other, or ask them both to come half way. On the other hand, if the judge be made the final arbiter, and the men did not gain the day, he would be met with a howling mob outside the court. I can quite imagine the crowds which would be outside the

court on such an occasion, and if the judge gave the decision in favour of the employers, what shrieking and howling there would be. That would be a nice position for a judge, and I can well understand any judge declining to sit. These are the objections to the principle of the Bill, and I now come to what I consider the fatal blots on the measure. Clause 85 provides that for the purpose of enforcing any award or order of the court "the following provisions shall apply"—and the clause proceeds to deal with the payment of money, and so on. But the 6th sub-clause provides:

> All property belonging to the judgment debtor (including therein in the case of an industrial union all property held by trustees for the judgment debtor)—

You can imagine how much money they would have to hold—

> shall be available in or towards the satisfaction of the judgment debt; and if the judgment debtor is an industrial union, and its property is insufficient to satisfy the judgment debt, the members shall be liable for the deficiency.

The court can award £500 as a maximum; and in the case of a union consisting of 80 or 100 men, it will be well understood that they would not have any property available for the demand under an order of the court, because it is not likely they would put up something to be fired at. On the other hand, employers have a certain amount of money invested which is always liable to execution; but the men themselves are not liable individually. The funds of an industrial union, which, as I pointed out, will be at zero, are liable; but the Bill goes on to provide that "no member shall be liable for more than £10." I have had some experience in suing people for small sums of money, and I ask any hon. member of the House whether he thinks an employer would ever get the £10. Why should the employer have to collect this £10? Why should an employer have to go, at his own expense, and get a solicitor to enforce this order and collect the money—though I see no machinery in the Bill for doing this—and when the money is collected, pay it into the Treasury? The idea is absurd, and I think the demand has been made by the Chamber of Mines at Kalgoorlie that a sum of money should always be held in trust and deposited with the Registrar as security, not only by employees, but also by employers, for the satisfaction of the award, and as a guarantee of *bona fides*. Such deposit would effect two objects: it would prevent numbers of small unions coming into existence, because they would have to deposit, say £200, and would prevent their going into court on frivolous claims, because the court could award money out of the £200. Some correspondence has been sent to all hon. members of both Houses from the Chamber of Mines at Kalgoorlie, who ask for certain amendments in the Bill. I will not go so far as to say all the amendments they suggest should be made, but a great number ought to be agreed to, because they are reasonable in many respects. I would like to point out that the gold industry is one of the chief, if not the chief industry of this colony at the present time, and it is on the goldfields I fear the first battle will be fought; and we ought to be very careful to see no just cause of complaint is given to employers of labour on the goldfields, because such would have the effect of practically excluding capital from the colony. We have done many things in the colony, and many events have happened, which have had that effect before, and we do not want anything done which would intensify the effect. I quite agree with the Colonial Secretary that some legislation is necessary, and any legislation would be welcome which had for its object the preventing of disputes and strikes; but, at the same time, I am not prepared to sacrifice every employer for the purpose of satisfying the demands of a few persons, and they are only a few, who are always agitating for strikes. If the Bill be passed in the form in which I would like, it would at least have one beneficial effect, namely, it would tend to abolish strike agitators; and if the Colonial Secretary is prepared to submit this Bill to a Select Committee, to report within a week so that no time will be lost, a proposal in that direction would not be opposed, but otherwise I shall have to vote against the second reading.

HON. A. JAMESON (Metropolitan-Suburban): I hope hon. members will see their way to support Mr. Haynes in his proposal. I welcome and support the Bill because I think it is a great movement representing a new era in our times,

and a remodelling of the economy of life, so to speak. At the same time I can quite see, and I am sure hon. members see, this Bill may work a great deal of mischief if carried out as presented at the present time; and Mr. Haynes has indicated amendments by means of which defects may be rectified. I also thoroughly agree with the hon. member that there never was a time in which such a measure was so necessary to the colony as now. It is a great industrial question, and this House is not affected politically, or is not in the same political position as another place, and being so, we are perhaps better able to give an opinion on the Bill than those who are going before the electors at an early date. As to some of the points which Mr. Haynes has mentioned, that in regard to Judges is very important indeed. Of what possible value would the Bill be if already we find Judges objecting to take the position of President of the Court? This objection goes to the very root of the matter, and it is clear, according to one of the clauses of the Bill, that more than legal evidence is to be allowed, and also questions which are not questions of law. Why then appoint a Judge? Judges know nothing of industrial affairs, and the questions which will come before the court are purely industrial questions of wages and time, of labour, and so on, and are more for an expert in industry than for a Judge. If you admit that an employer and a workman are to be able to overrule a Judge of the Supreme Court, where will be the respect for our courts in the future? It seems to me that this is a very serious blot on the Bill. As a layman, there is another point to which I would like to refer. I have heard that in New Zealand the great difficulty in the Act has been in connection with the conciliation board. Numerous disputes are brought before these conciliation boards, and, almost without exception, they go on to the court of arbitration; and if that be so, why have conciliation boards? There are arrangments by which responsible parties can enter into collective bargaining, and these can meet together as a voluntary council; because compulsory conciliation is an impossibility. If, after coming together, there is any difficulty between the parties, they can then go to the court of arbitration; and a court of arbitration, and voluntary conciliation, is all that is required. I understand that is the effect of Mr. Wise's Bill, and I further understand an amendment is being made in the New Zealand Act on that point at present. If that alteration can be made, the working of the Bill might be rendered easier, and perhaps more certain; and for my own part, I hope to see the Bill go through, and intend to support it strongly. It is a new principle, but a thoroughly sound one, and is based really on an industrial legislation which we have not in the colony at the present time, namely, a Factory Act, which we must have before very long. It is based on the standard of life, health, and safety—a standard of leisure, a standard of labour, and of wages; these are the standards of life, rather than the standards of economy in the past. It is an advance in economy never thought of about ten years ago, and I believe it to be a thoroughly sound departure from the old political economy; and I hope with the assistance of legal members of this House, we shall be able to knock the Bill into shape, and put it on a sure and firm basis in regard to the constitution of the court.

At 6·30 the PRESIDENT left the Chair.

At 7·30, Chair resumed.

On motion by HON. F. WHITCOMBE, debate adjourned until the next day.

ADJOURNMENT.

The House adjourned at 7·40 o'clock until the next day.