If it is desired to serve a given area and the Government find it necessary to charge 1s. per acre, the proposal could be submitted to the people, and if they agreed it would be a voluntary contract between them and the Government.

Hon. J. Cunningham: One district at present is rated up to 1s. per acre. Two-thirds of the people petitioned for the extension and agreed to pay the 1s. per acre.

Mr. THOMSON: Those people have voluntarily undertaken to pay the 1s. per acre. Provision should be made in the Bill that when further extensions are made a water board should be appointed and entrusted with the administration in that particular district. Then, when the stage was reached that interest charges had been met and the capital cost could be reduced, it might be possible to reduce the charge to 8d. or even 6d. per acre. The Water Supply Department pool the whole of their revenue and expenditure, and while one section of the scheme may have paid for itself over and over again, high rates have still to be paid because of the heavy capital expenditure.

Hon. J. Cunningham: The experience is that the department have to go to the rescue of water boards, take over the liabilities and run the affairs where the boards have failed.

Mr. THOMSON: Perhaps so. I hope the Minister will not press for the increased charge. Though it may not be the intention of the Government to increase the rate to 1s., it should not be possible to impose the increase upon people with whom the Government have agreed to a maximum rate of 5d.

Hon. G. Taylor: Under this Bill we would really be sanctioning an increase of 7d. per acre.

Mr. THOMSON: That is so. I hope the Minister will agree to the insertion of a clause to protect the rights of people who already have a water supply.

On motion by Mr. Davy, debate adjourned.

House adjourned at 10.27 p.m.

Legislative Council,

Wednesday, 23rd September, 1925

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

SELECT COMMITTEE—MAIN ROADS BILL.

Power to admit Press.

On motion by Hon. F. E. S. Willmott, ordered: "That the Select Committee on the Main Roads Bill, during the taking of evidence, have power at their discretion to admit representatives of the Press."

BILL—AUCTIONEERS ACT AMENDMENT.

Introduced by Hon. J. Nicholson, and read a first time.

BILL—CITY OF PERTH.

Report of Committee adopted.

BILL—INDUSTRIAL ARBITRATION ACT AMENDMENT.

Second Reading.

THE COLONIAL SECRETARY (Hon. J. M. Drew—Central) [4.37] in moving the second reading said: I do not intend to speak at any length in introducing this Bill. It is not necessary that I should do so. With the exception of an omission and a few minor additions, the Bill is practically in the same form as it was when submitted last year. It was then discussed almost clause by clause by hon. members, and was recommitted several times for further discussion. I think I shall have done enough if I explain the differences between the former Bill and the one now before the House. When we get into Committee—I am assuming we shall get into

Committee—the arguments for and against controversial clauses can be presented perhaps with better effect. Since last session there arose in connection with the Arbitration Court a position that caused the Government some anxiety. There was a difficulty in finding a president for the court. Under the existing law the president must be a judge of the Supreme Court, and each of the judges who had held the position had resigned. The only thing left to do, in order to avoid industrial chaos, was to make some temporary arrangement which would serve until Parliament had again been consulted. Therefore the Master of the Supreme Court was appointed an acting judge and President of the Arbitration Court. The Government do not consider it satisfactory to have a temporary appointment. Much of the industrial trouble which has occurred in the past has been due to changes in the personnel of the occupant of the office. There has, in consequence, been no consistent policy. Each judge has conceived a standard of his own; each has viewed matters from a different standpoint; each, in some instances, has given different interpretations. All this can be said without any reflection on the ability or honour of the learned gentlemen who presided. If a president were appointed for a long term, with eligibility for reappointment, and were burdened with no other responsibilities, he would become proficient in the work, and there would be uniformity of action and interpretation. I shall now briefly indicate the principles of the Bill, and afterwards explain the alterations made since last year. The court may grant preference to unionists if it so desires, but there is nothing to say it shall do so. There is provision for the appointment of a president for seven years. He may or may not be a judge of the Supreme Court. If a Supreme Court judge is appointed, he must give the whole of his time to Arbitration Court work. Power is given to the court to set up industrial boards, which will act under instructions from the court. The principal function of such boards will be to conduct inquiries for the purpose of assisting the court in framing an award; but the court, if it thinks fit, can authorise an industrial board to make an award. The court may grant special leave to appeal against the decision of such a board. These boards are mainly on the principle of the wages boards obtaining in Victoria, but they can operate only under the control of the Arbitration Court. Provision is made for the appointment of industrial magistrates, who will take cases for breach of award. Authority is granted the court to establish boards of reference for the settlement of small industrial disputes arising out of the operation of an award. Then there are demarcation boards to decide small disputes between different employees regarding which trade a particular class of work belongs to. The Bill enlarges the provisions for compulsory conferences. The court can step in not only when a dispute has occurred, but whenever one is threatened. The Minister has power to set up conciliation committees in given districts. Their duty will be to compel the parties to meet and discuss the matter in dispute with a view to an agreement being reached. Briefly, there will be one supreme and six subsidiary bodies. Provision is made that the court shall periodically fix a basic wage. When the Bill is in Committee I shall give reasons to emphasise the necessity for this. Machinery for enabling organisations to have quick and easy access to the court is provided in the Bill. Instead of the present cumbersome process of special meetings and ballots, unions will be able to define in their own rules the method by which they shall approach the court. The measure is to apply to the Government equally with private employees, except as regards employees covered by special Acts. Under the present law, if an employer pays less than award rates, the workman cannot recover the balance due to him unless he takes action within three months. That provision has been removed, and the Statute of Limitations is to be the only bar to recovery. The technical training of apprentices in the employer's time is also provided for in the Bill. Now for the alterations made in the Bill since last session: In Clause 2, Subclause 1, the words "and also any club employing one or more workers" have been added. This amendment specifically includes clubs in the interpretation of "employer" and is purely supplementary to Clause 65, which was in the Bill last year. The clause dealing with the standard 44-hour provision has been omitted, and will be the subject of a separate Bill. A new clause (59) has been inserted, dealing with the registration of apprentices.

Under this clause no apprentice can be employed otherwise than by an agreement in writing, and within 14 days of its date this agreement must be registered with the clerk of the court. The union concerned must be given notice by the clerk of the registration, and has the right to lodge an objection, which shall be heard by the court. It will not be within the power of an employer to discharge an apprentice until the court annuls the agreement of apprenticeship. The court can, under this clause, exercise its discretion in regard to current agreements that have not been registered. The Bill supplies all the machinery necessary for the speedy settlement of industrial disputes, and it should go a long way towards preventing such troubles. During the last twelve months the need for such a measure as this was brought home to the Government. Several disputes had to be settled by private arbitration with the consent of the parties concerned. Mr. Walsh, the Registrar, took a number of cases, and the claims of the police were referred to the acting police magistrate, Mr. Kidson. The argument is often used by opponents of arbitration that the decisions of the court are not obeyed by the workmen. Such instances are only rare. During the last twelve months there were but two strikes of any consequence against decisions of the Arbitration Court, namely, the seaman's strike and the tearoom strike. The first was engineered from outside Western Australia, and the author of this Bill, the Minister for Works, was largely responsible for the settlement of the other. As against those occasional happenings for which the workmen are responsible, there are numerous breaches of awards by employers. One has only to follow the newspaper reports to be seized of this fact. Neither this Bill nor any other Bill will absolutely prevent strikes, lock-outs or breaches of awards. Every law is broken and will be broken till the end of time. But the Bill should certainly lessen the number of such infractions of the law. If it accomplishes that much, it will have served a useful purpose and justified its acceptance by the Legislature. I trust that there will be no undue delay in passing the second reading of the Bill, and that hon. members will place on the Notice Paper, as soon as possible, any amendments they propose to submit. I move—

That the Bill be now read a second time.

Hon. J. Nicholson: Will you give a reasonable time for the Committee stage?

The COLONIAL SECRETARY: Yes, certainly.

HON. J. EWING (South-West) [4.50]: To a large extent I am opposed to the Bill. The Minister for Works, when moving the second reading in another place, said there had been practically no change in the personnel of that House since the Bill was last before Parliament, and therefore there could be no need for any amendments, since the Bill had been exhaustively considered last session. The same may be said of the position in this House, where the only change we have had has been the coming of Mr. Glasheen in place of the late Mr. Greig. So I ask is it reasonable that the Government should bring down practically the same Bill and expect the decisions arrived at by this House last session to be reversed? We are a House of review and we all want to find some solution of this difficult question. We are more likely to arrive at a compromise than another place may be. The Bill is practically the same as that of last year, except that the provision for a 44-hour week is omitted, with a view to its being brought down in a separate measure. That, of course, prevents us from discussing on this Bill the principle of a 44-hour week. The Bill was widely debated on the second reading last session, and quite exhaustively discussed in Committee. Following on that, it was the subject of a conference between this House and another place; but at that conference no amendments were acceptable to the Assembly managers, and so the Leader of this House had to come back and report that the Bill was dropped, since there was no possibility of agreement between the managers of this House and those of another place. The position is now practically the same. It is not easy to discuss such a Bill at the present time, since arbitration is being so much talked of, so much abused, so much interfered with that it is almost impossible to say whether or not one is in favour of arbitration at all. In this State we have seen the industrial laws of the land broken, and they are even now being broken in another part of Australia. With all these things confronting us, it is somewhat difficult to take any interest in the Bill. Still we must persevere and discuss the Bill in all its phases, in order if possible to arrive at a solution of this difficult question. It is

quite palpable that to-day many difficulties are thrown in the way of arbitration, and the industrial laws of Australia are being flouted by those who should support them.

Hon. E. H. Gray interjected.

Hon. J. EWING: It is not a question of payment, but a question of what conditions and wages should be; and that question is to be dictated, not by industrialists, but by a court constituted under the Bill. Many phases of the Bill are distinctly acceptable to members, for they are calculated to greatly improve the industrial conditions. But those were all available to the Government last session, and I can tell the Leader of the House that he could have got as good a Bill last session as he can hope to get this session. Of course if one side or the other is going to put up a stone-wall and say it will not accept any amendments to the Bill, then there is no hope of compromise nor of any good arising from the consideration of the Bill. The Bill provides that the president of the court may be a judge or may be a layman. Last session this House distinctly stated that the president must be a judge of the Supreme Court, and I know of no reason why the House should now alter its opinion.

Hon. J. R. Brown: Where are you to get a judge from?

Hon. J. EWING: The Government overcame that difficulty the other day by appointing Mr. Justice Davies as president of the court. What is to prevent the appointment of Mr. Justice Davies as permanent president? I quite agree that the president of the court should devote himself exclusively to the work of the court. If hon. members were prepared to allow a layman to be president of the Arbitration Court I am sure they would have said so last session. So I do not see that we are to gain much by the Bill coming before us, except that the sweet spirit of compromise may yet be invoked and the Minister for Works, who introduced the Bill in another place, may endeavour to get something that will be useful to him and of advantage to the country. When the Workers' Compensation Bill of last session came before us it was strongly opposed in its original form, and eventually amended, yet what was given in that Bill as it left this House has proved to be of great value to the State.

Hon. E. H. Harris: And the workers know it.

Hon. J. EWING: The majority of the House voted for the Bill in its eventual shape, so it will be seen that there is nothing unreasonable about the House.

Hon. E. H. Gray: You require to be reasonable as well.

Hon. J. EWING: Yes, I will be reasonable and do all I can to help the Government frame a good Bill. We want to take out what is bad and leave in what is good. I do not favour the proposal that the president should be appointed for a period of seven years only. I consider that the appointment should be for life, and I hope that members will not take any other view of the position. It would be intolerable if a man were appointed to a position such as that proposed unless the appointment were for life. The Minister has told us that whoever is chosen will be a whole-time president. With that I am in accord. I am also in agreement with the proposal to appoint industrial magistrates and conciliation and demarcation boards. These, I believe, will do good and will expedite the work of the court. They will also afford relief to the president and give him full time to consider the law and the various questions in the abstract. One matter to which I am opposed is that of giving consideration to the question of personal feeling. Dr. Saw, speaking last session, referred in eulogistic terms to the services rendered by Mr. Somerville. I agree with what Dr. Saw said. Since then a new member, in the person of Mr. Bloxsome, has been appointed to a seat on the court bench and I am perfectly certain that both Mr. Somerville and Mr. Bloxsome have done, and will continue to do, good work. At the same time I am entirely opposed to the appointment of laymen to the Arbitration Court bench. With a Supreme Court judge as president, the advocates should be on the floor of the court and not on the bench, and the judge's thoughts should be guided by the arguments advanced by the advocates. While they are sitting with the judge they have big powers and responsibilities, and they are naturally biassed one way or the other. Mr. Somerville is there to see that he gets everything he possibly can for the worker, while the other representative will do his utmost for the people whose interests he is there to watch. That kind of thing, to my mind, is intolerable, and it is my intention to move at a later stage that those positions be abolished.

Hon. J. R. Brown: The judge would be lost if you took away the laymen from the bench.

Hon. J. EWING: If the judge is likely to be lost, as the hon. member says, he should not be given the position of president. The laymen should not be on the bench; they should be on the floor of the court as ordinary advocates. They now occupy a position that should never have been created.

Hon. E. H. Harris: You are arguing that the two representatives should be on the floor of the court instead of on the bench.

Hon. J. EWING: Most decidedly. At present they are what might be termed deputy presidents.

Hon. J. R. Brown: They do the work and if they cannot agree then they refer to the judge.

Hon. J. EWING: The president of the court should be familiar with the industrial laws of the State and he should be able to give a decision according to the evidence put before him. I was unsuccessful last session in bringing about the removal of the lay members of the court. Perhaps that was due to a feeling of sympathy towards Mr. Somerville. I have the greatest appreciation and admiration for the manner in which that gentleman has discharged his duties, but my contention is that it is unnecessary, and wrong, to have laymen on the Arbitration Court bench. The question of the basic wage is again introduced in the Bill in exactly the same form as it was presented last session. I do not say that it is wrong that a basic wage should be fixed, but I do argue that it should be fixed by the court. The Bill lays down what the basic wage is to be. It speaks of the married man with a family and a house of five rooms, etc. It is far better that the basic wage should be fixed on the wage the single man is capable of earning.

Hon. J. Duffell: Would it not be much more difficult, under those conditions, for a married man to get a job?

Hon. J. EWING: The basic wage should be fixed according to the value of work done by a single man. That is what is taking place in other parts of the world, and it should be possible to do the same thing here.

Hon. W. H. Kitson: Can you mention any part of the world where such a thing is in operation?

Hon. J. EWING: If I had the time I might be able to find out for the hon. member. Perhaps I am wrong, but I have an idea that I have read about it somewhere. At any rate, the basic wage should be fixed by the court which is established to fix both the rates of wages and the hours of work. If we take those duties away from the court we rob it of a fundamental part of its work. Only the other day the Government granted 44 hours to a section of the railway employees. I have no objection to that, because the Government were returned by the people to carry out that as one of the planks of their platform. At the same time it should be the duty of the court to fix the hours of work. The Government desire to become an employer and to be able to go to the court to fix the rates of wages, etc. In the meantime, however, they fix wages and hours themselves, and if they continue to adopt this policy there will be no need for an Arbitration Court.

Hon. E. H. Harris: Does not the action of the Government show that they feared it would not be fixed on the basis desired if they went to the court?

Hon. J. EWING: I would not suggest that for a moment, because I do not know what would be in the minds of the court. The Government, as it were, are desirous of becoming employers and all the unions associated with the Government should go before the Arbitration Court to have wages, hours and conditions fixed. But the electors themselves are responsible for the existing state of affairs because they returned the Government to carry out a certain policy, and that is now being put into effect. Still, it is our duty to object to a Government now seeking to become a party to the establishment of the Arbitration Court and who, at the same time, are acting in a manner that will obviate their taking advantage of the court. Until the mandate of the people is reversed, we cannot criticise the Government for carrying out one of the pledges made on the platform. I wish every Government in power would do the same thing.

Hon. A. Burvill: They are diplomatic.

Hon. J. EWING: There is too much diplomacy in politics; we should hit out whenever it is necessary to do so.

Hon. W. H. Kitson: What is the position of this Chamber when it attempts to prevent the Government from putting into operation that which it was elected to do?

Hon. J. EWING: All the same, the minority in Parliament will fight just as hard against the Government bringing in proposals which, in the opinion of that minority, are not in the best interests of the community. This Chamber is not comparable to the Legislative Assembly. The constitutions of the two Chambers are different, the Legislative Council being a house of review and a house that endeavours to rectify mistakes that may be made by the Government. I do not speak of the present Government, I refer to any Government that may be in power. The previous Government was hard fought in this House and their legislative proposals were criticised and opposed much more vigorously than is being done at the present time. The Colonial Secretary is having a comparatively light task, because everyone is trying to make things as comfortable as possible for him. Throughout my experience I have found that no matter what Government is in power, whenever Bills have come before the Legislative Council they have been treated on their merits, regardless as to whether the Government desired that the Bills should go through or not. Conferences have been held and perhaps compromises arrived at, whilst on other occasions nothing came of the conferences. I do not know that any good can be gained by speaking at any greater length, because I know that you, Sir, would not permit me to touch upon the details of the Bill. The Minister has clearly explained the major principles embodied in the Bill. I have endeavoured to draw attention to those principles to which I take exception. If we confine ourselves in the course of the debate to main principles only, we should reach the Committee stage shortly. I know the Minister will give us ample time to consider the Bill at that stage. The Minister has always been fair and he would not ask me or any other hon. member who objects to principles embodied in the Bill, to agree to the passage of the measure without fighting to have those principles eliminated. On the other hand, he and his colleagues will no doubt strive to get the Bill passed in its present form. We shall endeavour to make the Bill as fair and just as possible so that it will be of advantage to the workers and employers.

On motion by Hon. J. Nicholson, debate adjourned.

BILL—JURY ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

HON. J. NICHOLSON (Metropolitan) [5.17]: The object of the Bill, as explained by the Honorary Minister, is to accomplish two things, the abolition of special juries and an alteration regarding the fees payable to jurors. It is intended to establish one class of jury. That is to say, everyone who is qualified to act as a common juror will be capable of acting in the fullest capacity as a juror under the provisions of the Act. The provision as to special jurors has existed for many years in connection with the trial of civil cases. The qualifications are set out in the Jury Act of 1898 regarding common jurors and special jurors. Section 5 of that Act provides—

> Every man (except as hereinafter excepted) between the ages of 21 and 60 years residing within the said colony, and who shall have within the colony either in his own name or in trust for him, real estate of the value of £50 sterling, clear of all encumbrances, or a clear personal estate of the value of £150 sterling or upwards, shall be qualified and liable to serve as a common juror in all civil and criminal proceedings and on any inquisition in the said colony within a radius of 36 miles from his residence.

Section 6 deals with the qualification and liability of individuals to serve as special jurors, and reads as follows:—

> (1.) Subject to the exception hereinafter contained, every man between the ages aforesaid, and residing as aforesaid, who is a justice of the peace, or is a bank director, or is a merchant not keeping a general retail shop, or has within the colony either in his own name or in trust for him, real or personal estate of the value of £500, shall be qualified and liable to serve as a special juror for the trial of issues in civil cases in the Supreme Court at Perth, and in any district in which a Court of General Sessions of the Peace has been appointed to be held, and shall be qualified and liable to serve as a special juror, and also as a common juror for the trial of issues in civil and criminal cases in any court within the limit prescribed by this Act.
>
> (2.) Provided that in any such district as aforesaid justices of the peace shall be exempted from serving on juries, and may claim exemption although their names are on the jury list.

It is recognised that special juries were introduced for a clear and specific purpose. The intention was good at the time in providing for the establishment of a system of both common and special juries. It was recognised when the law was introduced that men possessing a certain amount of

property were no doubt more fitted to fulfil the duties that special jurymen might be called upon to carry out, as compared with other members of the community. I admit freely that in view of the advances made in connection with our educational facilities which are now available to everyone in the State, many of the disadvantages that existed in earlier years have gradually disappeared. The system adopted in those earlier years, however, is not now, to my mind, the best suited for our present-day requirements, bearing in mind our educational advancement. Some other system should be adopted for the appointment of special juries. That applies particularly where a case is being tried involving certain definite issues and the consideration of technical matters. In such cases the mere fact that a man possesses a certain amount of property does not of itself indicate nor prove that such a man possesses knowledge that will enable him to determine justly important issues before the court. Therefore, there should be a new method of selection of special juries whereby, for example, if an engineering matter were before the court, a special jury could be drawn from men experienced in that particular profession. If that provision were made, undoubtedly the court would be greatly benefited by the assistance of men of experience in the matters being tried.

Hon. J. Duffell: If a pastoralist were concerned, what would you suggest then?

Hon. J. NICHOLSON: I would not say that the best man for a special jury dealing with the pastoralist's case would be, for instance, a grocer.

Hon. J. Duffell: Or a shearer.

Hon. J. NICHOLSON: No. The men most fitted to fulfil such duties would be men experienced in that particular branch of industry. A shearer is not a pastoralist, although he may have had experience in one branch of the pastoral industry. The object of the Bill, however, is to abolish the system of special juries altogether. The Government have omitted to make provision in the Bill for any amendment abolishing the special juries established under the Coroners Act of 1920. Section 32 of that Act provides that for inquests on the bodies of persons whose death has been caused by explosion or accident in or about a mine to which the Mines Regulation Act, 1906, or the Coal Mines Regulation Act, 1902, applies, the jurors summoned shall, whenever practicable, be persons accustomed to the working of mines. Thus, the system sought to be abolished is still to be maintained under the provisions of the Coroners Act. A system that is good under that Act is, to my mind, good in its application to other branches of our law. We can take the matter a little further. We have before us a Bill to amend the Industrial Arbitration Act. That legislation provides for a system of specialists being introduced. Take the constitution of the court; it consists at present of the President who shall be a judge of the Supreme Court and two other members, one of whom has to be nominated by the industrial unions of workers, and the other by the industrial unions of employers. Both parties are represented. The two lay members of the court are more or less assessors, and they assist the president in the determination of the causes coming before him. Are not those two men specialists in their particular branches?

Hon. J. E. Dodd: Their qualification is general experience.

Hon. J. NICHOLSON: Quite so. They are selected by the different unions because they will represent specially the interests of those unions. It cannot be denied that they are specialists. In the Arbitration Bill now before the House the same principle is applied to the apprenticeship board. The Governor may appoint a board of three members to be called the apprenticeship board comprising one member nominated by the industrial unions of employers in the building trade, one member nominated by the industrial unions of workers in the building trade, and a third member to be appointed chairman shall be a member of the Court of Arbitration. The same principle is observed in regard to the various conciliation committees and boards proposed under that Bill. If we consider the matter we must realise that as education advances people in the different professions find it necessary to specialise. Owing to the advance of science, subjects have become so enlarged and the scope of work has become so much greater that the general practitioner is disappearing and giving place to men who specialise in the different branches. Medicine provides one of the best instances of this. Doctors specialise in the eye, ear, nose, throat and different organs of the body, and each man finds a sufficiently large field to engage his attention and to benefit the

community. If it is to the benefit of the community that there should be specialisation, why not continue the system in connection with juries if the appointment of special juries is made on the lines I have indicated? To determine their appointment on a property qualification is unsound. Dealing with branches of trade, one would not employ a labourer to do a plumber's work, because a plumber is a specialist in his particular line. The same applies to an engineer, a motor mechanic, a carpenter, and so forth. Each man is a specialist in his own line, and we get better work by employing a qualified man. Consequently there would be a better determination of disputes if we had qualified men as jurors when a special jury was found to be of advantage to deal with technical subjects. It was pointed out in another place that there could be no possible argument against the special jury system on the ground of cost. The difference between the cost of a special and a common jury is so infinitesimal that it is not worthy of allusion. The Honorary Minister said there was a belief that special juries were inclined to be more or less biassed. I do not agree with that. If the Honorary Minister can give instances of bias and prove that special juries have failed in their duty, they should be dealt with according to law. If the law is not sufficiently strong to enable the court to deal with a man who commits a breach of his oath, then by all means let us strengthen the law so that a juror who fails to carry out his duty shall receive the punishment he rightly deserves. I am quite at one with the desire of the Government to allow increased remuneration to jurymen, whether on common or special juries. The day is passed when 10s. a day was adequate remuneration for a common juror. It will be admitted that a special juror, a man having special qualifications, is entitled to a higher fee than is a common juror, because he is called upon to decide more intricate questions, just as a skilled artisan is entitled to a higher wage than is a labourer. I am prepared to support the Bill to the extent of amending that portion of the law relating to the remuneration of jurors, but I cannot subscribe to the proposed abolition of special juries. So long as the jury system prevails, it is our duty to maintain not only common juries but also special juries. If the Minister is prepared to suggest amendments to alter the qualifications of special jurors, he may be able to gain my support. I shall support the second reading, and in Committee I shall oppose any alteration of the special jury system unless an amendment on the lines I have indicated is agreed to.

HON. J. E. DODD (South) [5.40]: There is not likely to be any division of opinion to the proposed increase of remuneration to jurors. We are all convinced that a juror is entitled to more than he is being paid today. The difference of opinion centres in the proposed abolition of special juries. To my mind the provision for special juries is altogether out of place nowadays. The system is obsolete, and I cannot see how anyone can justly argue that because one man has a little more money than has another, he should be entitled to sit on a special jury. Mr. Nicholson's objections are not altogether good, and neither are the examples he quoted. If the qualification for a special juror was one of experience and ability in some particular case that was being heard, I would be in agreement with Mr. Nicholson, but that is not the qualification.

Hon. J. Nicholson: That is what I suggested it should be.

Hon. J. E. DODD: The qualification is simply one of money. The hon. member pointed out that the workers have a right to nominate one of the lay members of the Arbitration Court. He is nominated purely because of his experience and ability, and the same applies to the employers' representative. So it will be in connection with the apprenticeship board. If the hon. member refers to the existing Arbitration Act, he will find provision for the appointment of expert assessors. That provision has not been availed of. If the same principle applied to special juries, no great exception could be taken to it. Would it not be better to abolish the special jury system altogether? If we did that, we should establish in place of the money qualification the qualification of professional training on the part of a judge sworn to do justice. Why not leave the matter in the hands of the judge? That would be far more in accord with modern ideas of what should prevail. If an amendment be moved to that effect, I shall support it.

HON. A. J. H. SAW (Metropolitan-Suburban) [5.43]: I congratulate the Government upon having introduced a Bill so

entirely different from the one brought forward last session. That measure contained an in-and-out clause for women. It also sought to abolish the very humble provision that exists for the qualification of a common juror. It practically said that the man in the street or the public-house loafer was fitted to be a juror. I took somewhat strenuous objection to that Bill and it was my intention, as I indicated in my speech, to vote against the second reading, but owing to a series of accidents, the Bill slipped through the second reading in a comparatively empty House. The facts are these. Mr. Cornell made a somewhat exhaustive speech upon the subject. I listened carefully to him, and as he concluded his remarks I moved out of the Chamber to get some tea. Several other members in the lobby were also having tea. It had been intended that a motion for the adjournment of the debate should be moved in order that certain members who wished to speak might have an opportunity to do so. Owing to some misunderstanding this was not done, and the Bill went through the second reading. I had indicated my opposition to it and I took the opportunity, when the Bill went into Committee, to move, after a trial division on the first clause, that the Chairman should leave the Chair. I wish to explain the attitude I took up. When I took this action Mr. Gray interjected "Shame." I know a considerable number of persons thought I had taken some underhand advantage of the forms of the House. I appeal to the Honorary Minister, who was in charge of the Bill, to confirm my statement that this was not so.

The Honorary Minister: I quite agree.

Hon. A. J. H. SAW: I told him it was my intention to move the Chairman out of the Chair after we had had a division on the first clause, with the object of testing the feeling of the Committee upon the Bill. I told him this so that he might have several hours' notice, and that if he cared to do so, he could postpone the Bill to another day, when there might be more of his forces at his command. I also said it was perfectly within his power to do this. I claim, therefore, that I took no advantage of any of the forms of the house, and that it was absolutely unnecessary for Mr. Gray to interject "Shame" with reference to my action. The increased payment to jurors, provided in this Bill, is long overdue. I am sure it will be welcomed by every member of the House. Jurors will, even under this Bill, be paid somewhat inadequately in view of the very important functions they have to fulfil. Our jury system needs revision. Especially does it seem so after one has heard the remarks that have fallen from the Chief Justice with reference to the jury system. It would have been very much wiser had the Government appointed a Commission to go into the whole of the jury system than that they should have brought down a Bill to abolish special juries. The Government might have brought down a small Bill to provide for increased payment to jurors, and referred the much wider question to a special Commission, which would have taken evidence from those competent to give it. We would then have had some means of gauging the best opinions upon the jury system. There is great dissatisfaction amongst the legal profession and the general public with reference to this matter. Many of us think that the jury system has outlived its usefulness, and, except in certain cases, should be done away with. The point of view that has been raised as to the necessary qualifications of a juryman is to my mind beside the issue. It was argued, particularly during the passage of the Bill last session by those who supported it, that there was some inherent right in every individual in the community to sit on a jury. I maintain that is entirely wrong. What we have to regard is this fact: that the jury is an instrument in the administration of justice. What is really required is the best possible instrument we can get whereby a fair and impartial trial shall be given in every case. That is the correct issue, and not the question which has been raised that everybody, because this is a democratic country, should have the privilege of sitting on a jury. People might as well claim that everyone should have the privilege of being a magistrate. That is carrying the thing a little further along the lines of reductio ad absurdum. Although this Bill proposes to abolish special juries, the special jury system still exists in every one of the Australian States with the exception of Queensland. A good deal was said by those who supported the Bill last session, with regard to the New Zealand Act. That Act I think retains the provision for special juries, although the qualifications for ordinary jurymen are on a somewhat different plane from ours. The qualification for

an ordinary juryman in Western Australia is that he should possess real estate to the value of £50, or a clear personal estate to the value of £150. A special juryman—there are certain people such as merchants, etc., who are admitted—must possess real or personal estate to the value of £500. In South Australia they have a common jury. The qualifications of such a juryman are that he shall be the owner or occupier of any land or tenement of a yearly value of not less than £20. The qualification for a special juror is that he shall be the owner or occupier of any land or tenement of a yearly value of not less than £100. In New South Wales, they still have common jurymen and special jurymen. A common juryman must possess real estate that will yield to him £30 per annum. That is a higher qualification than we have. Alternatively, he must possess a clear, real or personal estate to the value of £300. That is a much higher qualification than we have. In the case of special jurors—certain classes of individuals such as bankers, merchants, etc., are admitted—they must be the owners or tenants of land to the value of £100 annually or upwards. In Victoria a common juryman must be a householder, and be rated at not less than £20. The qualification for a special juryman is that he must be rated at not less than £60, or have real estate worth £1,200. That is a much higher qualification than we have in this State. Bearing in mind that the system of both common and special jurymen exists in every other State except Queensland, I think the Honorary Minister should have given the House more valid reasons than he did for the abolition of special juries. He should have endeavoured to point out that it had involved some miscarriage of justice, but he did nothing of the kind. I know he did not wish to raise any controversial matter, but he did allude to the fact that someone—I believe he was personally concerned—at one time had been convicted by a special jury of a certain offence, namely, that the persons concerned had declined to work in combination with some other workers. He did not say that the special jury had brought in a verdict that was not in accordance with the evidence, or the law of the land. Undoubtedly, they did bring in a verdict that was in accordance with both these things. If an injustice was done it was done under the law of the land. No doubt, as is usual in such cases, the judge told the jury exactly what the law was. That is the function of the judge. There was no miscarriage of justice, and the jury returned a verdict according to the oath they had sworn, namely, to administer justice. I understand the Honorary Minister was convicted, but there was no miscarriage of justice. If there was anything wrong it was in the law, which should have been altered. There was no reason in what took place for attacking the special jury system, merely because this special jury returned a verdict in accordance with the evidence.

Hon. E. H. Harris: He had nothing to complain about.

Hon. F. E. S. Willmott: That does not follow.

The Honorary Minister: You have not heard me complain much.

Hon. A. J. H. SAW: I do not say the Honorary Minister has complained. I know he did not wish to enter into any personal explanation of the matter, but as he alluded to it I have done the same. Exactly similar arguments were used in another place last session. No effort was made to prove that special juries had been biassed, or had done anything that was opposed to their oath. It would have been much wiser if the Government had appointed a Commission to go into the whole question of the jury system. I am going to vote for the increased payment to jurors, but I am also going to vote for the retention of special juries. I do not say the monetary qualification is by any means the best that can be devised, but I believe there is a sphere of usefulness for a special jury so long as we retain that system. It would be quite possible to set up special jurors in different cases very much on the lines outlined by Mr. Nicholson, namely, that we should have special juries drawn from certain classes of the community according to the special issue that was being tried.

The Honorary Minister: The system would become rather complicated then.

Hon. A. J. H. SAW: I think not. Juries need not be as large as they are to-day. I believe it is customary to restrict a special jury to say, five or six men. It is unnecessary to have 12 men sitting on such a jury. In the circumstances I believe a greater measure of justice would be done. No one can be altogether satisfied with the verdicts that are at present returned by juries, whether special or common.

Hon. F. E. S. Willmott: How can a special jury bring in any more satisfactory verdict if you say the law of the land prevents them

from doing so? They give a verdict according to the law of the land, and if that is unsatisfactory it will have to be altered.

Hon. A. J. H. SAW: They give their verdict according to the evidence. The law is interpreted for them by the judge. I was only alluding to the special case to which the Honorary Minister referred. I have had considerable experience before juries, fortunately not in the dock. It has often been my privilege to go down to the court as a witness. It is painful, I think, to anyone who has had to give technical evidence, especially on anatomical or surgical points, to have ordinary jurymen listening to it. One is perfectly certain they do not understand what is being said.

Hon. E. H. Gray: Or the judge either.

Hon. A. J. H. SAW: He is not too successful, but he is more successful than the jurymen.

The Honorary Minister: Would a £500 qualification give a man more understanding?

Hon. A. J. H. SAW: I am not satisfied with the monetary qualification, but that is what we have at present. It is not for me to suggest a better method. This should be determined after investigation by those who are always dealing with juries. I refer to eminent counsel, to counsel of all kinds, and to judges, as being fit and proper persons to give evidence before a Commission, and put forward some better substitute for the jury system than we have at present. Until something of the sort is done, I am not going to be a party to abolishing special juries as they exist now. Even as that system exists to-day it is better than the ordinary jury system. We know well that in some cases that come before a jury there is a considerable amount of passion aroused. Sometimes political issues are involved. Political issues are not being fought out, but the question of political issues sometimes does creep in. I maintain that in those cases one is more likely to get a fearless verdict from a special jury, even as at present constituted, than from a common jury. The reason is obvious. If those two eminent gentlemen, Mr. Tom Walsh and Mr. Johnson, or Johannsen, were brought before a common jury to-day on any question arising out of their political or industrial action, it would be impossible, to get a conviction—absolutely impossible.

Hon. E. H. Gray: You would get a conviction from a special jury.

Hon. A. J. H. SAW: Justice would be obtained from a special jury, and what we want is fearless administration of justice. We want juries that will dare to return verdicts according to the evidence. I am afraid that under present conditions we would not be likely to get that from a common jury in a case of the kind I have suggested.

Hon. J. E. Dodd: That argument cuts both ways.

Hon. A. J. H. SAW: I do not think so.

Hon. J. E. Dodd: If a common jury would not convict in such a case, we could say that a special jury would not convict in another case.

Hon. A. J. H. SAW: I do not think so. The point I wish to make is that the element of fear comes in. It is not a question of bias. We know perfectly well that in industrial cases the element of fear does enter, fear of the consequences. I have no hesitation in saying, because I know it perfectly well, that a great deal of intimidation is carried on in these industrial issues.

The Honorary Minister: A legitimate industrialist does not know the meaning of fear. He has taken too many risks.

Hon. A. J. H. SAW: Until some better substitute is put up, I shall have to vote for the retention of the special jury.

Question put and passed.

Bill read a second time.

BILL—FORESTS ACT AMENDMENT.

Second Reading.

Debate resumed from the previous day.

HON. A. BURVILL (South-East) [6.6]: I understand that the object of this Bill is to do away with the need for such a measure coming before Parliament every session. On reference to the report of the Forests Department I find that £27,445,000 worth of forest products has been exported from this State. The bulk of the value is in timber, though sandalwood represents nearly four millions of the total. Our forests are being exploited for no adequate return. Last year's revenue is pretty well a record, amounting to £182,000; and the export has also been a record, representing

1½ millions sterling. In my opinion sufficient attention has not been paid to reforestation. We have a wasting asset, and the time is not far distant when, instead of record returns, we shall have a waning revenue. That position will come about very rapidly unless steps are taken to prevent it. Certainly, more should be done in the way of reforestation. According to the Conservator's report, so far less than £100,000 has been spent on that work. The report states—

> The department have no large reserve of funds accumulating, and the problem of the future, now that trained administrative staff is available, is to confine work urgently requiring attention to the limits prescribed by funds available.

Sufficient advances are not being made in the matter of pine plantations. On this aspect the report states—

> Seven new pine plantations have been established, bringing the total up to 14, and in these 350 pounds of Pinus pinaster seed, 100 pounds of Pinus insignis seed, and 60 pounds of other species have been sown. These nurseries should result in the annual area planted being raised to over 1,000 acres per year within two years.

This is not nearly enough to cope with the wants of the State in the near future. We are extending our fruit planting and our export of fruit, and in view of our laws, and of the approaching shortage of hardwood, we shall be compelled to use pine timber. In order to make provision for fruit cases, we must have extensive plantations of pine. The law forbids the use of second-hand fruit cases. That is quite as it should be, on account of the danger of orchards becoming infected with insect pests from another State, or of one part of this State infecting others. The pine plantations should be established at the earliest possible moment, as it takes 30 years to reach the stage when pines can be thinned out so as to be of use for box making. Long before the expiration of 30 years we shall certainly be importing soft wood for fruit cases. Indeed, I understand the import has already started. Tasmania, a far smaller State than Western Australia in the matter of fruit growing, is now exporting considerably over 1¼ million cases of fruit. Pine plantations should be placed where they will be accessible to the orchardists. Pine trees will grow well in the vicinity of the orchards that are established, and plenty of land suitable for pine plantations is available there. The Minister, in replying, might state whether financial provision is to be made in the near future for pine plantations. I understand that the money accruing from sandalwood royalty goes into revenue. This Bill proposes that £5,000 of the royalty should go to reforestation, and the remainder to revenue. I am not in favour of that arrangement being made permanent. I prefer to have the matter reviewed next session. Unless there is special provision of loan funds for the purpose, the Conservator of Forests will need more money than is available to him at present for both reforestation and afforestation. Such part of the sandalwood revenue as is not used for re-planting sandalwood should go towards maintaining the forest asset we have. That should not be done with borrowed money, which posterity will have to repay. We are exploiting one of the finest assets of the State, and we should find the necessary funds for afforestation and reforestation. I support the Bill, though I do not favour the financial arrangement under it being made permanent.

HON F. E. S. WILLMOTT (South-West) [6.13]: I entirely agree with the Bill, and consider that an amount of £5,000 is ample for the purpose of reforestation, especially in view of the funds the Conservator of Forests has in hand. A charge has been made against the Lands Department of having encroached on certain forest lands at Bridgetown. I happened to be in control of the Lands Department when this matter was first arranged. In those bygone days I held the opinion that there was excellent land in the Bridgetown district for settlement purposes. In the Conservator's report, parts of which are published in to-day's "West Australian." I notice a statement to the effect that after the Conservator had begun operations on this land adjacent to Bridgetown, the Minister for Lands put his officers in, surveyed blocks, and settled groups there. I wish to deny that statement from my place in this House. The land in question had been in the eye of the Lands Department for some time. The surveyors had looked over the land, and had surveyed blocks on it, and everything was in readiness for the groups. Some months later, when the people came out from England, all was prepared for them to go straight on to the blocks; but in the meantime the Conservator of Forests had in-

structed his officers to do certain work on this very land which had already been cut up for group purposes. And now the Conservator has the temerity to tax the Minister for Lands with putting groups on an area on which forestry work had already been begun. In reality, the position is the exact opposite, and the Conservator began reforestation work on land which had already been surveyed for groups. An officer holding such a high position should have been much more careful in making such an assertion. While supporting the Bill, I take the opportunity to draw the attention of the House to a mis-statement which should never have been made, and which I hope will be withdrawn in the immediate future.

On motion by Hon. J. Duffell, debate adjourned.

ADJOURNMENT—SPECIAL.

THE COLONIAL SECRETARY (Hon. J. M. Drew—Central) [6.17]: I move—

That the House at its rising adjourn until Tuesday, the 6th October.

Question put and passed.

House adjourned at 6.19 p.m.

Legislative Assembly.

Wednesday, 23rd September, 1925

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

PERSONAL EXPLANATION.

Mr. J. H. Smith and the Primary Products Marketing Bill.

MR. J. H. SMITH (Nelson) [4.31]: I desire to make a personal explanation. When the member for Swan (Mr. Sampson) was speaking on the Primary Products Marketing Bill last night I remarked, by way of interjection, that 99 per cent. or 100 per cent. of the fruitgrowers in my electorate were opposed to the Bill. There were many interjections at the time and perhaps my remark was not plainly heard. The "West Australian," however, reported me as having said that 99 per cent. or 100 per cent. of the growers in my district were in favour of the Bill. Early to-day I received a telegram from electors in my constituency drawing my attention to the report in the "West Australian" and asking me to correct the statement in Parliament this afternoon. I beg to do so now.

QUESTION—FORTY-FOUR HOUR WEEK.

Estimate of Cost.

Mr. LINDSAY (for Mr. Thomson) asked the Premier: 1, What is the estimated increased cost of the 44-hour week policy? 2, As the Government's action in introducing the 44-hour week in the various departments and industries may automatically bring outside industry under the 44-hour conditions, have the Government an estimate of the increased cost to the State? 3, If not, will they instruct the Statistical Department to prepare an estimate?

The PREMIER replied: 1, A reliable estimate of increased cost, if any, cannot be furnished where so many factors of such a complex nature are involved. 2 and 3, No, for the reasons stated in answer No. 1.

QUESTION—MOTOR LORRIES, WANNEROO-ROAD.

Mr. MILLINGTON asked the Minister for Works: 1, Is he aware that the Wanneroo-road from Cape-street northwards for about 48 chains is in such a bad condition that the local authorities have declared it closed? 2, Is he aware that the damage was caused by heavy motor lorries carting material for the reconstruction of the Wanneroo-road north-