that, although it was agreed fifteen months ago that both sides should be bound finally by the decisions of the board, the Crown should be in a position to reopen a particular case, and free themselves from the binding conditions previously imposed. It was undesirable to create unrest or to damage titles through raising unnecessary fears. Moreover, the Crown had the remedy in their own hands, and the amendment was not required. If the Crown found that they had been imposed upon by fraud or conspiracy, they would have full power under the law to reopen the question of the leases, and to punish those who had offended. If the amendment were agreed to, it would appear that Parliament was going back upon the principles agreed to when the bill became law.

Mr. TREFLE (The Castlereagh) [10·49] said that if the Premier could give his assurance that the Crown would have the same power in a case of perjury arising out of an application for one of these improvement leases as in the case of an application for a homestead lease, he would withdraw his amendment.

Mr. WADE: The Crown would have full power to punish anyone who had been guilty of perjury!

Mr. TREFLE wished to know whether the Premier could assure hon. members that the Crown would have the same right in these cases as in those of homestead lessees? Apparently he could not do so, and he must press his amendment.

Question—That the words proposed to be inserted be so inserted—put. The Committee divided:

Ayes, 26; noes, 40; majority, 14.

Ayes.	
Burgess, G. A.	MacDonell, D.
Cann, J. H.	McGowen, J. S. T.
Charlton, M.	Meehan, J. C.
Dooley, J.	Mercer, J. B.
Edden, A.	Page, F. J.
Estell, J.	Peters, H. J. F.
Grahame, W. C.	Price, R. A.
Griffith, Arthur	Storey, J.
Hollis, R.	Stuart-Robertson, R. J.
Holman, W. A.	Trefle, J. L.
Horne, H. E.	
Jones, G. A.	*Tellers,*
Kelly, A. J.	Miller, G. T. C.
Lynch, J. P.	McNeill, J.

Noes.	
Brown, W.	Millard, W.
Clark, E. M.	Miller, J.
Collins, A. E.	Moore, S. W.
Donaldson, R. T.	Morton, M. F.
Fallick, J.	Moxham, T. R.
Fell, D.	Nicholson, J. B.
Gilbert, O.	Nobbs, J.
Graham, Sir James	Oakes, C. W.
Hall, B.	Onslow, Col. J. W. M.
Henley, T.	Parkes, V.
Hindmarsh, G. T.	Perry, J.
Hunt, J. C.	Robson, W. E. V.
Jones, R.	Storey, D.
Latimer, W. F.	Thomas, F. J.
Lee, C. A.	Waddell, T.
Levy, D.	Wade, C. G.
Lonsdale, E.	Wood, W. H.
McCoy, R. W. W.	
McFarlane, J.	*Tellers,*
McGarry, P.	Ball, R. T.
McLaurin, G. R.	Davidson, R.

Question so resolved in the negative.

Clause agreed to.

Preamble.

Colonel ONSLOW (Waverley) [10·56] moved:

That the following new clause be added to the bill:—"Nothing in this act shall affect leases numbered 1,356, 1,357, and 1,358, or any proceedings or steps taken or to be taken ——

The TEMPORARY CHAIRMAN: It is impossible to insert the proposed amendment at this stage. The question now is that the preamble be the preamble of the bill.

Question resolved in the affirmative.

Bill reported without amendment; report adopted.

Colonel ONSLOW (Waverley) [10·59] I move:

That the bill be recommitted with a view to the consideration of a new clause.

Mr. DEPUTY-SPEAKER: The hon. member cannot do that now; he will have an opportunity to-morrow when the question is proposed that the bill be read the third time.

House adjourned at 11 p.m.

Legislative Assembly.

Thursday, 19 March, 1908.

Questions and Answers—Questions without Notice—Papers—Improvement Leases Cancellation (Declaratory) Bill—Lease Conversion and Law Amendment Bill—Servants Registry Bill—Innustrial Disputes Bi l (second reading)—Adjournment.

Mr. SPEAKER took the chair.

COUNTRY HAIRDRESSERS.

Mr. FLEMING asked the COLONIAL SECRETARY,—(1.) Is it a fact that in many country towns hairdressers suffer severe loss through having to close early on Saturdays? (2.) Will he take steps to relieve the country hairdressers of this disability?

Mr. HOGUE answered,—(1.) Not that I am aware of. There are only five country shopping districts, out of a total of 194, whose 1 o'clock closing day is Saturday. (2.) Provision is already made in the act whereby a poll can be taken for a change in the 1 o'clock closing day for non-schedule shops.

MUSWELLBROOK-MERRIWA RAILWAY.

Mr. FLEMING asked the SECRETARY FOR PUBLIC WORKS,—Will he submit the proposed Muswellbrook-Merriwa railway to the Public Works Committee at as early a date as possible?

Mr. C. A. LEE answered,—No decision has yet been arrived at as to what references will be made to the Public Works Committee next session.

SCHOOLS, FORBES, TOMINGLEY, AND PEAK HILL.

Mr. LYNCH asked the MINISTER OF PUBLIC INSTRUCTION,—(1.) When are tenders to be called for the construction of the Forbes public school? (2.) When will the new school building be commenced at Tomingley? (3.) Have the plans been prepared for the new classrooms at Peak Hill; if so, when will tenders be called?

Mr. HOGUE answered,—(1.) Tenders will be invited after completion of the necessary plans and specifications of the building, for which a sketch plan has been prepared. (2.) Tenders have already been invited and will be opened in the Department of Works on the 30th instant. (3.) A sketch plan has been prepared, and further action will be taken when it has been approved of.

PENSION PAYMENTS BY POST.

Mr. LYNCH asked the COLONIAL TREASURER,—(1.) When does he contemplate paying pensions by post in country districts? (2.) Is it a fact that in many instances old people have to walk 15 miles to receive their pension?

Mr. WADDELL answered,—(1.) I am now going fully into the question of the system of paying old-age and invalidity accident pensions with a view, if possible, of adopting some more economical and convenient system. In connection therewith, the possibility of paying pensions through the post in country districts will be considered. (2.) I am not aware. Any such cases must be due to exceptional circumstances. The act makes full provision for any pensioner obtaining payment of his pension through a nominee approved by the district board. At the present time pensions are paid at 114 bank offices and at 423 post offices in the state. A pension can be made payable to any pensioner or his authorised nominee at any post office in New South Wales where a money-order office has been established.

TRAFFICKING IN LAND TENURES.

Mr. MEEHAN asked the SECRETARY FOR LANDS,—(1.) In relation to the legal provisions of the 1884 Land Act, which does not include several new descriptions of land tenure which have been called into existence by subsequent land legislation, is it his intention, by amendment or regulation, or otherwise, to make it a penal offence to traffic in any way in such new systems of tenure? (2.) If he is prepared to do this, can he intimate when?

Mr. MOORE answered,—The matter will receive consideration.

Later,

Mr. MEEHAN: I should like to know whether the Minister can give some slight information as to his intentions with regard to the amendment of the law relating to certain land that is held under tenures to which the Land Act of 1884 does not apply?

Mr. MOORE: I quite admit that I might have answered the hon. member's question in slightly more definite terms, but I thought it best to be cautious. I have great pleasure in stating that the matter will be fully considered in connection with the amending land bill, which I hope to place before Parliament early next session.

NARROMINE TO PEAK HILL RAILWAY.

Mr. LYNCH asked the SECRETARY FOR PUBLIC WORKS,—(1.) Has the new railway line, Narromine to Peak Hill, been

surveyed; if not, why not? (2.) When are tenders to be called for construction of this line? (3.) In view of promises made by the Minister, what is the reason for the delay in getting this work started?

Mr. C. A. LEE answered,—(1.) No. Because a surveyor will not be available for the work until the end of this month. (2.) About October next. (3.) There was considerable difficulty in obtaining qualified surveyors.

MOLONG TO CUMNOCK RAILWAY.

Mr. LYNCH asked the SECRETARY FOR PUBLIC WORKS,—When is the proposed survey of line from Molong to Cumnock, *viâ* Norah Creek, to be undertaken?

Mr. C. A. LEE answered,—The exploration promised will be carried out as soon as an officer is available.

ESTATE OF LATE S. M. SWIFT.

Mr. PARKES asked the PREMIER,—(1.) Is it a fact that, in view of the report of a parliamentary select committee, a former Government appointed Mr. Brierley, an accountant, as a royal commission to investigate the allegation of evasion of probate duty by the trustees in connection with the estate of the late S. M. Swift? (2.) Did Mr. Brierley, for some length of time, proceed with the inquiry? (3.) Did Mr. Brierley conclude his inquiry and furnish his report? (4.) If not, why not? (5.) Will the present Government take steps to bring to a conclusion this unsettled matter? (6.) Will he lay upon the table of this House the whole of the correspondence with Mr. Brierley, and other documents in connection with the case from first to last?

Mr. WADE answered,—(1.) Yes. (2 to 4.) Mr. Brierley had just commenced to act under the commission when he was instructed by the Acting Premier of the day to discontinue proceedings under the commission until further instructed. (5.) Inquiries have been made into the matter by the Audit Department, and the question will shortly be brought before the Cabinet. (6.) There is no objection to the papers being laid upon the table of this House, if moved for in the ordinary way.

SCHOOLS, MANNING AND GLOUCESTER.

Mr. PRICE asked the MINISTER OF PUBLIC INSTRUCTION,—(1.) Is it a fact that the schools in the Manning and Gloucester Districts are not in a proper condition as regards accommodation, shelter, and sanitation? (3.) What is the cause of the delay in carrying out the necessary repairs and alterations to such schools? (3.) What has caused the delay in calling for and acceptance of tenders for the proposed new schools? (4.) Is it a fact that the health of the children is being impaired, in consequence of the want of proper ventilation, accommodation, and shelter; will he be good enough to expedite these matters?

Mr. HOGUE answered,—(1.) No. (2.) I am not aware that there has been the delay represented. (3.) As the hon. member has omitted to state the names of the proposed new schools to which he refers, I am unable to say whether there has been any delay. (4.) No. The health of the children is carefully guarded by the department in these respects. I desire to add that, while no serious fault can be found with the condition of our school buildings generally, the department is constantly making considerable additions to, and improvements in, the accommodation, with the funds voted by Parliament for that purpose. In those districts for instance, to which the questions refer, works of the kind—not of an extensive character, as the schools are not large ones—are in progress at at least eight places, and the new school and residence at Gloucester are now ready for occupation.

POSTAL SERVICE.

Mr. PRICE asked the PREMIER,—(1.) Will he submit representations to the federal authorities as to the unsatisfactory mail service and delivery of letters in the city and country? (2.) That casual hands (boys) are employed at rates of from 1s. 8d. per day, who are entrusted with the delivery, collection, and handling of valuable letters and documents? (3.) As to whether any precautions are taken by the postal authorities in reference to the character and previous conduct of such casual hands? (4.) That important letters and documents have not been de-

livered, and that persons making complaints are required to pay for stamps for inquiry?

Mr. WADE answered,—(1 to 3.) It will be necessary, before I can make representations, that I should be in possession of definite information on the matters referred to in these questions. (4.) The facts referred to constitute good grounds for making representations to the federal authority.

FEDERAL CAPITAL.

Mr. PRICE asked the PREMIER,—(1.) In view of the answers furnished by him last session, in reply to the hon. member for Gloucester, will he take steps to see that the promises of the Federal Government in relation to the federal capital are carried out? (2.) Have any further representations been made to him to the federal authorities; if so, will he be good enough to lay the papers upon the table of this House? (3.) Is it a fact that steps have been, and are now being taken, to concentrate the federal work in Victoria; and, if so, will he submit further protests in connection with the question?

Mr. WADE answered,—(1.) Yes. (2.) Yes. (3.) Whenever it has come to the knowledge of the Government that attempts are being made to unduly concentrate federal work in Victoria, protests have been made. Strong representations were made by the state recently against the proposal to print stamps in Melbourne, and I am glad to say they were successful.

PAPERS.

Mr. HOGUE laid upon the table the undermentioned papers, which were referred to the Printing Committee :—

By-laws of the University of Sydney.

Minute of the Public Service Board regarding the appointment of Mr. J. V. Connolly as Superintendent of the Industrial Farm Home, Mittagong.

Minute of the Public Service Board regarding an increase in the salary to Captain W. H. Mason, commander and superintendent of nautical schoolship *Sobraon*.

Notifications of resumptions of land, under the Public Works Act, 1900, for Public School purposes at Canberra. Eusdale, O'Connell, Morebringer, Yowrie, Myocum, Mogogarie, and Keerrong.

Amended regulations under the Public Instruction Act, 1880.

SUNDAY FRUIT-SELLING.

Mr. LEVIEN : In the absence of the Chief Secretary, I should like to ask the the Premier if he will take action to prevent the fruit vendors of the city from being prosecuted for Sunday-selling, and allow them the same privilege as is extended to persons selling fruit at the different watering-places and at the gates of the Botanic Gardens?

Mr. WADE: In the absence of my hon. colleague, I should prefer that the hon. member should give notice of this question.

FLOODS : TELEGRAPHIC INFORMATION.

Mr. G. A. JONES : In reference to the severe floods that are being experienced in the north and north-western portions of the state, I should like to ask the Premier if he is aware that in many of the towns along the rivers telegraphic information is not supplied from one town to the other as to the state of the river? I should like also to ask the hon. gentleman whether it is the duty of the State Government to have such information wired down after a heavy rainfall, or whether it is part of the duty of the Federal Government? If it is part of the duty of the Federal Government, will the hon. gentleman make representations to the Commonwealth authorities with the view of having this information sent along from all the towns at the heads of the rivers to the towns below when any serious rise takes place in the rivers, so as to enable the settlers to get their stock away to high ground as quickly as possible?

Mr. WADE : I am not prepared to say at the present moment under which jurisdiction that duty comes, although I am under the impression that it is work that belongs to the state, and work which the state ought to do. Irrespective of whose duty it is, there can be no doubt it is a most desirable thing in the interests, not only of property, but of life that information of this kind should be sent. I was under the impression, until the question was asked, that information of this kind was always forwarded in the event of a flood coming down a river.

Mr. G. A. JONES : It used to be done, but the information is not now sent to any of the towns along the rivers!

Mr. WADE: It is very desirable that it should be done. Inquiry will be made at once, and, as far as I am concerned, instructions will be given that, in the future, Government officials in the various towns shall notify those lower down the river of the approach of a flood, or what the prospects are.

WHEAT IN BULK.

Mr. BALL: In view of the large increase in the production of wheat in this state, and the large increase in the carriage of wheat on our railways, I should like to ask the Premier if he will consider the advisability of the Government adopting the modern system of handling and conveying wheat in bulk; and also if the hon. gentleman will bring this matter before the conference of Premiers, which, I understand, is soon to take place?

Mr. WADE: The matter the hon. member refers to has been discussed by the late Government and also by the present Government. But there are difficulties in the way of giving immediate effect to it consequent upon the heavy expense. Consideration is being given to the proposal with the view of devising some practical method of providing modern facilities, and at the same time doing so within the limit of reasonable expense. I do not think it is a question that should be broached at the Premiers' conference. It is really a question of state policy in each case. But what we do propose to bring before the Premiers' conference is the suggestion of the threat of the Federal Government to interfere with the size of the corn bags. We take the view that at this conference of the states to deal with these questions, it is their jurisdiction rather than federal. The Federal Government have not got a monopoly of humanity. We quite realise our obligations, and are quite prepared to do our duty. Whilst we remain component parts of the Commonwealth we are not only anxious but determined that the compact shall be solemnly observed by both contracting parties. If the Commonwealth go beyond their rights, we are prepared to test that, and at the same time to observe our obligations and not go beyond our rights. In confirmation of the view which I put forward some time ago, that I believed the proposed federal action is illegal and unconstitutional, I have fortified myself with the opinion of counsel, and they agree with me that this proclamation is not justified by the Constitution Act, and that there is fair ground for challenging it. I will only repeat that when the occasion arises that question will be challenged.

SUNDAY-TRADING.

Mr. LEVIEN: I wish to ask the Colonial Secretary if he will take action to prevent fruit vendors from being prosecuted for Sunday-selling, and allow them the same privilege as is given to fruit vendors at the different seaside resort and the Botanic Gardens?

Mr. WOOD: The position is this, that same years ago, I think when Sir John See was in office, a very definite policy of administration was laid down, that was to exempt in certain cases, at the discretion of the Inspector-General, confectioners and fruit-sellers from prosecution for selling on Sunday. In every other case the law is observed and offenders are prosecuted. I see no reason at present for interfering with that principle of administration. It may be a question in the future whether the law should be amended, but as the law stands I am not disposed to interfere.

PROTECTION FOR TRAM-DRIVERS.

Mr. CARMICHAEL: I wish to ask the Colonial Treasurer if he is prepared to give the information asked for by me yesterday with regard to the enclosing of tram-cars in view of the approach of the winter months?

Mr. WADDELL: In reply to the hon. gentleman I have to give the following information: Seven cars have already been fitted with protecting fronts, and all cars used for night service are being fitted. The question of having new cars so fitted is now under consideration.

VISIT TO THE RIVER MURRAY.

Mr. PETERS: I desire to ask the Premier if he intends, as was stated in the press some time ago, to organise a parliamentary party to visit the River Murray before the ratification of the interstate agreement?

Mr. WADE: I would like a holiday very much, but a great deal depends upon

the Opposition. If they keep us here for six or seven weeks there will be no trip to the Murray.

FORESTRY COMMISSION.

Mr. R. D. MEAGHER: I desire to ask the Secretary for Lands if in view of the interim report of the Forestry Commission, laid on the table last session containing some very important suggestions dealing with the wholesale destruction and export of hardwood and other timber, he will, pending new legislation, gazette regulations as soon as possible to attempt to cope with the emergencies referred to?

Mr. MOORE: I am not in a position to give the hon. member a definite reply. The recommendations to which he refers, with regard to the export of timber, are receiving the consideration of a great many people more or less interested, and representations are being made to me from time to time. Before the Government take any action in the matter we shall be careful to get all the available information to enable those interested in the industry to place their views before us. Only today a deputation waited upon me in connection with this subject. I informed them that they could rely upon it that, before anything definite was done by the Government, the matter would receive the most careful consideration. I was asked to give a promise that nothing would be done until the final and complete report of the royal commission had been sent in. I said that I would not go so far as to make any promise of that character, but I would promise that the matters referred to would receive the most careful consideration before the Government took action.

OYSTER LEASES.

Mr. PRICE: I wish to ask the Colonial Secretary if he has taken any action in regard to the representations made to him by the oyster lessees when he said it was his intention to deal with the matter?

Mr. WOOD: In view of the fact that I gave the hon. member and those who waited on me my assurance that I would deal with this matter when I had some reasonable time to do it, and in view of the fact that the representations were only made to me four or five days ago, I think the hon. member is rather impetuous. Of course, I intend to deal with the matter, and I will do so with reasonable expedition when there is some chance of doing so.

THOMAS LAW.

Mr. ESTELL: I wish to ask the Secretary for Public Works if he will lay on the table the report of the Public Service Board in connection with the inquiry held some time ago into the case of Thomas Law, engineer?

Mr. C. A. LEE: I have no objection.

FLOODS IN THE NORTHERN DISTRICT.

Mr. COLLINS: I wish to ask the Colonial Secretary, in view of the representations I made to him during the week with regard to the floods in the north-western district, if he has taken any action to relieve the sufferings of poor selectors owing to the floods?

Mr. WOOD: I presume the hon. member is referring to an interview that he had with me last Monday. I can only say that I gave instructions, after seeing him, to the Inspector-General of Police to make the fullest inquiry to see if boats were required, and to have those boats despatched along the river and to take all the steps that might be necessary to help the poor and needy who were suffering from the floods.

MARITIME STRIKE: EMERGENCY CREWS.

Mr. J. STOREY: I desire to know whether the Treasurer has noticed a paragraph in to-day's *Herald* to the effect that the residents of Grafton propose to furnish a crew to man the steamer *Kallatina*. If this be true, will he, as head of the Navigation Department, instruct his officers to see that none but competent men are allowed to act as seamen or in other capacities on board the vessel referred to?

Mr. WADDELL: I did not notice the paragraph to which the hon. member has referred, but the matter shall receive my attention, and I will see that the law is carried out.

IMPROVEMENT LEASES CANCELLATION (DECLARATORY) BILL.

Bill read the third time.

LEASE CONVERSION AND LAW AMENDMENT BILL.

Motion (by Mr. CLARK) agreed to:

That the Lease Conversion and Law Amendment Bill, which was introduced in the Assembly during last session, but was interrupted before its completion by the close of the session, be now reintroduced at the stage it had reached at the time of such interruption.

SERVANTS REGISTRY BILL.

Motion (by Mr. CLARK) agreed to:

That the Servants Registry Bill, which was introduced in the Assembly during last session, but was interrupted before its completion by the close of the session, be now reintroduced at the stage it had reached at the time of such interruption.

INDUSTRIAL DISPUTES BILL.

SECOND READING.

Mr. WADE (Gordon), Attorney-General and Minister of Justice [4·58], rose to move:

That this bill be now read the second time.

He said: I think that at all times a Minister in charge of a bill of this nature must approach the matter with a full realisation of the responsibility attached to him under the circumstances. But on the present occasion I feel further great anxiety owing to the unfortunate industrial unrest and the rumours of further trouble in the city at the present time. Whilst endeavouring to put before the House arguments in favour of the bill which will convince all those who are fair-minded and reasonable that the proposal contained in the measure will remedy the defects of the present act, and also provide safeguards against industrial troubles in the future, I shall try to secure support for my own views by arguments and facts alone. It will be my endeavour to eschew anything in the nature of personalities or anything that may be calculated to give rise to class prejudices, and to avoid anything that might excite the angry feelings of any class in the community. A bill of this characer, if it is to be successful, must be launched under conditions, not of irritation, but, as far as possible, of appreciation and good will. But while I say this, I do not propose for a moment to sacrifice or surrender what we conceive to be the real principles underlying the measure; nor do I ask hon. members opposite to sacrifice what they conscientiously believe to be the grounds for the strong assertion of their views. But whilst we cannot help being divided on broad lines of policy and principle in connection with these questions, there are numberless details which have occurred to me, and have been brought under my notice in the course of deputations and interviews on which, without a sacrifice of either principle or good faith, compromises can be arrived at in such a way as in all probability to improve the measure. There have been many misconceptions with regard to this bill for months, and I might say, years past. We were assailed with criticism of our legislation before it was known to the public at all, and after it had been published in the form of a bill, many of the comments that are heard are entirely devoid of reasonable foundation. Amongst some of the objections which I wish to dissipate once and for all before I come to the pith of the measure is the assertion I have unfortunately heard made in many quarters that the present Government have no sympathy with the toilers of the country, that their only anxiety is by medium of this bill to destroy what rights the workers have, and to hand them over, as it were, chained and bound to their employers.

Mr. ARTHUR GRIFFITH: We do not want you to destroy trades-unionism!

Mr. WADE: The member has, with his usual candour, put another aspect of the same question. There is an impression abroad—given utterance to, in some cases, I have no doubt, in all good faith, and in other cases launched with malevolent purpose—that the real intention of the Government in coming forward with what I might call this remedial measure, is not to procure harmony, not to produce peace, but to bring about turmoil and harm to a large section of the community. I say once and for all that if this is the last act in public life in which we take part as a Ministry, we have been pledged for years past, as members of the liberal party, to recognise and give effect to the principle that in industrial disputes there are more than two persons concerned. There are not only the parties immediately involved in the dispute, but there is the public outside to be considered. And we recognise as time goes on and the complexity of

trade increases, as our commercial relations grow and expand, that injury cannot be done to one section of trade or commerce without reacting and being felt, perhaps, through a variety of industries which are allied to it more or less closely. Bad as it is, and sad as it is, to witness from time to time this struggle going on between employer and employee in which the whole weapon used is that of strength, and the means of victory exhaustion, when those methods involve suffering on the individual, when they mean loss of money to all concerned, both in wages and profits, and when they mean personal misery and possibly starvation to those who are dependent on the workers, one cannot help thinking, whatever one's views may be and whatever one's politics may be, that it is absolutely a blot on our present-day civilisation. When we have that same trouble intensified by the fact that, with the growing conditions of our commercial life, a wrong done in one place permeates a very large section of the community entirely outside that area, the obligation becomes greater on those who control the affairs of state to use all their endeavours to step in and provide machinery, which, if it will not prevent trouble of that kind entirely, will at all events go a long way towards securing that end. Another matter upon which I wish to speak definitely at this early stage, is an assertion that there is no sympathy shown by any party in the country, except the labour party, towards putting down this curse of sweating. I say that not only from our protestations and from our utterances on the platform, but from the very contents of this bill itself there is ample evidence that we desire that this system of white slavery should, as far as possible, be wiped off the face of New South Wales.

Mr. BEEBY: On the 3s. level!

Mr. WADE: Here is the hon. gentleman, so early in the contest, trying to raise class prejudice on an important question like this. It is unworthy of him. If he wants an answer, I may say that on the labour programme two years ago, instead of 3s. there was the magnificent sum of 2s. 6d. Everybody knows that that is not the maximum wage, nor the normal wage. All it means is, that if a man employs children, he shall not employ them at any figure less than that fixed—2s. 6d. or 3s. It was never for a moment supposed to be a standard wage, or a normal wage, or the maximum wage. It lays down the condition that no man shall be allowed to carry on trade unless he complies with the provision that his humblest servant shall receive something that is above starvation. Having disposed of those two points, let me come to the main question we have to deal with now. Hon. members will see from a perusal of the bill that the general purpose is to secure continuity between present conditions and the future, and although the Arbitration Act now in force will expire by effluxion of time at the end of June, the same underlying principles so far as they are good and useful will be maintained in this bill. Those matters that have proved to be obstacles to success in the past will be eliminated, and over and above those two factors, we have taken, as far as we can, the legislation of adjoining states and countries, and from our experience of the past, introduced elements which may tend to make more perfect the purpose which we have in view. Under present conditions, there is an industrial arbitration court composed of a Supreme or District Court judge as president, and two members—one chosen by the employees and the other chosen by the employers. That court has had imposed upon it the duty of providing a remedy for all disputes in all trades and branches of industry. And from its very composition, its limited powers and centralising effect, it has been proved to be the greatest obstacle that there can be to the success of the existing act. When I say this I make no reflection upon the capacity, good intention, or *bona-fides* of those gentlemen who from time to time composed this court. I am prepared to admit that their endeavour has always been to discharge their duty to the state and the public in a conscientious and fearless way. But they are so hampered and handicapped by the surrounding conditions that success is almost impossible. What do we find? There are all the great industries of the country, numbering I dare say in diversity not far short of 100, if not more, many of them complex and involving many details, and the superhuman task is imposed upon men chosen, I might say,

by pure chance from one trade only, of applying their limited knowledge to all the varying conditions of the many trades throughout the state. At the very outset it occurs to one that no man can be master of many trades. He may perhaps have experience of one or more either by reading or practical work, but there are very few men in the country who can actually say that their knowledge, to be valuable, useful, and reliable, extends over two or three industries. Under those conditions these gentlemen are called upon to deal with all the various industries that come before the court from time to time, and, naturally, when a man is to the facts of the case before him an entire stranger, he must feel that he is not of that utility which he would be if he had a knowledge of the trade in question, and the difficulty in regard to the lay members of the court is that whilst they only have a practical knowledge of one or two trades at the outside, they have not got that quality of weighing evidence which is so useful in a man's legal training. The judge, I suppose in most cases, is without practical knowledge, but he can bring to bear upon all the investigations that judicial training which enables him to carefully weigh and balance the preponderance of evidence and direct his judgment in the right way. The laymen, without this training and facility, cannot give the same valuable service, even in regard to the elements to which they are strangers, as the judge himself can, with the result that although you may have occasionally cases of industry brought before the court in which the employees' member or the employers' member has got practical expert knowledge, in most cases that come before the tribunal you have to place your facts before a body of three, not one of whom has got any knowledge beyond what is acquired from the books and papers in regard to the intricate points involved in the trade. We, certainly those of us who are strangers to industrial life, know perfectly well that there are customs, habits, and practices which are intermixed with the very life, well-being, and prosperity of the various trades which can only be learnt and appreciated, and their true value arrived at by practical experience in that work. Under those circumstances, the fact that gentlemen are called upon to adjudicate in matters where their knowledge is entirely limited, or perhaps of not much importance at all, is of itself a large handicap and one of those grounds which tend to weaken the value of the court as a piece of machinery, and the value of their work in the eyes of the outside public. With this court so constituted, experience has shown what results must arise. In the first place the court, in their anxiety to be seized of all the history of the particular trade before them, spend a large amount of time in being initiated and taught the elements, the ABC of the trade. They have to acquire that preliminary knowledge by way of foundation to enable them to appreciate what is going to come thereafter. That, in itself, involves a loss of time sometimes of two, three, or four days, dependent entirely upon the complexity of the trade they are dealing with. Whilst that time is lost in every case of any importance—and it comes to a good deal in the course of a year—side by side with that factor is the experience most of us have gained that from the want of knowledge on the part of members of the court the parties to the dispute seize the opportunity of putting before the court extravagant claims. One side says naturally, "These gentlemen cannot possibly know what is a sound claim, and what is a weak case, until they have mastered all the technicalities of the trade, and the wise course to adopt is in preferring our claim to put in all we possibly can on the off-chance that something less than we are asking for as a maximum may be granted to us." On the other hand, those who appear as respondents take the same course. They resist, perhaps unreasonably, every claim brought forward by the plaintiffs, although in their own hearts and workshops they concede them, and very often add by way of counter claim other matters of an extravagant nature in the expectation, chance, and hope that they may extract from the court something that their own employees would not give them, and which, after all, the court may perhaps concede. With these two preliminary difficulties—first of all, the want of knowledge on the part of the court leading to the loss of time in the education of themselves in regard to the

trade, and the further loss of time involved by putting forward claims of an extravagant and baseless nature, there has been an enormous amount of time consumed in an unprofitable and expensive manner. Whilst we have those things to deal with then there comes the trouble with regard to the presence of the legal element. To give an instance to show that I am not speaking entirely on general grounds, I had experience of a case in which Mr. Justice Cohen presided. I think it was a case in which the gas-stokers of the gasworks in Sydney were involved—an industry that is very complicated, involving all kinds of customs, usages, and details that could only be mastered by long, assiduous, and constant attention. That case came before the court and for two or three days the court struggled manfully to become possessed of the ABC of the gasworks trade. At the end of the second or third day Judge Cohen himself expressed the opinion from the bench that he could not possibly master the details of the trade so as to do justice to the parties when he came to give his judgment. Mr. Cruickshank who was with him on the bench at the time indorsed those remarks and said that though an engineer by trade he could not pretend to be sufficiently seized of those matters to be able to do justice to the contesting parties before the court, and the judge finally said, so strongly did he feel on the point as to the incompetency of the court to deal with this technical trade in a way useful to the parties and to the public, that he insisted on the two sides retiring from the court, going back to their own work, and thrashing out the points in dispute among themselves and themselves only. After some demur the parties agreed to do so, and the result, which is very eloquent in more ways than one, was I think that in the course of three days the two parties returned to the court and announced that they had been enabled by discussion amongst themselves to settle all those vexed points with which the court threatened to be occupied for weeks.

Mr. CANN: They would not have done it if the court had not been there!

Mr. WADE: All I know is that when parties find it is of no use preferring claims to the court, because the court will not listen to them and when they find that they must rely on their own resources as they have been doing in the past, and on amicable grounds, it is very easily found how you can arrive at a settlement. I may say that in this case as far as the evidence went Judge Cohen stated that the relations between the employers and the employees in that industry had been cordial and fair.

Mr. BEEBY: The main issue in that case was an increase of wages!

Mr. WADE: Yes, the issue is mainly that in every case. But that depends on the conditions of work. To appreciate the value of a man's work, per hour or per day, you must know the amount of work he has been doing and the amount he is called upon to do in the future. The whole point involved therefore, it is true, is a matter of wages, which, however, depends on the amount of work itself, and the ability to decide the matter satisfactorily depends on a technical knowledge which no one outside the trade could possibly be expected to be master of. Then there was a dispute in which Anthony Hordern & Sons figured. That case lasted at least three weeks in the hearing, and the judge himself, in giving his judgment, said that as far as he could see from the evidence the institution in question had been one where good relations had existed and fair treatment had always been meted out to the employees by the employers—a case in which one could say, from the general surroundings of it, that there was no need to invoke the aid of the Arbitration Court, and which could have been satisfactorily settled apart from that tribunal.

Mr. BEEBY: They got a 30 per cent. increase in wages!

Mr. WADE: They may have. The strong point made by Judge Cohen, in giving his judgment, was that there had been no dispute which you could call of a serious nature, that there had been no unfair treatment, but that the men had always received at the hands of their employers what a reasonable employer would give to his men.

An HON. MEMBER: What case was that?

Mr. WADE: Anthony Hordern's case. I am not prepared for a moment to dispute that there was an increase of wages. What it was I do not know, but that an

increase took place I believe is perfectly true. It goes to show this, that the ordinary purpose of an arbitration tribunal, the prime purpose, is to prevent strikes, to prevent industrial conflicts where the parties have not been able to arrive at a settlement by amicable means. In more than one case in the life of the present court the remark has been made by the bench in the course of judgment, that the circumstances were very far away from those of an impending strike or lockout. In addition to that, there is the further complication caused by the presence of the legal fraternity. So long as power is given to gentlemen trained in the law to take part in the proceedings before any tribunal, you cannot complain that those gentlemen, in the course of their duty, exercise their talent, and do all they can, either on fact or law, to secure a victory for their own side. If you have a court constituted so as to lay itself open to points of law being raised and availed of, and if you allow people trained in the law to come forward and make the most of those possibilities, then you are adding a new terror to the ordinary arbitration tribunal. Hon. members know, and I think the public at large know, that these three elements all combining—the inexperience of the court, the extravagant claims made, and the presence of the legal fraternity—led to an immense prolongation of nearly every case that came before the court. The result was necessarily an increase of expense, which became very heavy in certain cases. It produced a result most undesirable in any tribunal to deal with industrial disputes—it had the effect of impressing the parties when they came to the court for a peaceful adjustment of their disputes with the idea that they were hostile to each other to begin with. If one thing is essential to produce good results in a court of this character, it is the spirit of harmony—the desire to be amicable. The most fatal obstacle to good results is the spirit of hostility and the idea of bitterness; and it is inevitable, from the constitution of these courts, and the way they are conducted, that there must be at the outset a feeling that, so far from being people engaged in one common purpose—the settling of the dispute in a quiet and amicable way—they are there to fight to the bitter end. That is another element which has made the present court almost useless in producing the results which the public looked for when the act was passed: We find that during the first twelve months of the life of this court it dealt with only eleven disputes, which were all prolonged, and some to a very great length. But at the end of the year there was a list of something like seventy cases, which had accumulated and were waiting determination by the court. One reason which I think I can with safety advance as a cause of this great congestion was the administration of the court in regard to the preference clause. In the act power was given to the court, if they thought fit, to give preference under certain conditions to members of employees' unions. In the very first case heard, and every case succeeding it, I think, during the first twelve months, or certainly during the first six months, the court took the view that as this power, or permission, to grant preference to unionists appeared in the act, there was an obligation cast more or less upon the court to concede it in every case.

An Hon. Member: Only if they thought it necessary!

Mr. WADE: The judge himself has said more than once that, unless Parliament meant the court to act upon them, these words would not have been placed in the Arbitration Act, and the view he took was that, not if he thought necessary, but unless there were strong convincing grounds to the contrary, he was bound in every case to grant preference to an employees' union. It may be a good principle or it may be a bad one. I am not concerned with that now. I am talking of the view adopted by the court.

Mr. Beeby: Does the hon. gentleman know of one case in which the judge laid down that principle?

Mr. WADE: I will quote a dozen tomorrow, if the hon. gentleman will allow me. I will be very much obliged if the hon. member will permit me to keep to my argument. I shall be glad to answer any questions, or afford information when I have got through my speech. It is impossible to produce a connected or effective result if one has to answer questions from time time throughout his speech. I

say that was the view taken by his Honor. I lay no blame upon those who saw the advantage of it, but the court was, I might say, rushed with claims from industries of all descriptions advancing grounds for redress at the hands of the court. I have actually heard it stated on the part of more than one industry that their real purpose was to secure preference by the court, that their conditions of life were not so bad after all. When the unions saw that, whether they achieved success in the way of an increase of wages or not, they, at all events, had an opportunity of having the preference clause granted to them by the court, there was naturally a rush by all industries which could possibly do so, to come before the court, and, if possible, obtain that result. As the act then stood, and in fact as it now stands, provision is made that while the dispute is before the court, a member of a union cannot withdraw or resign; so that it was used indirectly as a means of strengthening their political organisation. The employees could not retire while the case was pending before the court. Some of these cases were pending for years, and most of them for months, and when the award was given, including the preference clause in favour of the union, the further position arose that, if the parties did not belong to the union, they could not expect much chance of work; and if they did belong to the union, they must comply with the tenets and doctrines of the union. Under these circumstances, by a particularly simple method, which was not for a moment contemplated by those who framed the act, the opportunity was given for the labour unions to strengthen their political organisation with the disastrous result to the Arbitration Court as an industrial tribunal of congesting its work in a most deplorable way. The very first thing we ask for in any useful tribunal is a ready access to that body in the case of trouble. It is no use to be told, "Lay down the weapons of a strike; stop your lockout; when trouble arises, go before this tribunal of peace, which will deal with your case promptly and without delay." What is the good of that cry, what is the use of that remedy, when you find in the case of trouble, that those unions which have a real substantial grievance cannot expect redress unless they wait for one, or, possibly, two or more years? It is hardly to be wondered at, under these conditions, that there might be a union with a real substantial grievance, which could not approach the court, and, in despair, it took the alternative of trying to redress these things in its own way. Thus the court is faced with one of two very awkward alternatives. If they follow the rule laid down by them in the first instance, of taking all these cases chronologically, they are open to the danger that a most deserving union, which had the most pressing claims, might not get the ear of the court for months or years. On the other hand, if they departed from the chronological rule to meet the case of those about to strike, the danger facing them was that all unions might be tempted to proceed to extremities and threaten strikes just to secure precedence. These evils stand forth beyond all doubt. First the court was one centralised body, and so constituted that it could not possibly do justice to the persons concerned, or perform the work required of it by Parliament when that bill became law. Under these circumstances, a very short experience showed that some steps must be taken to modify these weak points in the system. Under this bill we propose, in the earlier part of it, to meet all these difficulties by way of new machinery. The complaint about the court being centralised is removed. There will now be a court or board for every specific industry or group of industries throughout the state. The want of promptness, which was a great trouble with the present court, through no fault of their own, is now removed, and there will be at hand to come to work at very short notice a tribunal for every industry or group of them throughout New South Wales. Last, but by no means least, we have upon these various boards, to deal with these various troubles, men who have been born and bred to the work they are called upon to adjudicate for, men who are experts, and no strangers to the matter, who do not require to be trained and taught by way of preliminary education, taking days and days, in the ABC of the industry. If these three factors be brought into operation in a satisfactory way, they will go to remove what has been the great bugbear and the biggest

obstacle to success under present conditions. Instead of one court, we shall have from forty-five upwards; instead of having laymen, who are strangers to the work, we shall have experts trained to the trade; instead of having this constant and irritating delay, unions asking in vain to get before the court, the court will be at hand within twenty-four hours' notice; instead of having the delay further increased by the presentation of extravagant claims, all that will be a thing of the past. It is no use trying to advance statements in opposition to these views when both sides are thoroughly aware of the weakness and want of candour in them. The question then arises, having laid down these main principles, how is this work to be carried out? As I have said, the bill proposes that there shall be boards throughout the state so composed that that they will vary in number, but they will have an equal number of representatives on behalf of employees and employers in the trade. The number is not fixed in the bill definitely. That is elastic, and can be arranged according to the requirements of each district and groups of industries involved in the dispute. If the parties refuse, or if they fail to make their own nominations, then a reserve power is given to the Government to step in, and, rather than see the machinery left idle, to make nominations so as to constitute a board to do the work. It reserves power over and above that to the Governor-in-Council on all occasions where there may be grounds of urgency, where a strike may be pending, or the method of election is too slow, to step in to save time by making the nomination from the two sides of employers and employees. But whilst you have a body so far constituted, there is no doubt that the most crucial part of this new system is the chairmanship, because experience has taught people in different parts of the world, that, with a man of tact, discretion, and resource, results can be accomplished of an entirely satisfactory and harmonious character. On the other hand, if the chairman is a man of weak temperament, vacillating, or liable to be influenced, the results achieved by that board over which he presides are always unsatisfactory. So that it is very essential, to make this machine satisfactory to the public, that the chairmen should be men who will command the confidence, not only of the board, but of the general public. In the first instance parties are allowed, if they can agree upon a man of their own choice, to elect him as their chairman. Failing that, power is again reserved to the Governor to select a District or Supreme Court judge; and if they are not available, then power is given to the Supreme Court bench to select some man entirely free from all prejudice and preconceived ideas, and to put him forward as a man of impartiality, qualified to fill the position. Of course it may be said that you will soon exhaust your District and Supreme Court judges, but quoting from the example of Victoria, it by no means follows that because the bill provides for the possibility of fifty boards that all those boards will be in operation at the same time, and all require a separate chairman at that time. In Victoria it has been found, as a rule, that there are only perhaps two or three boards actually at work at the same time. One man may preside as chairman over a number of boards, and I think—although I am not sure of the figures—the average is that one man acts as chairman of about four boards. Experience there has produced some very remarkable results as to the value of a discreet, careful, tactful chairman of strong personality. There is a gentleman who belongs to one of the nonconformist bodies in Victoria—I think his name is Mr. Edgar—who is chairman of no less than four boards. One of them was the tailoring and clothing board. He has been chairman of those boards for some years. They have all had their disputes and their awards fixed up. I have been told on credible authority that he has never yet had to give a casting vote on any one of those boards. He has sufficient tact and personality ——

Mr. McGOWEN: We have not many Edgars here!

Mr. WADE: But it shows that this can be done. And if it can be done in Victoria, I hope it can be done in New South Wales. I am emphasising this point that on the chairman to a large extent, rests the success of these tribunals. On those particular boards over which Mr. Edgar has presided, I think he has given no vote. There has always been an abso-

lute majority arrived at by the employees' crossing over and joining the employers or the converse. I am told that in all these cases—some of them very intricate matters—the awards of the board are conformed to in the most harmonious way. Yet there are cases heard of where the chairman has been a square peg in a round hole, wanting in those qualities that should characterise every chairman for this purpose, and those men have simply allowed themselves to be used by the two contending sides, and invariably, when called upon, to deal with any question, the chairman has given a casting vote. Whilst I put before the House in fairness the two possibilities—where a man is possessed of qualifications to make a good chairman, and the other man has not got those qualifications—I do so only to let the public understand that in the choice of a chairman a large amount of the success of these boards depends. Therefore, in selecting our chairman and providing our range of choice, we first of all pick upon a body of people who have a reputation for impartiality; and if they are exhausted, then at all events the same impartial body shall fix upon somebody else, who, it is hoped, will fulfil the requirements of the position. Now, having got as far as that, we shall have for every trade a board constituted in the manner I have described ready at a moment's notice to come into operation and deal with all disputes that may be brought before them. The advantage of this is clearly apparent, because, over and over again, our experience tells us that great industrial upheavals arise in most cases from small beginnings. Some small trifling squabble affecting a few workmen leads to further developments, and other men are dragged into the dispute which eventually becomes a union question, and, possibly, involves the whole trade. These troubles generally begin with small grievances on the part of a single man, and the only way to check the spread of the trouble and the growth of unrest is to have a tribunal handy which will be able, without delay, to pour out the oil of peace and to check industrial unrest. One of the sad features of the present court was that the business was so congested that they were not always in a position to step in and deal with trade disputes in their infancy. Under the new proposal a separate tribunal for every industry will always be available to step in at a moment's notice and to check the growth of an incipient evil. One of the grounds of the criticism directed against this measure is that wages boards are things to be tabooed. The only principle that we have advanced as members of the liberal party is that the new tribunals shall be constituted on the wages-board principle. Instead of depending upon laymen, we ask the parties to choose for their judges men who are experts, and who are thoroughly acquainted with the working of the trade in which the dispute has arisen. I have heard that hon. members opposite, even since this bill has been made public, have declared that they are opposed to the wages-board principle involved in the bill; but I would urge them seriously before they ask the public outside to accept their objections, to travel round the world and ascertain what experience has been gained in other countries.

An HON. MEMBER: Will the Government supply the necessary funds to defray the travelling expenses?

Mr. WADE: Hon. members have their free passes—what more do they want? I shall save them expense and time by quoting information derived from all parts of the world upon the point to which I have referred.

Mr. BEEBY: There is no compulsion in any wages-board system in the world!

Mr. WADE: The hon. member has missed the point.

Mr. BEEBY: No, I have not; that is the point!

Mr. WADE: With all respect to the hon. member, that is not the point. The Government take up this position: First of all, there is compulsion in this bill to make the parties come together in the first instance. There is also compulsion in this bill—and also in the present act—to make both parties observe the award after it has been given. The wages-board principle as we have advocated and expressed it, and as the other side have criticised it, lies in constituting the tribunal of men representing both sides engaged in the trade in which the dispute occurs. The argument used by the leader of the Opposition only last week was that there would be a fatal objection to any

tribunal if the men chosen as judges in disputes between employers and employees were to be taken from the ranks of the employees and employers in the trade affected. It was urged that if this course were adopted the workmen would be exposed to the possibility of oppression and of even boycotting and blackmailing if they opposed the employers on the board.

An HON. MEMBER: ———

Mr. WADE: The hon. member cannot follow ordinary logic.

An HON. MEMBER: We are not getting that from the Premier!

Mr. WADE: It is much more important to follow up the logic of the position set out by the leader of the Opposition. The hon. member, when speaking in the debate on the motion for the adoption, in the address in reply, stated:

> Under the Victorian plan from three to five men are chosen from each side to constitute the board, and we have had some experience of the internal working of that system. We know of men in New South Wales to-day who have been blackballed out of Victoria, because they have been true to those who have chosen them to sit as their representative on a wages board. We have knowledge of cases in which men have been boycotted and have been unable to obtain employment.

That is one of the grounds upon which the wages-board principle of appointing tribunals is regarded as objectionable. The other horn of the dilemma is represented as follows. The leader of the Opposition said:

> The next objection is that the system is not fair in another direction to the men who are chosen to act as representatives on the boards. Suppose that they see the force of the employers' contention, and that, for instance, they realise that in view of the particulars placed before them in camera, the business will not permit of the substantial increase of wages that is being sought. What follows? If they are fair and honorable men they concede the position taken up by the employers, and their fellow-workmen immediately entertain suspicions that they have been bought over.

That represents a very awkward dilemma. Upon the one hand, if the boards are composed upon the Victorian system, and the employees vote against the employers, they are boycotted and blackballed. If, on the other hand, they vote with the employers upon the facts before them, they at once become objects of suspicion on the part of their fellow-workmen. I think that anybody will be satisfied that these statements are the mere outcome of extravagant imagination as to possible danger.

Mr. McGOWEN: I had with me one of these men to show the Premier when we waited upon him last Tuesday!

Mr. WADE: I am glad that the hon. member was able to find one man. I will defy any one to go through Victoria and to search the raks of the workers engaged in the various industries there which employ over 70,000 persons who are brought under the operations of the wages-board system, and to pick out twenty men who, during the last fifteen years, can say that they have either been blackballed or boycotted by their employers for doing their duty to their fellow-workmen, or that they have been regarded with suspicion by their fellow-men. What has been represented by the leader of the Opposition is always possible, and the possibilities are always used as objections against any substantial step in advance. But what we want to meet is not possibilities. We say that if you have a fair range of experience in the past it is your duty to produce, not one paltry instance, or even two or three. If things are as bad as you represent, there should be hundreds of cases to which you could point as having occurred during the fourteen years' experience in Victoria.

Mr. J. STOREY: I could point out 100 cases, even in Balmain!

Mr. WADE: If the hon. member brings them along, I shall show him how different are the conditions in every part of the world but Balmain. What does the argument come to? If reliance is to be placed on the possibility of the danger that, in the event of a man doing his duty, he will be victimised by his employer, how is it that, under the present Arbitration Act, employees willingly go before the court and give evidence testifying to the bad conditions that prevail, the unfair treatment to which they are subjected, and to the unduly low wages which are paid by their employers. I ask the hon. gentleman to produce ten men in New South Wales who can truthfully say that they have suffered and been blackballed by their employers.

Mr. CANN: There are plenty of men who have been sacked, but we cannot prove that that is the reason!

Mr. WADE: That is very lame argument. Here is the answer to my hon. friend: Under the present Arbitration Act if a man is supposed to be discharged on such grounds you can haul the employer before the court and place on him the obligation of proving that those were not the grounds for discharging the employee. With those safeguards, surely if this system is so rampant and its abuse is so frequent, hon. gentlemen should be able to produce something substantial in the way of individuals who have suffered from it. The imputation that the employees will suspect their fellow-workmen of being bought over for doing his duty is an unworthy one. Although I am taunted with not belonging to the working-classes, I have far more respect for them as a body than to suppose for a moment that because they do their duty they will be turned upon and hounded down by their fellow-workmen.

Mr. McGOWEN: Later on in my speech I said that those were exceptional cases, that they did not always do it, but there was the fear of it being done!

Mr. WADE: I am very glad to take the explanation that there was the fear that this might happen. If after fourteen years' experience in Victoria, dealing with all these trades, the most they can say now is that there might be the fear, I say we have nothing much to fear.

Mr. McGOWEN: We have scores of cases from Victoria, where they say it was done!

Mr. WADE: If hon. members will turn up the reports which are published year after year by the Factories Board in Victoria, dealing with all these questions, they will not find any reference to the system being abused. Everybody admits that the gentleman in charge there, Mr. Ord, is one of the fairest men, and his interests are very keen and acute in favour of the principle of putting down sweating and abuse by the employers. He is the man to protect employees from any oppression, attacks or abuse. So much for the argument used by the leader of the Opposition upon this point.

Mr. TREFLE: If a man was blackballed, would he not make his case worse by talking about it? Would it not be better for him to say nothing and sneak away?

Mr. WADE: Those arguments will not convince anybody but those who want to be convinced by them. We cannot deal with these cases on hypotheses. The larger the range of experience the heavier the obligation cast upon hon. gentlemen of producing instances of a concrete character to show that this has happened. If the practice of boycotting or blackballing were at all prevalent the whole system would break down by its own inherent injustice. In the north of England it is notorious that after disputes year by year and unrest of the most appalling kind, the employers and employees finally came together and established conciliation boards, first of all in local districts, then in counties, and lastly boards of a comprehensive character.

An HON. MEMBER: Voluntary boards!

Mr. WADE: The point is not whether they were voluntary or involuntary, but that on these boards were employees engaged in the trade. The boards carried on with success and credit for years, and if there was anything wrong, any abuse, oppression, blackballing or boycotting, the system would have broken down years ago.

Mr. CANN: There were not employees working in the mine on the board. How can you blackball a man not working in an industry?

Mr. WADE: On these smaller boards there were employees working in the particular districts. Whether they were the actual employees of the employers on the board is immaterial. They were employees in that particular trade in respect of which the board was called together. I was going to read to hon. members just a few words from a book on the adjustment of wages, by Mr. Ashley. He deals with this question of wages about four years ago, and describes the method of the working of these conciliation boards in Great Britain. I am not now dealing with the question of voluntary and involuntary arbitration. I am pointing out that on a board so constituted were employees who, if these bogies be true, were liable to dismissal by the employees on fallacious grounds for simply doing their duty.

Mr. CANN: I worked on these boards, or something like them, in my time!

Mr. WADE: The hon. member surely does not think I am so foolish as to think

that all employers are angels. I do not suppose the hon. member would be an angel whether he was an employer or employee. You will find unscrupulous men in every walk of life; but, taking the general rule, before you can denounce this system as being a bad one, if you have a large range of experience to draw upon, you are bound to produce concrete instances—not one or two, but a great many—to show that the system is bad, and has worked out viciously in the past.

[*Mr. Speaker left the chair at 6 p.m. The House resumed at 7 p.m.*]

Mr. WADE: When the House adjourned, I was about to quote a passage from "Ashley on the Adjustment of Wages," to accentuate the beneficial result obtainable from boards constituted of an equal number of employers and employees in the large industrial centres of Great Britain. Mr. Ashley is professor of commerce in the University of Birmingham, late professor in Harvard University, and sometime Fellow of Lincoln College, Oxford. He has given a series of lectures on the question of wages, and dealt largely with the condition of industry in the iron and coal trades and the weaving trade in the north of England. On page 72, in giving his fourth lecture, having dealt previously with individual boards of smaller districts in the North of England, he proceeded as follows:—

> Let us now look more closely at the constitution of the boards. That for the federated districts consists of an equal number—fourteen on each side—of representatives of "the Federated Coalowners" and of the Miners Federation of Great Britain—"with a chairman from outside who shall have a casting vote." "All questions," run the rules, "shall, in the first instance, be submitted to or considered by the board," *i.e.*, in the absence of the chairman, "it being the desire and intention of the parties to settle any difficulties or differences that may arise by friendly conference if possible." "If the parties on the board cannot agree," then the meeting is adjourned and the chairman summoned, the matter again discussed, and, in default of an agreement, "the chairman shall give his casting vote which shall be final and binding." It is provided in the joint agreement that when the office of chairman becomes vacant, "the board shall endeavour to elect another chairman, and should they fail will ask the Speaker for the time-being of the House of Commons to nominate one."
>
> The rate fixed by the board at its initiation in 1894; namely, 30 per cent. above the standard of 1888, remained unchanged until the autumn of 1898. From that time onward, wages were successively raised 2½ per cent. above standard in October, 1898; 5 per cent. in April, 1899; 2½ per cent. in October, 1899; 5 per cent. in January, 1900; 5 per cent in October, 1900; 5 per cent. in January, 1901; and 5 per cent. in January, 1902—reaching therewith the maximum, 60 per cent. above standard. All these advances the board was able to agree upon by itself, without calling in the assistance of its neutral chairman. But things have not gone so smoothly since the inevitable reduction in coal prices began.
>
> In May, 1902, the board unanimously agreed to recommend a reduction in wages of 10 per cent. (to take effect, 5 per cent. in June and 5 per cent. in August). But, although it does not appear in the rules of procedure, neither party on the board apparently regards itself as possessing unlimited "plenipotentiary" powers. Exactly how far they suppose they can go without referring to the bodies they represent is not clear. During the rise in coal prices, the coal-owner representatives had frequently to go back and consult their constituency before granting the increased wage demanded by the miners. And now, in 1902, the recommended reduction had to be laid before the men. The men, by a large majority, refused to accept the recommendation of their leaders. Accordingly it became necessary to invoke the services of the neutral chairman, Lord James of Hereford, who decided upon a reduction of 10 per cent., to take effect in July.

Summarising the position generally, on page 41, the same gentleman also remarks, speaking about conciliation boards in the midland counties:

> But it is the establishment of the board itself in 1894—which was spoken of at the time as almost a counsel of despair—which has been the most fruitful in consequences. In the first place, it has lasted, with renewals from time to time, up to the present, and it has been agreed to by both parties till January, 1904. Ten years is not a despicable term of life, and during that time it has prevented all *general* strikes in what are called "The Federated Districts."

The importance of that quotation lies in this: that these boards, representing a very large number of working-men in the northern counties of England—representing trades that are strong and well organised—were able to carry on their work for a number of years without disturbance, and their decisions, either for reduction or for increase of wages, were always arrived at by an absolute majority amongst themselves without calling in the aid of the independent chairman.

Mr. CANN: Trade-unionists only!

Mr. WADE: It does not matter what they were.

Mr. ARTHUR GRIFFITH: Of course it matters; that is the whole crux of the thing!

Mr. WADE: Of course the hon. member will say what the hon. member for Broken Hill says. He always does, otherwise there would be no merit in his remarks. The lesson to be gathered from the quotation is this: I do not care if they were unionists or outside a union; the fact is that all these people belonged to a union, and they were bodies representing employers, first of all, in counties, and then in a group of counties, and employees engaged in the same trade and industry, and they were able to lower or to raise the rate of wages from time to time over a period of more than ten years, and if there had been such an inherent weakness in the system that they were either boycotted or distrusted by their fellow-employees, it might have broken down long before. But when that book was published, in 1904, as things then stood, that system had been productive of good, and, as far as the author knew then, was to be continued.

Mr. CANN: The rate of wages is based on the selling price of coal, and all that the board had to do was to adjust the selling price and fix the rate of wages accordingly!

Mr. WADE: What is the trouble at Newcastle? Although there is a sliding scale there, it is said that the employees and employers do not agree and they will not agree. When it is desired to fix the selling price in order to arrive at a hewing rate, some proposals are made by one side or the other which necessitate agreement by the opposite side, and the important point is that in case of increase, Mr. Ashley shows that the employers agree with the employees, and in case of reduction the employees agree with the employers. It is perfectly true that, on one occasion in England, the question was referred back to the men, and the body of men there refused to indorse at that stage the unanimous recommendation of employees and employers on the board. At that stage the chairman—Lord James of Hereford—was called in, and by his decision the whole body of men were eventually bound and acted upon it. It is of no use raising the small distinctions that have been mentioned here from time to time to-night. The best test of all these pieces of machinery is how they have lasted; and when the power rests with the working-men themselves to determine the kind of tribunal they will not have, because it does not suit their purpose, I say you cannot have more eloquent testimony to the utter fallaciousness and uselessness of these bodies, if you have a body of men consisting of employers and employees in the same industry, and you cannot expect fair play either from the employers towards the men, or from their fellow-workmen towards the employees. I am not content to rest my case on what took place in Great Britain, but I will give hon. members a good deal of information nearer home than that, and you cannot have a stronger case than the one I am going to quote. The first case that came before the Arbitration Court in this state was a dispute between the southern coal-owners and their employees. That case lasted something like five or six weeks. The facts were entirely novel to the court, and the case was prolonged to an indefinite extent. Every possible question in the life of a coal-miner was brought up, discussed, and dealt with by the court in some shape or form. The award was finally given on a certain date, and there was trouble and unrest for eight or nine months afterwards—perpetual appeals to the court in the way of applications for penalties for breach of award, interpretation of terms, and so on. Finally the two bodies, the employers and employees, met, and they drew up a memorandum of agreement embodying the conditions under which they proposed to carry on in the future. This agreement was made, I think, about two and a half years ago. It is dated March, 1906. The parties embodied in this agreement the conditions of working in the mines, and then inserted this clause:

> Should any dispute arising under this agreement, or other matters, which would be within the scope of the Arbitration Act of New South Wales, it shall be referred to a board consisting of three representatives of the Southern Colliery Proprietors' Association, and an equal number of representatives of the Illawarra Colliery Employees' Association, to be known as "The Southern Collieries Conciliation Board," with a right of appeal to a referee, to be appointed by the said board, or failing their agreeing to appoint, then by th Court of Arbitration, and his decision shall be final and binding on both parties within the period of this agreement.

An application was made to me by both employers and employees to allow Judge Murray to act as chairman and referee under this agreement, and being anxious to give encouragement to arrangements of this kind I gave my consent, and Judge Murray was forthwith appointed. The employees' representatives consist, I think of office-bearers in the Southern Collieries Employees' Association—the president, the secretary, and the treasurer. The secretary does not at the present time work in the mines, but I am informed that the president and the treasurer are both employees in the South Bulli mine.

Mr. NICHOLSON: Will the hon. gentleman kindly give me the date of that agreement.

Mr. WADE: It is dated March, 1906!

Mr. NICHOLSON: Four years after the passing of the Arbitration Act!

Mr. WADE: The question is what took place under this agreement during the last two years. I agree that during the four years from 1902 to 1906 there was perpetual unrest in the South Coast in regard to the industrial relations. Matters came before the court over and over again, which I can speak of from personal experience—appeals against an award, appeals against the conditions, requests to interpret the award, and applications for penalties for breaking the award. But whatever happened then, the fact is that in the year 1906, about two years ago, an agreement was drawn up whereby the employers and employees in those southern collieries determined for the future to settle all their points of difference not by the Arbitration Court but by their own court composed of three men taken from the employers' side and three taken from the employees' side. Since it was constituted this board has had before it no less than sixty odd disputes over different matters cropping up in the various collieries — grounds of complaint wanting adjustment between the manager and the employees of the collieries. This board meets once a month or about that, and all questions of dispute occurring in the interval come before the joint sitting on these periodical occasions. It speaks volumes in support of my argument that until about four weeks ago they adjusted every one of those grounds of dispute occurring from time to time, over sixty in number, by a majority amongst themselves, and have never yet called in Judge Murray to decide any question. Yet two of those men, the president and the treasurer, I know of my own knowledge, have been at work in the southern collieries since 1902, and they are at work there at the present moment. This bogy that has been raised that it is absolutely impossible for employees to work with employers on the board, and to do justice to their own side or the employers' side, without the certainty of penalties on their heads, is entirely falsified in our own country, at our own door, and amongst a class of employees who will look after their own rights.

Mr. MACDONELL: One swallow does not make a summer!

Mr. WADE: I know the hon. member does not like it, but he should not show it so plainly. When hon. members interject with remarks that have no bearing on the point at issue, it is always clear that they are anxious to draw away from the question under discussion. It is perfectly true that one swallow does not make a summer, and that is the very reason why I have asked hon. members opposite to produce more than one solitary swallow to prove the boycott. I do not speak on those lines. I am going to quote from every country round about us in Australia. I have given you a quotation from Great Britain, and I will show you that in all those countries the experience of years past has been that the employers and employees have found it practicable to work with boards so constituted; and in all these documents before me, the fact stands out clear and apparent, that both sides can trust each other, and that the bogy of boycott and unfair treatment has no existence in the real practical facts of life. I shall be perfectly fair and consistent with regard to the case of these southern collieries. About five weeks ago, the wheelers at the Helensburgh-Metropolitan Colliery struck. I think the hon. member for Wollongong will bear me out in this. The officials, that is, the employees on this board, went down to the mine and directed the miners that if the wheelers would not turn to work, until their case could be heard by the board, the miners should step in and do the

wheeling in the meantime, so as to keep faith with the employers under the agreement. The result was that the miners agreed to do this, and the mine had not been at work many hours before the wheelers came along, and said they were quite prepared to do their duty and take up the wheeling again. The other case, strangely enough, occurred only yesterday. We saw by the papers that all the men, owing to some dispute, had ceased work at South Bulli. What do we find since? The secretary sent word down at once that these men were to return to work. This morning, we hear that the mine is in full swing once again. Now, I say that the experience of this board in the southern district justifies one in saying that the component parts of the conciliation board representing employers and employees are deserving of the highest praise for the harmonious way they worked, always being able to secure a majority one way or the other, and never once having to invoke the services of the referee, Judge Murray. If, in our own country, at our own door, we, first of all, find the miners agreeing to a board of that character, and we find that board carrying on and doing good work, and on occasions of strike ordering the men back to work, and the men going back, we may infer that there is little fear of oppression or abuse of the powers given to either side. Does it not show on the contrary that as long as people are willing to work in harmony for their common good, they have not the least fear of such possibilities being realised in actual practice.

Mr. McGOWEN: It is the discipline of unionism!

Mr. WADE: All the better for unionism, and all the more praise to it. I go so far as to say that the very same rule is being carried out at Newcastle, where the officials of the union have recognised the good work of Judge Heydon and the royal commission, and they are to-day telling their co-employees who ceased work, as they thought, without just cause to go back to work and resume operations, and not to cause these breaks but to submit their claims to the tribunal appointed by the Government to deal with their case. It is a matter for which they deserve credit and praise. They have taken that course knowing the serious risks they run; but, if they do not do their duty, they are liable to punishment of some kind, either at the hands of the employers or their fellow-employees. What country do my hon. friends quote most from with regard to arbitration principles and the good results from arbitration acts and amendments in force there? New Zealand. What is the result in New Zealand? This speaks plainly. Surely, one would think that in New Zealand all these questions have been raised, and dangers pointed out; but Parliament has only moved slowly, and when they are sure of their ground. A proposal was made there; I am not sure at present whether the bill has become law. It was proposed two or three years ago. At all events, whether it was passed or not, here is the view taken by the New Zealand Parliament, representing the views of New Zealand politicians and the New Zealand voting public. That measure proposed to establish industrial councils, and these were to be composed as follows: An application being sent in, the Minister of Labour has to notify the dispute to the Governor, and machinery is established for an industrial council in the district in which the dispute has arisen. The industrial council consists of seven members; one of these shall be the president, chosen by the other members, as prescribed hereafter. Three of the members shall be persons who are or have been engaged as employers in the industry in which the dispute has arisen.

Mr. BEEBY: Give us that New Zealand act, and we will pass it to-night and go home!

Mr. WADE: It is no good making these offers to the Government in charge of this bill. The three remaining members of the industrial council shall be persons who are or have been workers engaged in the industry in which the dispute has arisen. Now here is a remarkable fact, that the despised bill of this Government is drawn up in almost the same terms and conditions which have been found to be useful and reliable in New Zealand, a country which is supposed to be the elysium of industrial arbitration, and where all steps taken are certainly taken with a view of conserving the rights and privileges of the working-classes.

Mr. BEEBY: But there is a court of appeal too!

Mr. WADE: What has that to do with it.

Mr. BEEBY: It has everything!

Mr. WADE: Let me finish. This industrial council will have jurisdiction to inquire into the industrial dispute in respect of which it has been established, and to make an award in settlement thereof. These despised employees, these downtrodden men are there believed to be competent to hear a case and judge it, and to make an award binding on all parties. Where is the difference between that bill and the bill introduced by this Government?

An HON. MEMBER: We will show you!

Mr. WADE: On the point I am speaking about ———

Mr. MACDONELL: It gives each party a right to appeal to a permanent court!

Mr. WADE: Is a right of appeal given because the conciliation board cannot be trusted? Does the hon. member mean that Parliament provides an appeal from the decision of an industrial council, because they knew they could not be trusted, or because the tribunals are not competent and will not do good work for the industry for which they are appointed? Then take the proposal made in Queensland by Mr. Kidston, who is not conservative, who is by no means a Tory, but is a gentleman who is supposed to be on the side of labour and radicalism. He introduced the measure last year, which passed through the lower House, providing for wages boards.

Mr. BEEBY: Without compulsion!

Mr. WADE: What does that matter? Hon. members may jeer, but they do not do themselves credit by being either wilfully or otherwise not able to see the point I am making.

Mr. MACDONELL: ———

Mr. SPEAKER: The hon. member for Cobar must cease interjecting!

Mr. WADE: I cannot deal with interjections all through my speech. If hon. members do not agree with me they will have a chance by-and-by of demolishing my arguments. If you want me to make out a fair case to the country which you are called upon to answer, let me proceed in peace. I am dealing at the present stage with the objections raised by the hon. member for Redfern in the censure debate, when he objected to our proposed bill, because the tribunal consisted of employees and employers. I have only been dealing with that point hitherto. I have shown by quotations from Great Britain, and by the experience of New Zealand, that it is recognised as a fair principle to go upon. Now I quote Queensland. That bill passed through the House last year, but met with a reverse in the Upper House, and did not become law. That provided for wages boards pure and simple, without a compulsory power, but the tribunal was constituted in the same way as the boards are in the present bill. Subclause 2 of clause 4 provides that the representatives of employers shall be or shall have been employers within the district, and that the representatives of the employees shall be or shall have been actual and *bonâ fide* employees in such trade. I need not quote any further with regard to that to show that there is a recognised principle in all communities of the present day, that it is perfectly safe, and, moreover, that it is wise to trust to experts the adjudication of expert questions. Now, hon. members will be surprised, after the interjections across the Chamber, to hear what I am about to read from the speech of the leader of the Opposition only a few nights ago. You would think from what he says that a wages board in which you introduce employees is a deadly sin to be allowed under no conditions.

Mr. MCGOWEN: No!

Mr. WADE: Now the hon. member is coming round!

Mr. MCGOWEN: Do me the justice to point out that I said, "We will accept your wages boards if you will give us a higher court." I said that in the same speech!

Mr. WADE: I am coming to that. I am saying that the fact of having a court of appeal will not justify you in saying that a wages board composed of employees is good or bad. These two things stand by themselves. If the wages board, in the first instance, pronounces a decree which both sides agree to, we have to admit that the board is competent to do it, and that there is no fear anticipated of ill-treatment of the members of the board. The hon. member said:

> I do not object to a wages board or industrial court being voluntarily established.

It is of no consequence whether it is voluntary or compulsory, the point is the composition of it—

> If the people interested will not establish them, I want the Arbitration Court to establish them.

. . . . . .

> I do not like the term "wages boards," but if they want to have it for preliminary inquiries, I admit good work can be done by it. But there should be an Arbitration Court to settle doubtful points in regard to which strong differences of opinion exist, and generally to control and enforce the terms of the agreement.

There are two distinct things there, first, a primary court and then a court of appeal. If my hon. friend is content to entrust the well-being and the prospects and the wages of working-men to a tribunal consisting half of working-men in the trade, surely there is not much fear of ill-treatment of its members by employers. The fact of there being a court of appeal is only suggested in case some matter is overlooked that requires readjustment. But what is to be said of those cases in which both sides are quite content to abide by the award of the board composed of employers and employees? In view of the experience gained in our own country and in other parts of the world, and the conditions laid down in Queensland and New Zealand, taken together with the admission made by the leader of the Opposition that he is quite content to have these boards so composed so long as a court of appeal is provided, does not the myth with regard to ill-treatment entirely vanish? If I consent to the appointment of a court of appeal, hon. members opposite will accept the wages boards composed in the way the bill suggests. Once that is admitted, it is no longer useful to say that there is any weakness or danger of these experts at their business being penalised for doing their duty. Now I come to the other point, namely, as to whether there shall be one or more courts. If the leader of the Opposition means that the preliminary boards, which he calls conciliation boards, should have no more powers than boards of that character in New Zealand had some years ago, namely, to try and conciliate, but with no binding powers, we shall certainly resist any such proposal. Experience shows that the only effect of such conciliation boards was to give each side an opportunity to test the strength of their opponents. They sparred to ascertain each other's weak points, and when this had been done, they put an end to the proceedings before the board, and went to the court armed with the information they had obtained. The result was that Judge Backhouse having had experience of the conciliation boards, reported in this way:

> It is admitted on all hands that these boards have not realised the hopes which were expressed by the author of the act that they would do the major portion of the work. He himself says in in his book, "The Long White Cloud," page 307, as a rule, the decisions of the local conciliation boards are not accepted. Out of 109 cases dealt with by the boards up to 30th June, 1900, 73 have gone on to the court.

Western Australia also began her industrial arbitration experiences with conciliation boards, and these boards acting entirely separately, and operated on by their own local influences, merely emphasised the experience that had been gained in New Zealand. A gentleman who was out here some years ago on behalf of the American Bureau of Labour—I think his name was Victor Clark—wrote a very exhaustive and instructive pamphlet on the labour question of Australasia. At page 81 of his work he says, with regard to Western Australia:

> In the comments upon the New Zealand arbitration law, in the report upon labour conditions in the colony, it was pointed out that the boards of conciliation had not worked successfully, and were rapidly falling into disuse. The same is true in Western Australia, and the registrar, in his report upon the working of the act published in 1904, suggests that the act would be much simplified, and the settlement of industrial disputes would not be retarded if this section, and all other provisions relating to boards of conciliation, were omitted.

The weak point in the legislation with regard to boards of conciliation is this: The parties are allowed to come together and to make agreements if they think fit, but there is no power to compel them to do so, and there is no power to enforce the agreement arrived at or to make it binding afterwards. One strong point in favour of the legislation now proposed is that the boards, constituted of expert persons, will have the power, first of all, to hear the case and investigate the grievances of the parties appearing before it, and once they have heard the facts, to pronounce judgment binding on both sides. Now my hon. friend asks for a second

court. It could not possibly be a court such as they have in New Zealand, following upon the conciliation board. Under the present act, in New South Wales we have one court only. Under the bill it is proposed that boards shall be brought into existence throughout the state, and be composed of expert judges, with power to investigate disputes, and give decisions which shall be binding and enforceable. Requests have been made from time to time for the appointment of a judicial court. That has been the expression used, and I have asked what was meant by it. The fullest information I have obtained came from a gentleman who joined in the deputation which waited upon me a few days ago. He told me that he meant a court consisting of a judge, with power to hear evidence, power to interpret legal questions, and power to enforce awards. What does the bill suggest? First of all, there will be a board for each industry, whose decision will be binding as far as possible. Once a board has given its decision, the Governor will have power to dissolve it forthwith. The personnel of the board will disappear, but its work will remain, and its award will be enforceable by an altogether different tribunal consisting of District Court judges. Whenever a complaint is made that an award has been broken, or any question arises involving the interpretation of the award, the District Court judges—entirely different persons from those who constituted the wages board in the first instance—will have to deal with the matter. Under the conditions, my hon. friend will have in the bill most of the elements for which he is asking. He wishes us to go one step further—and this is a point on which I am prepared to hear argument. It is urged that the court which has the power to enforce and interpret awards, and to inflict punishment for breaches of the awards should have power to act as a court of appeal. Many of the elements asked for by hon. members are now contained in the bill; and I am not prepared to say outright that under certain conditions an appeal should not be allowed also. This being so, I can see no difference between the bill as drafted, and the provisions suggested by hon. members opposite. Now let me address myself to another point, namely, the question of enforcement. So far I have shown that the tribunal which makes the award is not necessarily the one that will be called upon to enforce it. I have pointed out that the board can be dissolved when its work is done, but that its work will remain as a guide for those engaged in the industry in the future. There is no doubt a strong feeling in some quarters that for the enforcement of awards, one must look to mutual good feeling and mutual trust, and that up to a certain point you can always obtain those conditions which make for moral sentiment being sufficiently strong to be a guiding factor in securing obedience to the awards of industrial tribunals. But experience teaches us also that although this may be perfectly true with regard to certain industries—and we know that there are many which have gone on year after year adjusting their grievances quietly and satisfactorily without breaking out into open revolt—there are other industries in which the unions are stronger and more aggressive and militant in character and sufficiently numerous to be able—at all events as far as experience up to the present has gone—if they prefer to do so, to take their own view over and above the decree that they are called upon to obey. As a matter of practice they have been able to do this. Therefore, in endeavouring to make the awards of the boards as effective as possible, it is essential that there should be some power of compulsion over and above that exercised by the general moral sense of the community. Under the present act, power is given to enforce awards against all employers and employees; but the argument is used, and justly so, that to impose penalties as an absolute condition precedent upon a union coming before the court would induce injustice and work hardship. It very often happens that those who want assistance most and relief at the hands of the court are those who can least afford to give security. So that hitherto it has been regarded as fair and just that there should be no condition precedent laid down that the person appealing to the court should be compelled to lodge money as a bond and badge of good faith to observe the award hereafter. On the other hand the employer has always got his security present because the capital sunk in his plant,

whether it be a large or a small industry, is always there, and once work is carried on after an award has been given there is the certainty that if he fails to conform to the terms of the award it may be enforced against him by the employees, and if he fails to pay, they can levy upon his plant. The converse does not hold good, and objection has been raised from time to time by the employing classes that the operation of the present Arbitration Act is one-sided, in so far as if they continue to work under an award they are always compelled by the very facts of the case to observe it or pay the penalty in cash, whereas the employees are not under a corresponding obligation.

Mr. MACDONELL: The organisation is liable!

Mr. WADE: I am talking of the individual at present. I know that the organisation, according to the act, is liable. I shall come to that in a moment. The position we want to advance to is this: that we cannot be content with relying on moral sentiment only if we want to have the award of the court under all conditions observed by both sides. There must be some compelling power in the nature of a penalty to induce both sides to observe an award under all conditions. As it is not practicable in all cases to impose obligations before the case comes to the court, because by doing so you may penalise most deserving organisations, one has to look for remedies to be applied after the award has been declared. Under those circumstances this bill makes a slight departure from the existing law. I think I may say that all sides of the House are agreed that if there is to be any expectation of the decrees of the boards being carried out there must be some form of compulsion, and in the public interest and for the credit of the act, that compulsion must be effective. We then advance to the next position and see how it stands with regard to the employer. The circumstances of the case make it obvious that there is always security which must be given by the employer, whereby the other side in the case of disobedience can levy upon his plant, but to impose a corresponding obligation which is effective on the other side is not so easy. The existing act provides that any one who breaks an award shall be liable to a penalty up to a certain figure. There is also the provision that strikes and lockouts are illegal, and anybody guilty of any act in the nature of a lockout or strike, or aiding or abetting in the commission of the same, shall be liable to fine and imprisonment. This bill proceeds on those lines. It goes further in one respect, which, I think, is a step that will tend to promote more fully the observance of the award, and at the same time impose no hardship on the organisation itself. There is power under the existing act to enable the court to impose penalties on the union as well as the individual who belongs to the union This bill departs from that slightly, and provides that inasmuch as a union is a body to promote the organised interests of the employees and receives a benefit by improved conditions, if the board so decrees, it has an interest in being loyal to the court and insisting on the decrees being observed and carried out by its various members. It provides, therefore, that if it is proved that an employee has been guilty of what is known as a strike within the meaning of the act, and it also turns out that he is a member of a union, that union shall be liable to a fine up to a certain fixed figure, £20 being the maximum for each offence for each of its members. In other words, the union is now asked to do this: In so far as they as a corporate body, having the care and regard for the advancement of the interests of their industry, receive the benefit of a favourable award, it is their duty to encourage loyalty and obedience to the award of the board. Therefore, whenever they find an occasion arising on which their men propose to break the law, evade an award, and take part in a strike, they should say in loyalty to the court, "We call upon you men to observe the award, and we ask you to be loyal to the court to which you appeal." If they take that course and exercise reasonable means of endeavouring to encourage obedience to the award, the union then will not be liable to the penalty. But if they do not take that course, if they sit idly by and see the law infringed, and see their members break out in a strike, it is only fair to say, "If you will not be loyal to the court, if you will not take steps to force these men to observe the award, you must

pay the fine that is imposed for the breach of the law." If they speak in advocacy of obedience to the court they are free from monetary obligations. If their members will not obey them they have the power in themselves to expel those men from the union. In those two powers—the power of the board to fine a union and the power of a union to expel rebellious members—we have the means of enforcing these awards. Here I shall again refer to what is taking place at the present time in Newcastle, where the committee of the union have loyally stood by the court during the last few weeks. When some of these young fellows in disregard of their duty and obligations have suddenly refused to work, the committee propose, that if they will not obey the orders of their executive officers and be loyal to the court, to expel them from the union. If a course like that is adopted by any union there is no doubt that the court will free them from all responsibility in the shape of money penalty.

Mr. W. E. V. ROBSON: Why not make it compulsory to expel them from a union if they disobey orders?

Mr. WADE: The alternative is sufficiently severe. If no steps are taken of a practical and reasonable nature to enforce obedience to the award, they pay the penalty themselves by having to pay the money out of their own funds.

Mr. CHARLTON: Supposing, in connection with the collieries that something happened outside the award which was harassing to the men, and the men stopped work, and their association did not take action to force the men to go to the court—supposing the men were not breaking an award, but the proprietors were doing something outside of the award, what would be the position of the union in that case?

Mr. WADE: I was not speaking of the case of an award.

Mr. CANN: The hon. gentleman is speaking about strikes!

Mr. WADE: I know I am, but the hon. member for Northumberland is speaking about the case of men striking on a ground that is not covered by the award. With that I am not concerned. I am speaking of the alternative means of inducing a union to enforce obedience to an award made by the court. I have not gone beyond that, and do not propose to do so at present. Over and above this power given, as I say, to the court itself to enforce the observance by a union, there are certain obligations placed upon the men. Under the existing law, we here find another weakness. There is no doubt power given to punish for a strike or a lockout, but the procedure, according to the court's interpretation, is that where a *primâ facie* case is apparently disclosed against an individual, the Crown are compelled to proceed, first of all, in the police court, and after taking preliminary evidence disclosing a *primâ facie* case, then, if it is thought fit, a committal for trial takes place by a magistrate. The date of the trial may be weeks off, or, in extreme cases, a couple of months, and in the meantime, while the trial is awaiting development, the strike may, perhaps, come to an end. When the individual is brought before the court and jury, perhaps, the trouble has ceased, friendly relations have been resumed amongst all sections of the community; and juries naturally are loath, under those circumstances, to return a verdict of guilty against their fellow-townsmen. Our experience in Newcastle some time ago was just as I have described—long delay between the first breaking out of disturbance and the actual hearing of a case before a jury. In the interval, peace had been restored, all angry feelings had been assuaged, and, if anything at all, there was strong sympathy with the young fellows who came before the court for their trial in this way. The result was—whatever the reasons were I do not pretend to say—that in no single case was a conviction secured. Now an alteration of a most useful character is provided by the bill. It lies in this: you no longer are to have this delay, which is caused by this tedious procedure before the police court and the committal for trial, but in case of somebody infringing the law and committing what is called a strike, a District Court judge may be invoked to deal with that case summarily in the course of the next forty-eight hours, the accused person is brought before him and the evidence is tendered, and then and there judgment is pronounced. Just in the same way as in dealing with boards which can act promptly, we find and expect a rapidity of

action as a means of suppressing what you might call growing discontent; so in the same way these summary and expeditious powers of the district court judge with regard to a strike or a lockout will be the means, I hope, of preventing the growth and spread of industrial turmoil. At all events it removes one of the great difficulties and obstacles to completion under any jurisdiction upon these questions under the existing law. Power is also preserved by the bill to insist—inasmuch as the employees now have ready means of access to the tribunal of their own industry, without delay and composed of expert judges—that when their grievances arise they shall be referred to the court forthwith, and they shall not strike while the reference to the court is going on. It makes for industrial peace, and what I want to see always conserved—that is, whatever the trouble may be, whatever the dispute that may be caused by it, there will always be a continuity of industrial life and a peaceful means of settling industrial disputes. The next matter to be considered is the question of procedure, because upon that hinges largely the success of any measure of this kind. Hon. members will recollect that under the existing law through the presence of the legal element and the application of legal points there always has been delay and uncertainty as to when you would reach finality. Now this bill removes all those what I might call technical trap-doors. In the first place, no challenge shall be levelled against the method of appointing the board, further than that, the judge or the chairman of the board shall deal with all points with regard to evidence in the way he thinks fit consistent with equity and good conscience, and his decision shall be final and binding, and lastly when the award has been given and any steps are taken to prosecute for a breach of the award there will be no power given to challenge that award in any court. It has been asserted that the bill has been drawn in a peculiar way so as to prevent appeals against the award in case of prosecution for a breach of the award, and that there is no express provision in the bill that the award shall, under all circumstances, be free of challenge. I have not had time to examine the bill sufficiently carefully to know if that accusation is well-founded or not, but I can say this: The intention was to make the award final in every case; and, if any words are wanted to put that view beyond doubt, there will be no trouble in Committee in regard to that. The main purpose is to do away with appeals under all conditions, during the progress of the hearing and after the hearing has been achieved and finished. There is only one case in which appeals are now allowed, and it occurred to me as being fair, under the conditions, to provide for them. That is, when these varying questions arise as to what constitutes a strike, it may be on many occasions very close to the border line whether it is legally a strike or not; and, as the consequences are severe, and the penalty heavy, it occurred to me that it was a wise precaution to allow in those cases an appeal from convictions for a strike or a lockout. That is a matter to which I am not very vitally wedded, and one of those things which will be benefited by discussion in the House, as to whether an appeal should be allowed even in those cases. The main points we make for in this bill, as I say, are expedition, simplicity, finality, and determination by a body of experts. This, I think, disposes of all the main features of the bill. There are a few matters which have been brought under my notice, and to which I think I ought to refer before I close my address upon this measure. The first is, that by the framing of the bill, and in an indirect manner, an attempt is being made to entirely destroy unionism and to encourage the non-union men. The clause relied upon is one which refers to the appointment of the board, namely, clause 10, which is worded in this way:

> (1) On application to the Minister by—
> (*a*) an employer or employers of not less than ten employees in the same industry; or
> (*b*) not less than ten employees in the same industry; or
> (*c*) a trade-union having a membership of not less than ten employees in the same industry; or
> (*d*) an industrial union whose members are such employers or employees,
>
> the Minister may direct a board to be constituted for an industry or group of industries.
>
> (2) The Minister may also, without any such application, direct a board to be constituted as aforesaid.

It is argued that in so far as this bill allows as many as ten employees to go before the court and ask for a board to be constituted, we are directly encouraging, or, at all events, indirectly encouraging, a method and machinery whereby the unions can be wiped out for all time. Now, I think I can show in a very few words how ill-founded this insinuation is. One of the points made is that because the number is so small, it will allow ten men outside the union to approach the court and have a board constituted, and thereby exclude from the benefits of the award all other persons engaged in the same class of work. Now, so far as the number is concerned, it is absolutely immaterial. If the House thinks ten is too low, they can make the number twenty, thirty, forty, or fifty. The only reason why the provision is inserted is to have some indication of the *bona-fides* and substantiality of the so-called industry. But whatever number is fixed in the case of those outside a union, it should, in fairness and consistency, apply also to those who belong to a union. If you are going to make it a ground of complaint that a few men who are unorganised can secure the constitution of a board, it is equally dangerous that a small organisation, few in number, should also be entitled to call into existence the board. So that whatever number you fix, high or low, it is immaterial to me. All I want is that some number should be fixed as an indication that they represent a substantial body of *bonâ fide* workmen. Now take the next step. Suppose, as my hon. friends argue, that ten men, unorganised and enemies of the organised unions, approach the Minister and ask for a board to be constituted—what will happen? What do they come to the Minister for?

An HON. MEMBER: Sympathy!

Mr. WADE: Now we have got it; they must go to the board. Will they come to the Minister to constitute the board with a view to ask the board to reduce their wages, or make their hours longer, or will they ask for improved conditions? Just fancy a body asking for a board to be constituted, and then saying, "We do not want you; do not do anything"! The very fact that they are asking for the board to be constituted involves the further position that they have some request to make to that board. It is obvious that no members would be so foolish as to go to a board and ask them to decree in solemn form that they should have reduced wages and longer hours of work. The only possible point in asking for the board, whether the applicants are organised or not, would be to secure improved conditions. And once they asked for improved conditions, the court is open to the whole world. Any member of an industry can come before that court and put forward his claim, and if he can establish it, and show that the whole thing is trivial, that it is an improper movement, a bogus action, power is given by the bill to enable the court to dismiss the application, and impose costs upon those who try to impose upon it. There is not the least fear that such a thing is possible as that a body of ten men could, by collusion with the employers, obtain an alteration of conditions which might tell against fellow-employees who were organised in the same industry. If these inquiries were secret, and nobody knew what was going on, there might be a danger; but the conditions under which these inquiries will be held are just the same as those which govern the inquiries of the Arbitration Court at the present day; and when you have as the guiding-star of these various boards a chairman of impartial mind, good character and respectability in the community, you may depend upon it that there is a very poor chance of any attempt, if it were made, being successful to outwit an organised body of men through the instrumentality of a few outcasts in the same class of work. On the other hand, the clause was put in for this special purpose: Hon. members are aware that during the last few years many industries have become organised which previously were not so. If this bill had been in operation, or even if the present act had been applicable to them, those persons could not have come before the court, owing to the fact that they were not an industrial union. The same applies in the future. We do not know what is going to happen in Sydney or in New South Wales in time to come—what new industrial developments may take place. New industries may spring up, new avenues of employment, in which the workmen may be few and unorganised, and this clause is simply

put in to enable such persons to come to the court to ask for their own board, if they want one, to settle disputes.

An HON. MEMBER: There are many industries besides those in the schedule of the bill!

Mr. WADE: If the hon. member had been present at a deputation only a few days ago, he would have learnt that the omission to which he refers was not intentional, and will do no harm to anybody. I then declared that I did not pretend that the schedule was exhaustive. It contains, as far as I was able to ascertain at the time, a grouping or a collection of all existing unions enjoying the benefit of awards under the present Arbitration Court. At the deputation several trades were mentioned that had been omitted, and I invited hon. members who were present then, and the other members of the deputation, to give me their assistance by supplying me with the names of unions or industries which had been left out, but which they thought ought to be included in the schedule. The shedule is framed for the purpose of enabling the House to see at a glance the various trades covered by the bill and the way the board is proposed to operate.

Sir JAMES GRAHAM: Will the hon. gentleman tell us why he does not propose to limit the term of the operation of this bill, as in the case of the Arbitration Act, say to seven or five years?

Mr. WADE: My reason is that one system has been a success and the other has not. We have the experience of seven years in this state to go upon; we have the experience of adjoining states, and we have gathered information from other parts of the world. This bill, as now drawn, it is hoped will continue the useful principles of the existing law, to which will be added all principles likely to be of utility as gathered from the experience of adjoining countries. Our anxiety first of all is to make the bill both palatable and continuous, and once it presents the ingredients of working machinery, then it is not desirable to limit its term, because I recognise, from the experience of the last six or eight months, that when the time for its expiry draws nigh, a period of unrest begins on both sides, and we might say that in the dying hours of the act there is a perpetual industrial ferment. So that if the bill commends itself at all to the House, I think we shall be justified in making it perpetual. The other question I wanted to refer to before sitting down is that of preference to unionists. Hon. gentlemen who approached me at the deputation a few days ago, declared that with them it was a vital principle. But I would like to point out, not at great length at this stage, for I shall require to refer to it later more in detail, that these wages boards are simply a continuation and development on more effective lines of the ordinary conciliation that goes on from day to day in every trade between employers and employees. Before ever arbitration was heard of it was a recognised thing from time to time for the men to meet their employers to discuss the terms of work, the rates of wages, and arrange an agreement that would be adhered to for a definite period. If the conditions of trade were such, if their whole associations were such that they thought fit to include in the agreement a recognition of the union, there was nothing in the world to prevent them doing so. At the present day the employers and employees consult before they reach the stage of asking for a board under this act. They are equally entitled to fix their rates of wages, their hours of work, and all conditions of employment, including preference to unionists. They advanced one step further, perhaps, for reasons of their own, and decided to ask for the constitution of a board under this act. The board is appointed and given specific powers with regard to certain questions. There is nothing in the world to prevent members of that board from re-enacting, as they could in days gone by, that as far as they are concerned in that trade the employers recognise the principle of preference to unionists. But when we are asked to go further and make this a clause of the act itself, entirely different reasons operate.

Mr. BEEBY: Do not make it imperative, but give the boards or the court the right to grant it!

Mr. WADE: I am prepared to say that if the terms of the jurisdiction clause are not sufficiently wide to meet what I wish, I am prepared to make it wider and in more general terms. We put in subclause *g* of clause 22 for the very purpose

of giving the wages board jurisdiction in connection with disputes as between union or non-union labour.

Mr. BEEBY: They are not different classes of employees!

Mr. WADE: I thought the contention of hon. members opposite was that they were different classes of employees—one a superior class; both employees, but different in this way, that one is organised and the other is not. But I am prepared to put a clause in the bill to perfect the scheme I have in view for giving these boards power to arrange all conditions of industrial life. I recognise that if we are to make these penal clauses effective and procure continuity of work under all conditions, it is only fair to make the obligation correspond exactly with the remedy. It would be unfair to say, "On no condition shall you be allowed to strike," and at the same time to say, "There are certain grounds of dispute which may arise between you and your employers, but with regard to those grounds of dispute we will not give you redress."

Mr. ARTHUR GRIFFITH: That is what the bill says!

Mr. WADE: If so, it is a mistake in the drafting. If you want to enforce responsibilities upon individuals in the way of curtailment of action, it is only fair to make the obligation exactly commensurate with the power of redress. It is not right to say, "We curtail your liberty exercised in days gone by, of striking in respect of every subject that crops up in industrial life, but we will not give you redress with respect to every question that crops up in industrial life." Therefore the two things must be commensurate. If it is desirable, and I think we all admit it is, to put down strikes and lockouts, whatever may be the cause, there ought to be a corresponding power and jurisdiction in the wages board to inquire into all conditions of trade. That being so, the court or board, if they think fit, will be given power to say: We think it fair and just, and both sides are agreeable, to make preference to unionists a term of the contract. If that is done it becomes an award of the court or board, and it becomes enforceable by the court which has to enforce the award. But hon. members ask me to go further and to put in the bill in clear and precise terms that preference shall be granted to unionists. The objection I have to that, and it is based on good reasons as well as actual experience, is this: a clause of a similar character was in the present Industrial Act when it became law, and the view taken by Judge Cohen was that in so far as Parliament thought fit to place upon the statute-book a clause saying that the court is empowered to grant preference to unionists, he must give some interpretation to it of a practical kind. He took that as a direction that, unless there were strong reasons to the contrary, the obligation was always to grant preference to unionists, and the condition arose frequently of unionists being before him few in number, the union being in its infancy, or cases in which preference had not been granted under previous conditions; yet the judge felt bound to grant preference in the way I have described. The result was that when this fact became known, the court was rushed. They were industrial disputes *primâ facie*, and technically to improve the conditions of labour, but really to obtain a granting of this preference.

Mr. CANN: Has not the judge since denied that he made that statement?

Mr. WADE: I do not think so. I think I can go so far as to say that I heard him say so.

Mr. STUART-ROBERTSON: Can the hon. member give an instance where a union made application for such a purpose?

Mr. WADE: I can if the hon. member wants the name in public. Does he press me?

Mr. STUART-ROBERTSON: Yes!

Mr. WADE: The people engaged in the kitchens. When that case came before the court, or shortly before it, the number of their union was something like in the small thirties.

Mr. BEEBY: Does the hon. member say that that was the only reason they brought the case into court when they got an increase of 40 per cent. in wages?

Mr. WADE: Let me finish. It came out in evidence that that union of about thirty members, by a bare majority, carried a resolution to approach the court.

An HON. MEMBER: There were 300 members!

Mr. WADE: At that time there were only about thirty. They rapidly increased

after the decision of the court, and they number now something like 350. When they came before the court, they were certainly well under fifty. I heard it said in court—it was no secret; and it was said at my elbow that their chief point was to get that preference.

Mr. ARTHUR GRIFFITH: Why quote tittle-tattle here?

Mr. WADE: This fair-minded gentleman cannot keep to the point. I was forced to give these particulars by the hon. member's colleague. And now the hon. member makes a remark of that kind. So far as the preference clause is concerned, in its administration we have two alternatives. When the court first granted preference it was granted in a way which the High Court has since said was absolutely unwarranted by the act. In so many words, the preference granted by Judge Cohen in the early days of the act meant that there should be an exclusive right for men belonging to the union to get work, and practically an exclusion of those who did not belong to the union from getting work. The High Court, in its decisions from time to time, decided that the only benefit from that section, as so worded, was to compel the employer, if two men came along at the same time that he wanted labour, one in the union and one outside, and both men of equal merit, that then he must take the unionist. It was very soon found out that by that interpretation of the law the case would never arise or need never arise, when an employer seeking for labour would be confronted by a man in the union and one outside at the same moment, and with equal merit, with the result that the section, as it has been administered, gave no benefit to the trade-unionist. Therefore, the section in that form and in those precise words, will confer no benefit on the union. It is open to the further danger of being misconstrued, and of leading the judge, or chairman of the board, to believe that he is compelled by law, under all conditions, whatever the facts of the trade may be, to impose on the employer preference to the unionist. If we want to give any real practical effect to the request of the Opposition on this point, the only alternative is to have a clause placed in the bill that a union man shall be always preferred to the man outside the union. The proposition that men of equal merit who are seeking to sell their labour in a free country shall not receive equally fair treatment, but that one shall be preferred owing to the mere fact that he belongs to a union, and that the other shall be rejected because he is outside the union is not fair or humane.

Mr. MEEHAN: What about the lawyers?

Mr. WADE: Let me answer that remark, and show its folly. Lawyers are employed for reward of money to defend either the life and liberty or the property of their clients, and naturally the public insist that a person who takes upon himself this heavy responsibility shall have some special qualifications for the work. We should be in a nice position if a man's life and liberty were placed in the hands of some ignoramus, without skill, scruple, or training, and unable to assist in the settlement of the question whether he should hang or go free! In the public interest rules have been laid down that before a man shall be allowed to undertake the heavy responsibilities referred to he shall show some qualifications in the way of training, education, and probity. Once a man has these qualifications to fit him to do justice to the cause of his clients, you can open the profession to the wide world. I do not care who comes in. There need be no restriction and no conditions beyond those requiring that a man shall be fit in mind, body, and character to carry out the work entrusted to him. You can apply the same rule to workingmen. So long as men are competent and respectable what right have we to say that because one man bears a certain brand he should be preferred, and that the other man who does not bear the brand shall be cast into outer darkness? Parliament has no right to impose such conditions against the will of the employer. If the employer and employees are quite content to agree that such preference shall be given, we outsiders cannot complain.

Mr. W. E. V. ROBSON: That is if the union represent all the employees!

Mr. WADE: I do not care what the conditions are. If the employers are willing to make these terms amongst themselves, it is their own bargain and concern. It has not been forced upon

them, and we need not bother our heads about them. If, however, we were to impose such terms by act of Parliament. one of two things must happen—either that a selfish preference must be given to unionists in every case, or the boards will feel that they are compelled to give preference, although in their view it is not just, and the law will work the same hardship as has been inflicted during the last seven years. I do not for a moment make any complaint against the unions. I recognise that organisation is the watchword of the present century We are combining in every walk of life, and so we shall do as time goes on. Whilst we have these combinations in order to make our common purpose more effective, it is quite another thing to say that by force of law an organisation shall be able to impose its will upon the community. We have only to turn to what is going on in the Federal Parliament for an example. Every effort is being made to suppress that growing evil, the unions of employers called trusts. No words of condemnation are too strong to apply to those unions which band themselves together and try to force on the people their own products on their own terms. Naturally we cry out in righteous indignation and say that we shall not be imposed upon by them. Alliances of that kind are unholy, and are not in the public interest. So long as we allow fair and open competition amongst employers and manufacturers it is in the public interest, and employers and employees stand in just the same position. As the trust is an evil and a danger to the public, so are the unions which try to exclude competent, respectable, and reasonable men from the exercise of their rights under the law of the land. I say this, fully recognising the good work done by unions in the past in raising the standard and tone and moral character of industrial life. Whilst I say that they are a power for good on these lines, it is a very different matter to ask Parliament, in this free world of which we all boast so much, where competition is open, and where brains and skill and integrity should be the guiding factors of success, to close the avenues of employment to men with all these qualities unless they also have the magic badge of the union. Whilst the proposed boards will have full power to deal with these questions, the Government object to put in black and white and in clear terms a provision by which Parliament will force unwilling employers to employ only union men. We even object to frame the bill in such a way as to produce any false impression in that direction. By all means let us have free competition, and let the best man win. In this free country we should not handicap one man by unfair regulations of a character such as that suggested.

Mr. CARMICHAEL: Did not the Prime Minister say that absolute unanimity on the part of the boards would be essential to the granting of preference?

Mr. WADE: No. I stated that if employers and employees decided outside the board altogether that preference should be given it would become a matter of agreement. If the parties went further and made use of the act and appealed to the board and the board ordained that preference should be given to unionists that condition would become part of their award. If the hon. member will examine the act thoroughly he will find that every proposition open to discussion is to be carried by a majority vote. If there is a majority in favour of any one proposal put before the board that proposal will become part and parcel of the award. If the parties cannot agree—if they are equally divided—the chairman will come on the scene and do all he can to influence a majority vote in some shape or form. If he cannot do this he will be called upon to give his casting vote. All these things will be ruled by a majority vote—by the majority rule of which the hon. member is so proud. But before we reach that stage of bringing into operation majority rule, we are anxious to inculcate those principles which have worked so well in Victoria. If the chairman can induce one of the employees to go over to the side of the employers or *vice versâ* and the representatives of both sides can arrive at a majority vote among themselves, the chairman is bound to give them the opportunity. He is bound to encourage this spirit of compromise, conciliation, and mutual help. If they can arrive at the determination by their own joint efforts without calling in the chairman, the results to the parties themselves and to all concerned will be far more satisfactory than

if the conditions were otherwise. I do not need at this stage to labour that part of the case. I only mention the matter to show the powers given under the bill itself and to indicate the matters that we did not propose to incorporate in the measure. I think that I have now covered all the main features of this matter, for the purpose, at all events, of helping the discussion on the second reading.

Mr. ARTHUR GRIFFITH : What about clause 12 ?

Mr. WADE : That is a matter entirely for discussion in Committee. If hon. members have views on that point which are practical, and give the House the benefit of them, their suggestions will be seriously considered. This is one of those things which no man can pretend to codify, in the first instance, so as to make it acceptable to all sections of the community. If hon. members have suggestions to make as to details, I shall be glad to hear them.

Mr. ARTHUR GRIFFITH : Has the hon. gentleman a scheme for carrying out that clause ?

Mr. WADE : I have no scheme at present, but in the latter part of the bill provision is made for the election and nomination of members of the board other than the chairman, under regulations.

Mr. ARTHUR GRIFFITH : We want to know what those regulations are !

Mr. WADE : The same remarks applies to all regulations. If the hon. member will approach this bill as I approach it, with a sincere desire to make it useful and workable, and not find fault with minor provisions in it, I can promise him I shall do all I can to assist him in that praiseworthy object. I shall reserve further remarks in regard to the main principles of the bill until the time comes for replying to objections to it. I must thank the House for the consideration and attention it has extended to me in occupying its time at such length. I trust that we shall be able to maintain in the discussion of this measure a fair and just attitude from first to last. I realise, with this ferment and rumours that are prevalent outside the Chamber, that if we, by any unwise or reckless action on our part, accentuate the unrest now existing, it may be fraught with evil of the most disastrous kind to the whole state. Our only anxiety, as members of the Government, is to do something which will remedy existing evils and provide machinery which, while pressing unduly on no section of the country, is, at the same time, based on justice and fair dealing with those concerned.

Question proposed.

Mr. BEEBY (Blayney) [8·32]: I desire, before dealing with the most momentous question that has been before this Parliament for many years past, to reciprocate the sentiment expressed by the Premier, that as far as possible this matter should be dealt with entirely free from party feeling. The members of my party are very anxious to entirely subordinate all party considerations in this discussion in the interest of the public welfare. The whole House no doubt recognises that there is serious danger in the present industrial position, and that it would take very little to involve this country in a crisis of unparalleled magnitude. I am prepared to deal very exhaustively with this important subject in the interests of my party. My reply to the Premier's remarks will be made as I reach the various points on which he touched, but I wish as far as possible to follow the line of argument that I have been requested to put before the House in order that the position which we take up may be clearly understood. I think the whole House accepts the Premier's statement that we, as a party, do not claim any monopoly or sympathy with the wage-earners of this community, with those who produce as against those who control the means of production. All we say is that, being a party which is more in contact with the producer, which better understands his aims and aspirations, whatever we have to put before the House on this measure shall be earnestly and seriously considered outside of party considerations. The appeal to abolish for the time being party considerations in this matter applies to both sides of the House and not to our side only. All I urge is that hon. members will remember that in dealing with this measure we, as a party, are prepared to refrain, as far as possible, from introducing personalities, from in any way unnecessarily stirring up party sentiment. But we do urge that, being in contact day by day with the great organised industrial classes of this community, knowing what their desires and aspirations are,

knowing the struggles that have taken place during the last fifteen years which have led up to the present situation, what we have to say should receive proper and earnest consideration in this House, and particularly by the Minister in charge of the bill. I admit that when the bill was first introduced I received it with feelings of bitter disappointment. I thought that the Premier had not had due regard to the claims of organised workers, and that he was attempting to force through the House a bill which, if passed in its present form, would be received with sullen hostility by all the organised workers of the state. But after the statements made and the attitude taken up by the Premier, showing that he is evidently prepared to meet our side of the House, I am more hopeful, and I trust that when this measure emerges from Committee it will be in a shape which, to some extent at least, will be acceptable to my party, and particularly to the class which we are supposed to represent in this House. My main objection to the measure at the outset was this: It seemed to me that the Premier failed to recognise the fact that in Australia there have been two separate and distinct series of industrial experiments,—that he had attempted to take the wages-board system—a system which was never framed with the intention of containing compulsory provisions—and added to it compulsory provisions that were peculiar to the arbitration system of New Zealand. Looking at the bill as framed, I submit that we were justified in being alarmed and in taking that view of the case, on account of the fact that the bill from start to finish was practically a duplication of the Victorian system, with the addition of the principle of compulsion and the general clauses which made strikes and any form of disturbance of industrial conditions a crime under the law of the country. In none of the countries where industrial legislation is based on the principle of the Victorian wages board—in Victoria, South Australia, Canada, and some of the United States of America—has the principle of compulsion been tacked on to the wages-board system. The last country to indulge in this class of experiment was Canada. There they have adopted a limited wages-board system, but it in no way includes any provision which may be regarded as compulsory. The Premier to-night referred to the fact that Queensland under the leadership of Mr. Kidston had adopted the wages-board system. I admit that, but there is no compulsion attached to it. There is no compulsion attached to the wages-board system now in force in South Australia; there is no compulsion attached to the wages-board system in Victoria; and the reason is the one I pointed out to the House in the second-reading debate, namely, that the two systems aim at entirely different objects. The wages-board system simply aims at relieving the community from the scandal of sweating. The arbitration system goes further than that, and aims at a readjustment of the relationship between those who produce and those who control all matters of production—between the wage-earner and the employer; it aims at a readjustment of their relationship in such a manner as to reduce the possibility of strikes practically to a minimum. That is the distinction between the two systems, and I say that in meeting this measure with a certain amount of hostility we are justified in doing so as it is framed at present, because it eliminates all the valuable and useful provisions of the New Zealand system, and simply takes from that system the principle of compulsion, and adds it to the Victorian wages-board system as in operation in Victoria to-day. That is the fundamental objection we have to the bill, and I trust that the Premier will realise that position, and believe that we are perfectly sincere and earnest in saying that the organised workers in this country will not tolerate merely a wages-board system with compulsion added to it—that there must be something beyond that; there must be some attempt to adopt the higher principle of arbitration in operation in New Zealand to-day, and as I contend successfully in operation in this state during the last six years, in spite of its many obstacles. That principle should be embodied in any bill to which compulsory and penal provisions are added.

Mr. WOOD: Does not the wages-board idea involve the principle of arbitration?

Mr. BEEBY: I submit it does not. I will deal with that later on. The difference between the two systems is this: the wages-board system is merely a system of

haggling and bargaining between the employer and the employee face to face. The arbitration system is a system of complete judicial inquiry, in which every condition of industry is inquired into, and in which a Supreme Court judge—a man, as nearly as we can get, absolutely removed from all bias, from all class control—intervenes, and, on evidence, pronounces, after proper and full judicial inquiry, not what the parties are prepared amongst themselves to agree to in order to avoid further friction, but what is a fair and reasonable condition of employment in the particular industry. That is the difference, and it is a most important difference.

Mr. WOOD: I would not say it offensively, but I should say that that is entirely a schoolmaster's argument!

Mr. BEEBY: The hon. member may think that, but, with every respect to him, I assure the hon. gentleman that he has not had experience amongst the industrial classes of the community as many of us have. I would rather go through my speech in my own way, but later on I hope to be able to put before hon. members a series of arguments in addition to the one my leader put before the House on the second reading, to show that there are very many serious objections to the wages-board system so far as that system determines what are fair and reasonable conditions upon which an industry should be worked. Although I have no desire to create any unnecessary feeling in this debate, I take this position as the result of, perhaps, a somewhat unique experience in industrial matters in this community. I intend to put before the House to-night a series of facts which I have carefully prepared to completely meet and answer the assertion of the Premier to-night that the present Arbitration Act has been a failure. I propose first of all to put before the House facts to show that the premise is absolutely wrong, and that, as a matter of fact, the Arbitration Act in this community during the last six years has not been a failure; that it has triumphed in a vast number of cases in spite of almost insuperable obstacles, and that it has been deliberately butchered by Ministers who were anxious to get the system out of the road in order to make provision for another one. I remember an occasion on which a celebrated criminal who had been using a sand-bag raised the plea that he did not kill the man, but that the man died from heart-failure; but the judge pointed out that the heart-failure might have been contributed to by the use of the sand-bag, and the criminal was duly hanged. The Premier to-night says that the Arbitration Act has failed. Why has it failed? Why is it that it stands so discredited in this community? Because time after time, when necessity arose, and was pointed out to him, and when he knew what his duty was, he failed again and again to bring in the necessary amending legislation to give the principle a chance in this community. I will give the whole of the facts of this matter to-night, and by contrast I will give the facts as in operation in New Zealand. I propose to give hon. members the history of this act, and to deal with the history of the New Zealand act, and I can show that here the act has been deliberately butchered by an unsympathetic administration, whereas in New Zealand, where there was sympathy, where there were men who desired to bring this system to perfection, the act was amended time after time, and a system was gradually evolved under which we have in New Zealand to-day, I believe, the nearest possible approach to perfect industrial regulation. I shall give those facts to-night, and I hope that they will have the necessary effect upon the House. They have been carefully prepared from the records of the Arbitration Court and other records I have which can be perused by any hon. member. The Arbitration Act, as hon. members are aware, was assented to on the 10th December, 1901; it commenced its actual operations on the 16th May, 1902. It was accepted by the industrial organisations of this community with a certain amount of pleasure, the unions generally believing that the time had come when strikes should become unnecessary, when they could get fair and honest investigation of their grievances, and within the first year every important organisation that had any form of dispute with their employer came in and stated their case, and the court had its list of work prepared for its first year. This is the point I wish to make as to the first year's operation of the act: I have carefully searched the records, and I can-

not find that there was one strike during the first year of the operation of the act. All the unions accepted it as a proper and rational way of dealing with their industrial grievances. They brought their grievances along to the court, and were prepared to abide by any award the court might make. During the first year, this unfortunate position arose—it has already been pointed out by the Premier: A series of mining cases were referred to the court. One of them—the case of the southern collieries—occupied a great deal of time; I believe altogether about thirty-two days in that year. The Premier has pointed out that during the first year the court only dealt with eleven disputes; but during that year, on the hearing of industrial disputes and applications for common rule—that is, the actual work for which the court was constituted—it sat for only eighty-one days. The rest of the time was taken up by vacation, dealing with a lot of preliminary applications, and a good deal of subsidiary matter that was re-referred to the court under the act. During the first year, the court only sat in the conduct of actual business for which it was particularly constituted for eighty-one days. It became apparent at the end of the first year that the business of the court would be very seriously congested. Before the end of 1902, that was apparent. The fact that thirty-two days were occupied in connection with the Illawarra case, and that such a great amount of time was occupied in dealing with minor matters, made it clear that some change was required at once if the system was to get a fair trial; and before the end of 1902, an agitation was started for the creation of a special mining court to deal only with mining matters. I say here, to-night, from my experience of this act, that if there had been a special mining court, and if provision had been made to relieve the main court of all the minor details it was compelled to attend to, we should have had no congestion, and there would have been no serious proposal to abolish the system of arbitration.

Mr. WADE: Who blocked the establishment of the extra court?

Mr. BEEBY: I do not know who blocked it; but I know that this Government has been promising year after year, deputation after deputation, to amend the act, to relieve the congestion, to make it possible for the court to do the work, and they have never done it.

Mr. WADE: We were not in power until two years after that. The hon. member's party was in power, and I myself, in the House one night, asked the then Minister for Mines if it was the intention of the Government to appoint a second court.

Mr. WOOD: Still we are responsible for that!

Mr. BEEBY: The Chief Secretary was a member of that Government at the time. The hon. gentleman has been a member of so many Administrations that one is apt to get confused regarding his position. A bill was introduced by Mr. Fegan in 1903, and the reason it was not passed was this: It was perfectly clear that at that time the See Government was on its decline. The present Premier and his party were eagerly anticipating the joys of office, and it was impossible, according to the division of parties then, for that bill to be passed. If the labour party had forced the hands of the Government of the day, it is perfectly clear that the present Premier and his party would have come into office, and at that time they were pledged to abolish the whole system of arbitration.

Mr. WADE: No!

Mr. BEEBY: You were at that time. Later on you came over. Later on, when you had arranged your terms I suppose with the employers' federation, you came over, and began to talk about a system of wages boards. But at that time the Carruthers Administration, if they had come into office, would have killed the whole thing at once. Our party wisely left the thing alone, and waited patiently until Mr. Carruthers and his followers were converted to the principle of arbitration, and began to promise amendments for electioneering purposes.

Mr. WADE: The hon. gentleman wil not find one speech from our party condemning compulsory arbitration?

Mr. LEVY: Not one word!

Mr. WADE: Not for twenty years back!

Mr. BEEBY: I think before the debate is finished I shall be able to quote several of such speeches. At any rate, at the end of the first year an agitation had commenced for the establishment of a special

mining court. During 1903 we had this position: The court was engaged on the actual hearing of industrial disputes for 114 days. When I say industrial disputes I mean the settlement of disputes and the hearing of applications for common rule. I am not referring to the minor work which the court had to attend to; but, on the substantial work for which the court was created, in its second year it occupied 114 days, and, as far as I have been able to trace, 68 out of the 114 were occupied in attending to a number of detail matters and some important matters connected with the coal-mining industry. There, again, if the coal-mining court had been established, a good deal of the congestion could have been saved. On the 9th July, 1903, a bill was introduced by Mr. Wise, in the Legislative Council, to make certain amendments in the act. That bill was rejected by the Council.

Mr. WADE: That is a queer place for a serious bill—the Upper House!

Mr. BEEBY: I trust that if the Upper House makes any serious amendments in the hon. member's bill, he will see that it is carried in the shape in which it leaves this Chamber. In 1904, the congestion continued, and in that year serious industrial trouble began to appear again. During that year there were seven minor strikes. I believe one of them was of some importance. All occurred again at Newcastle, or in connection with the coal trade, and all arose from the fact that some machinery had not been created for the purpose of dealing particularly with mining disputes. There was one strike at Lithgow, and during the whole of the year 1904 the court sat for the hearing of disputes and common rule applications for 131 days. It was in 1904 that a very strong and serious agitation was commenced by the organised workers of Sydney and the state generally for amendments in the act. On the 4th February, 1904, a deputation was appointed, which waited on Mr. Wise. According to the *Daily Telegraph*, of 4th February, 1904, the Sydney Labour Council waited as a deputation upon the Attorney-General, and, through their spokesman, said:

> The chief cause of complaint against the working of the act was that the work of it was so congested that pressing issues could not be settled, and that, therefore, the promised advantages of the court were considerably minimised.

Mr. Wise, in replying, said he was quite alive to the congestion in the Arbitration Court, and to the inconvenience it caused. He had made attempts to deal with it, and had introduced a bill into the Legislative Council, which was thrown out. He had done all he could, and did not expect so much delay in the future as had occurred in the past. He felt that the workmen had been loyal to the act during the last eighteen months, as had the employers. Mr. Wise expressed the hope he would have the labour support outside the House if some amending legislation was found necessary.

On the 25th February, 1904, another deputation waited on Mr. Wise, in which the same requests were brought before him by Mr. Thrower, then, I believe, secretary to the Trades and Labour Council. In answer, Mr. Wise made this statement:

> His amending bill which was thrown out mainly through the action of employers, would have relieved the congestion of the court. He would reintroduce the bill at the first opportunity. He suggested that the provisions of the Factories Act which empowered police to act as factory inspectors should be enforced with regard to the Arbitration Act. Next session he hoped to make the reforms he had indicated, and the appointment of a second court for Newcastle. Mr. Wise concluded by saying that the act had benefited numberless workers, and was supported by the workers, as well as the best employers.

In the same year, 1904, we had this remarkable position in Lassetter's case. I say that if ever a necessity arose on the decision of a court to immediately amend an act of Parliament it arose when a decision was given in that case.

Mr. MACDONELL: Especially from those who talk about conciliation!

Mr. BEEBY: That is so. The facts were these: Lassetter & Co. executed an agreement, and they said, "We consider this is a fair working basis as a minimum for the retail trade." That agreement was registered in the Arbitration Court. Two of the parties, the Shop Assistants' Union and the Grocers' Assistants Union, then lodged a notice that they intended to ask the court to make that agreement a common rule. Now the court never made any pronouncement on that matter. They never considered it. They never said they would make it a common rule. They never in any way indicated that they were likely to do so. But some enterprising gentleman accepting the lead which had been given to him by the Premier in a previous case, applied for a writ of prohibition.

Mr. WADE: I am the only person who lost any of those prohibitions. The hon. member is wrong again!

Mr. BEEBY: Still the hon. member gave the lead, and he got a pronouncement from the High Court that a writ of prohibition would lie against the Arbitration Court. The Premier did start the prohibition industry so far as the Arbitration Court is concerned. Following his lead, a prohibition was obtained in Lassetter's case. Now we had this remarkable position that the Arbitration Court had never said one word or done one act to indicate that they intended to make Lassetter's agreement a common rule. It was argued before the Supreme Court that because a notice had been filed in the Arbitration Court that they intended to apply for a common rule, on that ground alone the court could grant a writ of prohibition. Our own Full Court, I think unanimously, dismissed the application for a prohibition, and held that it was not a matter in which the Arbitration Court should be restrained. The matter was then taken to the High Court and three judges there took exactly the opposite view, and we had this remarkable position that the right of the court to discharge its functions depended on some hair-splitting point of law in which there were four judges on one side and three on the other—four in favour of the union and three against them; that is including the President of the Arbitration Court. The result of that decision was that the principle which the Premier upholds here with such emphasis to-night, of collective bargaining, the principle of private settlement of grievances, the principle of industrial agreements, was practically knocked out of the act. That was one of the most useful things in the act.

Mr. WADE: Was not the danger complained of in Lassetter's case that by collusive agreement they could wipe out all the small traders?

Mr. BEEBY: That is not the point on which the court decided, because they had no right to go into the merits. They decided on a bare point of law that the Arbitration Court had not the power to grant a common rule on an industrial agreement, although it was certainly the intention that it should have that power. As to any collusive agreement, what was the final result? After fighting that decision, after struggling for four years in the Arbitration Court to get an award, the Shop Assistants' Union got an award; and line for line, after litigation extending over five weeks, it was on exactly the same terms as were offered by Lassetter & Co., and it covered the whole shop industry of this state. There is an absolute vindication of the position we take up to-day that the court should have had the right to look into this matter. That right was taken away by the decision of a higher court, and it was undoubtedly the duty of this Legislature to introduce amending legislation to save one of the most valuable provisions in the whole act. Now I come to the period when the Premier first occupied the position of Attorney-General. While I find that two or three deputations waited on Mr. Wise to everyone of which he made certain promises which were not fulfilled, there have been a vast number of deputations to the present Attorney-General to whom everything defective in the act was pointed out, and on every occasion he promised to amend the act, but he never did so. The first deputation which waited on the Premier was on the 1st April, 1904. It was introduced by Mr. Dacey, and a request was made to the Attorney-General that he should pass a bill to validate certain agreements which had been made common rules by the Arbitration Court, but which the High Court had declared to be void. There were some twenty-three industrial agreements which had been properly made and in respect of which the principle of the common rule had been brought into operation, but the whole of them were rendered invalid, and the Attorney-General was asked to validate them. He refused to do so. After the facility with which the Premier introduces validating legislation in other directions when he thinks it necessary, we can only conclude that his refusal in the case to which I referred was due to his inborn hostility to the whole principle of the act and his desire that it should not be amended but die before it would expire in the ordinary way. On the 2nd June, 1904, the late Premier—I forget whether he was in office or preparing with a certain amount of joy to enter into occupation of the Treasury benches—inspired a paragraph

which was published in the daily press with reference to the policy of his party. In reference to industrial arbitration he said that he was in favour of the general principles of the act, and that he was prepared to amend the defects of the act without attacking the principle of arbitration. I trust that the Premier is still prepared to stand by the principle of arbitration, and to make the necessary amendments to render its application effective.

Mr. WADE: I have taken up the same position all along!

Mr. BEEBY: There is a difference of opinion as to what the principle of arbitration really is. Mr. Carruthers said further, that he was in favour of giving the act a fair trial and amending it as might be suggested by experience. At the meeting of the Liberal and Reform Association, on 14th July, 1904, Mr. Carruthers reaffirmed his faith in the principle of arbitration, and indicated his approval of amendments in the direction of relieving the court of the necessity of adjudicating on all minor matters. The agitation for the amendment of the act was continuously maintained, but Mr. Carruthers failed to redeem any of his promises in 1904. One incident of that year calls for special mention. There is an influential journal in this city with which it is not wise to quarrel. I refer to the *Daily Telegraph*—but I feel called upon to mention that towards the end of 1904 that newspaper published a series of attacks on the general administration of the Arbitration Act and on its general principles. It so grossly misrepresented certain judgments of the court and certain action which the court had taken, that Mr. Justice Cohen took the unusual course, which I think is almost without precedent in this country, of, publicly reproving the newspaper from the bench, pointing out that it was deliberately misrepresenting what the court was doing and saying. At that time there was no doubt that a general conspiracy had been entered into to discredit the act in the eyes of the public in order to insure that no legislation of an amending character should be presented to the House. In 1905 writs of prohibition descended upon the unfortunate court like autumn leaves in Vallombrosa. Almost monthly the court, whilst discharging some of its ordinary simple functions, was suddenly struck with a writ of prohibition. Writ after writ was granted, the business of the court became complicated, and the court was never sure of its jurisdiction. It went on trying to do its work, and was struggling along against a number of adverse decisions, and then on top of everything else—I think it was in 1905—Mr. Justice Cohen's term of office expired, and the Premier professed to be unable to find a successor. During 1905 the court sat upon 123 days out of the working year for the court of from 220 days to 250 days. The court was unfortunate in respect to the sickness of its members on several occasions, and it was clearly evidenced then that a tribunal with such large functions to perform could not discharge them unless provision were made for the appointment of substitutes in the case of sickness. I particularly wish to direct the attention of hon. members to this fact: On the 15th May, 1905, a very representative deputation of the Colliery Employees' Federation waited upon the then Premier and asked for a royal commission to inquire into the wages paid in the coal-mines, the standard of living, the selling price of coal, and the conditions generally of the industry. This deputation, of which I have been able to obtain a complete record, waited upon the then Premier nearly three years ago. Certain resolutions which had been passed by the federation were laid before Mr. Carruthers, and the present Premier was also present. The resolutions asked that the Government would take some measures to overcome the difficulties arising from the pressure of business before the Arbitration Court. The Ministers were told that although the members of the federation were bound by the act they were without a court to which they could appeal, and they urged that an auxiliary court should be established composed of experts connected with the coal industry. They also asked that a royal commission should be appointed for the purpose I have indicated. The hon. member for Northumberland pointed out that 10,000 men were employed at Newcastle, and he asked how it was to be expected that these men should be guided by a court that was practically non-existent. Mr. Carruthers then repudiated the idea that the Government were apathetic in the administration

of the act, and stated that they were desirous to administer the law even at the risk of unpopularity. He stated further that "an amending act of a radical nature would be introduced into Parliament next session." That was in May, 1905.

Mr. WADE: So it would have been, only the party to which the hon. member belongs threatened to stonewall it!

Mr. BEEBY: Surely the Premier does not go the length of saying that he believed the act required amendment, but that he did not introduce a bill with that object in view because he was afraid of a stonewall? He was then administering the act and if he thought that it required amendment he should have introduced a measure for that purpose in spite of fifty stonewalls. He does not shirk stonewalls in regard to measures that may suit other classes of the community; he rather welcomes them and forces us to a final division. He practically says now "although I considered it necessary to amend the act I did not bring in a bill because I was afraid of a stonewall." I do not know who uttered the threat to which he referred, but I may point out that the labour party then numbered only twenty-two. However, I shall leave hon. members to accept the Premier's explanation. On the 16th May, 1905, Mr. Carruthers said that an amending act of a radical nature would be introduced into Parliament next session. At this time, owing to the retirement of Mr. Justice Cohen, the Arbitration Court was not sitting. Mr. Justice Cohen's term of office had expired. He had done valuable work, and on behalf of the trade organisations I can pay the highest tribute to the judge for the valuable work he did. He retired and asked that his successor should be appointed, but no appointment was made, and the court was kept fooling about for three months. The then Premier stated that he was unable to find a judge to fill the position. If it had been for any other thing that this country required a judge, they would have had him in a week, even if they had to appoint a temporary judge to undertake the duty. But the Arbitration Act was good enough to kick, and they kicked it every time. The court was allowed to drift for three months. Representations were made to the hon. member for St. George, and here is the reason why at last the Government did find a judge and appointed him: On the 5th June, 1905, the *Daily Telegraph*, with all its hatred of the Arbitration Act, and its desire to damn the principle of industrial arbitration, came out and said to the Government "You cannot play the fool any longer; you must appoint a judge." And the Government appointed a judge a few days afterwards. That paper in its leading article said:

> Instead of this explanation making the matter any clearer to the lay mind, it tends to involve it in further complications. When we are told that the court is still competent to adjudicate——

That was the statement made, I believe, by the Attorney-General in a speech in the Legislative Assembly on the previous day—

> while litigants wait in vain to get their cases heard, the matter simply passes comprehension.

That was sufficient for the Premier, and a judge was appointed.

Mr. WADE: We had promised the amending Temporary Court Judge Bill before that!

Mr. BEEBY: I am not talking about that. I am talking about the fact that when Judge Cohen resigned no judge was appointed to take his place for three months.

Mr. WADE: The article appeared in June. The bill was passed in June. I had spoken on the address in reply before the article appeared in the press, so that it was not in consequence of the article that the appointment was made!

Mr. BEEBY: That does not relieve the Premier from the essential fact that at that time there was no desire on the part of the Government to assist the court in any way, and things were allowed to drift until pressure was brought to bear, and the bill was passed. In 1906 the agitation for an amendment of the act still continued. In that year, which is a record one, the court only sat for the hearing of industrial disputes for fifty days. The rest of the time was wasted owing to the inability of the court to proceed through the sickness of its members and there being no provision to appoint temporary members of the court, or through the whole business of the court being practically suspended by a judgment of the High Court. Of all judgments of the High Court that in the case of *ex parte*

Brown was the most remarkable. Section 28 of the Arbitration Act of 1901 provides:

> No industrial dispute shall be referred to the Court of Arbitration for determination, and no application shall be made to the court for the enforcement of any award of the court by an industrial union, except in pursuance of a resolution ——

Carried in a certain way. The definition clause states:

> Industrial dispute means a dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employers or trade-union or branch on the other part.

In spite of that, the High Court, on some very strict legal technicality, decided that a union of employees could not be parties to a dispute with a union of employers. I think the Attorney-General will agree that it is very difficult to follow that decision, for if there was any clear principle laid down in an act, it is the principle in the Arbitration Act that there should be recognition only of organised bodies before the court, and that organised bodies alone should have the right of audience, and should be able to refer disputes to it. The High Court decided, however, that an industrial union of employees could not be in dispute with an employer. The result of that decision was that all cases on the list for hearing in the Arbitration Court were struck out, because they were all based on disputes between employers and employees. Again, I say, if it had been anything else but arbitration, if there had been any other principle involved, we would have had an amending bill introduced the next night. If ever necessity arose for immediate action, it arose then. But nothing was done; the court was allowed to struggle on, and try to dig itself out of the legal tangle in which it had become involved.

Mr. WADE: In that case, it was decided that a union could not force a dispute on abstract questions. Was not that the substance of the decision?

Mr. BEEBY: I know the effect of it.

Mr. WADE: The decision, I believe, was that a union could not force a dispute on the court on abstract questions. If that was so, it was a good decision!

Mr. BEEBY: Unfortunately, the High Court, which, with all respect to the learned gentlemen who constitute it, is entirely out of touch with the industrial affairs of this country and out of sympathy with industrial unions, took a strict view of the law, and gave a certain judgment, whereas it could have given just as logical a judgment in favour of the trade-union that had the case before the court. The judges followed certain principles, however—I am not going to dispute those now—and they gave this decision, the effect of which was that Judge Heydon, who was anxious to maintain the court, to help it to do its work, and to keep up the principle of industrial arbitration, stated at once that he was unable to proceed with any of the cases on the list. The court, which had been created to deal with industrial matters, settle industrial conditions, and prevent industrial disputes, was engaged for six months exclusively in determining whether or not it had jurisdiction to hear certain disputes. Day by day and week by week unions turned up, and had to put legal gentlemen before the court to argue abstract points of law; and it was nearly six months before the court was able to settle down to work and proceed to do any business. The ingenuity of the lawyer can be used in both directions. It was used against us, and was used in our favour on this occasion, for we discovered a way of dodging the judgment of the High Court. And we instituted a system of legal process in the Arbitration Court just as complicated as that in any of the courts of the state. I may briefly describe this process, as it is not generally known to the public. First of all, you have to get a certain number of men who will agree to make a dispute with their employer. They sign a document, and authorise somebody, their secretary, to make a demand on their employer on their behalf. The demand is made, and you have to wait a certain time for the demand to be refused. When the demand is refused, if the men are not sacked in the meantime—and that very often did occur—you refer the dispute to the union. The union, after calling meetings and going through a lot of formalities, carries certain resolutions. In the meantime, the men give further authority to the union to take up the dispute; and, after all this has been gone through, the union refers the dispute to the court. Then you have to call on the men to sign the authority;

you have to prove that they have signed it; you have to prove that they gave the authority; you have to prove that there was some substantial matter in dispute. And when you go through all that, the case is ready for hearing, and you can go on with it. This is all under an act of Parliament, in which the following appears:—

> Proceedings in the court shall not be removable to any other court by certiorari or otherwise, and no award, order, or proceeding of the court shall be vitiated by reason only of any informality or want of form, or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

In spite of that clear provision put in by the Legislature, this court three years ago was involved in a mesh of legal technicalities that have absolutely crippled it since, and no effort has been made to help it out. One word would have done it. If we could only have induced the Premier to add the words "and no award or writ of prohibition," there would have been no difficulty. If those words had been put into the act, a great deal of the inconvenience which has been caused, a great deal of the ill-feeling which has been engendered against the Arbitration Act, would have disappeared, and the court would have been able to give a better account of itself than it has done. On the 3rd April, 1906, the Sydney Labour Council waited on the ex-Premier. A deputation, led by Mr. Kavanagh, was introduced, and a series of proposals were made for the amendment of the act. Later on a deputation came from the employers, asking for certain amendments, and on the 28th July, 1906, the ex-Premier replied to both deputations. Even after the decision in Brown's case, and the last judgment I have referred to, he said he was still in favour of giving the principle a fair trial. He then outlined another proposal, and said that on the whole he was beginning to feel more favourable to the system of wages boards. That was the first indication and clear pronouncement that I can find on the part of the Government of faith in the system of wages boards as opposed to industrial arbitration. The ex-Premier, in 1905, did introduce a bill to amend the Arbitration Act—a comprehensive measure—in which he gave effect to these ideas of his, and attempted to create a system of wages boards in the state. But I would remind the Premier of this most essential fact that in that bill there was not one clause to make the decision of the wages board compulsory, or to invoke penal provisions against men so far as wages-board provisions are concerned. The ex-Premier had then not the faintest idea of giving us the Victorian system plus compulsion. His plan was to create a system of wages boards, and to maintain the existing Arbitration Act, allowing the two systems to work concurrently, with this difference that the powers of the Arbitration Court could only be invoked with the consent of both parties. The effect of that bill—and the Premier says that is the reason why we did not stonewall it—was that you would never get the consent of both parties to invoke the powers of the Arbitration Court except in cases of extreme pressure. As a matter of fact, all that we would have got out of that bill would have been the Victorian wages-board system, and nothing else. It meant ultimately the gradual crippling of the Arbitration Court, the gradual waning of its powers, and the growth of the Victorian system without compulsion. The ex-Premier did not dare, in his time, to attempt to enforce upon this country the Victorian wages-board system plus compulsion. That proposal is a new one, emanating from this Ministry, and it is because the present bill is only the wages board with compulsion that it has stirred up the opposition to it. In 1907 the court sat 120 days hearing disputes and common-rule applications. It disposed of a good deal of work; and owing to the new system of approaching the court which was invented, very many valuable awards were made during that year. I want to summarise the effect, taking the whole six years. I will, first of all, draw attention to the delays which took place in the court during the period of its existence, taking the average of five years after the court got into full swing. The average is that, in the transaction of the ordinary business for which the court was constituted—I mean the special business of hearing disputes and common-rule applications—the court averaged 100 days a year for the five years. And yet the Premier says that the court has broken down,

and has not been able to keep up with its work! Why? For the want of a few amendments which would have enabled it to put in 250 days a year. Given that amendment to allow the court to confine its attention exclusively to certain matters, there would have been no congestion, and I believe that we would have avoided the serious industrial unrest that affects the community to-day. I refer to the position that exists in Newcastle. Why is it that these men show a tendency to distrust even the court that they have? Why is there perpetual ferment in that district to-day? It is because the daily newspapers of Sydney, and many of our leading politicians who sit with the Government, have, during the last three years, been saying, "The principle of arbitration is no good. You will get nothing out of it. Abolish it. Get rid of the court altogether." These men have had that stoked into them for the last three years. And yet the Premier expects, and the country expects, these men who have only their muscles to sell, these men of brawn, who have not much time or the inclination, or, perhaps, the capability to think the question out as other men do, to forget what they have been taught. All they know is that they have been told for three years to get rid of arbitration, and now they are expected in three weeks to forget what they have been taught during the last three years. That is the position in Newcastle to-day.

Mr. WADE: They did not want arbitration; they would not have the court!

Mr. BEEBY: But they came to the Government three years ago and asked for a special court, and the Government did not give it. The Newcastle trouble began after the deputation to the Government, when the Government would not give them a special court or attempt to meet them. From that day many prominent trade-unionists in Newcastle, as the Premier knows—and he knows the man I am referring to—went back and said, "What is the good of wasting our time on arbitration? Let us arrange a revolutionary strike; it is the only chance we have." And the agitation was kept up for three years. The result is the unrest we have in Newcastle to-day. It will take twelve months to get the Newcastle men back into the frame of mind they were in when the hon. member for Northumberland introduced that deputation and made that speech to the Premier three years ago, and to educate them to the fact that it is possible to devise a system that will abolish the necessity of strikes, and will in the end give them better results and save the community from the loss and discomfort that arise from industrial conflict.

Colonel ONSLOW: Do I understand the hon. member to say that for three years the miners of Newcastle have been agitating against arbitration?

Mr. BEEBY: I say that certain leading men in the Newcastle district, when the Government refused to give them a special court to deal with their matters, started an agitation against industrial arbitration, and told the men that their only chance was a revolutionary strike. That started three years ago and was consequent on a refusal of the Government to give those men a special court in order that their grievances might be fully ventilated. The position to-day would not have arisen had those men had a fair deal by means of a special court then, and I believe that we should have been saved a good many of the discomforts and dangers that have threatened us during the last few months. I was referring to the delays that occurred. I will summarise them, as I want to put them on record. From 28th December, 1902, to 3rd February, 1903, the court was in vacation. That is a period of about a month and a week. From 21st September, 1903, to 26th October the court was in vacation again. From 22nd December, 1903, to 16th February, 1904, there was a further vacation.

Mr. HOLMAN: What were they caused by?

Mr. BEEBY: The ordinary vacation at the end of the year. In 1904, from 4th August to 13th September, the court was suspended owing to the illness of certain members. From 16th December, 1904, to 13th February, 1905, there was a vacation. In 1905, from 9th May to 2nd August, there was a suspension owing to Mr. Justice Cohen's resignation, and from 2nd August to 28th September the court was again suspended owing to the illness of one of the members.

Mr. WADE: Does the hon. member blame me for that?

Mr. BEEBY: No, I do not blame the hon. gentleman for that, but I blame him for this: It became evident very soon in the administration of the act that it wanted amending to provide for the temporary appointment of members of the court, and provision for that was not made. In 1905, from 2nd August to 28th September, there was no court sitting owing to the illness of one of its members. So in that year, from 9th May to 28th September, the court was practically suspended—suspended in both cases by acts which could easily have been remedied if the principle had been carefully fostered and necessary amendments had been made. From 20th December, 1905, to 13th February, 1906, there was another vacation. In 1906, from 2nd July to 16th September, the whole of the business of the court was practically suspended owing to the decision of the High Court in *ex parte* Brown. In spite of that, there was a vacation from 16th December, 1906, to 11th February, 1907, and in 1907, from 3rd November to 25th November, there was a further suspension owing to illness, and from 20th December, 1907, to 15th February, 1908, there was a further vacation. Add to that the great delay that occurred owing to High Court decisions, and the perpetual groping of the court to find what its jurisdiction was, and I say that the marvel to-day is not that the court has comparatively failed, but that it has been able to accomplish good and solid work—work which has had a tendency to uplift the condition of a vast number of the industrial classes of this community, and which would have been absolutely effective if only a few essential amendments had been made in the act three or four years ago. I desire now, with the permission of the House, to draw a contrast between the treatment of the act in this state and the treatment of a similar act in the Dominion of New Zealand. In New Zealand, where the Arbitration Act has been in force for a period of about thirteen or fourteen years, an entirely different course of events has transpired. The reason for it is easily understood. In New Zealand we have had in power for the last fifteen years a body of men whose main interest was to carry out certain industrial experiments with a view of completely exploding the old economic doctrines, and showing that it was possible for the state in some way to equitably regulate the distribution of wealth. We had there men who had the courage to face this problem; the name of one will live hundreds of years in the history of the southern hemisphere. We have had there men who believed in these things, and wanted to give them a fair chance. With what result? At the very outset, when the measure was introduced in New Zealand, we had there a Premier anxious to give the principle of arbitration the best possible trial. His sympathetic administration has led to entirely different results from those which have obtained here. If the House will permit me to give a very brief summary of the act in New Zealand, I think they will see that the contrast is one which ought to be drawn and placed on record. The original act was introduced in 1894, I think, by Mr. Reeves, a member of the Balance Administration. Here is a peculiar feature of the case: According to the preamble, the bill was one to encourage industrial organisation, to establish courts of conciliation for dealing with industrial disputes. The men then in power in that country set out on this fixed principle: that the hope of industrial peace in any community was based on industrial organisation—the organisation of the workers on the one side, and the employers on the other—and that principle has been observed ever since, and every effort made to complete the terms of that act has been in the direction of encouraging that principle of organisation and collective action. Although the bill was passed in 1894, it did not come into operation until 1895. But before it came into operation—before any attempt was made to carry into effect the provisions of the bill—the then Premier noticed a certain defect, which occurred to him owing to the result of an act passed in South Australia, and before the act came into force he introduced a bill for its amendment. The object of the amending bill of 1895 was to maintain the jurisdiction of the court in cases where employees had been dismissed before the hearing of the case. I do not know whether it is necessary to go into detail on that matter; but the same difficulty has occurred under our own act. There are cases in which it has been shown that the employees who

created a dispute were all dismissed before the case came before the court. It was held that the court had no jurisdiction to hear such a dispute. We have never had an amending act to deal with that crisis in this Parliament; but in New Zealand, where the Ministry wanted the act to succeed, they passed an amendment to anticipate any possible trouble that might arise in the future. They did not wait for the trouble to arrive even, but passed an amending act before the date of the commencement of the operation of the bill actually arrived. In the same bill there was a provision for extending the meaning of "workman," so as to include women engaged in certain occupations. In the same bill it was provided that the court could bring in experts to assist it in arriving at an equitable decision. In 1904 the act was passed. In 1905 we had the first amending bill. In 1906 another bill was introduced to remedy certain small technical defects. In 1908 another bill was introduced, and the Minister in charge on that occasion, Mr. Walker, said:

> This bill has been rendered necessary by experience of the working of the act. The bill proposed to fill up weak points in the original act, and to amend it where it was found faulty. We have found the machinery will run. But certain defects may be found in it; and the request was "We want certain defects cured."

Mr. Seddon, on the second reading of that measure, said that clause 2 proposed to change the principal act, and, further, he said:

> I think we have all expressed a desire to facilitate the encouragement of the formation of industrial unions, and we can only arrive at that stage by working together, and by creating a better feeling between employers and employees.

Clause 5 provided that a majority of the members of the union should decide before a dispute could be referred to the board. There were other amendments to which it is not necessary that I should refer in detail. Nearly every year amending legislation was introduced to provide for certain defects which had been made apparent in the act as it proceeded with its work. In 1900 another bill was passed containing certain minor provisions, including another one in favour of industrial unionism—that is, the right of the union as an organised body to recover subscriptions from its members. A further provision was introduced that an industrial agreement for not more than three years could be registered in the court, and could be enforced. In 1901 another bill was passed. I will not refer to the details, but Mr. Seddon, in explaining the measure, said:

> Clause 5 is rendered necessary because it is found that the old maxim applied to it, that you may pass any law you like, but the lawyers will drive a coach-and-four through it. Whilst we have decided by law that the legal profession shall not appear, they have got over that difficulty by being made attorneys for either party, and as attorneys the court has decided that they may appear.

Mr. WOOD: I do not think they will manage it in that way under this bill!

Mr. BEEBY: I do not know; I have not considered that phase of the question, I admit. In 1901 Mr. Seddon introduced this special bill to deal with a difficulty, which has been pointed out, in connection with our own act during the last four years, during which it has been urged that there should be a limitation or total exclusion of the legal profession from the court. Mr. Seddon met that difficulty. He not only excluded the profession, but he introduced a special bill to make it impossible for an ingenious advocate to evade the act and get in by the back door. In 1903 another amending act was passed, in which there were several important provisions. Section 4 provided that the court should extend its awards from one district to another where the parties were subject to competition, and section 6 provided that a worker should not be dismissed on account of his being a unionist or being entitled to the benefit of an award. There were other amendments. With unfailing regularity year by year this act was amended in New Zealand. In 1904 another measure was introduced, which provided more particularly for an extension of the meaning of the term "employer," for an extension of the meaning of the word "industry," and one or two minor matters—all of them details, which became apparent as the court proceeded in its operation. In 1905 there was another act passed providing that industrial unions in the same industrial district should be able to amalgamate, and further that the court should make certain directions to compel the parties concerned in an industry to appear

before it on the hearing of an application. The act gave the court power to extend the operation of awards still further, gave power to the court to add certain parties, and made a number of other provisions. In 1906 there was a further act, and in 1907 a bill was introduced, the object of which was to completely reorganise the whole system. By a long series of necessary amendments the system in New Zealand has been gradually evolved, gradually perfected, and, whenever a defect arose, there was a Minister honest and courageous enough to amend it. The object was not to bludgeon the act, but to give it a chance, and wherever they could they amended it. Year by year a system has been built up, but eventually a crisis arose in New Zealand last year. After the act had been in force for some years, Mr. Seddon pointed out that the object of the act was to encourage the principle of unionism, and he absolutely refused to allow anybody to appear before that court except through the mediation of an industrial union. The whole system is based on collective action, on organisation, and collective bargaining. In 1907 an amending act was introduced, and it was subsequently referred to a committee of the House for investigation and report. I have an amended copy of the bill as amended finally by the special committee. I think it is a fair thing to put before the House what the present Administration in New Zealand now propose to do after their fourteen years of industrial experiment. They have evolved what appears to me to be, as near as we can achieve it, a perfect system of dealing with matters of this kind. The Premier has taken from the amended New Zealand act one of its best provisions; but I say again he entirely overlooks the fact that it is a provision tacked on to a system of arbitration. He has drawn from the New Zealand bill, in conjunction with other acts, a general idea of the constitution of these boards, but the object of the New Zealand bill, clearly expressed, is not to abolish the idea of industrial arbitration, not to abolish the Arbitration Court, not to abolish the system which encourages the formation of industrial unions, not in any way to touch the fundamental principles of the act, but to relieve the court of the pressure which has existed during the last few years. That is the sole object of the bill. First to relieve the court of pressure, to provide some way of hearing certain disputes by way of first instance, and in the second place to make the penal provisions more stringent than in the past, and to pass a law so that any man who strikes, any man who breaks the law in this respect, shall not be able to escape the penalties which the law may impose upon him. That is an extreme position to take up in a democratic country, but it is a proposal seriously made in the New Zealand bill. The bill first of all provides that these industrial councils shall be created similar to the wages boards proposed by the Premier, to hear all disputes as a matter of first instance, that they shall make awards, that those awards shall be binding until they are upset or varied by the decision of a higher industrial court. Over and above that, the Arbitration Court is maintained as a final court of industrial appeal.

Mr. WOOD: Do I understand the hon. member to say that the primary object of the bill is to relieve the congestion of the Arbitration Court?

Mr. BEEBY: Yes. It was felt there that the principle of conciliation boards had failed; that they had not done their work. They are to be abolished, and in their place all disputes will be referred, in the first instance, to industrial councils. The difference is this: that the conciliation board was never compelled to come to a decision. It only had to refuse, and the matter went on by way of right to the Arbitration Court. But under the industrial-council system that body must come to a decision. That decision is recorded in the Arbitration Court, and it becomes an actual award under the control of that court. But there is this saving clause, and it is a matter of vital importance, that any award can be appealed against to the supreme industrial court by consent of that court, and on any matter that that court may consider to be essential.

Mr. WADE: With the exception of the appeal, the New South Wales bill and the New Zealand bill are the same—that is to say, the conciliation board have power to make awards, and a different tribunal enforces those awards. Our bill does not go so far in saying there is a power of

appeal and review. Short of that, it is the same. The order is enforced by a different tribunal altogether!

Mr. BEEBY: I will deal with that later on. That is a matter of detail. But I say the essential fact is that the New Zealand system contains a supreme court of industrial appeal, which can be approached in all matters of extreme urgency and of supreme importance. The right to appeal to that court, I admit, is limited, and rightly so—that is, that parties can only get an appeal to the supreme court on matters of vital importance, and on matters of serious crisis. I am prepared to agree to any reasonable limitation of the right of appeal. I would say this: that, although the Premier has referred with considerable force to certain objections raised by the hon. member for Redfern, I would point out that the leader of the Opposition did not deal with the whole of the objections to the bill. He was not prepared at that time to meet the whole of the case; he was rather waiting to discover what were the principles of this bill. Outside of what he urged, there are a number of powerful objections to leaving the final determination of matters of supreme importance to a wages board. I am not going to contend that there is any very serious danger of the members being boycotted; but there is some danger, and it is an element to be considered. In spite of the Premier's assertion that witnesses in this court could not be victimised, I say emphatically, from my own experience, that sometimes they have been victimised. I know cases where we have been unable to succeed in prosecutions for that reason, where there is no doubt the reason for dismissal was activity in connection with industrial unions, or on account of giving evidence. I admit that is a minor matter that ought not alone to be urged as our objection to the wages-board system. But there are other matters of equal importance. I do not know whether the Premier has ever seen a wages board discharging its functions. I have, and I contend that it is not right or fair to give such bodies the power to finally determine the conditions that should prevail in an industry when non-compliance with such conditions may make every man in the trade a criminal. The wages boards possess many weaknesses and defects which render them improper tribunals to finally settle issues of supreme importance. If the wages boards are merely to fix the minimum wages to prevent sweating, and there are to be no penal provisions, and no prohibition of strikes and lockouts, I would take them for what they are worth rather than nothing. But with the penal provisions added the bill as it stands is a menace and a danger to the whole of the trades-unions of this state. There are other objections which I shall detail briefly, and I trust that they will receive the consideration of the Premier.

Mr. WADE: The hon. member's contention is that if there are penal provisions in the bill there should be some court of appeal higher than a wages board!

Mr. BEEBY: The danger in the past has lain not in an appeal to the Arbitration Court, but in an appeal from the Arbitration Court to men who know nothing about industrial matters. That has been my objection. We have had an industrial court which by its constitution, and owing to the special functions it had to discharge, was adapted by experience to deal with industrial matters, and I say that the decisions of that court should be final. The High Court should not be allowed to intervene in industrial matters, but, on the other hand, mere wages boards should not be allowed to finally determine matters of momentous concern to large bodies of working-men. There should be something beyond that.

Mr. WADE: Provision is made in the bill for an appeal from a conviction for striking. Does the hon. member contend that some other tribunal should deal with convictions for striking, and that that tribunal should be final?

Mr. BEEBY: My contention is that there should be an industrial court which should deal with every matter arising under the act—leave to proceed for penalties for striking; leave to prosecute under certain penal sections and other matters, and that it should be the final court of appeal in connection with breaches of the award. My idea is that there should be a final industrial court which should deal with a number of matters that are now proposed to be left indiscriminately to the judges of the state.

Mr. WADE: But does the hon. member contend that this same court should be the final court of appeal in the case of a prosecution for striking?

Mr. BEEBY: I think so. No court would be better able to deal with the question of whether or not there had been a strike than the industrial court. In prosecutions for penalties for breaches of the award, which, after all, would be quasi criminal matters, some appeal should be allowed from the magistrate to a higher court. There is any amount of work for the proposed industrial court to do. It would not be engaged in constantly hearing industrial disputes over again. It should have the power to limit the appeals, and should be restricted a good deal as to its right to grant appeals. But there are a great many minor functions imposed upon the judges which might be concentrated and handed over to the proposed industrial court. If this course were adopted, and also the system of relieving the court by giving it the assistance of industrial councils, which would have a mandate to finally settle disputes, one of the main objections to the bill would be overcome at once. I ask the Premier to accept my assurance that I realise the necessity of preventing a great deal of the matters going before the arbitration boards from being dealt with by other tribunals. In a great number of cases the decisions of wages boards would be accepted as final, but in a number of other instances the necessity would arise for bringing into operation a larger power which the men would trust absolutely so far as they could trust anything.

Mr. W. E. V. ROBSON: Would the hon. member permit appeals on the merits of the case, and allow of the review of the whole decision of the board?

Mr. BEEBY: That is a matter of detail with which we can deal in Committee. The right of appeal should be granted only on certain fundamental principles, and not upon matters of detail. The parties should not be allowed to appeal without the permission of the court. I have absolute trust in a Supreme Court judge who has had experience in industrial matters. I have fallen into the habit of relying upon his judgment and looking to him to do the right thing the right time. Such a judge would easily be able to discriminate as to whether a matter was a proper subject for appeal. In a case of sudden crisis no wages board could determine such a question as that of preference to unionists, which has arisen in connection with the men employed about the wharves in Sydney. No wages board could determine that matter, but I believe that if we had a court that would command general respect, it would be able to determine that question as well as others.

Mr. LONSDALE: Would the hon. member be satisfied with the Victorian appeal court?

Mr. BEEBY: I have no use for that court, any more than I have for the wages board generally.

Mr. LEVY: Would the appeal court rehear the whole of the evidence? If so, we should have a nice state of affairs!

Mr. BEEBY: Surely the hon. member does not object to that. How could any court determine an appeal matter except upon a rehearing? The points upon which appeals could be taken to the higher court could be specified, and the court could be granted absolute power to refuse the right of appeal, to award costs, and deal with the parties as litigants in the ordinary way when they came to the appeal court.

Mr. LEVY: All sorts of technical points would be raised, and we should have the same trouble as exists at present?

Mr. BEEBY: The hon. member knows very little about the trouble that occurs at present. He has heard the Premier speak about the case of the gasworkers—the one case with which the court has not been able to deal—and he has formed his judgment upon that alone. There is a great deal of moonshine about the mention of technicalities that have been raised. In very rare instances is the court met with technicalities in any trade. The issue is in nearly every case one relating to wages, the question whether there shall be apprentices, the number of apprentices, preference to unionists, or, in a few cases, the piece-work rate. The technical difficulties which have been raised have been very small. There are two important features of the New Zealand act. One is the creation of a board to relieve the court, to practically take over a great many of the functions of the court. The other—and it is one which

the Premier seems to have entirely overlooked—is to impose on the man who works a very serious legal obligation if he strikes or does anything in the nature of a strike, and at the same time, having imposed that obligation, to give him some corresponding advantage. In every case where the right of the wage-earner to strike or to follow the old methods of settling differences has been interfered with, there is an effort made to give him some compensating advantage. If any man breaks an award and is fined, he cannot escape the payment of that fine. The Government can follow him wherever he goes and can take 25 per cent. of his wages until the fine is paid. The New Zealand act further says, "In view of that stringent provision we make this further provision: If a union in any town by the expenditure of its energy and funds raises the wage standard and gets an award of the court, and if there are a hundred men in that town who are not unionists, the secretary of the union can go to the employer of a non-unionist and compel him to pay a subscription for that non-unionist, in order that he may bear his share of the expense incurred in bettering the conditions of the trade generally." There we have comprehensive, courageous, and honest attempts to meet the problem, based on the original principle set out in the preamble of the act—that the act is one to encourage the organisation of workers and employers and prevent indiscriminate fighting one against the other under the old system of freedom of contract. I repeat—and I think I can speak for my party—that if the Premier will give us a bill like that, we will take it. If he gives us that bill his name will live in history as the name of Seddon will live in New Zealand; but if he persists in carrying this bill in its present form his name will soon be forgotten in history. The New Zealand act exists as the climax of a long evolutionary process carried on by courageous and honest men. If the Premier is going to take a bit of the measure, let him take the whole of it, and give us that system which will not only prevent industrial upheaval in the future, but will confer enormous benefits on the wage-earners of the community. Now I come to what is perhaps the most important part of my speech. I am authorised by my party to lay before the Government certain definite proposals, in the hope that they will receive consideration. I desire the Government to understand that they are not presented in any party spirit, or in a stand-and-deliver attitude, but that they represent fair and honest conclusions to which we have come as to the amendments which should be made in the measure. I believe the Premier is prepared to grant us some of the propositions, but we regard the whole of them as essential to the framing of a measure which will be acceptable to the whole of the community. The propositions are as follow:

1. That a permanent industrial court, presided over by a Supreme Court judge, with absolute final jurisdiction, free from all technicalities, and accessible as a last resort in all matters of importance, should be maintained.

2. That the act should maintain full recognition of industrial organisations of employees as the medium of approach to the court or to the industrial council, and that the present system of registering organisations of employees and employers, and the encouragement generally of collective bargaining, should be maintained.

3. That the board and the ultimate court of appeal should be given power to grant preference to unionists, if it deems such a course advisable.

It has never been suggested that there should be in the measure a proviso for a system of compulsory unionism. All we ask is that power should be given to the court by which it can, if it deems such a course advisable, give preference, and at the same time make any subsidiary orders that may be necessary to make preference effective.

4. The extension of the scope of the bill in order that it may include all matters which may be the ground of an industrial dispute.

5. Provision to enable the boards and the final court to ascertain and consider the profits of an industry in fixing an award and industrial conditions.

Those are the five cardinal principles which our party contend should be embodied in this measure. I may add—I have no authority, perhaps, to expressly state this: that if the system is effective, if it is one that we can go back to the industrial organisations and recommend, and say, "This is a fair and honest effort to meet your requirements, to reach finality as far as industrial disputes are concerned,"

we are prepared to assist the Premier in making stringent penal provisions. We admit, as other sections of this community do, that any legislation of this kind which confers great privileges must necessarily carry disadvantages with it. We are prepared to have those disadvantages clearly defined, and to assist the Government in any reasonable effort to make an award, when once given, law; to make a breach of the law punishable; and to make the punishment effective whenever it is imposed by a proper tribunal. We are prepared to take that position. And I assure the Premier that I believe our party as a body will support him in any proposal of the kind, if the bill contains the main principles I have indicated, and if we can see the possibility of maintaining practically the present system of arbitration, but with all the features removed that killed it in the past. I propose very briefly to run over the details of the proposal which I have put before the Premier. First of all, as to the constitution of the court, I think that I have pretty well covered the ground. I have already stated that there is no objection to the boards as indicated by the Premier.

Mr. WOOD: What is the nature of the appeal court the hon. member proposes to graft on to the bill? How is the court to be constituted?

Mr. BEEBY: That is more a matter of detail.

Mr. WOOD: It is a most important one!

Mr. BEEBY: It is very important, but I can say that my party as a body are not at present bound to any particular constitution of the court. Personally I favour the existing system which is to be maintained under the New Zealand act, and some others of my party also do. But if that is an insuperable obstacle it may be that we can devise a scheme by which the court will be maintained by a permanent judge, with men appointed from time to time to assist him in the discharge of his functions. But the reason I prefer maintaining a full court of three members is that there will be necessarily a number of minor duties which this court will have to perform. I refer to the enforcement of awards and to penalties which are imposed. And, in the interests of employers and employees, I submit that there should be a method of appeal where proceedings are of a quasi-criminal nature. I think that will be generally acceded to by this House. If so, there must be an appeal to someone, and that appeal could be to this court. The reason I ask for the maintenance of the existing court is that it will be particularly able to deal with matters of that kind. The appeal will be a matter of rehearing.

Mr. WADE: Who will hear the prosecution in the first instance?

Mr. BEEBY: I understand it will come before the police magistrate.

Mr. WADE: There are minor offences against the act which would come before a magistrate!

Mr. BEEBY: I would suggest that all of them should come before this court. There is no need to appeal. I think that many questions could be dealt with by magistrates if there is a right of appeal. But suppose they go direct to the court, then the presence of permanent men in the court is a matter of substantial advantage, for the reason that you cannot bring any of the assessors—that is, you cannot bring any member of a board—to assist the court in a matter of that kind. And technical matters often arise in connection with proposals to impose penalties. I have seen the court for perhaps two or three hours engaged in considering whether or not a breach of award had been committed in connection with a particular trade. I remember one case in connection with the Tailoresses' Union. The question arose as to whether certain coats came under one item of the schedule or another. It was a technical matter, and had to be determined. And the experienced man who is accustomed to sit on the board and hear evidence—for although he is a layman he keeps in touch generally with industrialism—a man who is free from any fear or bias or economic pressure is better able to assist the board than the mere representative of a trade, who may have to work at it the next day.

Mr. WADE: If the court the hon. member speaks of is composed of a judge only then so far as penalties and prosecutions are concerned we are on the same lines!

Mr. BEEBY: I have an objection to conferring generally indiscriminate power on District Court judges. I do not wish to reflect on any of the gentlemen who

preside over our courts, but I say that the man whom everybody in the community trusts is a Supreme Court judge. He is beyond pressure and beyond influence. He is the nearest approach to the impartial man you can get. But a District Court judge is not in the same position, There are many influences at work. And I say now that there are some District Court judges to whom I would not trust the investigation of any industrial matter. I know from experience that an unconscious bias has been shown. But when you get a Supreme Court judge, a man who is permanent, who is beyond all possible control and influence, you get the highest type of man that the community can produce.

Mr. LEVY: An accusation has been made in the past by some of the hon. member's party against Supreme Court judges, even the Chief Justice. The hon. member knows that!

Mr. BEEBY: I do; and I say that some of our Supreme Court judges—and the hon. member knows it—have shown a bitter bias against the act and the general principles of it. I say that there is required in this class of work a particular training as well as in others. You have a man who is a specialist in probate, another who is a specialist in equity, another who is a specialist in bankruptcy, and another who is a specialist in common law. These men are found better adapted to discharge certain functions as the result of experience. That applies to a judge as well as to any other class of the community. I would ask the Premier to consider this position, that his proposal in the bill, so far as I can see, only provides that there shall be no prohibition in the event of an application for a penalty. In that case the validity of the award shall not be in any way challenged. But in addition to that it is necessary to provide that the award when made shall not in any way be challenged by prohibition. That will absolutely safeguard the act against informality and defects of any kind.

Mr. WADE: Clause 25 goes far enough, and it is meant to cover that position. There must be conclusive evidence that the money was duly paid, and the reason why it is brought in here is that on the prosecution you might challenge the award on which the prosecution is based, and also the conviction afterwards. But this clause says that you shall not challenge the award. My intention is to make the court final.

Mr. BEEBY: As to the other matter to which the Premier has referred, we are to some extent brothers in distress. I refer to the exclusion of the legal profession.

Mr. WADE: We have both lost our tails!

Mr. BEEBY: Without in any way wishing to hurt the Premier's feelings, I cannot resist the opportunity of reminding him of another case in which he appeared in the Western districts, that is the matter of the coal miners, which took nine weeks to dispose of, but which I think, under ordinary circumstances, ought to have taken about nine or ten days. I do not suggest that the Premier wasted the time of the court, but it seems to me that he has a mind that moves very slowly under the genial influence of refreshers. The average man would have got on much faster than the hon. gentleman did in that case.

Mr. WADE: I was away from the court a large part of the time, I was away in Sydney!

Mr. BEEBY: A learned brother of the Premier once jocularly referred to the fact that the longest case on record was one in which the hon. gentleman held a brief for the employers. I agree, and always have admitted, that the court will give better results and work more quickly if the legal profession are entirely excluded from its precincts. If there is no right of appeal, if no question of legal technicality can possibly be raised, if the court can make its own jurisdiction, and is absolutely clear that it has power to deal with industrial matters in its own way and in accordance with its own principles, then I do not think that there is any need for the presence of the legal profession, and that better results will undoubtedly be obtained. The second point is the desire on the part of our party to obtain from the court a recognition generally of the principle of organisation. I have already pointed out that the basis of the New Zealand act is the encouragement of the industrial union. I would remind the Premier that there

are two classes of trade-unionists in the civilised world—one that is controlled and restricted, and one that is uncontrolled and left entirely to its own devices. I admit that in America and some other countries where trade-unionism is conducted without legislation, without paternal control, it does very often become a menace, and the excesses indulged in by organisations are serious problems for the community to consider. But here we have adopted a better principle than that. Following the example of New Zealand, we say that trade-unionism if controlled, if held within certain limits, if allowed certain privileges, is the best arrangement that we can make as far as our industrial classes are concerned, and we urge that the encouragement of industrial organisation is not a danger to the community. I ask the Premier to seriously consider this matter, and to give us the one essential principle that no man can approach the court except through the agency of an industrial union. We have it in the present act; it has never failed. I ask the Premier if he can cite one case where a man who has had a legitimate grievance has been unable to bring it before the court.

Mr. WADE: The wharf labourers' case at the present moment. They have practically said, "We cannot get the case before the court!"

Mr. BEEBY: Why?

Mr. WADE: Because the wharf labourers have cancelled their registration!

Mr. BEEBY: The reason is that the wharf labourers' registration has been cancelled.

Mr. WADE: I said that!

Mr. BEEBY: It is easy to make provision for an emergency of that kind. I do not want to go into the wharf labourers case; but if the Premier wants to know the history of the wharf labourers' dispute, and why they are in their present position, I can trace it right back to the failure of his Ministry to amend the act some two years ago.

Mr. WOOD: It is a pity that this subject was touched upon!

Mr. BEEBY: I think it is. Some time ago the High Court declared that no award of the Arbitration Court could be amended in any detail—that if it were made for three years it could not be altered at all.

[*Mr. Beeby.*

Mr. WADE: I did not ask the reason, but merely pointed out that from the fact of the Wharf Labourers' Union not being registered they cannot get to the court!

Mr. BEEBY: Some people—I do not say the Premier—have been citing the present dispute of the wharf labourers as evidence of the failure of the act. It is not that. I can show that it is the result of the decision of the High Court which crippled the Arbitration Court, and prevented them from making an award two years ago. The whole difficulty could have been avoided if an amending bill had been introduced to meet the High Court's decision. Now I come to the third ground. It is one of considerable importance, and I believe will cause more difficulty in connection with the final adjustment of the act than anything else—that is, whether the power to grant preference to unionists is to be conferred on wages boards, and if so under what conditions and in what way can the court assume power to make preference effective if it is ever granted. On this point I desire to put before the House a number of facts which have been in my possession a considerable time, and which in other ways I have tried to place before the public, all of them tending to show that there is no substantial objection in this country to preference to unionists excepting the one fact, that it has been an important factor in industrial organisation. That is the only substantial objection that has ever been made to the doctrine of preference to unionists. I will give figures to prove the position I have assumed in this matter. There have been in this state about twenty-five industrial agreements—industrial agreements made between employers and employees, made voluntarily, with no pressure and no order of the court, but agreements entered into and registered, and in the case of twenty-two of them preference to unionists was granted voluntarily by the employers.—that is to say, in only one case out of every ten was preference refused. I will give the names of the various employers who have agreed voluntarily to grant the principle of preference.

Mr. LONSDALE: Cannot the same thing be done under the wages board?

Mr. BEEBY: I am not saying it cannot; but the wages board is not a body for removing industrial grievances. Preference has been voluntarily granted in the following industrial agreements :—

Steamship Owners with Stewards and Cooks; Milk and Ice Carters with Fresh Food and Ice Carters; Steamship Owners Federation with Stewards and Cooks; Kerry & Co. with Photographic Employees; Brush-makers with Broom Manufacturers; Barrier Photographic Trade; Steam Colliery Owners with Seamen's Union; Wire Mattress Trade; Wharf Labourers Union and Sydney Stevedores; Steamship Owners Association and Painters and Dockers; Steamship Owners' Association and Federated Seamen; Journeymen Coopers with Employers; Coastal Steamship Owners with Cooks; Seamen's Union with Vorigan and others; Interstate Steamship Owners with Painters; Sydney Daily Newspapers and Typographical Association.

Even the *Daily Telegraph* agreed voluntarily to give preference to unionists, and yet it publishes letter after letter against any recognition of the principle.

Mr. WADE: No!

Mr. BEEBY: Yes, against any recognition.

Mr. WADE: Against forcing it!

Mr. BEEBY: This agreement is registered in the Arbitration Court and is compulsory. The *Daily Telegraph* says that no unionist should have a monopoly of employment. That is what it has said again and again, and it gives a monopoly to its own workmen. Then there are these other cases where preference has been granted :

Steam Colliery Owners and Federated Seamen; Sydney Meat-Preserving Co. and Slaughtermen; Bakers' Union; Journeymen Butchers; Hairdressers' Union; Boot Trade (three unions); Wool and Basil Workers; Glass-Workers; Monumental Masons.

There are a number of other employers who have already voluntarily agreed to this iniquitous doctrine of monopoly of employment to unionists. Men who have been writing letters to the newspapers, stirring up an agitation against the Arbitration Act because the court gives preference, give it themselves nearly every time they enter into an agreement with their employees. I feel more strongly on this matter, perhaps, than on any other aspect of the case. I say the opposition to this principle is dishonest. It is not because preference has imposed any disabilities on employers, it is not because it has put any of them in an unfair position, it is not because it has interfered materially with the rights of any man, but it is because—and the Premier let it slip, perhaps unwittingly, to-day—the worker has become better organised, and has become a greater political power in this country—that is why preference to unionists is opposed.

Mr. WADE: Then the hon. gentleman will admit that for industrial purposes this preference helps on political organisation?

Mr. BEEBY: No; I do not admit anything of the kind. What I say is, that the industrial organisation is absolutely distinct from the political organisation. When a man becomes organised, as a result of that organisation he is more susceptible.

An HON. MEMBER: He becomes educated!

Mr. BEEBY: He becomes educated, he becomes approachable, he is in contact with his fellow-workmen, and the result may or may not be political development. But I assure the Premier that the labour party does not control the whole of the trade-union vote. I doubt if in the metropolitan area it controls more than half of it. I know that a vast proportion of the trade-union vote in this country has nothing to do with the labour party. I give the Premier that assurance for what it is worth. The hon. gentleman let slip by an interjection a remark that preference to unionists had increased political activity in unionism. All I say is that that is the objection to preference to unionism, but those who object have not the courage to say so. What are the reasons given in the newspapers, and what are the reasons given on the platform? That this is an infamous interference with liberty, that it places the employer at some enormous disadvantage, that it threatens us with social chaos in some inexplicable way. Yet, whenever an employer enters into an agreement with unionists he nearly always gives preference, and he nearly always will give preference, because he knows that it is better for him if he is a fair employer. He knows that if the organisation is complete, he has not to undergo a perpetual struggle as between different classes of artisans who may be competing for employment with him. Following the principle laid down by the employers them-

selves, what has occurred? I am referring now to one of the early cases dealt with by Mr. Justice Cohen, which is reported in vol. 1 "Arbitration Reports," page 93. The court there, after a very exhaustive hearing, as to the conditions of the bread carters in Sydney, and after making an award reducing their hours of labour from eighty to about sixty per week, and increasing their rate of wages from an average of 35s. to 45s. a week, made this order:

> Any non-unionist carter hereafter entering the employ of the respondent shall join the Bread Carters' Union at or before the end of one month from the date of his so entering the employment, provided the entrance fee to the union does not exceed 5s. and the weekly contribution does not exceed 6d. Whenever a non-unionist applies to the respondent for employment as a bread carter, the respondent shall inform him that the court has made this condition a part of its award.

In other words, the court, exercising what it thought were its powers under the act, put a clause in this particular award imposing compulsory unionism. The learned judge, Mr. Justice Cohen, a man who is not a trade-unionist, a man whose natural instincts are not in any way coincident with those of unionists, a man coming from the Supreme Court Bench, with all the associations of the legal profession, and of his own particular class in society, delivered this judgment:

> This condition is agreed to by the majority of the court. Speaking for myself, perhaps also for my colleague, Mr. Smith, it seems that the master bakers have no objection to unionists. So far as the master bakers, who have been called before us, and whose names have been mentioned, are concerned, it appears that the bulk of the bread carters in their employ are unionists. We know there are a number of bread carters outside the union; but there is no desire, so far as we can ascertain, on the part of the master bakers, to distinguish between a unionist and non-unionist. It seems to me that where we find, so far as we can ascertain, that the master bakers have no objection to the unionists, and when we find that the unionists are so largely in the employ of the master bakers, it would promote harmony and good feeling if bread carters, hereafter applying for employment, were to become unionists. This condition does not apply to those already in employment; but to illustrate it, if a bread carter in Mr. Langer's employ should apply to Mr. Law for employment, then Mr. Law should be bound to apply this condition to the bread carter.

He goes on to say:

> I quite recognise and fully appreciate the objection of nearly all the master bakers to compel a man to become a unionist, but the master baker under this condition is not compelling him, for it is the court that does so, and thus that sentimental objection should be fully removed. All the master has to say, just as if the statute itself provided it, is: "You see what the law is, whatever my feeling may be, the court has laid down that condition, and I am to inform you of it by direction of the court."

Then he goes on to say:

> Now I desire to make one further observation, and in doing so I am not perhaps taking such high ground as I have just taken in my approval of this condition. If these conditions better the condition of the bread-carters, and I am of opinion they do, though they do not go so far as the claim, yet they have been gained by the action of the union, and it is only the union which, recognised by the law, could bring about the result; for the single carter or any number of non-unionist carters could not do so, they having no right to appear before the court as claimants. It therefore appears to me somewhat unfair that bread-carters should be prepared to accept all the benefits, whether large or small, which are brought about by the action of the union, and yet stand outside it, and not help towards improving the industrial condition of their class.

Is there any indication there that Judge Cohen granted preference because he thought he had to grant it under the act? No, he granted preference because there was good substantial reason for doing so. In that particular case, where the trade was scattered, competition keen, and no central control, he went further than granting preference. He said that the conditions of the industry were such that all must come into the union.

Mr. ARTHUR GRIFFITH: What hardship is there to any class of workman in having to join a union?

Mr. BEEBY: I believe some workmen have religious objections to belong to a union. That is the only reason I have ever heard urged. I am not going to refer to all these cases, of which there is a large number, I am only taking two or three. There is another case in the Arbitration Court reports. No reason was given, but the court made an order there that, as between members of the society and other persons not being members thereof who should offer their labour at the same time, the members of the society should receive preference from the employer so long as the said society should be able and willing to supply capable union labour to the association, and the said association must accept and employ such union labour only and no

other. That is another case in which the court gave preference without giving the reason which the Premier alleged to-night, that the judge gave it because he had to do it. For other reasons altogether he granted preference, and made the preference actually and absolutely effective. There is another case, at page 146, vol. 2, referring to wharf labourers. In that case the court took an entirely opposite view; they said nothing about unionists at all, but they laid down conditions on which non-unionists should be employed. They said there that non-unionists shall be employed only in the way prescribed under the award. That was an order framed to meet the particular set of circumstances. Then there is the case of the Trolley, Draymen, and Carters' Union *v.* Master Carriers' Association, reported in vol. 4, page 45. There they gave reasons and laid it down that the workers must become trade-unionists within fourteen days after entering the employment. In applying the common rule the judge says:

> It may be that, in giving preference to unionists, inconvenience or, in some cases, hardship may be imposed upon employers; but, on the other hand, if preference is not given, it may be said by unionists that hardship and inconvenience may be imposed on them. And so, whichever course is adopted, I suppose it would not be free from objection. Then, finding in this case, according to the evidence, that the claimant union substantially represents the industry, so far as the employees are concerned, I consider that I am justified in granting preference to unionists. Another consideration which has always weighed with me is this—I do not say it is a conclusive reason, but it is one which, rightly or wrongly, I am unable to discard from my mind,—the industrial unions of employees bring the disputes connected with their respective industries before the court. They incur all the expenses, take all the labour, have all the trouble in preparing their case and submitting it to the court, and I will assume that in any given case they get conditions more favourable to the employees than those which existed prior to their initiating the dispute and the award of the court being given. Now if there is to be any encouragement at all for the settlement of disputes as between the employers and employees, and the employees' union is to be deprived of the only condition which operates in favour of the union—that is, the preference condition—then it seems to me that all encouragement for the union would disappear, and that practically this act, which is an act encouraging the formation of industrial unions, and encouraging them to bring their disputes into court rather than have recourse to the old method of strikes, would become to a great extent inoperative.

There a strong substantial reason is given by the president for granting preference. I could give a number of other instances, but summarising the whole of them, the court has always done this: Sometimes it has granted preference in terms of the act, sometimes it has refused to grant preference at all; always working on some principle, or giving some substantial reason. On other occasions it granted preference, and went further than that and said, "We must not only give preference, but we must practically, in order to meet the exigencies of this particular trade, make preference compulsory, and make unionism compulsory." In these three ways the court has dealt with the matter, and the Premier is entirely at fault when he asserts that the judges have always given preference because they thought they had to do so. They gave preference again and again because they thought it was a fair, just, and reasonable thing. They gave it again and again because the employers had set the example in industrial agreements, and had given it without the compulsion of the court. Whichever way you look at it, the whole principle of preference is one of vital importance—one which the court must have power to deal with; one which must be given if there is to be effective settlement of industrial disputes. Now I come to matters which the Colonial Secretary asked me to deal with. Briefly, I may say this: The bill, so far as it goes, prescribes certain specific matters which are to be referred to the industrial board or industrial court. These are set out in clause 22, and relate to piecework prices, number of working hours, minimum wages, overtime, holidays, the number and proportion of apprentices, the granting of permits to aged or slow workers, and the rescinding or varying of awards, orders, or directions of the board or Court of Arbitration or any industrial agreement. The four substantial matters herein dealt with are wages, holidays, hours, and the proper number of apprentices. The jurisdiction of the board is confined absolutely to these four cases. I would point out that there are often matters in dispute arising entirely outside the area of these four cases. I am quite prepared to limit the jurisdiction of the final court of appeal, but so far as the general settlement of disputes is

concerned, other considerations than those which are mentioned form the basis of very serious industrial differences. Take the case of the brickmakers of Sydney. One of the most serious claims made by the men was that they should not be called upon to work in patent brick-kilns, if the temperature exceeded 140 degrees Fahrenheit. The evidence showed that men were sometimes called upon to work in a temperature of 180 degrees, that on rare occasions the temperature rose as high as 200 degrees, and that the atmosphere was impregnated with dust. One of the most substantial grievances was that the employers kept up the heat of the furnaces solely because they wanted a certain output from the kiln. It was contended that if they did not work their kilns to their full capacity, they could bring down the temperature to a very considerable extent. The court considered the matter very carefully, and fixed the temperature in which the men should be required to work at 130 degrees. Under the award, if the temperature went above that the men had the right to come outside and wait until it was reduced. There was a matter that would be entirely outside the cases dealt with in the bill. Now, I may refer to an instance which proceeds to the other extreme. Questions may arise, and do arise, occasionally, with regard to the temperature in cold-storage establishments. In a case that was brought before the court it was shown that the temperature sometimes fell as low as 15 degrees below zero. This was proved to be an exceptional case, and the court made no order as to temperatures, but fixed a higher rate of pay for the men engaged in the industry, because of their being called upon to work in low temperatures. Then, again, there was the case of the Gas-workers' Union, which has been referred to by the Premier. That would not come within the cases I have mentioned. The question there was: What constituted a fair day's work? The gas-works had been run on a certain system of furnaces, and it was an understood thing that each man had to attend to so many furnaces during each shift. All that was suddenly changed owing to the installation of a new set of furnaces, and a violent dispute arose as to whether the men should be expected to attend to the same number of furnaces as formerly. No one was able to assist the court in arriving at a fair determination upon this question, and it had to be referred to practical men. Such a case would not be embraced within the provisions of the bill. I cannot think of any other cases at the moment, but a number of other questions would probably arise, and I would suggest that the definition of "industrial dispute" and "industrial matter" in the original act, which has proved very effective, might in some way be incorporated, in order to give the court power to interfere in any matter referring to the relationship of employer and employee which might be the basis of an industrial dispute. I have to apologise for having kept the House so long. I have endeavoured not to waste time, but to confine my attention to placing before the hon. members and the public the facts which are necessary to support the case which my colleagues and I are putting forward.

Mr. LEVY: Does the hon. member suggest that these special cases to which he referred should be dealt with by the boards and not by the court?

Mr. BEEBY: They will be dealt with by the boards until the court gives leave to appeal. As the Premier has indicated, the most unexpected questions may arise and cause an industrial upheaval. I should give the court power to say whether an appeal should be allowed or not.

Mr. LEVY: Does the hon. member think that a case such as he has referred to would be better dealt with by a court constituted in the way he indicates, than by a board such as the bill proposes?

Mr. BEEBY: Undoubtedly the court would have to call in the assistance of experts. The Premier referred to the case of the gas-workers, but I will ask him in all fairness to admit that that was an exceptional instance, and that no other of a like character has arisen during the history of the court.

Mr. WADE: It was the only case which the court refused to deal with, but it was not the only case in which the court expressed themselves as very doubtful regarding their powers!

Mr. BEEBY: The only other case which I remember was that of the Amalgamated Journeymen Tailors. One of their efforts was to build up a piece-work log,

and it was beyond the power of the court to arrive at any decision with regard to this until after it had been referred back to the parties to be fixed up. It was subsequently included in the award.

Mr. LEVY: Is there not provision in the bill for the employment of assessors in technical matters?

Mr. BEEBY: Yes, it would be unnecessary for the wages boards, which are composed of practical men, to appoint assessors; but the court should undoubtedly have the power, when dealing with matters of the kind referred to, to appoint assessors, or to call in such assistance if the parties think it necessary.

Mr. LEVY: Such a case would come first to the wages board and then to the court for rehearing, and there would thus be two hearings!

Mr. BEEBY: I accept the Premier's assurance that the wages boards would have power to make an award which would come into force at once.

Mr. WADE: Yes; and the enforcement of the award would be in the hands of a judge!

Mr. BEEBY: I am satisfied that if power to grant the right of appeal were given, leave would not be granted except for good reasons shown. For example, if it were desired to appeal to the court because the board had not reduced the working hours to forty-four per week, the court would at once say that the principle in regard to the reduction of the working hours below forty-eight had already been laid down by legislation, and the appeal would be refused. In a large number of matters the court would refuse the right of appeal altogether. But in matters of importance, where it was shown that the board had not arrived at a fair conclusion, there ought to be some final method of full judicial inquiry.

Mr. LEVY: Would not the inquiry by the board be a judicial one?

Mr. BEEBY: No. Surely the hon. member would not call the inquiry by the board a judicial one!

Mr. LEVY: I do!

Mr. WADE: A judge presiding, open court, evidence on oath!

Mr. BEEBY: But the judge does not want to give a casting vote. His duty, under the bill, is to avoid giving a decision. The decision is practically left in the hands of six men—three employers and three employees. These employers and employees are brought face to face, and one disadvantage of that—a slight one, I admit—was pointed out by the leader of the Opposition. There is another slight disadvantage, but putting the two together, they become very serious. Any man under such circumstances, face to face with a man upon whom he may have to rely for his means of livelihood, is susceptible to flattery, to fear, and economic pressure. There are a number of influences that can operate on the minds of men under such circumstances, and you have to remember that only one of them has to go over. Supposing there are five on each side, making ten in all, only one employee has to go over to the side of the employer and the case is over. It is not a fantastical objection; it is a solid and substantial objection, that the final destiny of an industry should rest on the possibility of one workman going over to the employers.

Mr. WADE: There is the converse—the employer going over to the side of the employee!

Mr. BEEBY: I admit that. An employer might, in order to get a good name with the employees and the pick of the labour, go over to the side of the employees. It applies both ways, but in cases like that there ought to be the right of appeal to a court, constituted of men who are not susceptible to these influences, who are free from all pressure, who are permanent, and who have the confidence generally of the industrial classes. There ought to be some ultimate right to appeal to that court in all critical cases and matters of vital importance. It is not an objection to the system but a reasonable ground for asking that there should be something beyond that.

Mr. LEVY: The hon. member must recognise that that is a very small point!

Mr. BEEBY: I do not. I think it is a very substantial point. If the hon. member were a litigant in the ordinary sense of the word, he would not trust his fate to a tribunal of that nature. He would appeal to men with absolutely unbiassed minds and who were free from all influences of that kind.

Mr. WADE: Suppose the result is that the judge has to give a casting vote?

Mr. BEEBY: In a majority of instances the members of the present court have been unanimous on all substantial principles. The Premier has referred in very flattering terms to the reference board which exists and controls the operation of the southern collieries. I should like to point out to him, however, that that conciliation board is the creation of the Arbitration Court, which creates these boards of conciliation under every award, and in a vast number of instances these boards have worked satisfactorily, and settled all minor differences. In this southern colliery case the board has never settled a matter of vital principle. It has never settled, for instance, the sliding scale of wages to be paid according to the selling price of coal. All the big issues were settled by the court. Would any one say that that board would deal satisfactorily with the big issues that may be raised later on if there be any change in the industrial conditions there? It settles matters of detail, and one of the best things the Arbitration Court has done has been to create these boards of conciliation in a number of industries to enable employers and employees time after time to settle matters of detail. Take the boot trade; there never was a trade in which there was more continual friction and trouble than in that trade some three or four years ago. They now have a board of reference. They meet once a fortnight under the provisions of the award of the court and settle their differences. They have been to the court once only during the whole of its existence. They are to have a readjustment of their wages under general conditions, but in all matters of minor detail they work out their own destiny just as the southern collieries do. I believe the whole of the industries of this country will be controlled in the same way, but only because there is behind it something else which can step in if they do not settle their differences. I believe that that will come; indeed it is coming now. The industrial agreement is evidence of it. The tendency to go to the court will diminish, but it will not diminish until every trade has had its appearance before the court, and has obtained a working basis. After the court has laid down a working basis, appeal to it will become less and less frequent, and ultimately it will only be appealed to in cases of extreme urgency. Organisations now generally understand the methods of the court. They know what they are likely to get and what they are not likely to get. The tendency to make extravagant claims is dying out. In almost every case men go with a practical proposal to the court, and the matter is dealt with much more expeditiously.

Mr. WADE: What about the cold-storage case? There was bluff on both sides!

Mr. BEEBY: The cold-storage men asked for 1s. 6d. an hour because the wharf labourer engaged in cold-storage chambers got 1s. 6d. under the award of the court. The difference was that the work of the cold-storage man was more constant than that of the wharf labourer, and the court said his work was worth 1s. 3d. an hour. That is a better illustration of what a court like this can do than anything we have had for years past. It was a new judge, Mr. Justice Street, who had never given an award before. The men were getting 1s. an hour, and they asked for 1s. 3d. an hour, with a proportionate increase to 1s. 6d. for overtime. They asked, also, for a number of minor concessions which were given to other trade-unionists. The hearing of the case took five days. The men got 25 per cent. increase—a substantial reason was given for it—and they got a number of minor concessions that lifted their trade to a decent standard. The judge also gave preference to unionism, and stated a substantial reason for doing so. That is a telling illustration of the effectiveness of the court in spite of the obstacles it had to struggle against during the last few years. In conclusion, I say that we approach the second-reading stage of this bill with an open mind. We believe that there is room for compromise. And, after the Premier's speech to-night, I earnestly trust that the House will be able to devise some scheme which will be acceptable to the Opposition, as well as to hon. gentlemen who are supporting the Government. I do urge the Premier to accept the assurance of my party that this is a matter upon which we are just as sincere as he is in the desire to create a permanent system of dealing with industrial disputes. But we lay down certain fundamental principles which we regard as

essential before any system can be accepted. I have outlined those principles, and I ask the Premier to accept them, not in any way as an ultimatum thrown at him, but as the result of earnest consideration of this important matter by the members of my party. I trust that he will, as far as he can in keeping with the policy of his party, yield to them and give us the opportunity, when in Committee, of placing the bill before the country as a comprehensive and permanent measure. I believe still that in the principle of industrial arbitration rests the future possibilities of the development of this country. I believe it opens up the possibilities in the future of a perfect development, peace, and absence of disputes which are not common to many countries in the world. If we can only achieve the results which have been achieved in the Dominion of New Zealand, the bill is worth passing in the amended form I have suggested. I again urge the Premier to deal with this matter in a fair and reasonable spirit, to give proper consideration to the proposals I have put before him, and to embody them in this measure before it passes through the Committee stage.

Motion (by Mr. ARTHUR GRIFFITH) agreed to :

That the debate be now adjourned.

ADJOURNMENT.

Mr. WADE (Gordon), Attorney-General and Minister of Justice [11·34], rose to move :

That this House do now adjourn.

He said : I may mention that the Governor has expressed his wish to receive the address in reply on Tuesday afternoon next at half-past 4.

Question resolved in the affirmative.

House adjourned at 11·35 p.m.

Legislative Council.

Tuesday, 24 March, 1908.

Suspension of Standing Orders—Improvement Leases Cancellation (Declaratory) Bill (Petitions and second reading).

The PRESIDENT took the chair.

SUSPENSION OF STANDING ORDERS.

Resolved (motion by Hon. J. HUGHES) :

That so much of the standing orders be suspended as would preclude the receiving and proceeding with "A bill to explain the operation of the Improvement Leases Cancellation Act, 1906 ; to remove doubt as to the validity of a certain certificate, and all acts, things, and proceedings done and held under the said Act ; and for other purposes," as far as the second reading during one sitting of the Council.

IMPROVEMENT LEASES CANCELLATION (DECLARATORY) BILL.

Bill received from the Legislative Assembly, and, on motion by the Hon. J. Ashton, read the first time.

PETITIONS.

The Hon. Sir NORMAND MACLAURIN presented a petition from Edward Harewood Lascelles, praying that due provision be made in the bill for protecting the rights and interests of the New Zealand and Australian Land Company, Limited ; also, that leave be given the petitioner to appear, by counsel, at the bar of the House in support of the claims of the said company.

The Hon. A. W. MEEKS presented a petition from Charles Mackinnon praying that due provision be made in the bill for protecting his rights and interests ; also for leave to be heard by counsel at the bar of the House in reference to the bill, and in support of the prayer of the petition.

Petitions received and read by the Clerk.

The Hon. A. W. MEEKS presented petitions with a similar prayer from James Lindsay Haynes, John Hain, Richard Yeomans, and Frank Mack ; from Thomas Mitchell Scott ; from Hugh Strahorn ; from Frederick Barrington Blomfield ; from William Andrew Gardiner ; from John Dight Mackay ; from Frederick Irving Body ; from Thomas Cornish ; and from James Patterson.

Petitions received.

SECOND READING.

Order of the day for the second reading of the bill read.

Motion (Hon. Sir NORMAND MACLAURIN), with concurrence, proposed :

That Charles Mackinnon, James Lindsay Haynes, John Hain, Richard Yeomans, and Frank Mack, Thomas Mitchell Scott, Hugh Strahorn, Frederick Barrington Blomfield, William Andrew Gardiner, John Dight Mackay, Frederick Irving Body, Thomas Cornish, James