

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 28 NOVEMBER 1906

Electronic reproduction of original hardcopy

LEGISLATIVE COUNCIL.

WEDNESDAY, 28 NOVEMBER, 1906.

The PRESIDENT (Hon. Arthur Morgan) took the chair at half-past 3 o'clock.

LEAVE OF ABSENCE.

HON. A. J. THYNNE.

The PRESIDENT announced the receipt of a letter from the Governor, intimating that His Excellency had, in pursuance of the 23rd section of the Constitution Act of 1867, granted to the Hon. A. J. Thynne permission to absent

himself from the sittings of the Legislative Council during the current session of Parliament.

PAPER.

The following paper, laid on the table, was ordered to be printed:—Annual report of the Inspector of Orphanages.

TRUSTEES AND EXECUTORS ACTS AMENDMENT BILL.

THIRD READING.

On the motion of the SECRETARY FOR PUBLIC INSTRUCTION (Hon. A. H. Barlow), this Bill was read a third time, passed, and ordered to be transmitted to the Legislative Assembly for their concurrence, by message in the usual form.

LANDS SALES PROCEEDS BILL.

THIRD READING.

On the motion of the SECRETARY FOR PUBLIC INSTRUCTION, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

TRADE DISPUTES BILL.

SECOND READING—RESUMPTION OF DEBATE.

HON. G. W. GRAY: The Minister, in his introductory remarks in moving the second reading of this Bill, told us it was a very important measure, which had been framed after careful deliberation, and he went back some centuries to find reasons to justify it. There is no doubt the hon. gentleman found himself in a very difficult position. He had a difficult brief before him to handle, and he did it well, but he was not to be envied, for even his own colleagues are not in accord with regard to the Bill. I listened very attentively to the hon. gentleman, and I must say that, as regards the objectionable features of the measure, I think he only touched on the fringe of them. But he summed up by telling us he wished it to be understood that he would never give his sanction to two things—namely, deliberate breaking of contracts, and resort to violence. In other respects he thought the trade unions were entitled to the protection which the Bill afforded them; that was, to join lawfully for their common good. Unfortunately, this proposed legislation goes a great deal further, and practically seeks to legalise many things outside those named by the Minister. To my mind the measure, if passed, would enable the trade unions and their officers to use intimidation to a greater degree than at present in pursuance of their objects. It would also enable them to use force in the furtherance of their objects, and even the strike weapon is left free to them. There is no doubt about it that if this Bill is passed the unionist minority could adopt coercive measures to force non-union men, whether they wished it or not, to join them. As to the minority, it is, I think, an admitted fact that not more than one in thirty of the workmen of Queensland are members of trade unions, and the one can coerce the other twenty-nine.

The SECRETARY FOR PUBLIC INSTRUCTION: Only by refusing to work with them.

HON. G. W. GRAY: We have got on very well up to the present without legislation of this sort legalising this enormous power. We hear very little of trade unions outside of Brisbane; I am speaking of the State generally. The

Minister said the kernel of the Bill was in the 5th clause, and I quite agree with him. I will read the 1st and 2nd paragraphs of that clause—

1. No act done or omission made by any two or more persons in contemplation or furtherance of any trade dispute shall be actionable if such act or omission when done or made by an individual person would not be actionable.

2. No act done or omission made by any individual person in contemplation or furtherance of a trade dispute shall be actionable on the ground only that it is an interference with the trade, business, occupation, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

That is a strange expression, "in contemplation," and I cannot understand it at all.

The SECRETARY FOR PUBLIC INSTRUCTION: Things must have a beginning.

HON. G. W. GRAY: But the stringent measure starts when it is only in contemplation. Subclauses (1) and (2) give almost unlimited right of interference to bodies of workers and enable them to practise practically intimidation in its very worst form, and they, of course, contain the main features of the Bill. The Minister says he would not assent to anything in the form of a breach of contract.

The SECRETARY FOR PUBLIC INSTRUCTION: Certainly not.

HON. G. W. GRAY: They can do anything else outside of committing a breach of contract under this Bill, and certainly can practise intimidation against non-unionists. The operation of this subclause as printed will, in my opinion, be very far-reaching indeed. The 1st subclause frees the action of two or more people for their conduct if actionable as regards one person, and subclause (2) practically makes the conduct of one person free from any consequences.

The SECRETARY FOR PUBLIC INSTRUCTION: It is free now.

HON. A. HINCHCLIFFE: Of course, he is quite free now.

HON. G. W. GRAY: That is the kernel of the whole Bill, as the Minister pointed out, and I say it enables the unionist to practically do anything, except to use force. I may mention one case which has been prominently before the other branch of the Legislature and before the public. That was the case of Standley. I think that was a very hard case, and it was one that came immediately under my notice. That young man sought employment and obtained it. He was a member of the Typographical Union, and for some reason or other he was not permitted to take the employment. His employers were threatened that if they employed him their business would practically be closed down.

The SECRETARY FOR PUBLIC INSTRUCTION: He transgressed the Standing Orders.

HON. G. W. GRAY: I say this Bill asks us to legalise an action of that sort when members of trade unions prohibit a man from taking employment.

The SECRETARY FOR PUBLIC INSTRUCTION: Prohibit others from working with him.

HON. G. W. GRAY: Well, prohibit others from working with him if you like. The seriousness of their action in the case I have mentioned was that if Standley had not been withdrawn the business concerned would have been paralysed.

The SECRETARY FOR PUBLIC INSTRUCTION: Then work it with free labour, and turn out all the unionists.

HON. G. W. GRAY: It is very easy to say that, but it is a very difficult thing to do, and

Hon. G. W. Gray.]

the case is all the harder when you remember that the unionists are in a considerable minority, and that there are at least 150,000 men in Queensland who are non-unionists. The Minister says work the business with non-unionists, but the Typographical Union is a very strong union. However, I am not going into the merits of that case now. It was dealt with by the courts, and the Typographical Union suffered the consequences of their action; but we are asked now by this Bill to legalise the repetition of that action, and also to protect the funds of the society, and to say they shall be free from any action of this sort in the future. Well, now the court held that an injury had been done by the union or its officials, and I think it is a fair thing to let matters stand as they are. The friendly societies are not protected in this way if they do wrong or injury to their members or the outside public. They have, like everyone else, to stand the consequences of their action. Clause 6 of this Bill says—

No action shall be brought against any registered trade union or against any person or persons representing any such union, nor shall any property of any such union be chargeable for the recovery of damages sustained by any person or persons by reason of any act done or omission made by any such union or by any member or members of any such union.

The SECRETARY FOR PUBLIC INSTRUCTION: That is exactly the position of your great limited liability company.

HON. G. W. GRAY: Which limited liability company?

The SECRETARY FOR PUBLIC INSTRUCTION: Quinlan, Gray, and Co.

HON. G. W. GRAY: I have never inquired whether our men belong to a union.

The SECRETARY FOR PUBLIC INSTRUCTION: But if anyone does what you do not authorise them to do, your funds are not liable.

HON. G. W. GRAY: That is a very different thing. I should be very sorry to ask that our funds should be protected if we did an injustice.

Hon. A. HINCHCLIFFE: But you have got protection already.

HON. G. W. GRAY: In what form?

Hon. A. HINCHCLIFFE: In the instance stated by the Minister. If your agent acts without your authority, you are protected.

HON. G. W. GRAY: That is a very different case. We have recently legislated in favour of those employees who meet with accidents. If a man cuts his little finger, he is [4 p.m.] entitled to compensation, and in many other ways the employees are protected, but I think this measure is going a little bit too far. It is a very different thing when a union is the aggressor and boycotts a man and prevents him from getting his living.

The SECRETARY FOR PUBLIC INSTRUCTION: Did you ever hear of a tied public-house?

HON. G. W. GRAY: That is not the question we are discussing just now.

Hon. P. MACPHERSON: Don't you let them draw you.

HON. G. W. GRAY: Then clause 6 goes on to say—

Provided that this section shall not in any way affect the personal liability of any individual member or members of such union for any actionable wrong committed by him or them.

The SECRETARY FOR PUBLIC INSTRUCTION: Quite right.

HON. G. W. GRAY: I hold that if damage is done by the officials of a union, or the union itself, like every other society they should stand

[Hon. G. W. Gray.]

the brunt of their action, and I hold, further—that trade unions can assume an aggressive attitude under this measure, and do any injury and injustice they desire without suffering the consequences of their action. This measure legalises their action and protects their funds. I ask if it is a fair thing to do that? I ask if any other society is protected in the same way as this Bill would protect trade unions? At present if they do a wrong or an injury to their members an appeal is made to the court; a judge and jury decide whether an injury has been done or not, and if an injury has been done the union funds have to suffer. Why should that state of the law be altered? Why should the unions be protected from the consequences of their aggressive actions? I have been the employer of a large number of men for many years past, and I have never had any trouble with them.

The SECRETARY FOR PUBLIC INSTRUCTION: This is for the bad employer, not for you.

HON. G. W. GRAY: Who is to say whether a man is a bad employer or a good employer? In the opening remarks of the Minister I understood him to say that in trade and commerce there are all sorts of evils arising through the action of employers, and that one of the objects of this measure is to protect employees against some of those evils. The employers do not ask for any protection, and they naturally ask why exceptional treatment should be meted out to trade unions. We have never had other societies coming before the Legislature and asking for protection of their funds against the result of their wrongful acts.

The SECRETARY FOR PUBLIC INSTRUCTION: Because they have not the same object.

HON. G. W. GRAY: The argument against that is the fact that the people who are asking for this measure are a very small percentage of the labouring class. The great preponderance of the labourers throughout Queensland are not unionists, and do not ask to be protected.

The SECRETARY FOR PUBLIC INSTRUCTION: They are frightened to join the unions.

HON. G. W. GRAY: That is a nice admission for the Minister to make. Why are they frightened?

The SECRETARY FOR PUBLIC INSTRUCTION: For fear they would get the sack; for fear that the "seeds of the pomegranate" would be picked out.

Hon. F. T. BRETNALL: Many of them keep out because they wish to be independent.

HON. G. W. GRAY: I have given the Bill the fullest consideration, and I do not feel justified in doing anything else but in voting against it. The Minister says the measure has had very careful consideration, but I have certainly heard no arguments from him to induce me to offer it the least support. From my point of view it is altogether on wrong lines, and I intend to vote against it.

HON. A. HINCHCLIFFE: I regret that I was unable yesterday to be present when the Minister moved the second reading of this Bill. But I understand that he went into the history of trade unionism and reviewed their position prior to the Taff Vale decision in the old country, and generally gave reasons why such a measure as this should be accepted by the Council. I do not intend to traverse the whole of his speech or to refer more than is absolutely necessary to the arguments used by him. But, first of all, I would like to disabuse the mind of the hon. gentleman who has just resumed his seat in regard to one or two matters. He made a statement to the effect that the trade unions were chiefly confined to Brisbane. It is

quite evident that the hon. gentleman has made no inquiry on the subject or has not availed himself of the information which is at his disposal. If he had, he would not have made such an inaccurate statement. Trade unions are operating over the whole of Queensland. There are the large Western unions, which, numerically, are the strongest of any in Queensland, and their head centres are at Charleville, Longreach, and Hughenden. There are also other unions in mining centres, in the sugar districts, and in various other places. As a matter of fact, the unions outside of Brisbane at the present time are numerically stronger than they are in the metropolitan area.

HON. G. W. GRAY: I would like to interrupt the hon. gentleman. The report of the Registrar of Friendly Societies—Mr. Rendle—has just been issued, and the information in it is very meagre as far as trade unions are concerned; in fact, he says he was unable to get particulars. The official information is very limited.

HON. A. HINCHCLIFFE: I can quite understand that, and for this reason: that it is not compulsory under the existing law for trade unions to register, and, owing to certain cases which occurred here some years ago, many of the unions refused absolutely to register under the Trade Unions Act—which was declared by the late Sir Charles Lilley to be a sham and a delusion. Subsequent to that it has been proved beyond a question of doubt that his words were perfectly true. Now, I propose to refer, of course, to the Taff Vale incident, but first of all I would like to say that the interpretation of the existing law, as far as trade unions are concerned, is contrary to the spirit of the Parliament which first passed the Trade Unions Act. Furthermore, it is unequal and unjust in its incidence. It was because of the interpretation placed upon it by the House of Lords in the Taff Vale case that the trade unions of Great Britain made a demand for an alteration in existing legislation; and owing to the effect of that decision here, and certain local cases, a similar demand has been made in this State. At the last general election one of the main questions before the electors of Great Britain was this question of the amendment of the trade union law, and that, more than any other one factor, is responsible for effecting a complete revolution in the *personnel* and political thought of the present House of Commons.

Hon. W. F. TAYLOR: That is a question.

HON. A. HINCHCLIFFE: If the hon. gentleman will read English papers published during the period of the election, and the questions put to candidates and the answers given, he will find that a majority of the present House of Commons were distinctly pledged to the passage of such legislation as this. It was not introduced during this year for the first time. This question has been repeatedly, since the "Taff Vale" incident, before the House of Commons.

Hon. W. F. TAYLOR: What about the Education Act?

HON. A. HINCHCLIFFE: While the Education question, just as other questions, was a factor in determining the result of the election, I say that no other one question was more responsible for the complete revolution of the *personnel* of the British House of Commons than this question of the amendment of the law with regard to trade unions.

Hon. J. T. ANNEAR: What about the Chinese in the Transvaal?

HON. A. HINCHCLIFFE: The fact that over thirty members belonging to the Independent Labour party were returned, in addition to some

twenty others who allied themselves with the Labour party, is evidence of what I am saying. What I was attempting to point out was this: that this demand for an alteration was made in consequence of the interpretation placed upon the law by the House of Lords in the Taff Vale case, and that demand has been repeated in Queensland because of the effect of that decision not only in this State but in other States of the Commonwealth, and also because of the ruling which has been given by the High Court on cases which have occurred locally. Furthermore, from these cases it would appear that the funds of a trade union—not only their trade union funds, but their provident, benefit, out-of-work, sick, and insurance funds with regard to tools in the carpentry trade and other occupations—are at the mercy of any mere tool of some unscrupulous enemy of unionism. That is the position from a practical standpoint. I do not want to go into the legal intricacies, because I do not know anything about them. In the case cited by the Hon. Mr. Gray with regard to the Typographical Association—the Standley case—it was the position there. I am not too sure at the present moment, but we have good reasons for suspecting that even Standley was an instrument for that special purpose, and the whole of the funds—including the accumulated mortality fund—were expended in law expenses in that case. Speaking as one connected with the trade union movement in Queensland, trade unions are not asking for this legislation because they believe it will confer upon them any special privileges, but merely for the protection which they think they have a right to receive. They are not even asking for the establishment of any new principle in seeking the passage of this legislation. What is wanted is the benefit of the law as it was intended by the British Parliament which passed it in 1871, and as it was intended by the Queensland Parliament which passed the Trade Unions Act of 1886, and which for over thirty years they imagined was the law. That Act had mainly two specific objects, as follows:—1st: To prevent unions from being considered criminal associations, as they were prior to its passage, and had to work and meet in secret, and to enable them, if registered, to hold property and acquire rights and legal protection in respect of that property. 2nd: To leave the control of union affairs entirely to their own members without any power given to them to invoke the aid of the court in enforcing rules regarding the position of members towards one another or towards the union. That is, I think, a clear definition of what it was intended to give to the trade unions at that time, and I repeat that for thirty years it was thought that that Act gave immunity from collective or corporate liability. Trade unions are not a corporation by any means.

THE SECRETARY FOR PUBLIC INSTRUCTION: Only an association.

HON. A. HINCHCLIFFE: They are no more a corporation than the National Political Association. For thirty years it was thought that trade unions as such could not be sued, and as a matter of fact for over thirty years they were not sued, and not one of those ill-effects which hon. gentlemen predict will follow the passage of this legislation did occur for that period. It seems to me that the opposition which is being shown, and which is likely to be shown here and amongst a section of the community outside, arises from an entire misconception of the objects of trade unionism as well as from a strong and an unjustifiable prejudice against trade unionism. I think there is a misconception of their objects and a fallacious belief that they are mischievous if not actually lawless

Hon. A. Hinchcliffe.]

organisations, and such a belief is due to either willful or thoughtless neglect to recognise the facts which social and economic experience teaches. In an article contributed some months ago to the *National Review* on this question, when a Bill similar to this was in Committee in the House of Commons—and which has now passed its second reading and Committee stages—Mr. Ramsay Macdonald, M.P., puts the whole situation plainly and clearly with regard to the two great factors in production, and I think it will be of interest to hon. gentlemen if Mr. Macdonald's views are placed before them. He says—

At the present moment we have two great organised forces in industry—that of capital on the one hand, and that of labour on the other.

I do not suppose any hon. gentleman in the Chamber will dispute that statement.

Normally, these forces co-operate in mine, factory, and workshop, to produce wealth, the one being paid by profits and the other by wages. But the conditions are similar to the political conditions of Europe to-day. These co-operating factors ever seem to cast suspicious eyes upon each other, and armed forces have to be maintained in order to guarantee the continuance of peace. In spite of this, war occasionally blazes out. Co-operation ceases; the tools of production are thrown upon one side; capital and labour manoeuvre and fight for victory. Capital then damages labour. It drains the funds of the unions; it clears out the savings of the workman; it throws his household gods upon the shelves of the pawnbroker; it plunges him into debt; it ruins him.

Hon. A. GIBSON: What does it do to capital?

HON. A. HINCHCLIFFE: I will tell the hon. gentleman; I have no desire to be unfair.

That is the method—the perfectly justifiable and inevitable method—of capitalism. Labour also has its method of warfare. It attempts to stop the inflow of profits to the credit of the employer by paralysing his business; it tries to keep him out of the market for the time being; it pushes him as near to the edge of the gulf of ruin as it can. Whatever we may think of these methods we must not forget that war is being carried on, and that we are dealing with one of those volcanic outbursts of rival interests which accumulate in the most peaceful times a store of explosive force, and which, so long as capital and labour are held by different classes, are bound to bring serious strife periodically. Sometimes capital is primarily to blame, sometimes labour. But the immediate blame for any particular outburst is not of great importance. The grand commanding fact is that industrial war is inherent in our present industrial state.

Now, I think that, taking more than a parochial view of the position, that is a fair and impartial statement of the question. It is due to these facts that trade unions have been called into being. The Labour party and the unions have no love for strikes. They would welcome the creation of such legislative machinery as would put an end to strikes, just as every sensible man would welcome some such machinery as would put an end to wars between nations. The trade unions have repeatedly asked Parliament to introduce such legislative machinery; time and again Parliament has been asked to introduce it, and just as often has that request been refused. Only the other day in this Chamber we had before us some simple provisions for a wages board embodied in the amended Factories Bill, and this Chamber, by a majority, refused even to give the trade unions that simple and innocent little bit of machinery with a view to avoid conflicts. It is all very well for hon. members to say that there are no difficulties of this kind now; but we must not think because we have peace now that that kind of thing is going to continue. Australia and Queensland are becoming big centres of population, and these difficulties will occur, no matter how much any man may strive to prevent them, and I would regret as much as any man in the Chamber to have a recurrence

[Hon. A. Hinchcliffe.

of the industrial troubles we have had in the past. I recollect that some years ago, when the late Hon. T. J. Byrnes visited the old country, they were in the midst of a great engineering strike there, and when he came back he said that what he was astonished to find in the engineer's strike in Great Britain was that, before the strike, the leaders were the strongest against it, but when the strike was decided on they were the strongest with the men. And that is practically our own experience in Australia. I said some time ago that until the Taff Vale incident, the trade unions for thirty years thought that their funds were immune, and that they were not liable to be attacked in the way they have been since that decision. That may be regarded as a mere assertion, but in order to put hon. members' minds at rest in connection with that matter, I have here the last copy of the "Nineteenth Century and After," from an article in which I will read a short extract to prove what I have said in regard to the fact that unions—and not only unions, but men of authority, prior to the Taff Vale case, thought that they were immune from attack. Mr. Clement Edwards, M.P., on page 587, says with regard to trade unionists—

The real nature of the decision (the Taff Vale decision) has, however, to be tested by reference to the conditions under which trade unions had existed, and the particular circumstances under which the legalising Act was passed in 1871. When such a reference is made, it will be found that the decision involved three great and essential hardships:

1. It saddled unions with corporate liabilities, while the fourth section of the Trade Union Act, 1871, expressly deprived them of the rights and privileges of corporations.

2. It placed trade unions in a legal position different from all other non-corporate associations.

3. It made unions liable for the acts of officers under constitutions which had been loosely framed upon a thirty years' assumption, by lawyers as well as the public, that Parliament had intended no such liability, and that in fact no such liability existed.

Further on the writer calls attention to this—

It was, however, clearly the position intended for them by Parliament in 1871, however clumsily that intention was expressed in the Act of that year. Sir Godfrey Lushington (a person of eminence who took an active part in the legislation of 1871), Mr. Frederic Harrison, Mr. George Howell, and Mr. Robert Apple-garth, who had a great deal to do with that Act, are all unanimous on the point, and no one who had anything to do with the measure has questioned their testimony. This is Sir Godfrey Lushington's declaration—

"This (Taff Vale) decision is, of course, law, and it is not for me to question its correctness. But I may be permitted to say that the intention thus attributed by judicial inference to Parliament was, in my belief, contrary to what was the intention in fact. Few, I think, can doubt this who read Lord Aberdare's speech in introducing the measure; and as a matter of history the question of the liability of trade union funds was not publicly mooted either before or during the proceedings of Parliament, and indeed not afterwards for thirty years. At the time it was not dreamt of. If any proposition of the sort had been started it would have been strongly opposed."

I will not weary the House by any more quotations from that document, but it certainly proves beyond question what I have asserted was the opinion of eminent authorities in the

[4.30 p.m.] old country, that when the Act of 1871 was passed in Great Britain—

and our own Act is word for word the same—the unions appeared to be free from any possibility of such attacks as have recently been made upon their funds. So long as this conflict between capital and labour is likely to continue—so long as Parliament is determined to refuse the legislative machinery which is necessary to end these conflicts—then I say it is an unfair thing to penalise unions while the other party to the struggle practically goes scot-free, as I shall endeavour to show. It is often

held that all the tyranny comes from the trade unions. That is not so, as we shall see from information I intend to submit. As to the injustice of this new interpretation, a lot of capital has been made by some newspaper critics as to what was said by the Royal Commission, which presented its report to the British House of Commons this year. With reference to that Royal Commission I would like to remind the House of this: that it was a one-sided commission, that it had not a solitary representative of trade unions upon it. The Government who appointed it absolutely ignored them, and as a consequence the Trade Union Congress, which met subsequent to its appointment, refused to send witnesses to give evidence on the question; and no evidence was given by accredited trade union witnesses. Yet we find this statement made in the report of that commission—

It must always be remembered that trade unions materially suffer from the fact that at common law they are illegal associations, and are only, so to speak, enfranchised so far as the words of the statute go. Their present enfranchisement depends on the words of sections 2 and 3 of the Trade Union Act.

And they further say—

It should be declared by statute positively that trade unions themselves are lawful associations.

We all know what has happened in the past in Queensland with regard to the treatment which unionists, as unionists, have had meted out to them. I have a very vivid recollection of what took place in 1891, when the whole of the strike committee at Barcaldine were arrested, charged with conspiracy, and sent to prison for three years. In support of the charge there was not a scintilla of evidence against some of the accused, beyond the fact that they were unionists, and were associated with unionists in conducting the affairs of that strike. I know that some hon. gentlemen will oppose this measure because, they will say, it is mere class legislation. I think it is about time hon. gentlemen began to realise that most of what we have had up to the present has been class legislation of another kind. All we want is equality in the law as between employers and employees. Take the position with regard to the employer. It has been held in the courts of law that it is legal for a combination of capitalist traders to enter into a conspiracy to put the severest pressure on another trader, even to the extent of driving him out of business, if he is interfering with their combination. And we all know what has taken place—and the Hon. Mr. Beirne can bear me out—in connection with the shipping ring. If a body of workmen did the same thing, it is illegal, and is a conspiracy. I heard of a case in Brisbane not long ago. A certain establishment had a number of unionists in their employ. They got the idea into their heads that it was not well to have unionists working there. They called the whole of their hands together, submitted an agreement to them, and asked them, if they were members of the union, to agree to sever their connection with it, and if they were not members of the union, they would not join it. It was "Hobson's choice" in most of the cases; it was their bread and butter. And we had another instance here in connection with the tramway employees, who were denied the right of combination. I say that is a scandalous interference with individual liberty. If any man likes to join a union, why should he not do so?

HON. J. T. ANNEAR: Hear, hear! Why should he not exercise his free will?

HON. A. HINCHCLIFFE: I am glad to hear the hon. gentleman make that approving interjection. We have further evidence to show the efforts which are made to prevent men

joining unions. Employers' associations frequently conspire to drive prominent unionists not only out of a district but out of the State, so that they shall not get employment. Many years ago, in the old country, the custom was to give a man a reference which contained a secret mark, and when he presented it, on asking for employment, this secret mark was detected by the employer, and he was refused employment with absolutely no reason assigned. The same thing is going on in Queensland at the present time. I have here a list issued by the Warrego Pastoralists' Association, entitled a register of shearers who shored for the members of that association during the year 1895. It is stated to be issued for the information of members only, and to be, in counsel's opinion, quite legal. The list contains the names of 800 men, the sheds in which they last shored, the period of their shearing, their conduct, their ability, whether they are hand or machine shearers, and remarks thereon. In consequence of the remarks in that list many men, in order to get employment in the Western districts, have been compelled to change their names. Among the "remarks" are such entries as this—"Redhot unionist; chairman of shed." The intention of this list, at the time it was issued, was undoubtedly to break the back of the organisation in the Western district. It did not succeed.

HON. G. W. GRAY: What is the date?

HON. A. HINCHCLIFFE: 1895; but it is still in circulation.

HON. W. H. CAMPBELL: I don't think anybody takes any notice of it.

HON. A. HINCHCLIFFE: Whether they take any notice of it or not the fact remains that the employers' association issued it. But if the trade unions were to issue to-morrow a list of what are technically known as "black shops," and told their members that if they worked in those shops they would be deprived of their membership, they would be had up immediately for conspiracy—which only shows the one-sided position into which the law has got. I do not wish to detain the House much longer, but I feel that the trade unions have justification in making the representations they did through a large deputation representative of unionists throughout the whole of Queensland for the passage of this legislation. I think if hon. gentlemen will set aside their prejudices, and look at the matter carefully and impartially, they will not see the evil which the Hon. Mr. Gray, in his speech, endeavoured to indicate that he saw in the provisions of this Bill. All that we ask is that we shall be placed on an equal footing with the employers. I understand the employers are registered under the Trade Unions Act at the present time, and they send in a return to the Registrar giving the number of their members and the state of their finances; and they will have exactly the same liberty under this proposed law as the employees' unions. The unions, as I said, are asking for no more than that which they thought for many years they possessed. To declare, as has been declared, that an act committed in concert is actionable, while the individual actors can get off scot-free, seems to me to be the height of absurdity. I do not suppose any man is foolish enough to deny that trade unions have been of considerable benefit, not only to their members but to the large number of men who, as the Hon. Mr. Gray tells us, were outside the unions, and who were willing to reap every advantage which the unions gained for them, while refusing absolutely to contribute towards the funds which assisted to increase their wages. Trade unions can only exist by working in concert, and to apply the law of conspiracy to them is, I think, getting

Hon. A. Hinchcliffe.]

outside what was ever intended when the Act was passed. And what is this law of conspiracy? Sir J. Walton, the present Attorney-General of England, puts it in very clear and expressive language. He says—

It constitutes one of those blank spaces on the judicial map to which the wary and prudent litigant gives as wide a berth as possible, because it is a region of judge-made law, and when a litigant becomes lost in that area he finds it by no means easy to escape.

That is the law they are seeking to apply to trade unions and a law which we seek in this Bill to have amended. The desire of the trade unions is to get outside of that area altogether, and to have restored to them that charter of freedom which they fully believed they possessed until the now historic Taff Vale case abrogated it. I sincerely hope this measure will receive the fullest and fairest and most impartial consideration, and that not only will the Bill be read a second time, but that its passage through Committee will be effected without any very serious amendment.

* HON. W. H. CAMPBELL: I am not going to make a speech on the Bill. I only wish to refer to a remark of the Hon. Mr. Hinchcliffe with regard to the Pastoralists' Association, of which I am a member. I have never seen that black list before. Especially in the Central district the pastoralists are unanimous in declaring that they will employ any man—they do not care what union he belongs to—as long as he is a good shearer and behaves himself properly.

Hon. A. HINCHCLIFFE: That does not deny the existence of this list.

HON. W. H. CAMPBELL: It was probably prepared by some official seeking to curry favour with his employers, but I am sure that in my district no notice is taken of it. On some of the large stations, such as Wellshot and Westland—and the Hon. Mr. Smith can bear me out—nineteen-twentieths of the men belong to the union; and as far as my own experience goes I would sooner have those men to shear than some of those who come up from Sydney. As to this Bill, I fancy it will operate in favour of employers as well as of trade unions. At any rate, no harm will happen to employers if the Bill becomes law.

* HON. P. MACPHERSON: As quotation seems to be the order of the day, I would like to make one or two. Subsection (1) of clause 5 is as follows:—

No act done or omission made by any two or more persons in contemplation or furtherance of any trade dispute shall be actionable if such act or omission when done or made by an individual person would not be actionable.

That proposes an alteration in the law which is very far-reaching in its effects, and is one for which I, at all events, am not prepared to vote. The law as it stands at present in reference to this matter was very clearly laid down by Lord Brampton in 1901 in the case of *Quinn v. Leatham*. He said on that occasion—

Much consideration of the matter has led me to be convinced that a number of actions and things not in themselves actionable or unlawful if done separately without conspiracy may, with conspiracy, become dangerous and alarming, just as a grain of gunpowder is harmless, but a pound may be highly destructive, or the administration of one grain of a particular drug may be most beneficial as a medicine but administered frequently and in larger quantities with a view to harm may be fatal as a poison. Many illustrations of these views might be suggested, but I need them not if I have made myself understood.

Then, again, Lord Justice Bowen, in the case of the *Mogul Steamship Company v. McGregor, Gow, and Co.*, 23, Q.B.D., page 617, said—

Of the general proposition, that certain kinds of conduct not criminal in any one individual may become

criminal if done by combination among several, there can be no doubt. The distinction is based on sound reason, for a combination may make oppressive or dangerous that which if it proceeded only from a single person would be otherwise, and the very fact of the combination may show that the object is simply to do harm, and not to exercise one's own just rights.

It has been observed that the law of conspiracy is to a large extent judge-made law. A very large proportion of the law of England is judge-made law, and I am surprised to hear the Attorney-General of England delivering himself of such a platitude as that. I do not intend to say anything more about that. Then clause 2 says—

No act done or omission made by any individual person in contemplation or furtherance of a trade dispute shall be actionable on the ground only that it is an interference with the trade, business, occupation, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

On that point the existing law is very well stated by Lord Justice Romer when he says—

But I should be very sorry to leave this case without observing that, in my opinion, it was not essential, in order for the plaintiff to succeed, that he should establish a combination of two or more persons to do the acts complained of. In my judgment, if a person who, by virtue of his position or influence, has power to carry out his design, sets himself to the task of preventing, and succeeds in preventing, a man from obtaining or holding employment in his calling, to his injury, by reason of threats to or special influence upon the man's employers or would-be employers, and the design was to carry out some spite against the man, or had for its object the compelling him to pay a debt, or any similar object not justifying the acts against the man, then that person is liable to the man for the damage consequently suffered. The conduct of that person would be, in my opinion, such an unjustifiable molestation of the man, such an improper and inexcusable interference with the man's ordinary rights of citizenship, as to make that person liable in an action. And I think this view is borne out by the views expressed by the members of the House of Lords, who decided the case of *Quinn v. Leatham*.

I say that is sound common sense. Then in the case of *Quinn* against *Leatham*, Lord Justice Lindley says—

As to the plaintiff's rights. He had the ordinary rights of a British subject. He was at liberty to earn his own living in his own way, provided he did not violate some special law prohibiting him from so doing, and provided he did not infringe the rights of other people. This liberty involved liberty to deal with other persons who were willing to deal with him. This liberty is a right recognised by law; its correlative is the general duty of every one not to prevent the free exercise of this liberty, except so far as his own liberty of action may justify him in so doing, but a person's liberty or right to deal with others is nugatory, unless they are at liberty to deal with him if they choose to do so. Any interference with their liberty to deal with him affects him. If such interference is justifiable in point of law, he has no redress. Again, if such interference is wrongful, the only person who can sue in respect of it is, as a rule, the person immediately affected by it; another who suffers by it has usually no redress; the damage to him is too remote, and it would be obviously practically impossible and highly inconvenient to give legal redress to all who suffered from such wrongs. But if the interference is wrongful, and is intended to damage a third person, and he is damaged in fact—in other words, if he is wrongfully and intentionally struck at through others, and is thereby damaged—the whole aspect of the case is changed: the wrong done to others reaches him, his rights are infringed, although indirectly, and damage to him is not remote or unforeseen, but is the direct consequence of what has been done. Our law, as I understand it, is not so defective as to refuse him a remedy by an action under such circumstances.

That is the law as stated by the most eminent authority on the subject in England, and I object to any alteration in that law. Now, if I said all I felt in reference to this matter, or if I made a speech upon it, I should delay the House at too great length.

[Hon. A. Hinchcliffe.]

HONOURABLE GENTLEMEN: Not at all.

THE SECRETARY FOR PUBLIC INSTRUCTION: Go on.

HON. P. MACPHERSON: The Hon. Mr. Gray has dealt with the general aspects of the Bill, and there is only one other clause to which I would draw attention, and that is the amendment of the Criminal Code—

It is lawful for one or more person or persons acting on his or their own behalf or on behalf of a trade union in contemplation of or during the continuance of any trade dispute to attend peaceably and in a reasonable manner at or near a house or place where a person resides or works or carries on business, or happens to be, if he or they so attend merely for the purpose of obtaining or communicating information, or of persuading any person or persons to work or abstain from working; and such attending is not deemed a besetting within the meaning of this section.

Now if that provision is passed it may become the means of creating one of the most intolerable and degrading hardships. A man or his house may be quietly mobbed. "One or more." What does that mean? It may mean 50, 100, or 200 people surrounding a man's house.

THE SECRETARY FOR PUBLIC INSTRUCTION: Send for the police.

HON. P. MACPHERSON: The police?

THE SECRETARY FOR PUBLIC INSTRUCTION: It is a nuisance at law.

HON. P. MACPHERSON: No; you justify it. They are to have this privilege under the statute, even though they block up the street. With reference to the Bill generally, quotations are the order of the day. We have had quotations from a very high political authority—Mr. McDonnell. I will venture also to read a quotation which I believe was read in another place—extracts from an article by Lord Lindley on the subject of trade unions and their present demands.

HON. A. A. DAVEY: That is a newspaper article.

HON. P. MACPHERSON: It is a contribution to the *London Times*. I admit that Lord Lindley is not so high an authority as Mr. McDonnell—not by any means. This is an article communicated to the *Times* of 6th September—

They demand two important powers, namely—

1. An alteration of the law of conspiracy, and power to watch, beset, picket, and otherwise annoy those who oppose them or render their strikes ineffectual. They disclaim all right to use violence or threats of violence or to break contracts, but all other methods of compulsion they want liberty to use.

2. They demand power to use the funds of the union to support strikes, and yet to protect such funds from all claims to damages occasioned by the strikers and others in carrying out their orders.

The law of conspiracy is complained of as ill-defined and wanting in precision, and as based upon an erroneous principle. It is contended that, whatever one person may lawfully do, any number of persons ought to be at liberty to do. As regards definition and want of precision, it must be borne in mind that the acts sought to be prevented or remedied by legal proceedings for a conspiracy are as numerous and various in kinds as the acts sought to be prevented or remedied by legal proceedings based on fraud. Fraud can be described, but no one with any legal experience and good sense would venture accurately to define it. Experience shows that any precise definition of fraud would fail to include some forms of dishonesty, which ingenious and unscrupulous persons might invent. A similar observation is true of conspiracy to compel obedience to commands. The current description of a conspiracy found in English law books is sufficient for all practical purposes. An agreement, as distinguished from a mere intention, by several persons to commit a crime or civil wrong, is by English criminal law punishable, although the agreement may never be carried into effect.

HON. C. S. MCGHIE: Who is the author of that?

HON. P. MACPHERSON: Lord Lindley.

THE SECRETARY FOR PUBLIC INSTRUCTION: The Attorney-General of England says the very reverse.

HON. P. MACPHERSON: Lord Lindley was one of the most eminent judges in England.

THE SECRETARY FOR PUBLIC INSTRUCTION: What is an eminent judge?

HON. P. MACPHERSON: What is an eminent politician? I am not an eminent politician, but it seems to me an eminent politician is a gentleman who changes his opinions every day.

THE SECRETARY FOR PUBLIC INSTRUCTION: A judge often changes his opinion.

[5 p.m.]

HON. C. S. MCGHIE: So does a lawyer.

HON. P. MACPHERSON: Then this article goes on to say—

Cogent reasons in justification of this law will be found on page 12 of the report on Trade Disputes and Trade Combinations (1906). This law, however, was modified in favour of trade unions by section 3 of the Conspiracy and Protection Act, 1875, 38 and 39 Vict. c. 86, by making a combination by several persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen not punishable by criminal law, if such act, if done by one person, would not be so punishable. This enactment did not affect the civil responsibility for injuries done in contemplation or furtherance of a trade dispute, and it is now sought to induce the Legislature to pass a similar enactment as to civil liabilities.

Ought this to be done? A combination of several persons to do harm to another, and harm done to him in fact, does not necessarily give him a right of action. If the harm done is only the consequence of what the combination has a right to do, the harm is not actionable. The *Mogul* case shows this. But there is a broad distinction between doing harm to a person by abstaining from having any dealings with him, and doing him harm by compelling others to have no dealings with him. One person cannot practically do much harm in this way, but a number of persons acting together may, and, if they do, is the injured person to have no remedy? What is done by many cannot be the same as the act done by one; and it is only by ignoring this obvious truth that it is even plausible to maintain that what it is lawful for one person to do ought to be lawful for several to do in concert. A refusal by one person to deal with another is very different from a general boycott of him enforced by many persons acting in concert. Boycotting is an intolerable grievance, and it is not easy to relax the law of conspiracy without allowing boycotting with impunity.

In union there is strength, and this as true of combinations to do wrong as of combinations to do right. Take the case of a personal annoyance. Can it be maintained that a serious annoyance caused by many persons acting in concert ought legally to be regarded as the same as a trivial annoyance caused by one person only? One person only without others could not produce the same effect as many acting in concert. The two effects are obviously different, and it is impossible to justify inattention to the difference. But this is what trade unions urge Parliament to do. The Act of 1875, as worded, is based on a false assumption, and has introduced an anomalous exception which it would be very unjust to extend.

He goes on very powerfully to show the intangible position assumed by unions, and incidentally by the Hon. Mr. Barlow.

THE SECRETARY FOR PUBLIC INSTRUCTION: And the Attorney-General of England.

HON. P. MACPHERSON: Then the article winds up by saying—

Many of the recommendations contained in the recent report on trade disputes are free from objection; and might be safely embodied in a statute; but some of these recommendations go too far, as is pointed out by the dissenting commissioners, and as the foregoing observations are intended to show. The Bills before Parliament go much further than the recommendations

Hon. P. Macpherson.]

of any of the commissioners, and are in many respects so unjust that it is hardly credible that even the present House of Commons will pass them. The House contains many more fair-minded men than extreme enthusiasts, who magnify their own grievances and are blind to the consequences to others which the measures they advocate would inevitably produce.

I have no hesitation in saying that hon. gentlemen, in urging us to pass a measure of this nature, are blind to the consequences to others which the Bill they advocate would inevitably produce.

HON. A. HINCHCLIFFE: Are you aware that Lord Lindley apologised for writing that article?

HON. P. MACPHERSON: He did not; I deny it.

HON. A. HINCHCLIFFE: If I had known you were going to read it, I would have produced his letter.

HON. P. MACPHERSON: Lord Lindley at the outset of his argument said that a trade union could register itself. He found afterwards he had made a mistake and it was that part of his article only that he apologised for.

HON. A. HINCHCLIFFE: Are you quite sure?

HON. P. MACPHERSON: I am perfectly sure. Having quoted so much I will now conclude what I have to say by stating that I will oppose this Bill to the very utmost.

HON. A. HINCHCLIFFE: You are a unionist.

HON. P. MACPHERSON: What sort of a unionist? The hon. gentleman is in error there. If he refers to my professional status, I say that I am a solicitor, appointed by virtue of an Act of Parliament, which enables judges of the Supreme Court to pass rules for the admission of solicitors. I am a servant of the court, that is what I am.

HON. C. S. MCGHIE: It is a distinction without a difference.

HON. P. MACPHERSON: If I am guilty of any dishonesty, I am liable to be removed from my position.

HON. C. S. MCGHIE: So is anybody else.

HON. P. MACPHERSON: I am not aware that unionists are liable to be struck off the rolls.

HON. C. S. MCGHIE: In a decent union he would be.

THE SECRETARY FOR PUBLIC INSTRUCTION: One was struck off because he would not pay a fine.

HON. J. T. ANNEAR: That was one of the most cruel things ever heard of.

THE SECRETARY FOR PUBLIC INSTRUCTION: It was in the time of the late Government.

HON. J. T. ANNEAR: No, it was not; they deny it.

THE SECRETARY FOR PUBLIC INSTRUCTION: They cannot deny dates; they cannot alter June to December.

HON. A. A. DAVEY: It is very interesting to a simple minded man like myself to listen to the disagreements between lawyers. I think if we were wise we would take a great deal less notice of alleged legal differences in reference to Acts of Parliament and apply a little more practical common sense to matters that we have under investigation. I want to say that I think the Hon. Mr. Hinchcliffe put before this Chamber in a very effective, moderate, and able manner the case for the passage of this Bill, and I do not intend to go over the same ground unnecessarily. In fact, I do not intend to speak at any length, but I do say that he has contributed to this debate a very valuable speech, and one which I think hon. gentlemen of this House, even if they felt so inclined, would find it very difficult to refute. Now, although I have never

belonged to an association or a trade union in my life, I have, since I was capable of thinking, taken a deep interest in all movements which have for their object the well-being of the mass of the people—the great populace—the people who do the work of the world.

HON. J. T. ANNEAR: With a big "P."

HON. A. A. DAVEY: The people who produce in connection with beneficent gifts of nature all those things which go towards making life pleasant and comfortable.

HON. P. MACPHERSON: We have heard that before.

HON. A. A. DAVEY: I remember well when I was a young boy living in an agricultural district at the time that an endeavour was made to form what was afterwards the Agricultural Labourers' Union of Great Britain, and I may tell hon. gentlemen that the wages paid at that time to agricultural labourers in the county of Sussex averaged about 8s. a week. They were allowed to work until they arrived at a certain age. I knew personally of cases—I was acquainted with all the people who were interested—and I have seen this happen: An honest old agricultural labourer had been working for the squire from the days of his infancy, without any opportunity of bettering himself, was earning 8s. a week. I am not saying he could not live in comparative comfort, according to his ideas of comfort—I am only mentioning the fact. He worked till he was fifty-five years of age, and I will tell you what took place. This was at the hands of a reputable and wealthy gentleman. At the age of sixty, or about that, the squire came to the agricultural labourer, and said to him "Hodge, you are getting pretty old; you are not able to do as much work as you used to do. I can only give you 6s. a week in future." The most pathetic part to me, as a boy, was that Hodge should have said "All right, sir," and should have regarded it as being a proper thing for him to submit to such a thing as that, after having spent the whole of his active life in the service of his master. A few years go on. Old Hodge gets a little more decrepit, still able to do a certain amount of work, and the squire went to him and said, "Hodge, I cannot keep you any longer, you are too old to work; here is an order for the workhouse." I am not painting any fancy picture, but telling you what I have seen—not in one instance only but in several instances. The old man, not having been able to save anything during his long years of toil from the wages he had received, set out on a fine, lovely, bright, sunshiny morning, tramping his way to the workhouse door, with his wife. When he got to the door his wife was sent in one direction and he in another. That was the final reward for the labour of a lifetime. Now, trade unions were started, as applied to the agricultural labourers' business, at the time they were really wanted, and when such things as I have described were actually taking place. I well remember some ardent self-sacrificing spirits—noble men I call them—coming in their smock frocks on the public ground to educate their ignorant and almost hopeless fellow-labourers to the necessity of protecting themselves by joining a union. And what sort of treatment did they get? I shall never forget the impression these things made on my mind, if I live to be as old as Methuselah. They used to congregate—a faithful, strenuous body of four or five in these small towns—and start by singing something such as this—

Ye working men of England,
Give heed to what I say,
And never rest, but do your best
To get a fair day's pay.

[Hon. P. Macpherson.]

Whatever they might say in their speeches, that was the main object of their organisation—to get a fair day's pay. They were the old-time unionists. Now, you would think that a simple announcement or demand like that, made by an honest body of men, would be met in a square manner.

HON. J. T. ANNEAR: How well that would go down in the Trades Hall with music.

HON. A. A. DAVEY: I hope it will go down here. How were they received? They were received with clods of mud being hurled at them by boys who were sent as representatives of allegedly respectable tradesmen of that place, who thought that their interests were absolutely and irrevocably bound up with the squire in the district. That went on for some considerable time. We all know what was the origin of unionism, and we know that there has always been a large body of the employing classes, and the classes made up of investors, who have a strong prejudice against anything in the shape of organisation on the part of the workers to improve their position. We know what it has been in this State of ours. What were the men told? They were told that the strikers were brutal, and that none but the ignorant would resort to a strike. Why do not you seek redress in a legal and a constitutional manner? That was advice which sounded very nice, but which many of those, though not all, who were giving the advice were praying at the same time that it would not be accepted. Now, the working men accepted that advice, and the field of operation of trade unionism has gradually shifted from the old ground on to a ground that is political, or, to use another word, constitutional. They were doing now exactly what they were told and invited to do for a considerable time. Under our present industrial system, as was pointed out in a portion of an article read by the Hon. Mr. Hinchcliffe, we have to recognise that we have two forces—the capitalist on the one side and labour on the other—and to speak about these two as though their interests were identical, in the full knowledge of what our industrial system means, seems to me to be insincere. Someone has said that there is as much harmony between capital and labour as there is between a hungry stomach and a nice roast of beef, and I think it was Grant Allen who said that that would be all right provided you had not only an empty stomach but the roast beef, but if you had the hunger and someone had the means of satisfying it there was not much harmony between the two. It is just as well for us to recognise that we shall not be able to escape, and it would not be desirable for us to escape, from the consequences that accrue naturally out of the present industrial conditions. I am quite sure, too, that all the authorities of trade unionism and the bulk of the members of trade unions the world over did really consider up to the time of the Taff Vale decision that their funds were protected. What does this Bill propose to do? I cannot see anything very serious about it. It says that there shall be appointed a certifying barrister to whom the rules of any union shall be submitted, and that he shall report upon these rules after he has gone through them, and he must report favourably before they can be registered. It has been said sometimes that trade unions have arbitrarily kept men outside by various means, and one particular instance has been given of putting up a high entrance fee.

HON. A. HINCHLIFFE: They do not do that now.

HON. A. A. DAVEY: Were they to attempt to do anything of the kind it would not pass the

certifying barrister, and I am quite satisfied that the rules would not be registered at all. He has not only to see that no injustice is done to people who are outside the unions, but that there are no unlawful provisions contained in the rules. Another thing, they cannot make any amendments to the rules without the sanction of the certifying barrister. We heard something about unions which are not registered, but all unions will have to be registered within a specified time, and if their rules are not in order they will have to be put in order. Clause 5, which has caused a lot of discussion, seems to me to be very fair, but that is because my mind is not a legal mind, I suppose.

(1.) No act done or omission made by any two or more persons in contemplation or furtherance of any trade dispute shall be actionable if such act or omission when done or made by an individual person would not be actionable.

Surely that is a fair thing! I cannot see the great danger that is to arise out of that. The hon. Mr. Gray spoke about contemplation, and wanted to know what that meant. All action has to be contemplative—action begins first in the mind, and before anything takes place in a contrary form the thing has to filter through the mind of some person or persons.

(2.) No act done or omission made by any individual person in contemplation or furtherance of a trade dispute shall be actionable on the ground only that it is an interference with the trade, business, occupation, or employment of some other person, or with the right of some other person to dispose of his capital or his labour as he wills.

I cannot see anything particularly unjust or unusual in that. As the Secretary for Public Instruction pointed out, it is within legal possibility for any wealthy person who felt so disposed to go and open a shop in the ordinary course of trade by the side of someone financially weak, and practically close him up, and he could follow him up and really hunt him out of any other place. We know that such operations take place in connection with shipping companies, and if we open our eyes and our minds we must be aware of the many possibilities for what is here spoken of as being the special claim or desire of unions. I think there is another reason why the funds of trade unions should not be liable to be taken in the way they have been. When men are employed they are paid a certain wage, which, as a rule, will no more than keep them in the style necessary for a man in that particular condition of life. There is no profit about a man working for wages—he gives value for his money. If he does not earn the money, his employer dispenses with him. So that if unions are to be recognised as being legal, wherein comes the fairness of leaving open their funds to be dissipated in the manner they have been. There is another thing, this Bill may be a two-edged sword, as trade unions include employers' associations, and it is possible that employers' associations may make some use of it, and they will be entitled to do so just as much as labour unions. I do not think there is any justification in the Bill for the fear expressed by the Hon. Mr. Gray, about its inciting to intimidation or being likely to lead to the terrible results which he pointed out. There is another thing—the Bill is not confined in its operations to members of trade unions. It has been said to be a concession in the direction of settling disputes, and it will apply in places where there is no union at all. It seems to me to be the greatest anomaly to legalise unions, and then to stop them in the effort to carry out their rules. I think a man has a perfect right to say to his employer "I won't work for you if you employ so and so," and I think that any number of men should have the same

Hon. A. A. Davey.]

right if they feel disposed. This Bill is an attempt to make it legal for two or more to do what one man can do.

HON. J. DEANE: Two can walk out if they like.

HON. A. A. DAVEY: They can walk out, but they cannot persuade a third to go out. I think men in the aggregate should be able to do what individuals can do.

THE SECRETARY FOR PUBLIC INSTRUCTION: They cannot even come out in a body.

HON. A. A. DAVEY: They cannot even come out in a body. I do not intend to detain the House any longer. I hope the second reading of the Bill will pass, and I sincerely believe that it will be a benefit rather than otherwise. I certainly think that the unions are entitled to get protection for their funds, and that two or more persons should be entitled to do anything which can legally be done by one person.

* HON. J. T. ANNEAR: I wish to make a few brief remarks on this Bill. I must express the surprise I felt when, yesterday, I sat in this Chamber and saw the Hon. Mr. Barlow standing up and introducing the second reading of a Bill of this nature. I began to ask myself the question—Is this the same Mr. Barlow that I knew of in another place in the year 1895?

THE SECRETARY FOR PUBLIC INSTRUCTION: Yes, he was fooled by the lying newspapers.

HON. J. T. ANNEAR: There is no doubt in my mind that this Bill was forced on the present Government, and, acting under the pressure of that, they have introduced the Bill.

THE SECRETARY FOR PUBLIC INSTRUCTION: Did not the squatters force the Land Bill?

HON. J. T. ANNEAR: It would take me a week to quote from the speeches of the hon. gentleman when he was in opposition to the party of which he is now the most humble and obedient servant in introducing a Bill of this kind.

THE SECRETARY FOR PUBLIC INSTRUCTION: How does that effect the justice of the case?

HON. J. T. ANNEAR: This was in 1895, and the Assembly was in Committee of Supply on 31st July. The then member for Toowong, Mr. Reid, made an interjection, after the hon. gentleman had said, "but I am not going to be told what I should do or should not do in the office I hold while I hold that office"—

MR. REID: We will have you out at the next election.

THE SECRETARY FOR PUBLIC LANDS: I do not think you will. The hon. member knows the proverb that "threatened men live long," and perhaps the hon. member is as likely to be out as I am.

THE SECRETARY FOR PUBLIC INSTRUCTION: Is not that true—you lived as long in Maryborough?

HON. J. T. ANNEAR: The people in Maryborough never sent me out of it.

THE SECRETARY FOR PUBLIC INSTRUCTION: Nor me out of Ipswich.

HON. J. T. ANNEAR: I never threatened you about Ipswich.

THE PRESIDENT: Order!

HON. J. T. ANNEAR: The hon. gentleman said, referring to the member who introduced the Bill and his friends—

Their business is to mislead, and obfuscate, and throw dust in the eyes of the people.

THE PRESIDENT: Order! The extract the hon. gentleman is reading has no reference whatever to the subject before the Council.

[Hon. A. A. Davey.]

HON. J. T. ANNEAR: The hon. gentleman called them "calamity-howlers," and spoke of them in terms such as I have never used to a fellow-man in my life.

THE PRESIDENT: Order!

HON. J. T. ANNEAR: The Hon. Mr. Hinchcliffe made one statement in his speech which is scarcely correct. He said a Bill of this nature was the chief cause of the alteration in the *personnel* of the House of Commons at the last general election.

HON. A. HINCHCLIFFE: One of the chief causes, I said.

HON. J. T. ANNEAR: I disagree with that.

HON. A. HINCHCLIFFE: That does not alter the fact.

HON. J. T. ANNEAR: I will give the hon. gentleman the facts. The chief factors were freetrade and protection, the Chinese question in South Africa, and the education question. The hon. gentleman also said Australia would become a great country by reason of the increase in its population. I ask him, where is that increase now showing itself? If we look at the statistics, we are decreasing instead of increasing. And why is that so? It is owing to the policy of the same party on whose behalf this Bill is introduced—the immigration restriction policy. 146,000 white people went to Canada last year to make it their home. In Queensland during the same period the total increase was under 4,000, and in the whole of the Commonwealth under 20,000. The Hon. Mr. Hinchcliffe also referred to the shipping ring. Why is there a shipping ring? The shipowners have been forced to combine to prevent themselves from being wiped out, and it cannot be denied that, even in their combination, their rates of freight and passage are as fair and reasonable as in any other part of the world. All their employees are members of trade unions, and make all kinds of demands from time to time, which, if not granted, in most cases at once lead to strikes. The stewards, the firemen, the sailors, the men on the wharves, even the officers are members of unions. Then why, when that is the case, should the hon. gentleman object to the proprietors of steamboats combining to prevent themselves from being wiped out of existence?

HON. A. HINCHCLIFFE: We are not objecting to the combination.

HON. J. T. ANNEAR: The Hon. Mr. Davey made a curious remark when speaking about the farm labourers of England. I claim that I came from the poorest part of England. There is no part of England where the wages of farm labourers are so low as in the county of Cornwall. When I left home in 1863 their wages were from 11s. to 12s. a week, with certain additions in the shape of rent and ground plots which helped them a good deal. When I returned in 1880 I found the wages had risen to 15s., 16s., and 17s. a week, and they were all very well contented. That was not brought about by any unions.

THE SECRETARY FOR PUBLIC INSTRUCTION: By Joseph Arch.

HON. J. T. ANNEAR: The Hon. Mr. Davey also said that, when the agricultural labourer of England had worked up to the age of fifty or fifty-five, nothing remained for him but the workhouse. I would ask, what remains for men here in this State of Queensland—men of independent spirit, who are willing to work and to be paid by the result of their labour? They are forced to give up all kinds of work by the unions which exist, and of which the Hon. Mr. Hinchcliffe is the chief officer, and they have to go to Dunwich and be supported by the State.

HON. A. HINCHCLIFFE: That is absolutely untrue.

HON. J. T. ANNEAR: I have talked to scores of men at Dunwich who, as the hon. gentleman knows, were willing to work but were not allowed by the unions to go alongside the young men because they could not do the same amount of work.

HON. A. HINCHCLIFFE: That is not true.

HON. J. T. ANNEAR: It is absolutely true. They are forced to Dunwich, and are being kept by the people of the country. I do not suppose anybody takes the Minister very seriously in this matter, because of the lightning changes that have so often taken place in his opinions.

THE SECRETARY FOR PUBLIC INSTRUCTION: And the hon. member has changed his opinions too.

HON. J. T. ANNEAR: Since I entered political life in 1884 I have only changed my political opinions once, and I went to my constituents when I did so.

THE SECRETARY FOR PUBLIC INSTRUCTION: You voted for a land tax.

HON. J. T. ANNEAR: I did not. The hon. gentleman is referring to a Bill introduced by Sir S. W. Griffith, to provide for the construction of roads and bridges in shire councils. I never voted for a land tax. Coming to the Bill itself, I object to it chiefly because it gives preference to unionists. I contend that there should be no preference to any one class of men. If a man likes to join a union, there is nothing to prevent him from doing so. Let every man exercise that free will which God has given him, and let no one interfere with him. What have we seen in Brisbane? It has been proved before the courts that the union blocked the man Heggie from earning a living for his wife and children; and it is admitted by all that there is not a better workman in the Commonwealth as a shipwright than Heggie.

THE SECRETARY FOR PUBLIC INSTRUCTION: It was the late Government who dispensed with him.

HON. J. T. ANNEAR: The hon. gentleman must have seen Mr. Cribb's statement that the case never came before him, and that a similar statement has been made by the late Premier.

THE SECRETARY FOR PUBLIC INSTRUCTION: It ought to have come before him.

HON. J. T. ANNEAR: Why should I or any other man be compelled to join a union? Statistics tell us that unionists are a very small minority throughout the Commonwealth. Comparing non-unionists with unionists they are as twenty to one, and that one is to coerce the twenty. They are to be able to say, "You must join our union or we will not work with you." That is a nice state of affairs. I have employed thousands of men, and have never had any trouble with them. Have the unions increased wages? The very reverse has been the fact. The leaders of the unions—and I know many of them myself—do not work themselves, and they try at all times to prevent other men from working. Men should be left free, and no one should be compelled to join a union against his will. I shall oppose the second reading of this Bill.

HON. A. GIBSON: Before the question is put I desire to say a few words lest I should be misunderstood later. I have looked at the Bill with a good deal of misgiving. There is no doubt whatever in my mind that it gives preference to a certain class of people, and I do not think that in this State to-day any one class of people should have more consideration than another.

HON. C. S. MCGHIE: Only your class.

HON. A. GIBSON: I do not know that I have any class at all. I am an ordinary working man, and I work more hours in the day than most of the men in my employ. The impression on my mind is that this Bill, if passed, will do an injury to the State. I want to see the State forge ahead, not go back. When I look at the various industries of the State I ask myself, Are we to-day as successful, and do we give employment to as many people in 1906 as we did in 1896? Taking the last ten years in the history of this State, I hold that we are going back rather than forward. I remember the foundries of this State as they existed twenty years ago, and they were then very successful and prosperous. I remember conversing with a man connected with one of those foundries twenty years ago, and he said that although he was a moulder he could not undertake the simplest work in that foundry connected with his trade, because, although a master, he was not a unionist. A similar state of affairs exists from end to end of this land. A man must be a unionist even although he is a master.

HON. C. S. MCGHIE: I thought there were not many people belonging to the unions.

HON. A. GIBSON: I am speaking of shops where there are unionists, and where the owners have begun at the bottom, and have perhaps become employers through the aid of financial institutions. When I look at this Bill, and go back over the past, I see what its probable result will be. I have witnessed in the past some few strikes, but beyond the shearers' strike I am not aware that the others have been of very great importance. No one, as far as I know, has been injured much by them.

HON. A. HINCHCLIFFE: Was not the maritime strike a serious disturbance?

HON. A. GIBSON: No doubt it was a very serious matter, and it has been said already that the men were unionists from the top to the bottom—from the master to the men in the stokehole.

HON. A. J. CARTER: Except the masters.

HON. A. GIBSON: Well, all the other officers of the ships were in the unions. The fact was that the shareholders in the shipping companies did not want to raise freights and penalise their constituents, and they resisted the claims of the men as much as they could, believing that the men had very fair salaries for the work they performed. But later on what happened? Why, the shareholders simply said, "If the men are determined to have more hands on deck, and more hands in the stokehole and engine-room, and shorter hours of labour, the carrying public will have to pay for it."

THE SECRETARY FOR PUBLIC INSTRUCTION: Hear, hear! The proper thing.

HON. P. MURPHY: The Hon. Mr. Annear contended that the shipping combine did not increase freights.

HON. J. T. ANNEAR: I said the rates were reasonable.

HON. A. GIBSON: I have shipped thousands of tons of cargo in those ships, and I know the rates have risen since that time, and that must be the natural outcome of such disputes. What is going to take place here is that two large monopolies are going to exist—the shareholders of the companies and the men who run the shareholders in the ring companies—all the officers, and sailors, and firemen—and the public will have to pay for whatever may take place.

THE SECRETARY FOR PUBLIC INSTRUCTION: Quite right. Why should I go to Sydney for £2 to sweat seamen?

Hon. A. Gibson.]

HON. A. GIBSON: Some people go to Sydney for nothing.

The SECRETARY FOR PUBLIC INSTRUCTION: We are all in the same box.

HON. A. GIBSON: And that reminds me of a circumstance that happened in America—that great country where they know how to do things.

HON. C. S. MCGHIE: Where they know how to rob people.

HON. A. GIBSON: I think the unionist together with the capitalist knows how to run things in that country with 80,000,000 of people. Strikes took place there until a smart fellow came along from a unionist camp and said to the boss of the capitalist camp, "Why should we two be always at loggerheads; can we not amalgamate our forces and go for the other fellow." And the bosses said, "What scheme have you got," and the unionist replied, "Let the builders combine, and let there be no other builders in Chicago and you will employ no one but the unionists to carry out your work; we shall divide the profits and the public will have to sweat." The same state of affairs is gaining a footing here. The public are sweating, and I may tell you that the arrangement entered into twelve years ago in Chicago exists to-day.

The SECRETARY FOR PUBLIC INSTRUCTION: Quite right.

HON. A. GIBSON: The union man will only work for the union capitalist, and other people cannot get any work or contract under a union capitalist, and when the work is completed the capitalist will get so much and the unionist so much, and the person who is having the building erected will have to pay the piper.

An HONOURABLE GENTLEMAN: That is socialism.

HON. A. GIBSON: Yes, there is a good deal of socialism in that, and the day may not be far distant when a leaf from that book will be taken by Queensland builders.

The SECRETARY FOR PUBLIC INSTRUCTION: The best thing they can do.

HON. A. GIBSON: I am not with the Minister when he makes that statement. I go for right and fairness. I do not want to take an undue advantage of the community. It is probably because Ministers make statements of that kind that people from outside hesitate to come amongst us. I do not believe in the principle that anything is right if you can get it.

The SECRETARY FOR PUBLIC INSTRUCTION: Get a fair wage.

HON. A. GIBSON: We should take up a fair and reasonable position, and we should be very careful that we do not kill the goose that lays the golden egg.

An HONOURABLE GENTLEMAN: Who is to be the judge, are you?

HON. A. GIBSON: I am not the judge. The people who have to employ will be the judges, and I think their judgment to-day is of a very severe character. We see the result of what is going on when we compare Canada with Australia, and we see that Canada can attract 150,000 people in a year to its shores. Why, we cannot in any way approach that country.

HON. A. A. DAVEY: They are chiefly coming from America.

HON. J. T. ANNEAR: No, they are not.

HON. A. GIBSON: Very large numbers are coming from the old country, and, I think, considering the conditions attaching to our State

[*Hon. A. Gibson.*]

and the Commonwealth generally, the day has arrived when we ought to be offering inducements to people to come here.

HON. C. S. MCGHIE: You should stop crying "stinking fish"; you belong to that party.

HON. A. GIBSON: I do not know who are crying "stinking fish," but I know who are throwing stinking fish all the time. The legislation of this session has been of such a stinking character—

The PRESIDENT: Order, order!

HON. A. GIBSON: I beg your pardon. I did not introduce the subject or I would not have used that word.

The SECRETARY FOR PUBLIC INSTRUCTION: Say "odoriferous."

HON. A. GIBSON: It is the same word. What I want to come to is this: I want to see people introduced into this State, and as one who has a deep interest in it I would like to see the workman and the capitalist working harmoniously one with the other. I say, when you come to introduce a Bill of this character, it is evident that the unionist is to be on top. I intend to suggest some amendments if it so happens that the second reading of the Bill is carried. In clause 5, in the 1st line, instead of the words "no act done" I shall want to introduce the words "any act done," and on the 42nd line I want to take out the word "no," so it will read, "any act done or omission made by any individual person in contemplation or furtherance of a trade dispute shall be actionable."

The SECRETARY FOR PUBLIC INSTRUCTION: This is thorough.

HON. A. GIBSON: I shall endeavour to do the same thing with the next subclause and carry it right through the Bill, converting the word "any" into the word "no" every time. I, therefore, think that there will be no doubt as to my intentions in regard to this Bill.

The SECRETARY FOR PUBLIC INSTRUCTION: Hear, hear!

Question—That the Bill be read a second time—put; and the Council divided:—

CONTENTS, 9.

Hon. A. H. Barlow	Hon. A. Hinchcliffe
„ T. C. Beirne	„ M. Jensen
„ W. H. Campbell	„ C. S. McGhie
„ A. A. Davey	„ P. Murphy
„ H. L. Groom	

Teller: Hon. A. Hinchcliffe.

NOT-CONTENTS, 15.

Hon. J. T. Annear	Hon. P. Macpherson
„ F. T. Brentnall	„ C. F. Marks
„ A. J. Carter	„ B. B. Moreton
„ J. Deane	„ R. H. Smith
„ B. Fahey	„ E. J. Stevens
„ A. Gibson	„ W. F. Taylor
„ G. W. Gray	„ L. Thomas
„ F. H. Hart	

Teller: Hon. J. T. Annear.

PAIR.

Content—Hon. E. H. T. Plant. Not-Content—Hon. W. V. Brown.

Resolved in the negative.

APPROPRIATION BILL No. 3.

ALL STAGES.

This Bill, received from the Assembly, was passed through all its stages without discussion, and ordered to be returned to the Legislative Assembly, by message in legal form.

CONTRACTORS' AND WORKMEN'S
LIEN BILL.

SECOND READING—RESUMPTION OF DEBATE.

HON. A. A. DAVEY: I would like to say a few words on this Bill before it passes. We have had reference made previously to some suggestions from the Builders' Association, and I must say that I think the reasoning in connection therewith is rather weak. They suggest that subcontractors should be omitted from the Bill. They say—

2. *The Position of the Subcontractor.*—A subcontractor does not sign any agreement, but can always, if he so desires, obtain relief by securing payment before the work is executed, or an order on the owner of the land. Moreover, he has the remedy of common law.

I should like to know if it is not a fact that the contractor obtains, as the work progresses, a very large proportion of the amount he has put into the building. An illustration is also given here; I am quoting words which have been previously used—

An ordinary trader, say a boot and shoe dealer, has to deal with, perhaps, a thousand different customers; a certain proportion of these might not pay for their boots, but that did not necessitate the boot dealer becoming insolvent, as he got paid by the other proportion.

The idea of the trader is, to me, a very weak argument, because the trader has to ascertain the liability of the 1,000 people he is supplying, and it would be very much easier for the contractor to ascertain the standing of the one with whom he is working than to ascertain with any reliability the condition of the 1,000. The argument is rather against than for the idea which is contended for. I think it is a desirable thing that there should be a Lien Bill to secure workmen's wages, but I am of opinion that the contractor and the subcontractor should be both taken out of the Bill. It seems to me that the contractor is in very much the same position as any other business person. He undertakes to do certain work for a certain amount, and he has an opportunity, by easy inexpensive means, of finding out who the owner of the land is; and I think it is hardly necessary that this Lien Bill should extend to the contractor or subcontractor. It is probable that the Bill will not be availed of very much even in the case of workmen, who have a right to claim for not exceeding thirty days' work.

HON. A. GIBSON: How would you amend the Bill if you take out contractor and subcontractor?

HON. A. A. DAVEY: I would make it a Workmen's Lien Bill. I am only suggesting that. I do not know that there is any harm in protecting the contractor, but it seems to me the most important part of the question is the protection of the workman. He is not a worker for profit; he is simply giving value for [7.30 p.m.] what he gets in the form of wages; and it is quite right that he should be protected so that he may be sure to obtain his full pay. I think clause 25 is a good one, which makes it possible for any number of workmen, with a claim against one person, to combine their claims in order to save legal expenses. On the whole the Bill is very good as far as the protection of workmen's wages is concerned, but, as I said before, I should like to see both the contractor and the subcontractor omitted from it.

Question—That the Bill be now read a second time—put and passed.

COMMITTEE.

On clause 1—"Short title and commencement"—

The SECRETARY FOR PUBLIC INSTRUCTION said a new element had been

introduced into the discussion by the Hon. Mr. Davey, who wanted to eliminate the contractor. The short title in the clause was "The Contractors' and Workmen's Lien Act," and he would submit that the clause should be passed as printed even if it had to be amended afterwards.

HON. G. W. GRAY said the opinion of the majority seemed to be that both the contractor and the workmen should be left in.

Clause put and passed.

On clause 2—"Interpretation"—

The SECRETARY FOR PUBLIC INSTRUCTION said he would take as a test vote the omission of the word "subcontractor." If the Committee desired to omit it, the subcontractor was gone.

HON. G. W. GRAY moved the omission of the following words:—

As regards a subcontractor, the term means a person with whom the subcontractor contracts to perform work (including in such expression any material the property of the subcontractor used in connection with the work performed by him).

Question—That the words proposed to be omitted stand part of the clause—put; and the Committee divided:—

CONTENTS, 2.

Hon. A. H. Barlow Hon. P. Macpherson
Teller: Hon. P. Macpherson.

NOT-CONTENTS, 20.

Hon. J. T. Annear	Hon. A. Hinchcliffe
" T. C. Beirne	" M. Jensen
" F. T. Brentnall	" C. F. Marks
" A. J. Carter	" C. S. McGhie
" A. A. Davey	" B. B. Moreton
" J. Deane	" P. Murphy
" A. Gibson	" E. H. T. Plant
" G. W. Gray	" R. H. Smith
" H. L. Groom	" E. J. Stevens
" F. H. Hart	" L. Thomas

Teller: Hon. R. H. Smith.

Resolved in the negative.

* HON. M. JENSEN moved, on line 16, the omission of the words "or chattel." This omission struck at the whole principle of giving a lien on chattels. Of course it deprived the workman as well as the contractor of this advantage. They all agreed that it was desirable to give the advantage if it could be properly given, but to give it meant complication on complication. A boat was a chattel. Suppose he sent a boat to a boatbuilder for repair at a cost of £20, he could only pay him £15, and the other £5 he had to keep back for fifteen days. Then, if he sent it to an auction-room to be sold, the purchaser possibly was liable to the man who did the work. A lien attached to all things. Take a very extreme case. If he went to a tailor and arranged for a suit of clothes for £4 4s., that was a contract, and the tailor would only be entitled to £3 3s., and £1 1s. must be kept back for fifteen days in case the workmen had any claim against the tailor. He came across a New Zealand case in which the employer had a dredge and ordered certain ironwork. The man who made the ironwork was held to have a lien, and there was held to be a separate contract for each supply of iron. A chattel differed from land in this respect: Information as to encumbrances on land could be obtained by search at the Real Property Office, but no such information could be obtained as regarded a chattel. A lien might injure a man in a small way of business. Take the case of a man selling and repairing bicycles: It might be a matter of moment that he should get the whole of the contract price and not be compelled to wait for fifteen days. He submitted that reasonable protection would be given to the

Hon. M. Jensen.]

workmen by giving them a lien on the land without carrying it so far as a lien on the chattel.

The SECRETARY FOR PUBLIC INSTRUCTION: The suggested amendment would seem to deprive the man who took work home of any lien whatever. He had a right to retain the goods until he was paid, but that did not do him any good unless he could register his lien. He might possibly have a lien on a cylinder for a steam engine that had been ordered, but that would be of very little use to him. If it was the will of the Committee to abolish liens on chattels, he could not help it.

HON. P. MACPHERSON: Clause 43 seemed to be a necessary clause, and he would be glad to know if the hon. gentleman had considered it in relation to his proposed amendment. He certainly thought the workmen ought to have some lien on the chattel.

HON. M. JENSEN: That clause can remain in.

HON. P. MACPHERSON: Then they would require some reference to chattel in a definition clause; otherwise clause 43 would fall out.

HON. M. JENSEN: It seemed to him that the allusion to a chattel could be struck out all through the Bill with the exception of clause 43. There was no inconsistency. At the present time any man who had expended labour on a chattel had a lien over it. He need not part with it until he was paid for his labour, but he had no power to sell. By leaving in clause 43 the result would be that he would have power to sell. The same principle was contained in the Licensing Act, which gave power to the landlord to sell the goods of the lodger.

HON. F. T. BRETNALL asked the Hon. Mr. Jensen if he proposed to strike out the definition of "work" in subsection (b).

HON. M. JENSEN: Certainly.

HON. F. T. BRETNALL: All the talk about a suit of clothes was wide of the mark. The definition of work would not include a suit of clothes or anything of the sort.

The SECRETARY FOR PUBLIC INSTRUCTION: The Hon. Mr. Jensen only intended to retain the power of sale.

HON. P. MACPHERSON pointed out that the word "owner" appeared in clause 43.

HON. M. JENSEN: That has a well-known meaning.

HON. A. HINCHCLIFFE: Did he understand that if the amendment was carried it would wipe out the right of the recourse on the part of the wage-earner to lien on the chattel?

HON. M. JENSEN: It would leave him as he stood at present. The contractor and the workman would not be entitled to a lien against the owner of the chattel, but it would not deprive the workman of any remedy he had got at present.

Amendment agreed to.

On the motion of the HONS. G. W. GRAY and M. JENSEN, the clause was further amended on lines—17 by omitting the words "or chattel," 20 to 26 by omitting the definition of "subcontractor," and 42 and 47 by omitting "subcontractor."

Clause, as amended, agreed to.

On clause 3—"Lien upon land and chattels for labour"—

On the motion of the HON. G. W. GRAY, the word "subcontractor" was omitted from line 52.

HON. M. JENSEN moved the omission, on lines 53, 56, and 57, of the words "or does or procure to be done any work upon or in connection with any chattel."

Amendment agreed to.

[Hon. M. Jensen.]

A consequential amendment was made on line 58.

HON. G. W. GRAY moved the omission, after "lands," on line 58, of "or upon the moneys payable to his contractor as the case may require."

The SECRETARY FOR PUBLIC INSTRUCTION: That gave the workmen a lien on the money payable to the contractor, to which there was no objection.

Amendment agreed to.

HON. G. W. GRAY moved the omission, on line 59, of "the work but" and the insertion of "or wages for his work."

Amendment agreed to.

HON. G. W. GRAY moved the omission of subclause (ii.).

Amendment agreed to.

HON. G. W. GRAY moved the omission of "or subcontractor," on lines 9 and 12, in subclause (iii.).

Amendment agreed to.

HON. G. W. GRAY moved the omission of "thirty" on line 20, and the insertion of "fourteen" in place thereof.

The SECRETARY FOR PUBLIC INSTRUCTION: This was a very serious matter. A workman might not like to press up to the end of the fourteenth day. Things might be going a bit "cronk," and he might not be disposed to press for fourteen days' wages, but when they came to three or four weeks he might begin to press and register his lien. He would appeal to the Committee to leave it as it stood.

HON. G. W. GRAY: He would withdraw his amendment.

Amendment withdrawn accordingly.

Clause, as amended, put and passed.

On clause 4—"Owner standing by"—

HON. M. JENSEN: There would be no inconsistency in allowing the words "or chattel" to remain in the 2nd line of clause 4. This would meet the case of a wife being the owner of the land. The husband might let the contract, and the wife knowing she was the owner said nothing, and repudiated liability when she was asked to pay for the building. It might be very well left in here.

Clause put and passed.

On clause 5—"Charge in favour of subcontractors and workmen"—

HON. G. W. GRAY moved the omission of the first paragraph of the clause, on lines 27 to 31, inclusive.

Amendment agreed to.

HON. G. W. GRAY moved the omission, on line 34, of "or subcontractor."

HON. B. B. MORETON asked the Minister what was meant by "any superior contractor."

The SECRETARY FOR PUBLIC INSTRUCTION: They were going to leave that out—the superior contractor was the one above him.

Amendment agreed to.

HON. G. W. GRAY moved the omission, after "employed," on line 34, of all the words to the end of line 37.

Amendment agreed to.

HON. G. W. GRAY moved the omission of "or subcontractor," on line 39.

Amendment agreed to.

Clause passed with a further verbal amendment.

On clause 6—"Provision in case of mortgaged land"—

HON. E. J. STEVENS said the clause had given rise to a good deal of discussion, and the general opinion seemed to be that it [8.30 p.m.] was inadvisable to interfere with a mortgagee of real property, because it would render the procuring of loans on unimproved land much more difficult than it was at the present time.

HON. F. T. BRENTNALL was of opinion that the clause should be negatived, because a large building might be erected on mortgaged land which would not in any degree increase the value of the security.

HON. G. W. GRAY said he had prepared a number of amendments to the clause, but he had arrived at the conclusion that it would be better to negative it altogether.

Question—That clause 6 stand part of the Bill—put ; and the Committee divided :—

CONTENTS, 11.

Hon. A. H. Barlow	Hon. A. Hinchcliffe
" T. C. Beirne	" M. Jensen
" W. H. Campbell	" C. S. McGhie
" A. A. Davcy	" F. Murphy
" B. Fahey	" E. H. T. Plant
" H. L. Groom	

Teller: Hon. A. Hinchcliffe.

NOT-CONTENTS, 9.

Hon. J. T. Annear	Hon. C. F. Marks
" F. T. Brentnall	" B. B. Moreton
" A. J. Carter	" E. J. Stevens
" J. Deane	" I. Thomas
" G. W. Gray	

Teller: Hon. E. J. Stevens.

Resolved in the affirmative.

On clause 7—"Priority of liens"—

On the motion of the HON. G. W. GRAY, the clause was consequentially amended and agreed to.

On clause 8—"Notice of claim of lien"—

On the motion of the HON. M. JENSEN, the words "or chattel" were omitted from line 15.

HON. E. H. T. PLANT: The clause provided that a person who intended to claim a lien upon land should, before the completion of the work, or within fourteen days after its completion, give notice to the owner. He thought that should be altered to seven days, because if fourteen days was retained in the clause the workmen might have to wait for that time for their wages. The owner would not like to pay the money to the contractor, and if the contractor was a man without means he would not be able to pay his men until he himself was paid. He moved the omission of "fourteen," with a view of inserting "seven."

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

Clause 9 was, on the motion of the HON. G. W. GRAY, consequentially amended and agreed to.

Clause 10 put and passed with a consequential amendment.

The Council resumed. The CHAIRMAN reported progress, and the Committee obtained leave to sit again to-morrow.

The Council adjourned at twelve minutes past 9 o'clock.