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1901-08-09

The President took the chair at 10.30 a.m., and read prayers.

QUESTIONS

COMMITTEE OF PUBLIC ACCOUNTS

Senator Sir FREDERICK SARGOOD

- During my unavoidable absence last week, through illness, a question of which I had given notice lapsed, but the Postmaster-General has been courteous enough to say that he has the answer to the question, which was to call the attention of the Vice-President of the Executive Council to the pressing necessity for the appointment of a committee of public accounts, and to ask if it is the intention of the Government to appoint such committee.

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Postmaster-General

Senator DRAKE

- I am informed by the right honorable the Treasurer that it is his intention to appoint such a committee.
" HANSARD."

Senator STANFORTH SMITH

asked the Postmaster-General, upon notice -

Under whose jurisdiction has the printing of Hansard been placed?

Have any corrected copies of Hansard been issued yet ?

Would it be possible to have galley slips of members' speeches given them, the day following the debate, to enable senators to correct same before Hansard is printed?

Will this do away with the expense of printing proof copies ?

Senator DRAKE

- (1) Under the jurisdiction of the President and Speaker. (2) Yes. (3) Yes. (4) It will materially decrease the cost of printing and distributing Hansard, which at present amounts to about £350 per week, and will prevent the issue of uncorrected copies of members' speeches. It may be explained that the total cost of parliamentary printing now amounts to under £15,000 per annum, on the assumption that Parliament sits for six months.

TEMPORARY EMPLOYÉS

Senator MCGREGOR

asked the Postmaster-General, upon notice -

Will those men who were temporarily employed by any of the States at work of a fixed character and taken over by the Federal Government be considered as permanent employees ?

If so, will it apply to the instrument-fitters temporarily employed as instrument fitters in the instrument room of the General Post-office, Melbourne ?

Senator DRAKE

- (1) Whether they will be considered as permanent employees must depend upon the suitability and the conditions under which they were employed, as such conditions vary in the different States. (2) The instrument fitters temporarily employed in the General Post-office, Melbourne, have been employed under the regulations of the Public Service Board of Victoria, which precludes their employment for more than nine months at a time.

TELEGRAPH SERVICE

Senator PEARCE

asked the Postmaster-General, upon notice -

Is it a fact, that in order to fittingly welcome the Royal Persons recently visiting Perth the Deputy Postmaster-General of Western Australia gave instructions for the total cessation of telegraphic business throughout the State on one day (20th July), and the partial cessation for the three following days ?

Senator DRAKE

- It is not a fact as stated. The facts are that in reply to a telegram the Deputy Postmaster-General of Western Australia was informed on the 15th July that it had been approved that Monday and Tuesday, the 22nd and 23rd July, were to be observed as partial holidays in Perth and its vicinity in accordance with the practice of other States. Upon receiving such intimation, the Deputy Postmaster-General issued

instructions that on Monday all telegraph offices were to be opened between the hours of 5.30 and 10 a.m., and 6 and 7 p.m. On Tuesday the same arrangements were made, except that the offices at Perth, Coolgardie, Kalgoorlie, Boulder, Fremantle, Eucla, and Broome were kept open until noon instead of 10 a.m.

POST OFFICE, WELDBOROUGH

Senator KEATING

asked the Postmaster-General, upon notice -

Is it intended to replace the post and telegraph office, Weldborough, which was destroyed by fire in the month of May last ; and when ?

Senator DRAKE

- Reports that have been received from Tasmania do not appear to justify the re-erection of the post-office destroyed by fire in May last, on account of the small amount of business done.

TELEPHONE, PIPER'S RIVER

Senator KEATING

asked the Postmaster-General, upon notice -

The reasons for the recent discontinuance of the Launceston to Piper's River telephone service ?

When such service is likely to be restored ?

Senator DRAKE

- No information has been supplied to the Postmaster-General's department respecting this matter, and inquiry is being made.

INDEX TO THE CONSTITUTION

Resolved(on motion by Senator Sir Josiah Symon for Senator Pulsford) -

That it would facilitate public business, and assist in the elucidation of the Constitution of the Commonwealth, if a full index of the said Constitution were available, and that it is desirable that such index be prepared and published as early as possible.

PRINTING FOR THE SENATE

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Resolved(on motion by Senator Lt.Col. Neild) -

That the Printing Committee be requested to inquire and report upon the advisability of reducing the printing now executed in connexion with the Senate.

PRINTING OF PETITION

Ordered(on motion by Senator Sir

Josiah Symon) -

That the petition presented by him on 8th August to this honorable House be printed.

AUSTRALIAN-TASMANIAN STEAM SERVICE

Resolved(on motion by Senator Keating) -

That the Australian-Tasmanian Steam Service Select Committee, appointed by this Senate, have leave from time to time to make public the evidence taken or to be taken before the same has been reported to this Senate.

LEAVE OF ABSENCE

Resolved(on. motions by Senator

McGregor) -

That a fortnight's leave of absence be granted to Senator Dawson, on account of serious illness.

That a fortnight's leave of absence be granted to Senator Higgs, on account of sickness in the family.

Resolved(on motion by Senator Drake) -

That a fortnight's leave of absence be granted to Senator Best, on account of ill-health.

Resolved(on motion by Senator Glassey) -

That three weeks' leave of absence be granted to Senator Ferguson, on account of pressing public business at Rockhampton (Queensland) in connexion with the establishment of a School of Mines in that town.

Resolved(on motion by Senator Staniforth Smith) -

That Senator Harney be granted six weeks' leave of absence from the sittings of the Senate, on account of urgent private business.

PARLIAMENTARY EVIDENCE BILL

Bill presented by Senator Lt.-Col. Neild, and read a first time.

AUDIT BILL

Royal assent to this Bill reported.

ELECTIONS AND QUALIFICATIONS COMMITTEE

Saunders v. Matheson

Debate resumed from August 1 - on motion by Senator Lt.-Col. Neild for an instruction to the Elections and Qualifications Committee on the petition against the return of Senator Matheson(vide page 3337)-
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Vice-President of the Executive Council

Senator O'CONNOR

. - Although I had not an opportunity of listening to Senator Lt.-Col. Neild in moving this motion, I have had the advantage of reading the debate in Hansard. I do not oppose the motion in any hostile way, but I would point out to the honorable senator that the powers which he asks to be given to the committee to inquire specially are all included in the very general powers which have been given to it. It will be remembered that the committee in the first instance was authorized to inquire into and report on the matter of this petition ; that the report was presented, and that the Senate then, with an intimation as to the law, requested it to again inquire and report. That direction is the largest possible one which could be given to the committee. There is no limitation to the matters into which it can inquire and report. Therefore it does seem to me, in the first place, that it would be a somewhat useless proceeding to refer these special matters for inquiry and report, when that power is already given ; and in the second place, that it might really tie the hands of the committee and complicate matters by referring these special questions for report, when perhaps it may find other grounds or facts which are more material and important than those to which attention is drawn here. What I would suggest to the honorable senator is that having explained the position which he took up in the matter it would be very much better that he should' withdraw his motion. I can understand and sympathize with him in wishing to express his view with regard to certain facts, which apparently he thinks important, and which came to his notice after he had spoken in the Senate. I have no objection, nor has any one, to the honorable senator having made his statement to that effect. But that having been done, it appears to me that it would be only an act of supererogation, and would be taking up the valuable time of the Senate unnecessarily, if the debate were to be prolonged or we were to go through the form of passing a motion investing the committee with powers which they already possess. I therefore suggest to the honorable senator, in all friendliness, that he might withdraw the motion, and I suggest to the Senate that whatever action the honorable senator takes the motion should not be carried.

Senator MCGREGOR

- I have only a few words of advice to give to Senator Lt. -Col. Neild, and that is, that before, voting on any question he should always endeavour to thoroughly understand it. Then there would be no danger of -his getting into such a difficulty. The same advice might be taken by other honorable senators and perhaps by myself. What has been done has resulted in a very grave misunderstanding, and now that Senator Lt. -Col. Neild has put himself right with the general public as to his action, he ought to be perfectly satisfied. If he takes my advice he will gracefully withdraw Ms motion, which I do not believe will be supported by the Senate if he does not.

Senator Lt Col NEILD

- It is quite true, as has been said by the Vice-President of the Executive Council, that the Elections and Qualifications Committee has the right to investigate " the alleged facts without any direction from the Senate. I also agree that I have abundantly achieved the object I had in view so far as my individual political or parliamentary position was concerned. I might suggest to my honorable and learned friend, Senator O'Connor, that I have also achieved a third object, which he has not named, of bringing under the direct notice of the Senate and of the committee certain facts, which, having come to my knowledge, I deemed it right to make public. The committee, even if this motion were carried, could, if it chose, refuse to inquire into the questions mentioned. I do not know what course they may take. They may say - " We will not re-investigate this matter at all and they may just as well say,' in response to an instruction from the Senate that they have power to inquire into certain facts - " We will not inquire into them, although you

invite us to do so, because we do not think it necessary." The committee will be perfectly entitled to adopt that course. I am satisfied with having brought these facts under the notice of the committee and of the public; because the public are interested in the purity of the administration of matters concerning election petitions, and are entitled to take a keen interest in the decision on such matters. None of us can tell when similar petitions may be presented against the return of any other senator, and, therefore, any constituency in the Commonwealth - and that means any

State - may be affected in the same way as Western Australia is affected by the petition now under consideration. I recognise that I have now put myself perfectly straight with the committee and the public as to why I did not vote when the petition was previously under consideration. I have also brought certain facts under the notice of the committee, which, when it meets, can consider them. The committee and the Senate now having the knowledge that these facts exist, I do not think I should be serving any useful purpose by carrying the matter further. I do not consider that I am backing down, nor, I am sure, will my honorable and learned friend Senator O'Connor take that view. Before I sit down I should like to reiterate - and I should not do this except for the speech made by the Postmaster-General, when I proposed my motion - that in referring to the names of two members of the Senate as having had some professional connexion with the petitioner, I simply did so, not for the purpose of showing any disrespect to my brother senators, nor with any desire to cast any shade of suspicion on them in any shape or form, but merely to show that the petitioner was in the right way towards obtaining accurate advice. - Neither of the two senators whose names appear in the motion have, I am sure, the slightest cause for imagining that I sought in the remotest fashion possible to say or do anything that could be detrimental to their finest feelings. That being so, and as the Vice-President of the Executive Council in his unusually temperate remarks this morning - his singularly courteous remarks, I may say, after the speech he delivered a little time ago - has not ruffled my feathers nor sought to cast any shadow on me or my motives in the matter, I beg, with the greatest deference to the Senate, leave to withdraw my motion.

Motion, by leave, withdrawn.

WAGES, HOURS, AND CONDITIONS OF LABOUR

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Senator STEWART

- The motion standing upon the paper in my name is as follows : -

That, in the opinion of this House, it is expedient, for the Parliament of the Commonwealth to accept (if the State Parliaments see fit to grant it under section 51, sub-section (37), of the Constitution Act) full power to make laws for Australia as to wages and hours and conditions of labour.

I wish, with the leave of the Senate, to move the motion in an amended form, adding to it at the end the words -

And that a message be sent to each of the State Parliaments respectfully submitting this resolution.

The PRESIDENT

- I do not see how we can send a message to the State Parliaments, nor how the State Parliaments can send messages to us. I am speaking on the spur of the moment, but while the two Houses of a Legislature can send messages to each other, I have never heard of one State Parliament sending a message to another State Parliament. That would be an entirely novel course of procedure. I do not know how it could be done or who could take the message. I am informed by one of the clerks, however, that it has been stated in another place that if any communication is desired to be sent from the State Parliament to the Federal Parliament, or viceversa, it can go through the Executive - that the Government of the Federation will send the message to the Government of the State, or viceversa. I think that has been stated by a representative of the Ministry in another place. The honorable senator can put it generally - that this motion be communicated to the State Parliaments.

Senator STEWART

- I beg to move' the motion in the following form : -

That, in the opinion of this House, it is expedient for the Parliament of the Commonwealth to accept (if the State Parliaments see fit to grant it under section 51, sub-section (37), of the Constitution Act) full power to make laws for Australia as to wages and hours and conditions of labour ; and that this resolution be communicated to the State Parliaments.

I do not think I need say very much in support of the motion. We are all opposed to the evils of sweating,

and are anxious to stamp them out as far as we can. Some attempt in this direction has been made in the State of Victoria, and, I believe, not without success. The Victorian Parliament has passed a factory law which is very much in advance of the laws of other States - fixing hours of labour, regulating sanitary conditions, providing for the payment of a minimum wage, and effecting other very desirable reforms of a similar character. But some of the other States are not in an equally advanced position so far as legislation of this character is concerned. The fear is expressed - and I am bound to admit that that fear does not appear to be without foundation - that upon the institution of Inter-State free-trade the absence of such laws in other States will result in Victoria being compelled to abandon the position she has taken up. The object of this motion is to induce the Parliaments of the States to agree to hand over to the Federal Parliament the power to pass general factory laws for the entire Commonwealth. After the institution of Inter-State free-trade the Commonwealth will be one economic area, and unless some such action as is now indicated be taken the probability is that instead of the other States levelling up to Victoria, Victoria will have to come down to their level. Instead of the different States viewing with each other in passing humane and progressive laws regulating labour and wages, the tendency will be all in the opposite direction, and there will be a headlong plunge down to the minimum, with the inevitable result of a return to the old sweating conditions, which we all so much desire to avoid in this new Commonwealth. I do not think it necessary that I should say any more in support of this motion. I submit it with the greatest confidence to the Senate, and trust that it will be passed.

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Postmaster-General

Senator DRAKE

. - The senator who moves, this motion has a very good object in view. I am sure we all desire that, with regard to the laws relating to wages and the hours and conditions of labour, there should be uniformity amongst all the States. We can see very clearly that it will be necessarily to the disadvantage of some State or other if there is any considerable difference in the laws governing these important subjects. I certainly feel some regret that the action that has been taken by Victoria, has not been more quickly followed by the Parliaments of the other states. The action Senator Stewart now proposes to take is a move in the direction of endeavouring to persuade the Parliaments of those States which have not yet followed the example of the State of Victoria to make their laws conform with those in existence here on those subjects. I very much hope that a resolution of this character will have that effect, because it is desirable that the various States should amend their laws in that way. I am inclined to think that at the present time it would be preferable that the States should: individually make suitable laws on the subject rather than transfer their powers to the-

Commonwealth; for, the reason, principally, that at the present time the Commonwealth Parliament, as honorable senators are aware, has a great deal of work in hand. It is generally admitted that the work now in hand and in prospect will be sufficient to task the energies of Parliament at all events for the remainder of this year. I see that Senator Staniforth Smith smiles, but I do not know whether he expects to get away from here very much before Christmas. I know I do not, and I think we shall be able to congratulate ourselves if, by Christmas, we have got through the whole of the work the Government has set itself, if possible, to get through both Houses of Parliament. The States have more time upon their hands at present, for the simple reason that they have not, during this session, to pass all the initial work of legislation in the form of machinery Bills as we have, and for that reason it is preferable that the individual States should address themselves to the task of making laws for themselves with regard to this very important matter. If they are not disposed to take individual action, and there is a preference on the part of the States or the people of the States-

Senator Stewart

- Suppose one State does not, and the rest do ?

Senator DRAKE

- If one State refuses to give this power to the Commonwealth Government, it will come to the same thing. We must have unanimity.

Senator Stewart. - Or refuses to pass legislation?

Senator DRAKE

- It will be better for individual States to take action, or for five out of six to pass laws bringing their

legislation on this subject into line with that of Victoria, rather than to have one State refusing to delegate the power to the Commonwealth Parliament, and consequently have nothing done in that direction: I see no harm in the motion being carried in the form in which it is proposed, because it will stand simply as an invitation, I take it, to the Parliaments of the various States, if they choose to do so, to delegate this power under the Constitution to the Federal Parliament. I should hope then that within a reasonable time at all events, the Federal Parliament will deal with the matter. For the reasons I have given, I cannot see how it is possible even to hope that the Federal Parliament would be able to deal with this question within the present session.

Senator Stewart

- We have not got the power yet.

Senator DRAKE

- I know we have not the power yet, but I am pointing out that the process by which the honorable senator desires to achieve his end could not be successful within this session; and perhaps may take a considerably longer time, whereas the Parliaments of the individual States are at liberty at once to pass such legislation. In that way we should be achieving a good result, in some of the States at least, with the hope that ultimately the legislation of all on the subject would be brought into line. I am not disposed to offer any opposition to the motion, because it will not have any injurious effect that I can see, and possibly, by ventilating the matter and bringing it under the notice of the State Parliaments, it may have beneficial results-.

Senator Sir JOHN DOWNER

- The only doubt I have is whether the motion will have any effect at all. The truth is that we have under the Constitution Act given the invitation that is contained in this motion, because under sub-section (37) of section 51, it is provided that the Commonwealth Parliament is to have power to deal with subjects which are sent to it by all the States or by some of the States, with the limitation that in the event of it being only some of the States the laws we shall make shall only relate to those States. Under that sub-section we have at once given authority to the Commonwealth Parliament to act when the subject matter is referred to it, and we have given the invitation to the States to pass the necessary legislation to enable the Commonwealth Parliament to act. It therefore appears to me useless to pass this motion, because we are bound to accept this power to legislate in this way, if it be sent to us. That sub-section is our authority, and we are, subject to this Constitution, to have power to make laws.

Senator Sir Josiah Symon

- We are not obliged to pass such legislation.

Senator Sir JOHN DOWNER

- This ex-presses the expediency of accepting the invitation, if it is given to us.

Senator Drake. - Then we have the power to make the laws.

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Senator Sir JOHN DOWNER

- Then we have power to make laws. It appears to me that the power argues the necessity of exercising it. If jurisdiction is committed to us in respect of certain matters, we have to exercise it at some time or other. It is put merely as an authority to make laws, but in substance it is a mandate to make laws, dealing with the subjects referred to us. I have not the least objection to the motion, and am only suggesting to the honorable senator whether it is necessary to pass a motion which is in effect only a repetition of the Constitution, excepting that it will only have the authority of this House which passes the resolution, and will not have the authority of the whole Legislature, as of course the Constitution Act has.

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Senator Sir FREDERICK SARGOOD

- This question has caused a great deal of discussion, more particularly in Victoria, and to a certain extent in South Australia, where they have factory laws. During the whole course of the elections, I do not know of any subject that was more fully debated than this very point as to whether the Commonwealth had the power of dealing with labour legislation. For myself, I pointed out that section 51, subsection (37), of the Constitution made it very clear that the Commonwealth had the power of dealing with such legislation so soon as the States referred it to the Commonwealth, and I strongly urged that pressure should be brought to bear upon the States to get this matter referred to the Commonwealth: That appears to me to be the

only course that can be taken. While, with Senator Sir John Downer, I have not the slightest objection to the motion, it does not carry us any further forward. The necessity for action must lie with the State Parliaments, and influence must be brought to bear upon them to take the necessary action. I venture to say, as one having a good deal to do with the Factories Act in Victoria, that- the sooner action is taken the better. There is no doubt that unless Commonwealth action be taken in connexion with labour legislation, the States that have in the past passed such legislation will be at a very great disadvantage. I am perfectly aware that there is a great deal of dissatisfaction with the present Act, and results have followed which were not anticipated either by those who proposed, or by those who more or less opposed that Act. Still I do not hesitate to say that the Factories Act, as a whole, has done undoubted good not only here but also in New Zealand. I am speaking now as one very conversant with the working of the Act, having large manufacturing interests here and in New Zealand. The Act was primarily intended to put an end to the abominable system of sweating, and I am bound to say that it has done that to a large extent. A minimum wage was also intended, but it has had evil effects as well as good effects. One of the most serious effects in connexion with the minimum wage is shown in the difficulty of deciding what is to be done with the poor unfortunate fellows who are not worth full wages, add knowing, they are not worth full wages/are quite prepared to take less than full wages. In one case I know the answer has been given in a blunt, cold-hearted way - "Let them starve." Others have said-"Let them be paid pensions from the State," but I do not think that those who have taken a keen interest in the working classes, and I claim to be one, desire to see either of those results. We desire to see a fair 'wage' given for a fair day's work, but I am bound to say from my experience as a large employer of labour that that cannot always be obtained. The difficulty is not really with large employers of labour. Those who have a large business and large capital invested, and have a large outlet for work, as a rule can afford and do pay good wages, but it is the small manufacturers, men who a few months ago were employes themselves, and then becoming small manufacturers and getting their feet on the first rung of the ladder have everything to struggle for: it is these men - and I am not blaming them, - I am only stating the facts - who cut down wages, and their cutting down of wages, unfortunately, necessarily affects the whole of the trade in which they are engaged. It is to put an end to this state of things that some factory legislation is necessary. I am aware that great complaints have been made in regard to the working of the wages boards. I must confess that I am woefully disappointed with them. I was the means of obtaining the election of wages boards by those interested - the employers and the employes - instead of having them appointed by the Government of the day. That change was made as the result of the evidence taken before the select committee of the Legislative Council. Both sides were unanimously in favour of the elective system but it never entered the head of any member of that committee that the boards could be constituted other than by those directly interested in the various trades. As a matter of fact, however, in several cases members have been appointed who are not directly interested in the trades affected, and have no knowledge of them. I am sorry to say that, in addition to this, chairmen have also been appointed in many cases, who have not the slightest idea of business or acquaintance with any particular trade. The rule in New Zealand is that a Judge shall be chairman.

Senator Pearce

- The honorable senator is referring to the Arbitration Court there. They have a Judge as chairman of that court in New Zealand.

Senator Sir FREDERICK SARGOOD

- It is practically the same thing. A Judge acts as chairman of the Conciliation and Arbitration Court there, and I am bound to say that the evidence is far better sifted and analyzed, and the decisions are far more equitable to both sides than in many cases in Victoria. It does appear a very grave fault that our wages boards can be constituted as some of them are, and that a chairman can be appointed who, although he may be in many cases a most estimable man - a minister of religion, perhaps, and generally anxious to do the very best - knows nothing whatever of the matters submitted to him. I do not think we can expect anything like good practical results from such a state of things. I shall be personally very glad to do all I can to assist in the passing of Commonwealth legislation upon this subject. Until we have uniform legislation there must necessarily be throat-cutting going on between the various States in determining who shall command the manufacturing power. Undoubtedly in that conflict wages must suffer. I have never yet been a believer in the reduction of wages below a reasonable standard. I believe in getting

good men, and paying them well, even upon the ground of self interest, and any legislation that will have for its object the abolition of the deplorable system of sweating which has been in existence for many years in several States, and exists now in some, will have my most hearty support. Therefore, while I -fear that the motion will not have much practical result, I shall still be prepared to support it ; but I would strongly urge those honorable senators who, like myself, feel an interest in this matter, not to be content with passing the motion, but to work outside, and endeavour to get the State Parliaments to take prompt action in the matter.

Senator MCGREGOR

- Although supporting the motion I may not be as emphatic as some in the desire that it should be carried, and I hope to show the reason why. I should like to say a word or two with reference to the criticisms that have been passed by Senator Sir Frederick Sargood upon the existing factory legislation. Although appearing to agree with everything that has been done, and claiming that a great amount of good has been accomplished, he yet gives vent to the old cry- that it injuriously affects the old and the less capable. Although I do not employ 5,000 men, nor anything like that number, I claim to have probably as great a knowledge of the operations of the Factories Acts in this and other States as those who do, and as far as I have actually learned in my association with trades unionism, none of these evils have ever arisen. Even in the society to which I belong, and of which I have been a member for over twenty years - the Builders' Labourers - we have always had a minimum wage. It has never affected our old men, however, because the society decides as to their' capabilities. If they are not able to- earn the minimum wage, we give them what is known as a roving commission.

Senator Sir Frederick Sargood

- There is no such power under the Victorian Act.

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Senator MCGREGOR

- Provision of that kind has been made in several of the State Acts. In the Victorian Act they have the permit system. I think that before Senator Sir Frederick Sargood attempts to criticise this matter, he should thoroughly understand what he is taking about. It has been said that some of the members of these wages board have not an intimate knowledge of the manufacturing business, and therefore are not capable of giving a fair decision. Let us take into consideration what Sir Frederick Sargood has said, namely, that in Victoria even a clergyman, a good man with the best of intentions, may be made chairman of a wages board, and his efforts may injuriously affect the people who are dealt with by the board. I should like to ask any honorable senator whether a manufacturer, who very probably knows nothing about the way in which his work-people live, and cares far less, has a better knowledge than-- .

Senator Sir Frederick Sargood

- -Thai is not fair.

Senator MCGREGOR

- I do not say all manufacturers care nothing. God forbid that all manufacturers should be like that. I know they are not. I know the majority are good, humane men, but there are many of them who do not care how their work people live. I have had dealings with them for many years in connexion with the sale of my labour, and I think I ought to know. I cannot see how even the best of them should be better qualified than a minister of religion, who goes into the homes of the poor and sees how they live. A clergyman should know far more of the conditions of the poor than even Senator Sir Frederick Sargood or any one else, and he should be a very good judge under these circumstances of what a minimum wage should be.

Senator Sir Frederick Sargood

- The wages boards have nothing to do with the minimum wage.

Senator MCGREGOR

- They have to do with a great many things. There is another point made by Senator Sir Frederick Sargood which I should like to challenge, as the result of my own personal experience. It has been said that the large employers, on account of their fuller use of machinery, and the greater facilities which they possess for the proper division of labour, have an advantage over the smaller manufacturers, and that the man who is a workman today and becomes a manufacturer next week, pays less wages and compels his employes to work under worse conditions than the big employer of labour. I know from' experience that it is in the small shops that men receive the best wages. People are always eager to gain employment in a

very extensive business," or in the Government service itself, because they consider they have a better chance of a long job, and if they engage with a small employer, to my certain knowledge, they always receive a little more per day. We always have better working conditions extended by the small employer. It will thus be seen that there is no reason for claiming that factory law has ever injured the old or the less capable, nor yet the poor struggling manufacturer who has just entered upon business. I hope that people who make such assertions will deal with themselves; and not make a buffer of the poor, or even of the struggling manufacturer, for the sake of their own interests. I wish, also, to point out that, so far as I can understand the Constitution - and I should like to have the opinion of Senator Sir Josiah Symon on the point, as well as that of Senator Sir John Downer - it gives the Commonwealth Parliament power to deal with legislation of this kind. The opening words of section 51 provide that the Parliament, subject to the Constitution, shall have power to make laws for the peace, order, and good government of the Commonwealth with respect to certain matters, and sub-section (1) provides that one of these matters shall be trade and commerce.

Senator Drake

- With other countries, and among the States.

Senator MCGREGOR

- I understand that. Then, in sub-section (39), additional power is given to legislate with respect to matters that govern the peace, order, and good government of the Commonwealth. If we have power to regulate trade and commerce between other countries and the States of the Commonwealth, and if sweating in one State influences trade and commerce in relation to another State, then we have the incidental powers under subsection (39) which enable us to deal with it. It is as to this point I should like to have a legal opinion - the opinions of those who framed the Constitution and know" what they meant themselves. The Vice-President of the Executive Council has not yet spoken. He was at the Convention and ought to know, but when those honorable senators who were in the Convention do give us some explanation of the matter I hope they will not be at variance, as they have been in connexion with other constitutional questions in the past.

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Senator Sir JOSIAH SYMON

- I am entirely in sympathy with the principle underlying this motion, It is exceedingly desirable in the interests of trade, and in the interests of the Commonwealth, that we should have absolute uniformity, as far as possible, where the conditions are uniform, in relation to everything that affects the material welfare of each of the States composing the Commonwealth. That lends very great importance to the view which has been put forward by Senator McGregor in the exceedingly interesting and thoughtful speech which he has directed towards the interpretation of two of the provisions of section 51 of the Constitution Act. There can be no doubt 'whatever that we should fail to reap the great and supreme advantages that we hope to win from the union of the Australian States if it were possible for one State by means of a momentary majority to frame a set of laws affecting factories, and so on, through which another State might seriously interfere with and embarrass the operations of the manufacturers in the first-named State. It is obvious that we should have a condition of things which would very gravely militate against the business carried on in the different States, which would cause a very great deal of friction, and probably a very great deal of feeling, and which might neutralize the great benefits which we expect to derive from that portion of the Constitution providing for not only freedom of trade but also equality of trade between the States. When we talk, as we ought to do, with satisfaction as to the prospect of Inter-State free-trade, and the immense advantages which will flow therefrom, we are very apt to forget that in addition to that we are entitled to have equality of trade ; that is, that all traders - and in that, for the purpose of my. observations I include manufacturers - should be on the same footing of equality, climatic and other conditions being taken into consideration. Of course, by means of any legislation, , even if undertaken by the Commonwealth, we could not hope - nobody contemplates that - to have a uniform rate of wages all over Australia. My honorable friend does not suggest such a thing, because we know quite well that where climatic and health conditions are not equal the wages are not equal. A man will work for 7s. or 8s. a day in a temperate climate, whereas if he is working in a tropical or subtropical climate, with miasmatic influences and all that sort of thing filling the atmosphere around him, he ought to have - whatever he may be obliged to take - very much larger wages. Therefore, in principle it is undoubtedly right that the

Commonwealth should undertake legislation of this kind, for if it has the power, or if it is comprehended amongst those matters which maybe referred to it by the Parliaments of any or all the States-

Senator Drake

- Does not the honorable and learned senator think that section 102 constitutes a difficulty ?

Senator Sir JOSIAH SYMON

- I do not think that section affects it in the slightest degree, but I shall come to that directly.

Senator McGregor

- The board system gets over the discrimination.

Senator Sir JOSIAH SYMON

- There is one part of Senator Sargood's speech which, if I rightly understood it, I must take leave with great respect to dissent from. I understood him to suggest that it would be well to have the wages boards, or boards of that character, presided over by a Judge. I entirely dissent from that view.

Senator Sir Frederick Sargood

-Or by a practical man.

Senator Sir JOSIAH SYMON

- A practical man is the man who ought to preside over a wages board. Surely amongst practical men, familiar with the working of trade and industry, we can get men with the judicial habit of mind, who will be as free from the possibility of bias, and as able to weigh with a stern disregard of sentiment and emotion the interests of two contending parties, as we can get by taking a Judge from the bench. We are importing Judges into too many affairs of every-day life. The more we keep them aloof, from not only social matters but details of trade matters, the better for the ultimate and higher administration of justice. It is an erroneous line of thought that we cannot get our trade affairs administered and trade disputes settled without bringing down a Judge from the bench in order to introduce impartiality. I feel that we can get impartiality and knowledge without the necessity of doing that, and I should be sorry if wages boards, or boards of that description, should have recourse to the services of the Judges of the higher courts for the purpose of having their business conducted. I trust, whatever steps are taken in this direction, that alteration will not be given effect to. It would be well, also, if we could abstain from having Judges presiding over conciliation and arbitration boards, because I believe they can accomplish their object better without them.

Senator Charleston

- There is interpretation of law there.

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Senator Sir JOSIAH SYMON

- The interpretation of the law for that purpose may be very well given by an intelligent layman, and as Senator McGregor seems to apprehend constant variations in the opinions given by lawyers, possibly that paradise will arrive when we shall have the decisions given by laymen,, and then no doubt we shall have absolute uniformity in the interpretation of enactments.' Now, to come to the motion ; because, after all, .a number of things have been introduced into this discussion which have little or no bearing upon it, and which will be of greater service when we are dealing with some measure which may be brought in either by request or by reference from a State Parliament, or, if we have power ourselves, by the initiative of a member of either Chamber or by the initiative of the Government. The difficulty I see about the motion is that it seems to be placing the cart before the horse. We are expressing an opinion as to what it is expedient for this Parliament to do - that is, that it is expedient for the Parliament to exercise a power which, unless Senator McGregor's view is correct, we do not at present0 possess, which we may never get, and which, therefore, it is a little premature for us to declare that we should exercise. It is always better for a man not to deliver a prophetic opinion as to what he is going to do until he knows the subject-matter with which he is to be asked to deal. If the State Parliaments, or any of them, refer a matter of this kind to us then it will be time enough for us to determine whether it is of such a character and within such a scope that we can effectually deal with it. At the same time, I quite agree that the passing of this motion may serve as, if not an invitation at any rate an intimation. to the State Parliaments that we are willing to accept the responsibility, if they choose to shift it upon us, of legislating upon these very important matters.

Senator McGregor

- I would rather claim the responsibility

Senator Sir JOSIAH SYMON

- I shall have a word to say about that in a moment.

Senator Stewart

- It calls their attention to the matter.

Senator Sir JOSIAH SYMON

- Undoubtedly it calls their attention to the fact that we, at any rate, are ready to consider any matters of this kind which may be referred to us, and deal with them to the best of our ability. On the other hand, has my honorable friend considered whether it may suggest to the State Parliaments that we want to arrogate to ourselves powers which they prefer to exercise themselves? They are sensitive, because I see they are passing resolutions of condemnation upon us for 'extravagance' - justly, I think, in some respects - and they may say - "The Federal Parliament, not satisfied with the enormous powers which have been withdrawn from the States, are intimating to us that they want us to hand over something else."

Senator Playford

- A good many of them think that Victoria is like the fox that lost his tail, that she is calling the other foxes together so that they may give up their tails.

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Senator Sir JOSIAH SYMON

- Because the loss of the tail was an improvement. Here it is the presence of an extra tail. Victoria has the factory legislation from which other States are free, and undoubtedly thinks that New South Wales, with all her natural resources and advantages, is in a better position to compete with the manufacturers of other States, by reason of her being free from factory legislation, than she would otherwise be. But there are two aspects for my honorable friend to consider in deciding whether he will press the motion to a division. If he does press for a division, I shall vote with him, but I ask him to consider whether it may not be prudent to withdraw the motion, for although it undoubtedly would be an intimation to the States that we are prepared to legislate on these matters, on the other hand, they may regard it as an unwarrantable interference, an unwarrantable suggestion to them that they are to deprive themselves of other powers, having already given us enough. Senator McGregor has raised a very important question as to whether the Commonwealth Parliament has not inherently the power of dealing with this subject. Opinions on the instant are perhaps not always the most valuable, but as he has expressed his, I shall express mine. So far as my judgment is concerned, the Federal Parliament has not the power to deal with this matter unless it comes within the category of sub-section (37) of section 51, as a matter referred to this Parliament by the Parliament of any of the States. I am not saying that with a view to minimizing the exceedingly forcible point which he raised, but I think he will see that sub-section (1), as to trade and commerce with other countries and among the States, has a fairly definite and clear meaning, and was understood in the Convention not to refer to manufacturers or to manufacturing industries, but to trade and commerce as ordinarily understood.

Senator Playford

- To trade movements.

Senator Sir JOSIAH SYMON

- To the movements of commodities from overseas into the Commonwealth and from State to State. That excellent expression, I think, very clearly indicates what the intention of the Convention was. When we come to sub-section (39) empowering the Commonwealth Parliament to deal with matters incidental to those previously specifically expressed, we must interpret that as having relation to the subject-matters already dealt with, and therefore the matters incidental would be subjects incidental to trade and commerce within that meaning. At the same time I am bound to say that a suggestion such as Senator McGregor has made is entitled to very great consideration. It sets one thinking, and I hope that the thinking will go on until we have an authoritative definition on the subject. Senator Stewart might better put his motion in this form -

That, in the opinion of this House, it is expedient for the Parliament- of the Commonwealth to make laws - then strike out from the word "accept" down to the word "Australia"-- as to the wages, hours, and conditions of labour - and then use the words of the Constitution - if referred by the Parliament or Parliaments of any State or States.

Senator Drake

- Why not the present form 1

Senator Sir JOSIAH SYMON

- Because it is not applicable to the words of the Constitution.

It is expedient for the Parliament of the Commonwealth to accept full power.

That is what the motion says. We have the full power. All that the State Parliament has to do is to refer to the Federal Parliament the subject-matter, but the State Parliament does not give us that power.

Senator Drake

- This motion affirms that we will accept the responsibility if the States Parliaments refer the matter to us.

Senator Sir JOSIAH SYMON

- We had better put the matter in conformity with the Constitution. We have power to make laws in this way, but the matters on which we have power to make laws must be referred to us by the States Parliaments. The words of the Constitution are -

Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States.

What the mover of the motion wishes to affirm is that it is expedient for the Parliament of the Commonwealth to make laws upon matters referred to it by the Parliament or Parliaments of any State or States. If my honorable friend puts his motion in that form, so as to make it accord literally with the Constitution, I shall support him if he presses it to a division; but I ask him to consider whether after all it is expedient to pass the motion in view of the possibility of the States Parliaments being rather repelled than encouraged by the passing of such a motion to refer these matters to us. If the States Parliaments are moved, and do refer these matters to the Federal Parliament, we shall be in exactly the same position as we are now in, of determining whether or not these matters shall be legislated upon by the Federal Parliament, and in what terms they shall be legislated upon.

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Senator BARRETT

- I am glad to see the unanimity that has been expressed with respect to this motion. I think that honorable senators will agree with me, when I say that at the present moment we are face to face with an industrial crisis in Victoria. We have to recognise that a dislocation of our industrial conditions has been brought about by the inauguration of federation. This is part of the price that the industrial classes have to pay, for the time being at any rate, for federation. Yet at the same time, I say without the slightest hesitation that the factory legislation of Victoria has been a great success. Possibly, with the peculiar conditions that are facing us to-day, it may require a little time to bring about the desired result, but I have faith enough to believe that notwithstanding the opposition that has been shown to the Victorian factory law, not only in this State, but in other States of the Commonwealth, in a short time that opposition will be overcome and uniform factory legislation will prevail throughout the whole of Australia. Another place has also passed a similar resolution to the one before the Senate. Therefore the Senate cannot go very far wrong by following in that direction. Some criticism has been expressed with regard to the working of the Victorian Act by Senator Sir Frederick Sargood. I want to show that that criticism does not affect the successful working of the Act, but rather that what has happened has been due to the efforts of certain interested persons who at all times were opposed to the Act and desired to bring about its destruction. Mention has been made of the wages boards, and it has been said that persons not interested in a particular avocation, or who perhaps had not been working at a particular industry, have been appointed members of the boards. Let me say at once that that statement is perfectly correct; but if the true explanation is given, the Senate will have an altogether different idea of what has happened. In one case which I can mention, the reason for the apparent failure was that a decision had been arrived at by the board originally appointed with regard to certain matters, whereupon the employers' section of the board put on their hats and walked out, because they did not get their own way. Another case which I will mention has reference to the woollen board. I do not think that we should keep back any statement with respect to this matter. The public should understand fully the position of one or two boards, and why apparent failure has been the result of their operations. In the case of the woollen board, the employers themselves objected to employees, who were actually working in the trade, and threw every obstacle in the way of arriving at a decision. There were several gentlemen appointed to

the board from the employees' side, who, though not actually engaged in the trade at that time, had, prior to that, for many years been so employed and understood perfectly well the subject they had in hand. In another case I am aware with respect to the woollen board that a gentleman was appointed who was not actually connected with the industry : but I ask why there should be a bar in this direction? It is not always those who are particularly interested in an industry of this character who are best able to put matters before the board in the way the employees desire. As Senator Sir Josiah Symon has pointed out, a man possessed of a judicial mind, who may not be interested in, or may not know very much of, a particular trade, may be able by virtue of his general abilities to put the case in a better way than employees actually engaged in the trade, who may understand the subject much better and yet not be able to explain their point of view. But in this case let me say that, though the woollen trade is one of the highest protected industries in the State of Victoria, the employers have always thrown obstacles in the way of the working of the "Wages Board, with the result that those who believe in what is called the new protection have come to the conclusion that it is not right and fair to protect certain industries at the Customs to the extent that Victoria has protected them in the past, unless the employers are prepared to give proper wages and proper conditions to the employees in the industry. Therefore, I say that in several cases where there was an apparent failure on the part of the wages boards, it has been caused by the obstacles that have been thrown in the way. At the present moment, those who have opposed factory legislation see that their time has apparently come, and are, to use a popular phrase, prepared " to move heaven and earth to prevent uniform factory legislation throughout the whole of Australia. Senator Drake urges, as a reason why it may not be expedient for the Senate to pass this motion, that at the present time the Federal Parliament has a good deal of work to perform, and may not be able to take up the subject. So far as I am concerned that is not a sufficient reason. The question with me is - what is the proper course to adopt? Is uniform factory legislation desirable ? I believe we are unanimous with regard to that ; and if the necessary power is given by the States to the Federal Parliament, undoubtedly this Parliament will have to find time to carry out what is the wish of the people of the States with regard to the matter. We are not asking for anything unreasonable. We are simply inviting the States to give us this power, because we recognise the gravity of the situation. If they are willing to do so, we are prepared to pass the necessary legislation. Senator Sir Josiah Symon has made some remarks with respect to Judges of the Supreme Court being placed upon wages boards. In connexion with that point I may say that Judge Backhouse, of New South Wales, as a commissioner appointed by that State, visited New Zealand to make inquiries with respect to legislation in connexion with conciliation and arbitration, boards. I recognise with Senator Sir Frederick Sargood that, to a large extent, conciliation and arbitration boards cover the same ground as factory legislation, such as we have in Victoria, does. Possibly in some directions a conciliation and arbitration board is preferable to a wages board. Judge Backhouse told me privately, however, that he visited the arbitration courts in New Zealand, where the questions in dispute were argued by laymen from the various trades interested in the disputes and that during the whole of his experience as a (District Court Judge in New South Wales he had never heard cases more ably argued¹ than they were then. This simply shows that there are men in connexion with the trades who are able to put their cases before an arbitration court or similar tribunal in such a way as not only to give the necessary information, but to present matters with the necessary skill to enable the board to come to a sound decision. I sincerely hope that the motion submitted by Senator Stewart will be carried. I feel the importance and gravity of the situation. I indorse all that has been said with respect to the work of those affected by legislation of this kind ; and I believe that, although there are difficulties in the way, and though there is an apparent amount of danger in the position occupied by the trades in Victoria, yet, after all, in a short time these difficulties will be cleared away, and uniformity in connexion with factory laws will be an accomplished fact.

Senator PEARCE

- I think this debate has been most interesting, and dealing as it does with such an important, subject, the time taken up on it has been well spent. As Senator Barrett has said there is at the present time in Victoria an industrial crisis, but that crisis has been, much exaggerated by a press whose influence is directed against the factory legislation which Senator Barrett so earnestly defends. We must, on that account, depreciate the alleged importance of the crisis. The question before us in this motion is whether it is advisable to allow factory legislation to be dealt with by the States, or that we should have uniform factory legislation by the Commonwealth Parliament. We must deal with the subject very carefully or we

may commit ourselves to a course of action with which Senator Barrett and other senators would not agree. What are we to understand by uniform factory legislation? Are we to understand that we are to have in certain trades a uniform rate of wages throughout Australia?

Senator Barrett

- Oh, no.

Senator Dobson

- We cannot have it.

Senator PEARCE

- No, but I am certain that is behind the movement in certain quarters.

Senator Dobson

- It is impossible, in my opinion.

Senator PEARCE

- It may be impossible, but I am sure that what is stirring up and causing this agitation is a desire in certain quarters to have a uniform rate of wages in certain manufactories throughout Australia.

Senator Walker

- I believe that is so.

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Senator PEARCE

- I am certain of it, and I remind those who are supporting this motion, that that may be one of the consequences of such action. Of course the ultimate shaping of any legislation on the subject will rest with this Parliament, and we may so shape it that that end shall not be attained. But, if that is not the end for which some are striving, what is their object? Is it that they object to the Victorian manufacturer having to safeguard his machinery? That does not impose any very great disability upon him, because from personal inspection I am able to say that in some of the factories the machinery is not safeguarded to any greater extent than in other places where there is no factory legislation. Seeing the source from which this agitation is coming - not, of course, in this particular instance - I am impelled to the opinion that at the bottom of it there is the desire for a uniform rate of wages in various manufactories throughout Australia, and we have to ask ourselves whether that is desirable. As one who has always taken an interest in this particular legislation, I have closely watched the meetings and decisions of the various wages boards in Melbourne, and have taken a keen interest in the wages they have fixed for their particular trades. I should not like to vote in any way that would cause the rate of wages fixed by wages boards in Victoria to be the rate of wages paid in various factories of a similar kind in Western Australia. By doing so I would not be acting in the interests of employees in those trades in Western Australia. If behind this matter there is the idea that we are to have throughout Australia a uniform rate of wages, it is a most dangerous proposal, and one I should not support. But that factory legislation should be uniform in other respects, I quite agree. There should be uniformity so far as the hours of work, sanitary conditions, and various other conditions surrounding factory life are concerned. I believe there is a far more satisfactory method of dealing with the wages question than by wages boards, and that is by means of an Arbitration Act.

Senator Barrett

- It is a quicker way, at any rate.

Senator PEARCE

- It is a quicker way and it is a more satisfactory way, and one great advantage is that unless there is dissatisfaction existing between the employer and the employee, the court is not put into operation. It seems to me that under the Factories Act in Victoria, in some cases the wages boards step in where there is no great desire on either side for any interference by them. Under the system of arbitration for fixing wages, dissatisfaction has first to exist before the arbitration court can do its work. Here I would say also that an arbitration court is superior to a wages board, because under the arbitration court proceedings we have the case for the employer and the case for the employee put and argued by those directly interested in the dispute, and having a direct knowledge of the conditions under which the work is carried on. We have one employee, who, though he may not be a member of the particular trade in which the dispute has arisen, knows what it is to work for wages and to live under similar conditions. We have, on the other hand, an employer, who knows what it is to employ men and to bear the brunt of severe

competition; and we have a third man with a judicial mind, who cannot be influenced by either party, and has no bias to either party, and will give a decision upon the evidence which has come before him. That would be a board far superior to the ordinary wages board under the Factories Act in Victoria. For these reasons I believe that an Arbitration Act would be far better for both employers and employees, and would be more just in its action towards those engaged in commerce and the workers of Australia generally, than would be the operations of these wages boards if extended as might seem to be indicated under this motion. I intend, however, to vote for the motion for the reason that it will draw the attention of the State Governments to the necessity for some such legislation as this. I do not think they will willingly hand over to the Federal Parliament the power of making these laws. I believe they will desire to retain the power, and I vote for the motion believing that by drawing their attention to the matter and having it discussed by the State Parliaments action of some sort may be taken by them to pass improved factory legislation. Listening to the debate, one cannot help thinking that no sooner are some of these industries which have been assisted by a protectionist Tariff called upon to bear fair competition, and exist under fair conditions, than at once the outcry goes forth that this legislation is restrictive. I have listened with some surprise to manufacturers in the States asking that they may be assisted by protection through the Customs, and asking us to use our influence and our vote to continue the protection they have had in the past; while, almost in the same breath, they are asking us to vote against any legislation which comes before Parliament in the direction of interfering in any of the transactions between themselves and their employees. That is a most inconsistent position for them to take up. If, as they say, they cannot be trammelled by this legislation, and cannot be trammelled by an Arbitration Act, but must be free to deal with their employees as they like, it will be for this Senate seriously to consider whether we should continue to extend to them those privileges they have enjoyed in the past through the Customs-house. For the reasons I have given I intend to vote for the motion, believing that, if carried, the State Parliaments will not hand over the power of framing this legislation to the Commonwealth, but will see that it can be more effectively dealt with by themselves.

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Senator DOBSON

- Inasmuch as the 37th sub-section of clause 51 of the Constitution Act enables this Parliament to deal with any subject which may be remitted to it by a State, it appears to me that there is no necessity for this motion. I am not going to oppose it on that ground, but in view of the presence of that subsection in the Constitution, it appears to me that every honorable senator who votes for the motion or supports it cordially may be taken, in his own State, to be of opinion that each State ought to ask this Parliament to deal with the factory laws. The motion to my mind opens up a question affecting the whole industrial life of the Commonwealth, and I do not feel myself at liberty, to say - as I think I should inferentially be saying if I cordially supported the motion - that Tasmania would be prepared to pass any such Act as would give to this Parliament the right to interfere with her industrial life. She may be willing to do so, but I do not consider myself justified in expressing any such opinion. I have not thought sufficiently about the matter to express an opinion, but if I did express 'any opinion it would be that she would not do so. It appears to me that Senator Barrett hit the nail on the head when he said that there is an industrial crisis, going on at the present moment. But that industrial crisis is confined to the State of Victoria, because the State of Victoria has gone rather too far ahead in progressive legislation.

Senator Barrett

- That is a question of opinion.

Senator DOBSON

- It therefore appears to me absolutely impossible to conceive that the other States will for one moment do anything which will enable this Parliament to fetter them in the slightest degree with industrial legislation, which may cause to them the embarrassment which Victoria is feeling now. I sympathize greatly with the workmen of Victoria, because they have, through their trades and labour councils and through their representatives, practically compelled the Parliament of this State to pass an advanced Factories Act. I am afraid that under it the wages boards have gone too far, and taken too much power upon themselves, and the workman finds that an Act passed for his benefit is likely to end disastrously to him.

Senator McGregor

- I have never heard any workman say so. It is generally somebody else who says that.

Senator DOBSON

- I think honorable senators will find that in New South Wales, where they have free-trade and no Factories Acts of this kind, their, factories are increasing, the output of the factories and the number of men employed in them are increasing, as will be seen from the returns published every six months.

Senator Barrett

- What wages do they get?

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Senator DOBSON

- They will find that there is very little dissatisfaction there where they have got no factory laws ; and, as a fact, they are receiving one-third less wages than employees in the State of Victoria are receiving. We may depend upon it that the leaders in the State of New South Wales will desire to keep their State well in advance in the industrial race which we all have to run, not only with the individual States, but with the countries of the world. New South Wales will never dream of giving up its freedom and its unfettered rights, not only to trade as it pleases - though it has done so to some extent so far as the Federation is concerned - and will not give up its rights and its freedom in connexion with industrial life. To go to some extent into the merits of the matter, and see really what it is that Senator Stewart wants: As I understand it, the principal object of the Factories Act in Victoria was to put down sweating, and more particularly in the clothing trade, in which men were supposed to be making trousers and coats, and women making shirts at starvation prices, destroying their health, and toiling to earn a mere pittance for their work. Any Act of that sort must command the sympathy of every man in Parliament and out of it, and there ought to be some legislation in every State which will secure to the worker a living wage so far as it is possible. May I venture to make a suggestion and a prophecy? I think the whole of the trouble in the State of Victoria has come about through a want of courage in its public men, in its leading citizens, and particularly in its parliamentary representatives. The whole thing is bound up in the two words " minimum wage. " What I understand, by a minimum wage is the lowest wage upon which a man can live. I do not understand that a minimum wage is to be put so high that it will shut out all the bad workers, the physically unfit and the mentally unfit workers. While it is right that we should secure for workmen a living wage we must* give a living return to the factory employer. If we take a living wage as the lowest wage upon which a man can live, that in every Case might be the minimum wage. The working man and the working man's representatives would go mad with horror if that were the principle adopted in fixing the minimum wage, but, nevertheless, that is what I understand to be the meaning of it. I consider it is simply impossible to have a uniform wage. My honorable and learned friend, Senator Sir Josiah Symon, pointed out that he was absolutely in sympathy with the motion and with uniformity of legislation, but the very next moment he gave the whole case away, because he said that a minimum wage throughout the Commonwealth was impossible. And so it is. He used the argument that in a cool and good climate men might work for from 6s. to 8s. per day, whereas in tropical countries wages would have to be greatly increased. ' In Tasmania our wages are to some extent lower than in Victoria and New South Wales. We have very small factories, and a very small amount of capital invested in them. If we had a wages board there, putting up wages in some of our small factories, employing only half-a-dozen men or women, to the rates which men and women receive in Victoria, it would absolutely spell ruin to two-thirds of those establishments. In fixing the rate of wage, consideration must be given to the cost of living, to the question of house rent, and matters of that kind. Uniformity of wage and of legislation is simply impossible, except upon the condition that you want to protect men and women, and to see that they are not oppressed by sweating employers. Apart from that, I think that few of the States will give up the right which they possess to legislate in regard to their own factories. Tasmania hopes to become more of a manufacturing centre in the future than she has been in the past, but is it possible that she can be so, if we tie her hands as Victoria's hands are tied up ? Is it possible if we allow the appointment of a chairman of a wages board who considers that we must have uniformity of wages in every trade and under all conditions ? We have read this morning of an unfortunate man in a jeweller's shop, probably a cripple, who was getting 30s. a week, and was perfectly content with it. He was getting a living wage. Then the Factories Act came into operation, and the employer said he would give this man 35s. a week. "No," replied the chairman of the wages board, "You must give him 40s. a week," and the unfortunate man lost

his employment. It is all very well to say that a portion of the press is exaggerating the harm which, the wages boards are doing to the factories and indirectly to the working men. A kind of wave has passed over Victoria under the influence of which no man who did not go in for factory legislation, and who did not approve of the minimum wage - not a low minimum wage such as I think is desirable, but a minimum wage which must be too great a burden on some factories - would be supported. The electors were so excited about these matters, and the Trades and Labour Council were so determined to have them, that this wave swept everything before it, and factory legislation has been carried to such an extent in Victoria that it is a positive fetter on the investment of capital. It must shut up some of the factories here, and something will have to be done to suspend the operations of the Factories Act. Under these circumstances it is impossible to conceive that we can induce the other five States to get themselves into the trouble which is now being experienced in Victoria. Then let us turn to New Zealand. Not long ago Mr. Seddon was lecturing the workmen there, and telling them they were too greedy and exacting, and played the tyrant too much in connexion with the factory laws. He told them that if this continued there would be a revulsion of feeling which would probably lead to some of these Acts being taken away from them.

Senator Pearce

- Is the honorable and learned senator aware that the number of factory employes has doubled in New Zealand since the coming into operation of the Arbitration Act?

Senator DOBSON

- I know that these laws were passed for the benefit of the working men, and that New Zealand has got on better than Victoria. I am only saying that Mr. Seddon has warned the working men in New Zealand that if they play the tyrant some of these Acts may be repealed. If you administer the law fairly and rightly, and recollect that it takes two to make a factory, the employer on the one hand and the employe on the other; and that there are two things necessary for success, capital on the one hand and industry on the other, it is all right. As for this demand for uniformity of factory legislation, I do not think there is any such thing in the United States. In some of the States of America they do not allow a strike to take place. I believe that in the great Carnegie steel works, and in some of the cigarette factories, they do not even allow a union.

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Senator Pearce

- Would the honorable and learned senator like to see such a state of things here?

Senator DOBSON

- No; I think that it is right for employers to have a union to protect themselves and their industries, and for the employes to have the same. What we want to do is to be fair to both parties. I am not going to oppose the motion; but I am not particularly anxious to vote for it, because it may thus appear to Tasmania that I think the Legislature of that State should refer this matter to the Commonwealth Parliament. I do not think anything of the kind. I am not even inclined to believe that they will do so. I think that they would rather retain their industrial freedom and allow each State to work out its own industrial life on its own terms, and having regard to its own conditions.

Senator O'KEEFE

- I was reminded, when listening to the fluent and eloquent speech just delivered by Senator Dobson, of the great outcry which was made by a section of the press throughout Australia a few years ago against what was termed the advanced legislation then being enacted in New Zealand. It was said that one of the effects of this legislation would be to drive capital out of that country and to bring ruin upon it generally. We have only to look at the position of New Zealand to-day, after that legislation has been in operation for some years, to see that those prognostications of ruin; made by a conservative and an interested press, have not been borne out. I think it is not going too far to say that a great deal of the agitation now being raised against factory legislation in this State may be attributed to an interested press; to a press which, I make bold to say, has been always found more on the side of the employer than on the side of the employe. It is only in accordance with the traditions of that section of the press that it should raise this great outcry against the working of the Factories Act. It is a strange thing that we do not hear any objection to the Factories Act or against the working of it in Victoria from the employes, and I am sure we have amongst the employes here, as in other States, fair-minded men. I should not have risen

had it not been that my colleague from Tasmania called attention to the fact that we have no Factories Act in that State. For that I, unlike Senator Dobson, am extremely sorry.

Senator Dobson

- I said that each State should have an Act to stop sweating.

Senator O'KEEFE

- But the honorable and learned senator must allow us to remember that he said that if a Factories Act were introduced in Tasmania it would bring ruin to the few industries there.

Senator Dobson

- No, I said that if a wages board were to raise wages there the factories would be ruined.

Senator O'KEEFE

- There is the sting of the whole thing. Having been brought more in contact with labour than Senator Dobson, having earned my own living with my hands, I can speak from experience, and I say that labour in Tasmania has never been too well paid. We have had no organization there to improve the conditions of labour, nor have we had the benefit of a Factories Act or a wages board of any description. I was extremely interested in Senator Sir Frederick Sargood's speech on this matter, because I must, in justice to him, recognise and admit that he has been looked on as one of the fairest employers in a large way of business in Victoria.

Senator Barrett

- We all admit that.

Senator O'KEEFE

- We all admit that, but unfortunately for humanity all employers are not built of the same material. I do not think that Senator Sir Frederick Sargood was quite right, however, when he said it was generally the small employers who paid the low wages.

Senator Sir Frederick Sargood

- I said there was a strong pressure and temptation for them to do so.

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Senator O'KEEFE

- There may be, but at the same time I think the honorable senator was answered by Senator McGregor, whose remark coincides with my own experience, that it is not always the case that the smallest employer pays the lowest wages. I hope the motion will be supported for this, perhaps more than for any other reason, that in Tasmania there is no Factories Act and no legislation of a kindred kind. I think that the carrying of the motion may induce the State Parliament there to take up the matter and do something in this connexion. I sincerely hope that it will do so. If there is one State in the Australian Commonwealth in which the labouring classes have suffered from what I may call too conservative legislation in the past - legislation that has always been opposed to provisions of this advanced character - it is the State of Tasmania.

Senator CHARLESTON

- In reading this motion I was rather at a loss to know why the honorable senator responsible for it, instead of bringing the matter up here, had not stirred up his fellow workers and the members of the State Parliaments to agitate for the introduction of the motion in the State Legislatures. Knowing that the Constitution clearly sets forth that the Federal Parliament can deal with such matters as may be referred to it from the States, I thought it would be well for the labour party in every State Parliament to agitate there that this question be referred to this Parliament, if they think that a question of industrial legislation could be better dealt with here than there. I do not think that the State Parliaments will surrender their power in this matter. In South Australia last year we passed an Act very similar to the Act of Parliament of Victoria, and a great many of our manufacturers regretted that in the Commonwealth the factories law would not be uniform; that New South Wales, and perhaps Tasmania, Western Australia, or Queensland, not having the same restrictive factory legislation as we in South Australia had, would be placed at some advantage, and they urged that uniform factory legislation ought to be passed. But, notwithstanding their wish in that respect, I failed then to see how we could induce the States to hand over to the Federal Parliament the powers which they hold. It seems that after all the State Parliaments would be in a position to deal with the matter far better than the Federal Parliament could, because the legislation then would be in conformity with the conditions of the State. If we attempted to fix the rate of wages for the whole of

Australia we should be committing a very great mistake because the conditions are vastly different in this great island continent. For instance on the mines in Western Australia, I presume the men would expect higher wages than they would expect in the Wallaroo mines.

Senator Stewart

- The wages would be fixed locally.

Senator CHARLESTON

- If the wages are to be fixed locally, then we may just as well leave the State Parliaments to legislate on the subject.

Senator O'Keefe

- But some of the State Parliaments will not do it.

Senator CHARLESTON

- I do not know whether they will or not. In Queensland labour has a very strong representation, and the same thing may be said of New South Wales after the results of the last election.

Senator Staniforth Smith

- But they cannot carry labour legislation in Queensland.

Senator Drake

- Labour returned 21 members out of 72, I think. Senator CHARLESTON.- Seeing that labour has such representation in the various State Parliaments, the better way would be for the labour party to agitate within their own States that this matter should be dealt with there, and if they find that it is utterly impossible to introduce such factory legislation as would tend to ameliorate the lot of the workers, and to place them under healthy conditions, then they should agitate for the State Parliaments to refer the matter to the Federal Parliament. I am strongly in favour of such factory legislation as will preserve the lives of the workman, and give them good healthy conditions to work under. I am also in favour of such conditions as will enable every man to have a comfortable home, and to be surrounded with such conditions as we, in this highly productive era, ought to enjoy.

Senator McGregor

- All the conservatives say that, but they never do anything.

Senator CHARLESTON

- Where you can get such legislation passed as has been passed in Victoria and South Australia, where there are a good many conservatives in both Houses, it is unfair to say that even the conservatives will not grant favorable conditions to the working people; or assist to pass such legislation as will enable them to live and work under satisfactory conditions.

Senator McGregor

- The honorable Senator knows that it has been carried in spite of them.

Senator CHARLESTON

- If it has been carried in spite of them, it has been because the people elected men to carry such legislation; and in any State where, as in South Australia and Victoria, every adult has a vote, it rests with the people to say whether they will have such legislation as this.

Senator STANIFORTH SMITH

- In Victoria every adult has not a vote.

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Senator CHARLESTON

- I have not refreshed my memory lately, but it is a very broad franchise here. Where the franchise is so extensive as it is in Australia, it rests entirely with the people in their choice of men to say what kind of legislation they will have. Although I think that uniformity in factory laws, such as would guard the workman against accident as much as possible, and insure that he should work under healthy conditions, is desirable, still, as Senator Stewart said, if the various States are to regulate the wages, practically we must look to the States to act. There would not be uniformity probably in the matter of wages, but as to any of the other matters, I think we can and will have uniformity practically. Under the Health Acts, the Employers Liability Acts, and such Factories Acts as we have, practically uniformity will be brought about. And, believing that it is one of the things which the State Parliaments can best deal with, I hope that it will be left with them to deal with; but, should it be referred to the Federal Parliament by them, then, if I am honoured with a seat here, I shall be very pleased to do what I can to pass such legislation as will make

the conditions of the workers all that is desirable.

Senator Lt Col NEILD

- This seems to be one of the occasions upon which a member of the Senate has to consider not only his personal views but essentially the views of the State he was sent here to represent. Unfortunately I am not in a position to consult with a moiety of the representatives of New South Wales, as they are non est.

Senator Walker

- No.

Senator Lt Col NEILD

- One moiety is here, but the other is away. As to the moiety present, I think if my honorable friend speaks he will occupy very much the same attitude on the subject as I feel that I am compelled to do. What Senator O'Connor may have to say is a matter which I do not intend to touch upon, because possibly we do not represent quite the same views on questions of this sort. But, speaking so far as I am able, on behalf of New South Wales, I thank Senator Dobson for the very clear way in which he put some of the industrial requirements and obligations of the people of the State. For very many years I was honoured with the representation of a constituency that was eminently cosmopolitan - if I may use the expression - so far as the electors generally were concerned. It was an eminently representative constituency - in no shape or way a conservative one, but quite the reverse. I suppose that no day of my life, including Sunday, has passed for many years, whenever I was available, without my being applied to by from half-a-dozen to a few score perhaps of persons seeking - some form of employment. However anxious for employment were the people whom I met, I cannot call to mind any instance when any one of the workers of New South Wales, who interviewed me so frequently, took exception to the rates of Pay that were given in the industrial concerns of the country. They may have been dissatisfied with them, but certainly that dissatisfaction was never indicated to me. So far as I can remember, I never heard any of the numerous, active, and highly-influential members who represent specially the so called labouring classes of the community there - and I say "so-called," because we are all pretty hard workers in some sphere of labour, and there is not much difference between the slavery of the pen and the brain and the slavery of the arm and the tool, or the apparatus of labour, as it is called. We are all workers, and I do not differentiate between the man who is behind the counter or at the desk and the man who is in the workshop or in the field. We are all labourers of some form in the hive of human industry.

Senator McGregor

- And some get paid too well.

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Senator Lt Col NEILD

- Yes, it would appear that some of the recent legislation in Victoria has culminated in what Senator McGregor says, that some are paid too well. There is such a thing as supply and demand. There is such a thing as killing the goose that lays the golden egg. We appeal to have all around us to-day evidences of the fact that the best designed efforts may produce unexpected and unfortunate results. I do not think any incident of my life can be tortured into an accusation that my feelings and best efforts have been devoted other than in, the interests of those who require help; and I do not oppose this motion out of any disregard for the interests of those engaged in toil, but simply because, whatever my private feelings may be, I do not understand that the general interests of New South Wales require the carrying of the motion. I have spoken of the rates of wages ruling there, to which Senator Dobson made special reference, and I know that if there is any place in Australia where the question of a minimum wage has been a Ministerial hobby it is in New South Wales.

Senator Staniforth Smith

- Are not the wages there one-third, less than in Victoria %

Senator Lt Col NEILD

- It must be remembered that the cost of living in New South Wales is one-third less than in Victoria. Only last week I bought in Sydney for 2d. a plain chemical, not a compound, for which I had previously had to pay 6d. in Melbourne. I wanted to buy something else for which I was asked 4s. 6d. in Melbourne, whereas 3s. was the Sydney price. I could give a good many other instances of the kind. Honorable senators need not imagine that I am making a freetrade speech. I am not; because I know that the duties imposed on these articles in Melbourne do not account for the difference in the price. There must be

something else ; and I suppose the higher rate of wages lies something to do with the price, as well as what may be charged at the Customhouse. In New South Wales a distinct effort has been made in the direction of fixing a minimum wage by the emphatic, energetic, and extravagant Minister for Public Works, Mr. O'sullivan.

Senator Pearce

- A very good man, too.

Senator Lt Col NEILD

- A very kindly hearted man, and my personal friend. I am not saying a word against him. I am taking his part in saying that, with the best intentions in the world, he established a minimum wage in New South Wales. But he found that he had to have three minimum rates of wage. Instead of having one minimum rate of 7s. per day, Mr. O'sullivan has had to have 7s. for 'one class, 6s. for another, and 5s. for a third. So that even the apostle of the minimum wage has had to abandon his own theory and institute a compromise.

Senator Pearce

- The Daily Telegraph gave the honorable senator that argument.

Senator Lt Col NEILD

- The honorable senator perhaps knows that I was engaged in political adventures in New South Wales even before the Daily Telegraph existed, and there is no one on its staff who would suppose me so densely ignorant of the facts as to have to seek them from the columns of even so intelligent a journal. Senator Dobson spoke of the satisfaction that apparently exists in New South Wales in reference to the minimum rate of wages, and Senator Charleston referred to the large representation of the working classes in the New South Wales Parliament.

Ever since 1891 the labour party in New South Wales has unquestionably been the dominant party, because they have been the fifth wheel of the coach, always ready to topple it over whenever they did not get what they desired. No one can accuse the labour party in New South Wales of being ignorant or inactive. Yet in the Legislature of that State, a proposal of this kind has never been considered by the labour party.

Senator Barrett

- There are too many free-traders there.

Senator Lt Col NEILD

.- Perhaps that accounts for the success of the labour party.

Senator Walker

- The labour party is free -trade in Great Britain.

Senator Lt Col NEILD

.- That is so; but I do not wish to discuss this question from the point of view of free-trade or protection. The workers of the different States have shown no anxiety to obtain uniform factory laws from the Federal Parliament, and their representatives in the State Parliaments are not likely to throw aside the power they now have in this respect at the instance of this Senate. At the election for the members of the Senate in New South Wales, no successful candidate polled less than 70,000 votes, but the total number polled by the labour candidate highest on the poll was, I think, only between 25,000 and 29,000. That showed clearly that the workers of New South Wales were not anxious to have direct representation in the Senate. They evidently preferred to keep labour matters in their own power. If in the local Legislatures the special representatives of labour have not taken up this question - if it is not in the platform of the labour party of the State from which I come - it is not likely that they are going to throw aside their power of dealing with labour legislation by agreeing to this proposal, even if the Senate carries it.

Senator Pearce

- They are agitating for an Arbitration Act.

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Senator Lt Col NEILD

- That is a step on the way, perhaps ; but there are sometimes advantages in hastening slowly. New South Wales has made great sacrifices for federation, and one of the results that we hoped to obtain by way of a quid pro quo was the advantages that would flow from enlarged industrial enterprise within our own borders. I do not think it will be found that the people of New South Wales to any appreciable degree

would, with the prospects of intercolonial free-trade in view, be at all disposed to part with those advantages to which we were told to look forward, and seek to place their industries in bonds and fetters, with the effect of destroying what we were told would be the crown of the federal enterprise.

Senator McGregor

- What advantages does the honorable senator mean 1

Senator Lt Col NEILD

.- The advantages that would flow from the development of our local resources, with the larger markets of the rest of the States thrown open to us. For the last twenty years every State in Australia has put up barriers against New South Wales. The State in which we are speaking imposed a stock tax to get at New South Wales and Queensland, and my honorable friends from Queensland know that the result has been that their live stock has been kept out of Victorian markets. We expect, as the result of, federation, that all those barriers will be removed. I have said sufficient without going into other details to express my belief that the motion is not in accordance with the views of the majority of the people of the State I represent. Without any kind of unfriendliness either to the mover of the motion or the object he has in view, I do not see my way to support it, though from a humanitarian stand-point I should be quite willing to do so.

Senator WALKER

- Needless to say, in common with other senators, I am in sympathy with the motive actuating Senator Stewart in proposing this motion, which, at the same time, I think is supererogatory when read in conjunction with sub-section (37) of section 51 of the Constitution Act. It has the appearance to some of us of an attempt to assist Victoria, in the position into which she has fallen owing to her factories legislation, to pull chestnuts out of the fire. It also reminds one of the passage in David Copperfield, where a certain individual, called Barkis, says to Peggotty that "Barkis is willin "any time that Peggotty chooses to accept him. That appears to me to be the proposal which this motion makes to the different States on behalf of the Commonwealth Parliament. I was sorry to hear Senator Stewart insinuate that large employers are largely actuated by sweating notions. Although, in common with the honorable senator, I worked in Scotland for very small wages, I recognised that our employers frequently had our good at heart as well as their own pockets. For instance, I happened to be at work in the large mill owned by Alexander Cowan and Sons, and in which there were 600 employes at work. The employers built a church for their employes, supplied them with a schoolmaster, looked after them when they were sick, and by instalments, for three days in each year, they sent all their employes to enjoy themselves on the Pent land Hills. Although the pay was small, one was still learning something, and my experience of large employers is rather favorable than otherwise. I am glad to see that such persons are not confined to the old country. I believe that Senator Sargood is himself a pattern employer, and I hope we have not a few of the same kind in Australia. With regard to the question of wages, it must be remembered that the position of New South Wales is very different from the position of Victoria. Victoria is a comparatively small State, intersected by railways, by which one may go from one end to the other of the State in about 24 hours. In such large territories as those of New South Wales, Queensland, and Western Australia, where the geographical distances are so great, the conditions are very different. I can speak of the conditions prevailing in Queensland, where I resided for 25 years. There at one time while at Gympie miners were getting £2 10s. per week, on the Hodgkin son they were getting £3 10s., and on the Etheridge and Palmer they were getting £1 per week.

Senator McGregor

- This would not affect that.

Senator WALKER

- I do not know whether it would or not. It seems to me from a broad view that it might, but I am willing to accept the assurance that it is not intended to have that effect. I have no intention of opposing the motion, though I speak as a representative of a State that I think will not fall in with the suggestion made, I cannot actually support it. I have known carpenters to be earning £1 a day at Townsville, while at Brisbane at the same time we could have got carpenters at 10s. a day.

Senator Dobson

- And at Hobart for 8s.

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Senator WALKER

- Possibly so. I can say honestly that I have no sympathy whatever with sweating. I believe in paying good wages for good work. But. this minimum wage promises in some cases to become a. maximum wage, and men will not pay more than that wage. If I were a mechanic I should like to be left perfectly independent to make my own bargain, and go where I could get the best wages. I do not think I should care to have to submit to 7s. per day because others were willing to take it.

Senator McGregor

- The honorable senator would not be a unionist any way.

Senator WALKER

- I am not so sure. I think unionists are quite right, provided they do not interfere with the liberty of persons outside their union. I do not object to the unions if they permitted the same liberty to persons outside their ranks.

Senator McGregor

- That is what the burglar says about the police.

Senator WALKER

- Being a free-trader, I am a great believer in freedom of contract ; but at the same time I have no sympathy whatever with sweating. With regard to wages, how can we possibly lay down a general rate of wages which shall be paid to employes on stations, on goldfields, on farms, on sugar plantations, and in factories? Is it proposed that we should make one wage for employés in all those different employments? The whole thing seems like making confusion worse confounded. I think we should leave the States to manage their own affairs in this direction. At the same time I am in sympathy with the objects Senator Stewart has at heart. I recognise that he and those who generally act with him are actuated by kindly motives to their fellow beings. However, they seem to have some sort of edge upon employers.

Senator Stewart

- No.

Senator WALKER

- It appears so to me. When any one has worked hard and got together a little he seems to be looked upon as an enemy of the workman. I would remind the honorable senator that Henry George distinctly gives as his definition of capital, that it is "stored up labour." A labourer lives within his means, and puts by a little capital every year, and really employers and labourers should work harmoniously together, for the employer of to-day may be the labourer of to-morrow.

Senator Pearce

- Henry George also says that the enemy of both is the land-owner. Does the honorable senator agree with that?

Senator WALKER

- Of course I do not swallow all that Henry George says. I had the pleasure of dining with him one evening, and we asked him why, where a State, as representing the people, sold land and got value for it, the State should then propose to tax the holders of the land as if they were guilty of some crime. He admitted that where that was the case it was a very different state of affairs from what he recognised existed in England, where he thought the land had been stolen, as it were. Where a State had sold land and got an equivalent for it he was prepared to admit that it would be an injustice to the landowner that he should not have the right to have his property protected as well as any other form of capital, and that there should not be one law for the land and another for everything else. I am pleased to have heard the debate on this motion, and am pleased to be able to agree with many of the observations made by Senators Pearce, Dobson, Charleston, and Neild. I believe with Senator Neild that as representatives of the majority of the people in our State we cannot give an active support to this motion.

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Senator KEATING

- I should desire that this motion should be passed by the Senate without any dissent. I notice that when a motion of a similar character was submitted in another place it was not merely acquiesced in by words, but by the actual votes of the members of that Chamber. When we have come to the discussion of many matters submitted to the Senate we have heard numerous expressions of sympathy with the principle embodied in a motion. But when we have come to the actual division we have found that members have not entertained so strong a sympathy as to induce them to actually give some concrete expression to the

principle they say they adhere to. I cannot agree with the argument adduced by many honorable senators that this is an unnecessary motion in view of the provision in the Constitution which enables the Commonwealth Parliament to legislate in matters that may be remitted to it by the several State Parliaments. We are all very well aware that we have that power, but so far there has been no disposition on the part of any one of the State Parliaments to take advantage of that power and suggest the remission to this Parliament of any matter which is now within their jurisdiction. This motion is a specific invitation to the several State Parliaments with regard to this one particular matter. I do not see that any harm can eventuate from the carriage of the motion and its transmission through the ordinary channels to the different State Legislatures. I listened with a very great deal of interest to the remarks made by the New South Wales senators on this matter. I must say that I have been a little surprised at the attitude taken up by Senator Neild as a representative of the State of New South Wales. He has told us that the people of that State on entering into federation anticipated that great advantages would arise through the development of the industries of Australia, and he insinuated - at any rate, his remarks were capable of that construction - that the passing of a motion of this character would, to a great extent, nullify the advantages that the people of that State would otherwise acquire under our existing federal union.

Senator Lt Col Neild

- The honorable and learned senator is not rightly interpreting what I said. I did not say that I thought the passing of this motion would have that effect ; but that, in my belief, the people of New South Wales would not be prepared to act in accordance with it.

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Senator KEATING

- The honorable senator, in submitting his views to the Senate, said that he was representing something like 70,000 electors, who had directly chosen him to sit in this Chamber, and that only something like 28,000 or 30,000 of the electors of New South Wales signified their desire to have returned to this Chamber what would be called a labour representative. From that, the honorable senator inferred that the people of New South Wales would not be favorable to a motion of this character, I think I am not misinterpreting the honorable senator when I say that he dealt at some length, and glowingly, upon what had been the attitude of those who advocated the acceptance of the Constitution by New South Wales. The honorable senator stated that they had eloquently referred to the advantages which would be derived by that State, owing to the industrial developments of Australia that would necessarily ensue upon federation. I think I am entitled, therefore, to take from his remarks the inference that the passing of a motion of this character would to a certain extent nullify those advantages. If that is not the position taken up by the honorable senator, I am pleased to know it, because, if he does not take up that position, he can have no objection to the motion, as that was the only reason I could see throughout his remarks which was actuating him in any opposition he might have to the motion. If it be that the people of New South Wales would not be prepared to follow such a course as this, and would not be prepared to accept the invitation extended to them by this Parliament, to submit to this Parliament the consideration of matters of this kind, I take it it must be because they believe they would be surrendering some advantages which they would otherwise enjoy. What would those advantages be? They would simply consist in the difference between the conditions of the industrialists in the State of Victoria, where legislation of this character is in operation, and in the State of New South Wales, where no such legislation is in operation. A great deal has been said with regard to the State legislation of Victoria upon this matter. It has been criticised adversely by a good many people, but I have noticed that the adverse criticisms have to a great extent, and almost wholly I believe, emanated from those very sources from which hostility was met when this legislation was first brought under the consideration of the State Parliament. We have found that when that legislation has been carried into effect, those who opposed it most vigorously when first submitted are now opposing its continuance, and are constantly pointing out what they consider are the inconveniences of the system. We know it is impossible in legislation of this kind, which is comparatively new to Australia, that we should in the first instance, and in its first form, have it absolutely perfect and beyond criticism. There may be anomalies existing, but the real question is as to what is the balance of advantage and disadvantage in the matter. I would not pretend to speak with the authority of Senator Sargood as to the benefits derived from the existing legislation, but from what I have been able to gather from inquiries I have made from different persons in Victoria, though there is a

difference of opinion on the subject of the legislation, there is no doubt that the principle of industrial legislation of this character is one that is worthy of our practical support. I certainly do think, now that we have entered into federal union, now that we are shortly to have Inter-State free-trade, and to have as its concomitant an Inter-State Commission, the avowed object of which is to see that the principles of Inter-State freetrade are given practical effect, and are not nullified by the interference of individuals and States, that it is equally necessary as a concomitant to these conditions that we should have uniform legislation of this kind throughout the whole Commonwealth. Unless we have this uniform legislation, we may have Inter-State free-trade on paper, but it will still be competent for the people of one State to practically nullify it. As Senator Stewart put it, once we get InterState free-trade the whole Commonwealth becomes one economic area, and in that area, if legislation of this kind exists at all, it should be on absolutely uniform lines. Whether we have the power or not to deal with this matter, a motion of this character has been considered and carried in another place, and I do not think we can do the slightest harm in passing it as it is now submitted, and in inviting the various States to remit this matter for the consideration of the Commonwealth Parliament. The other House has already passed a motion of a similar character, and I think the Senate may very well do the same.

Senator STEWART(Queensland). - I am glad that the motion which I have submitted has met with such a favorable reception on the whole. Of course there have been the customary notes of discord, but we must expect that sort of thing when dealing with social and economic questions. It appears to me that the position may be briefly summed up. The whole of Australia, I believe, has been roused at one time or another by revelations in regard to sweating which has been going on in various manufacturing centres, but "Victoria is the only one of those centres which has tackled the question seriously.

Senator Playford

- South Australia has also dealt with it.

Senator Pearce

- And Western Australia has an Arbitration Act.

Senator STEWART

- It appears to me that the only serious attempt to tackle this question has been made in Victoria. Senator Pearce says that they have attempted something of the kind in Western Australia, but we know that Western Australia is not a manufacturing State.

Senator Walker

- It may be some day.

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Senator STEWART

- It may be; the child may be a man some day, but we do not legislate for him as a man, but as a child. Senator Playford informs us that they have also taken the matter in hand in South Australia. If that is so, then I am glad to hear it, for we thus have three States of the group in accord. It remains to bring the other three or four into line. So long as Victoria was able, as it were, to quarantine the goods of the other States and countries where low wages are paid, it was all right as far as this State is concerned. The Victorian manufacturer and workman was protected against the sweating carried on elsewhere ; but now that the barriers are going to be broken down, now that the products of the sweater in any portion of the Commonwealth will be able to flow freely into Victoria, and into other States where sweating is not allowed, it becomes the bounden duty of all the States to look to their position. It will be of no earthly use for Victoria to say - " We will pay such and such wages, and work our employes so many hours per week : we will provide certain conditions under which they shall be employed, and so on," if in other States those conditions are not observed. As I pointed out when I tabled this motion, and as it must be evident to every honorable senator, the tendency will not be to level up, but rather to level down. The State in which the lowest wages are given, and in which the worst conditions prevail, will be the one to set the pace. That disposes in a very great measure of the argument which has been adduced, that this matter would be much better left in the hands of the various States. I agree at once that if it were probable that the various States would take the matter up and deal with it in a uniform way, it would be better to leave it in their hands. Our past experience has proved abundantly, however, that uniformity cannot be obtained in a matter of this sort except by legislation. The various States at the present moment are in exactly the same position with regard to the laws of the Commonwealth, as for example the different wards of a municipality

might be. What earthly good would there be of a law in Melbourne which said that certain wages should be paid in Collingwood, for instance, if it did not enact that the same wages should be paid to persons similarly employed in all the other wards of the municipality. It would be useless for the people of Collingwood to shut their shops at a certain hour in the evening if the people in the adjoining municipalities did not do the same. I have been engaged in the early closing movement, and I may say we have always found that it is one or two men who would not agree to close under any conditions, who are the obstacles in the way of the movement. The majority are always in favour of closing early, but the minority, which may be composed of only one or two individuals, practically override the majority. We came at last to the conclusion that there was no other way to settle this matter than by legislation, which would compel uniform action. With regard to factory laws and general legislation throughout the entire Commonwealth, we are in a very similar position to that which I have outlined. Suppose that all the various States of the Commonwealth, with one exception, agreed to pass uniform factory legislation, but that Tasmania stood out - and we know perfectly well that the interest of Senator Dobson would be exerted in that direction. He has told us that Tasmania aspires to become a manufacturing centre. I have every sympathy with that aspiration. I believe that Tasmania has within itself all the resources necessary to develop manufacturing industries of varied character; but while that is admitted, while we desire to see every State prosper, Tasmania with the rest, we also wish to see the workers have some share in that prosperity.

Senator Dobson

- Can any industry prosper without the workers getting their share t

Senator Keating

- They can get an infinitesimal share.

Senator STEWART

- Unless we feed the worker he cannot work. We must give him enough to carry him on.

Senator Barrett

- We must do that with a horse.

Senator STEWART

- Yes ; but he wants something more. The relative share of wealth which goes to the capitalist and to the labourer in Australia is not 'so clearly defined as it is in the United Kingdom. We find in the United Kingdom that out of every £1 the working classes receive 6s. 8d., whilst the capitalistic classes get 13s. 4d. The division may be a little more equitable here, but it is not by any means so nearly equal as it ought to be, and the more equal division is what is aimed at by legislation of this character.

Senator McGregor

- The honorable senator does not want to rob capital.

Senator STEWART

- We do not want to rob capital, but we want labour to get a fair share of what it produces ; we want labour to work under healthy, wholesome conditions.

Senator Dobson

- That is what we all want.

Senator STEWART

- If that is what the honorable senator wants, why does he not support this motion t Probably he will tell me that this is not the proper way of securing what he desires. I have heard that tale so often that I am tired of listening to it. If this will not do it, will the honorable senator tell us how it can be accomplished ? We shall be only too glad to get any suggestion which he in his wisdom may offer.

Senator Walker

- Why not a system of co-operation ?

Senator STEWART

- I do not believe in co-operation. I may tell the honorable senator at once that I am a State socialist; I am a collectivist. I do not believe in private enterprise at all. I believe that all the affairs of the community could be much better earned on under a system of collectivism than they are at present ; but while I believe in that as I believe in heaven - as something far off but tangible - I think that, in the meantime, we can do something to better the conditions in which we are at present living and working, and this motion, it appears to me, is in that direction. As I was trying to point out, when interrupted just now, if all the

Continental States passed factory legislation on the lines of Victoria, and Tasmania stood out, the result would be that the Continental States would be compelled to abandon their legislation, and they would be reduced to the level of Tasmania. I can quite understand our freetrade friends from New South Wales being so much opposed to this motion, because according to their doctrine they want to buy everything in the cheapest market.

Senator Keating

- Even labour.

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Senator STEWART

- Even the souls and bodies of men and women. That is their doctrine, carried to its logical issue. I do not believe in anything of the kind; I am not a free-trader in that sense. We have abundance of resources in Australia. If we are careful about the division of those resources, and their development, there are good wages for every man and woman employed in every industry. I do not want to see our population reduced to the level of the poorly-paid countries of Europe, and that is the inevitable result if this doctrine of free-trade is pushed to a conclusion. We want to see our men and women decently paid, to protect them against what Senator Sargood called the system of throat-cutting. That is what my motion aims at. It may not hit the bull's eye ; but I think it gets on to the target. Senator Pearce seemed to be very much afraid that underlying the motion is a desire to establish a uniform rate of wages. I do not know what the people of Victoria desire, but if it is the object of any persons to fix a rate of wages which should be uniform for the entire continent, without relation to latitude or any other consideration, I am not with them. The fixing of the wages will come within the province of the local boards, if we are to have wages boards.

Senator Dobson

- Then the uniformity goes at once.

Senator Lt Col Neild

- The uniformity becomes a deformity.

Senator STEWART

- If Senator Dobson will look into the thing a little more closely he will find that it does not go. All the Commonwealth will attempt to do will be to give the people in the different centres of industry power to fix their own rates, or local option.

Senator Walker

- May I ask the honorable senator a question, sir ?

The PRESIDENT

- Yes, if he will answer it.

SenatorWalker. - In the case of boot manufacturers would the honorable senator have the same wages in Rockhampton as in Hobart ?

Senator STEWART

- I do not for a moment imagine that the wages would be the same in Rockhampton as in Hobart. I can easily conceive that a man might be willing to work in Hobart for a lower rate of wages than in Rockhampton; in the first place because the climate in the north is not so agreeable, and in the second place because the cost of living there is higher. But then my honorable friend must remember that the bootmaker's market in Rockhampton would probably be limited to Rockhampton and the central district generally, and he would have the protection of distance as against Hobart. These matters, I think, will always fit themselves in to local conditions. Some honorable senators seem to be afraid that the States will resent a motion of this kind being passed by each House of this Parliament. It is not my intention, and I do not believe it was the intention of the mover in another place, to injure the feelings of the States in any way. All we desire to bring before the States is that it is necessary, unless cut-throat competition is to be resorted to all over the continent, that some uniform taxing legislation should be passed. If the State Governments consider that they are better qualified to deal with the question than we are, they will keep the power in their own hands, but I believe, even if they come to that conclusion experience will teach them, as it has taught the advocates of voluntary early closing, that nothing short of the long arm of the Commonwealth Parliament will be able to reach those who refuse to legislate up to the standard which some of these States have set. I believe that the power should be referred to the Commonwealth Parliament, because it is the only legislative body which has within itself the capacity to deal in a large,

comprehensive, and final way with a question which closely affects the industrial life of the entire continent. I hope that the motion will be passed without dissent.

Question resolved in the affirmative.

ADMISSION OF LEGAL PRACTITIONERS

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Senator DOBSON

- I move -

That this Senate is of opinion that it will be in the interests of suitors and a natural accompaniment of federation if the legal practitioners of each State are admitted to practise in all the other States.

That a message be sent to the House of Representatives acquainting that House of the foregoing resolution, and requesting its concurrence thereto.

That an address be presented to His Excellency the Governor-General, praying His Excellency to transmit the resolution to the Governors of the States.

If, as I gathered from what Senator Drake said this morning, some practice has arisen slightly different from that suggested in my motion by which what we do is communicated to the State Parliaments, that course can be adopted. My first duty is to apologize for the very long time which this notice has been on the business paper. I put it off from time to time during last month because I had received a communication from the secretary to the Law Institute of Victoria, saying that its council would be glad if I would give them an opportunity of conferring with me as to the object of the motion. In accordance with that desire, a meeting of the Law Institute was called, and I attended last week with Senators Harney, Keating, and Clemons. We put our arguments and reasons for moving in this matter fully before the council, composed of some ten or twelve of the leading Victorian solicitors. After discussion on both sides as to which was the best course to adopt to bring about legal reciprocity, the council unanimously passed a resolution in our presence, agreeing to and affirming the desirability of the course which I have taken. That will show the Senate that I have good reason for moving in the matter. It is my duty to point out at once that the motion is very similar in one respect to the motion which has just been carried. This Parliament has no power to deal with the admission of legal practitioners into any of the States. The admission of legal practitioners in each State is regulated by a local Act. It names its own qualifications ; it names the term for which students shall serve ; it gives the Judges power to frame regulations for the examination and the admission of students to the legal profession. The Act of each State, coupled with the regulations, gives the whole of the procedure under which a student can become either a solicitor or a barrister. Of the two courses which were open to me, the first was that of inviting the different States to remit this subject to the Federal Parliament, and expressing our desire and willingness to legislate for the admission of legal practitioners to the Commonwealth and to each State, supposing that the States should be willing to grant that power. The second course was the one which I have adopted, and which the Council of the Law Institute of Victoria has approved - that is, that this Parliament should affirm this principle, and that then we should get the resolution transmitted to the States, not dictating to them in any way, but simply telling them of the resolution of the Senate, and leaving them to take such action thereon as they thought proper. I have not moved this motion without some communication and conference with the honorable senator in charge of

Government business here, and the remarks which were made by the Chief Justice of Victoria three or four days after I gave notice of the motion, and the resolution carried by the Council of the Law Institute, will show, I think, that we are moving in the right direction. And what direction is that? Surely it is that we may affirm the principle that we ought now to be one people, to have one common citizenship, not only in name or in theory, but really in deed and in fact, and that the citizens of the Commonwealth are entitled to the various privileges and advantages which it has to confer. And just as we are going to break down by a Customs Act the barriers between State and State, just as from the moment the Tariff resolutions are laid on the table of another place the duties will be collected, Inter-State free-trade will arise, and a four legged animal can be driven from one State to another, what reason is there, I ask, for saying that a two-legged man, with his brief bag, should not be allowed to go from Victoria to New South Wales and practise his profession there, unfettered and free to obtain all the advantages which the Commonwealth can confer ? This is not merely a sentimental reason ; it is a practical reason, a constitutional reason, and, as my motion says, it is surely that natural accompaniment of being one people, which the legal

profession and suitors had a right to expect would follow on union.

Senator Stewart

- You do not limit the doctor to one State.

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Senator DOBSON

- No. I considered the question of the other professions while I was drawing my motion, but I thought it was just as well for me to keep to the profession I know, leaving doctors, engineers, and architects to look out for themselves; although, practically, I fancy there is very little, if any, fetter on members of other professions going from one State to another. It is only as to the legal profession. I think I may point out, that long before federation was accomplished, the legal profession in each of the States was asking that forms of reciprocity between one State and another should be instituted. To a great extent attempts have been made to bring about this reciprocity. But my honorable friend, Senator Stewart, and others who desire to get uniformity in any important matter, know that it is more difficult to secure this uniformity amongst five different self-governing States than some people imagine. Let me give one or two instances. Tasmania thought it had complete legal reciprocity with Queensland, and a few months ago I had occasion to send a student from my office in Tasmania, who had passed his examinations as a solicitor, to Queensland. He agreed to purchase a business in one of the towns there, the only condition being that he was to get admitted in that State within three months. I arranged a small loan to enable him to purchase the business, but when he applied for admission the judges of the Supreme Court of Queensland told him that they could not admit him, but that the matter must be referred to the Judges of Tasmania to see whether the reciprocity given by Tasmania was equal to the reciprocity given by Queensland to legal practitioners from the State of Tasmania. The case came down to Hobart for the Judges to answer the question. One of the Judges informed me that it was all right, and the case went back. But it turned out to be all wrong, simply because the measure of reciprocity given by Queensland is absolutely full and generous, and they will admit a practitioner from any other State simply on the production of a certificate ; whereas Tasmania, possibly with the idea of being a little over cautious, put in her Act the condition that she would admit a practitioner from any other State supposing he had served five years; or, if he had taken the degree of B.A. at an English University, four years, and so on. They laid down the usual qualifications which almost every student has to obtain. But when the Judges in Queensland found that their barristers and solicitors would not be admitted to practice in Tasmania without having to answer these questions, whereas Queensland admitted Tasmanian practitioners on the production of a certificate, they refused to admit this young solicitor, although fourteen or fifteen years previously a solicitor from my own office went to Queensland, was admitted, and is practising there to-day. Now let me tell the Senate what has occurred in reference to New Zealand. In New Zealand some of the legal gentlemen desired to practise in Victoria. At that time there was not that complete reciprocity between Victoria and New Zealand which the New Zealanders wanted ; but between Victoria and Tasmania there was a very large, and to some extent, complete measure of reciprocity. What happened ?

A New

Zealand solicitor, desiring to practice in Victoria, would write to some gentleman in Tasmania, asking him to give the necessary three weeks' notice by publication in the Gazette, of his intention to apply to be admitted to practice in Tasmania. About three weeks later, the New Zealand practitioner set forth in the steamer. In due course he would appear before a Judge in the Tasmanian High Court and get admitted to the Tasmanian bar, without, however, having any intention of practising in Tasmania. He would simply stay in Hobart until four o'clock in the afternoon, when he would set forth in the steamer for Victoria, and would subsequently apply as a Tasmanian solicitor and be admitted to practise in Victoria. Such applications in those days used to be entertained. This will show the Senate and our citizens generally, that we have been striving after reciprocity, and yet that in so simple a matter, we have not been able to obtain it. I, therefore, ask the Federal Parliament to affirm, by carrying my motion, the principle of reciprocity, in order that it may be forwarded to the various States with the object of inducing them to take up the question of uniformity or federation in the matter of legal practice. Victoria is regarded, to some extent, as the stumbling-block in the way of reciprocity. The only way in which she acts as a stumbling-block is that she has an exceedingly high and effective qualification. She requires that a student must first of all pass an examination - I suppose in literature, constitutional law, and so forth -

before he is articulated. He then has to pass two annual examinations - I suppose in more constitutional history, in classics, mathematics, and so forth. He must pass these examinations either before he is articulated or afterwards. He has to be articulated not for five years, but for three; and at the end of three years has to pass a proper, complete legal examination. The only occasion on which Victoria can grant reciprocity or grant admission to practitioners from other States is when the Judges can say that the qualifications for admission in the other States are equal to the qualifications demanded under the Victorian Act. It is quite likely that in all the States the qualification is effective and proper, and yet it may be difficult for a Judge to say that the system of qualification in the other States is equivalent to the qualification demanded in Victoria. Perhaps the Judges may not think the qualifications in a particular State are quite equal as regards efficiency to the rules laid down - by the Victorian Act; because honorable senators will see at once that if a student has to pass an examination before he is articulated, and then has to pass two annual examinations - that is to say, has to be two years at a University, studying constitutional history and other subjects that bear upon his profession - and then has to serve articles for three years, after which he has to pass his final examination, that amounts to a very stiff test of efficiency. Rightly so, no doubt; but suppose it can be pointed out that the qualification in another State is not quite as high as it ought to be - I do not say that any State is in that position - is that a reason for stopping for all time the legal reciprocity, which I say in my motion is a fit and natural accompaniment of this union of ours? Surely the best way to secure equality of efficiency is to give reciprocity, and take care in future Acts which are to govern and control the matter that the standard shall be in every way efficient and complete. I will now come to some of the practical arguments, showing, I think, not only why reciprocity is desirable, but why it is practically essential. I take it that federal jurisdiction will have to be conferred on the Supreme Courts of the various States. It can be well understood that, so many large departments having been given over to the Federal Government, there will be many occasions upon which offences and irregularities will have to be dealt with by the State courts. In regard to those matters which are federal, our State courts will have jurisdiction to try them, because those courts will have conferred upon them the federal jurisdiction mentioned in the Constitution. Let me take a case. Suppose a Victorian merchant were accused of smuggling, and the discovery were made in the State of Tasmania. It may be that the merchant is personally guilty, or it may be that he is guilty through the negligence or carelessness of an agent, and is not morally or personally, although he is legally, responsible. It may be a mere mild case of negligence and ignorance rather than of wilful intent to defraud, or it may be a case of wilful intent to defraud. See what happens. The Victorian merchant, having staring him in the face a charge not only involving severe penalties, but in which his honour and character are at stake, may desire that his own trusted solicitor and barrister, who have been advising him as to what he is to do, and who are familiar with the evidence" in his case, shall appear for him before the court in Tasmania. I dare say that it is more than probable that the Act which confers upon the court of a State federal jurisdiction, will indicate that any practitioner can practise in any of the courts qua this jurisdiction. But I contend that practitioners ought to have the right to do so. If the Government are going to make a provision of that kind in their Act, it shows that I am not asking for anything unnatural or unreasonable. It may be that this charge of smuggling or defrauding the revenue, or of ignorance or carelessness whereby the revenue has been unintentionally defrauded, may be tried in a State court having federal jurisdiction - say the Hobart police court or the Tasmanian Supreme Court - and would it not be hard if the defendant, a Victorian or New South Wales merchant, could not be represented by his own barrister or solicitor in that State court? What I contend is that in such a case the defendant ought to be so represented at his option. I may use another argument which, I think, is even more conclusive. Honorable senators have not yet seen the Federal Divorce Bill, which I propose to introduce when the drafting of it is complete. In that Bill I hope we shall give power to the Judge of any State to transfer for good reasons the hearing of a suit from one State to another. It must be apparent to every one that we must have a federal divorce law, laying down uniform rules with regard to these matters, and breaking down the barriers of the States with regard to jurisdiction. Therefore, the Commonwealth itself will have to be the sphere of jurisdiction, and we ought not to be able to refuse a petitioner in a divorce suit justice because he or she lives in one State and the respondent in another State. If my principles are carried out, the Commonwealth will be one district so far as jurisdiction is concerned. Suppose a suit is commenced in Melbourne, and the Judge thinks the petitioner, in bringing the suit, has brought it in Victoria with a view of irritating the other side or of making a vexatious exposure

before particular people - suppose the Judge thinks there are good reasons why the suit should be transferred to the Tasmanian court or to the court of any other State - by an order of the Judge the suit should be able to be removed to another State. Here, then, is a suit, the venue of which is changed from one State to another ; and here is a nice thing - that the petitioner's barrister and solicitor, who has had the whole case in hand, understands the evidence, and is best qualified to conduct the suit, will be told in the court to which the venue is changed, " We do not know you ; there is no legal reciprocity between Tasmania and Victoria, and you cannot practise before this court. This is not a case brought before the court of Tasmania in its federal jurisdiction, but in its State jurisdiction, and you cannot appear before this court as barrister or solicitor." I think those are cogent and urgent reasons in favour of my motion. I cannot give any better arguments than I have given, but I shall be very glad if my honorable and learned friends in the Senate can adduce better reasons than I have done.

Senator Charleston

- What is the practice in the United States ?

Senator DOBSON

- I hardly know. In the Federal Court I should fancy that any practitioner could practise, but I do not think that the practitioner of any one State can practise in another.

Senator Lt Col NEILD

-Col. Neild. - That is rather against the honorable and learned senator's proposal.

Senator DOBSON

- It is if the honorable senator is going to be bound by precedent. But I submit that I have given good reasons why this legal reciprocity is a right and natural thing to bring about. As my motion says, it is in the interests of the suitor, and it is surely a full and natural development of the union into which these States have entered. There is another reason why I think the legal practitioners of One State ought to be permitted to practise in another State. It appears to me that at the rate we are going, we shall live nine months out of the twelve, certainly six months out of the twelve, in the city of Melbourne - and a very nice city it is.

An Honorable Senator. - And the capital.

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Senator DOBSON

- And for the time being it is the capital. For the time being it is the seat of Government, and I have been very much surprised and annoyed to see that there is an effort being made to have two seats of Government and two capitals, when the fair and just compromise was that Melbourne should be the capital and seat of Government until the federal capital and seat of Government were established. Many of the barristers who attend from other States to conduct the business of this Parliament might make a name for themselves here. Men sitting in the galleries of the House and hearing the eloquence and logic of some of our legal friends might want them to take up cases for them, and why should they be shut out from practising in a Victorian court, or from a court in New South Wales when the capital is established in that State ? We all know that Oxford, Cambridge, and I think Dublin University men, who may be called to the English bar, are admitted as a matter of course in all our States. Why should we give strangers, men who have not grown up amongst us, simply because they come from universities of the old world, so to speak, a preference which we deny to our own native-born men ? If we say that our own native-born men may enter our own State courts, after passing proper examination, and exhibiting qualifications which we consider sufficient, why should we shut these men out from the privileges and advantages we give to a young man from England who has not lived six days in the State in which he is applying for admission ? I think there are exceptionally good reasons why my motion should be carried. Let me point out why it is proposed in this form. If it is carried, it will be simply forwarded to the Governor-General to be remitted to the Government of each of the different States, and we will have nothing more to do with it. If the States take the matter up, as I hope they will, and I charge myself with the duty of seeing, so far as I can, that they shall do so, a conference of Attorney-Generals of the different States may then be called, and may lay down the qualifications necessary for admission, and decide all other things that are necessary. The Bill which such a conference may propose will be largely a transcript of some State Act, and then the Attorney-General and Premier of each State, if it is considered that the Bill suggested is a reasonable one and makes a fairly high and efficient standard, will be able to submit it with confidence to their several

Parliaments. The moment the uniform measure is agreed upon in the different States the whole matter will be done. If we were to attempt to carry out the suggestion of the motion by a compliance with sub-section (37) of section 51 of the Constitution Act, that is by having the matter made one which the Commonwealth Parliament should deal with, it would probably be many months before the Commonwealth Parliament could begin the work. I am inclined to think that the plan I have suggested is the quickest plan, and it in no way infringes upon the privileges of the States. It does not dictate to them in any way whatever, but leaves it to them to take such action as they think necessary. In connexion with the remarks I made at the opening of my speech about the advantages and privileges of the Commonwealth, a sentence occurs to my mind, which, I think, was used by Sir Henry Parkes, to the effect that we ought to build and administer and work this Constitution so as to bring all the citizens of the Commonwealth into political, industrial, and professional kinship ; that we ought to make them realize that we are one people, not only in language, laws, and civilization, but one in all the privileges, all the advantages, and all the honours which this Commonwealth has to confer.

Senator O'CONNOR

- The motion moved by Senator Dobson has my entire sympathy, and his reasons have been so cogent that I do not propose saying very much upon the general question. I would like to say that the only basis upon which we can venture to express an opinion here is in so far as the change contemplated will benefit the people of Australia. In addition to what the honorable and learned senator has said, I think it must be evident that one of the advantages which federation will bring in every walk of life will be to enlarge the choice of every citizen of Australia as to the persons whom he may employ in any occupation. Inasmuch as when the federal courts are in operation we will have courts in our midst in all of the States carrying on the business of the different communities in so far as it touches federal matters, and that in those courts practitioners from all the States will have the right of audience, it will gradually be brought home to the minds of the people of all the States that that community of legal abilities and acquirements which takes place in the federal courts should be extended to the courts of every jurisdiction ; because, as has been pointed out by my honorable and learned friend, it is impossible to say in what court, or under what circumstances, the most important questions of federal concern will arise. Therefore, without elaborating or repeating anything the honorable and learned senator has so well said, I say that this motion has my entire sympathy and support. I would like to point out that, as the honorable and learned senator will admit, this matter is entirely in the hands of the different States, and it is a matter surrounded with a good deal of difficulty. All of us will sympathize with the position in which each State stands. They have each had their systems of admission and examination, requiring different standards of learning, and different periods of incubation, so to speak, for the growing solicitor or barrister, and a large number of persons have in each of the States been admitted under those conditions. I dare say it will come as a shock to some of them - because my legal friends will admit that ours is not a progressive profession, and, as a general rule, we do not find members of it more open than others to new ideas - and I think we shall probably find that there will be considerable difficulty in bringing about the alteration in these different systems which the honorable and learned senator contemplates by his motion. Still, though the matter is entirely in the hands of the States, and there may be these difficulties, that is no reason why we should not, at the earliest possible moment, approach these difficulties with a view to their solution.

Senator Dobson

- I forgot that the bar in the honorable and learned senator's State is not amalgamated, and he might deal with that point.

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Senator O'CONNOR

- Perhaps the honorable and learned senator will deal with it in reply. I do not intend to go into details upon the motion. There is one portion of the motion to which I would draw attention, and that is the proposal that a message should be sent to the House of Representatives acquainting them with this resolution, and requesting their concurrence therein. No doubt this is a resolution which we hope will have some effect and influence upon the Governments of the different States to which it is addressed, but I do not think it can be said that the subject is of sufficient importance to justify our requesting the concurrence of the House of Representatives in a resolution of this kind.- It seems to me that if an expression of our opinion, coming from this House with the power and influence which that will involve, is communicated to

the Governments of the States, it will be sufficient to carry out the purpose my honorable and learned friend has in view, and I think it would perhaps be making a little too much of the subject to request the concurrence of the other House in the resolution. I suggest to my honorable and learned friend that it would be better to omit the second portion of the motion, and that would not take away from its effectiveness. We must be careful about making precedents of this kind. We will pass many resolutions, I hope, in which we will make suggestions to the States for carrying out legislation consequent upon federation, but unless in extremely important matters, I think it is not wise that we should ask the concurrence of the House of Representatives in such resolutions.

Senator Dobson

- The second paragraph might be dropped, as this happens to be the States House.

Senator O'CONNOR

- I agree with the honorable and learned senator, and in other respects the motion is one which I hope to see carried.

Senator Sir JOHN DOWNER

- I suppose every one in the House agrees with the sentiment of the motion. We want, as the leader of the House very well put it just now, the largest possible area of selection in every department of labour, whether it is professional or otherwise. But the difficulty I feel about matters of this kind, and more even about this than about the motion which we discussed just now, is this : Ought we to pass resolutions about matters which are not within our jurisdiction ? If this measure is not within the Commonwealth powers, ought we to try to bring pressure to bear upon the States by passing a resolution to which we are absolutely unable to give any effect? Are we to be a persuasive authority, to pass sentimental, and not legislative resolutions, from time to time, which we are to send to the Parliaments of the different States, requesting them to pass legislation upon a matter which is entirely within their control, and with which we have nothing in the world to do? We have got to be very careful in keeping up the proper relation between the Commonwealth and the States. I dare say we would not be very pleased if we were to receive resolutions from the States - and I dare say we will receive them from the States - instructing us what we ought to do respecting matters exclusively within our own control, and with which they have nothing to do.

Senator Playford

- We would tell them to mind their own business.

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Senator Sir JOHN DOWNER

- I expect so. I can very well believe that my honorable friend would, and Senator Dobson might say so too. But just in the proportion in which we may look with dismay at a prospect of that kind, in that same proportion we ought to be careful not to interfere with the legislative State right of any State, by bringing pressure to bear upon the State in respect of matters which are not within our control at all, but exclusively within their own. I am not going to oppose this motion. It is an abstract motion, representing, I expect, a sentiment which will be generally agreed with. We will have a Judiciary Bill down directly, in which we will have the jurisdiction of the High Court defined. We will have, as a matter of course, all jurisdiction relating to matters handed over to the Federal Government, and very large and important matters are taken away from the States altogether and handed over to the Federal Government. As a matter of course, the jurisdiction in connexion with those matters will be entirely within the control of the Federal Judiciary. As a matter of course we shall also have the Supreme Courts of the several States made federal courts. The necessary corollary of that will be that practitioners from all the States will be entitled to appear in those federal courts. The courts having ceased to be exclusively State courts to the extent that they become federal courts, the inconvenience of having in the same chamber and on the same day two classes of cases - in one of which the whole profession will be able to appear, while only a limited number can appear in the other - will be detected by the general public as well as by the profession. The obvious inconvenience of that state of affairs, quite apart from the necessities of the State courts, will bring about the reciprocity that is sought for now. Like Senator Dobson, I have always been in favour of reciprocity; but as the leader of the Senate has said, there are a lot of questions arising from the division of the profession.

In South Australia and in Tasmania, I suppose, there is no division. In Victoria there is no nominal division, but an actual division of the bitterest character, and whereas in New South Wales there is a

distinct and well recognised division of the profession, there are a lot of troubles to be overcome before this much-desired consummation can be accomplished. It will take a good deal more than an abstract resolution of "the Senate to convince the members of the legal profession in the most conservative of the States that they ought to give away their privileges and rights because some of us think that would be a wise course for them to adopt.

Senator Walker

- Does the honorable and learned senator refer to New South Wales?

Senator Sir JOHN DOWNER

- Well, the honorable senator pays his money and takes his choice. I do not think that New South Wales will be half as bad as Victoria. In Victoria the profession is nominally -amalgamated.

Senator Dobson

- It is legally amalgamated by Act of Parliament.

Senator Sir JOHN DOWNER

- An Act of Parliament is much stronger than a resolution. The profession in Victoria is legally amalgamated but actually separated, and if an Act of Parliament has not been potent enough to do what every one considers an Act of Parliament can- do, what result can there be from a resolution of the Senate which is not an Act of Parliament and is passed without any authority at all.? Although I do not intend to oppose this motion, I do venture, with great humility and with great respect, to suggest to my honorable and learned friend and to other honorable senators that we have quite enough to do when acting within our rights, without indulging in sentimental considerations, beyond our powers, which mean nothing, which might annoy the States, which can do no good, and which might prevent the good feeling with which we intended the Commonwealth, under God, to be inaugurated. I deprecate very much resolutions of this kind, which are founded on the very ground that they are not within our powers, and are put forward as a means of bringing pressure to bear on the States in respect of matters with which the Commonwealth has nothing to do, but which are strictly within the rights of the States themselves.

Senator WALKER

- It is with some diffidence, being a nonlegal member, that I rise to say a few words on this subject. It has only recently come within my knowledge that the legal profession in Victoria are more strict in regard to the admission of lawyers from the old country to their ranks than the New South Wales bar. A young man came out from the old country the other day with a letter of introduction addressed to a member of the Senate. He was a Writer to the Signet in Scotland, but the gentleman to whom he carried the letter of introduction was obliged to send him on to Sydney, because he could not be admitted to the Victorian bar. He will be admitted at once in New South Wales as a Writer to the Signet. I know of a case which occurred in Queensland in which a gentleman, who was afterwards Registrar-General, and who was an S.S.C. - that is to say, a Solicitor of the Supreme Court of Scotland - could not be admitted to practise there because he was not a Writer to the Signet. In law, as in all other things, I am an advocate of free-trade. I hope we shall be able to attract a great many of our rising young lawyers to Australia from the old country, and to do something to strengthen that European immigration, -which I hope to see encouraged just as it was in Queensland in years gone by. I agree with the leader of the Senate that as this is the States House there- is no necessity for the second part of the motion.

Senator McGregor

- Could not the honorable senator get a few coolie lawyers.

Senator WALKER

- I believe the honorable senator who interjects comes from a little country north of the Tweed, where we say-

My foot is on my native heath and my name is McGregor.

I hope he will support this motion. It is wrong that a man who passes such fine examinations as those prescribed for the law in Scotland should be refused the right to practise in any of the Australian courts unless he is a writer to the Signet. I have a brother of mine who holds that qualification, and I believe that the only difference between a solicitor of the Supreme Court of Scotland and a writer to the Signet is a difference of fees.

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Senator KEATING

- I think the mover of the motion was well justified in bringing it forward, and in submitting it he has brought forward such cogent arguments that it stands every chance of being passed without opposition. I can quite sympathize with the feelings which animate Senator Sir John Downer, when he speaks of the great danger which exists in the Senate dealing with matters of this kind, and endeavouring to bring pressure to bear on the States with regard to subjects which are purely matters for State legislation. But the carrying of this motion will in no degree bring any pressure to bear on the part of this Parliament upon any of the States. We give expression to a sentiment, a sentiment with which Senator Sir John Downer fully agrees, and respectfully approaching the various State Parliaments, submit to them that in our opinion it is desirable that this legislation should be brought into existence. None of the State Parliaments can take exception to that. We can point out to them that through this Parliament such legislation can be affected, and only through this Parliament. I may say that, with Senator Dobson, and with other senators who are members of the legal profession, I attended upon one of the representative bodies of the legal profession in Victoria, and I do not anticipate any of the consequences which have been referred to by Senator Sir John Downer in regard to the attitude of members of the profession themselves. I think that if, as the result of this motion, legislation with regard to the admission of practitioners to the Supreme Courts of Australia, the various State courts, and the Federal High Court, is submitted, members of this Legislature will find that the legal profession, not alone in Victoria, but in many of the other States, will assist very materially in getting that legislation framed on proper lines. I believe that if it is intended to introduce a Legal Practitioners' Bill of a federal character, members of the profession here and in the other States will desire to take some part in the drafting of it, in order that the legislation which is finally passed may be of such a character that it will meet the requirements of the great bulk of the profession. That is the attitude at present exhibited throughout the Commonwealth. The contemplated creation of a High Court for Australia, in which members of the profession in each State will have a right of audience, coupled with the continuance of the existing conditions with regard to our State courts, will create such inconvenience and anomalies that it is eminently desirable that legislation of this character should be dealt with at an early date. No doubt inconvenience will be felt in the way suggested by Senator Sir John Downer. The public will see in one court, on the one day, the whole of the profession in Australia, having, practically the right of audience during part of a sitting, and then when the court comes to deal with matters of purely State concern, only the local bar allowed to appear. But it is not for us to wait until the public do actually experience such inconvenience. I think the members of the profession themselves have seen that. They recognise that legislation of this character is inevitable if we are going to work in the interests of the people of Australia, and they are quite prepared to fall in with the position, and to assist in bringing about legislation which is in the best interests of the whole of the people of Australia with regard to matters which may come up for consideration in any- of the federal or State courts.

Senator DOBSON(Tasmania). - I accept at once the suggestion made by my honorable and learned friend, the Vice-President of the Executive Council ; and if you, Mr. President, will kindly put the three different paragraphs of the motion separately, the second paragraph can be negatived. I quite understand that to send this motion to another House would cause delay, and it is equally apparent to us that they have more business to deal with in the other House than they can overtake. As this is the States House, as it represents the States rather than the citizens, I think it will answer the purpose I have in view if the motion is forwarded to the Premiers of the several States. I consider that my honorable and learned friend, Senator Sir John Downer, has rather exaggerated the point of view from which he dealt with this motion. In the first place, it does not request anything. I particularly guarded myself by saying at the outset that I conferred with Senator O'Connor weeks ago, with the object of drawing it up in such a form that it should not request anything or dictate in any way. Therefore, Senator Sir John Downer has rather pushed my motion beyond its terms. He also rather under-estimates the matter, when he says that this is simply a sentimental motion. I commenced by saying that we were one, not only in theory and sentiment, but one in deed and fact, It is not a matter of sentiment. It is essentially a practical matter, and that will be seen at once, when it is borne in mind, as Senator O'Connor said, that anything which enlarges the area of our choice, even in selecting our solicitor or barrister, must be of advantage to the Commonwealth. It is certainly an advantage to suitors. I must apologize for not referring to the great difficulty in the way of carrying out this proposal. I made a note of it, and intended to refer to it in my opening speech, but forgot to do so. The difficulty is that, every State but New South Wales has an amalgamated bar, and whilst a

solicitor may act as a barrister, and a barrister as a solicitor in the other States, in New South Wales the profession is divided. I understand that, whatever the measure of reciprocity may be between New South Wales and the other States, it has this bar to it, that if a man goes there as a solicitor and barrister of this court, they will not admit him as a barrister, but they will admit him as a solicitor for five years, and after he has been a solicitor for that term, he can apply, if he likes, to be admitted as a barrister. But I take it that it is more a difficulty in theory than a difficulty in practice, because in the two large States, Victoria and New South Wales - and Senator Sir John Downer has particularly dealt with the case of Victoria - although the bar is amalgamated by Act of Parliament, as a matter of fact and practice it is not amalgamated. It means that those who practise at the bar must stick to the bar and make it their profession, and common-sense men of business, who sit in their chair to give advice to clients, find that they had better stop in their chair, as it does not pay them to be in their office chair one day, and then at court for a couple of days away from their business. This idea of the bar of New South Wales being divided is really more a theoretical than a practical difficulty. I am sure that it can be got over, and if the motion is passed, as I hope it will be, it will be forwarded at no distant date to the Premier of each State. I shall take very good care to write to the Premier of Tasmania, and ask him to call a conference of the law officers of the States to meet in Hobart in January next, when we shall have the Science Congress, the Medical Congress, and a Statisticians' Congress, and I think a uniform Bill can be fixed up which will very soon be passed by the different States.

Question - amended by the omission of paragraph 2 - resolved in the affirmative.

STATE INSURANCE AGAINST INDUSTRIAL ACCIDENTS

Debate resumed (from 26th July, vide page 3 138) on motion by Senator Lt.-Col. Neild -

That, in the opinion of this Senate, it is desirable that State insurance against industrial accidents should be established throughout the Commonwealth.

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Senator PEARCE

- I am sure that the Senate is indebted to Senator Lt.-Col. Neild for having brought forward this very interesting question, and if no Other practical result is achieved, at any rate a considerable portion of that work, of which I understand he is the author, will have found a resting place in Hansard, and will be of assistance in any effort to put into practical effect the result of his labours on the commission. It does seem to me, however, that at the present time this idea of providing for industrial accidents is somewhat in the clouds. I quite agree that there is a pressing necessity for a fund, but after the reception given in another place to a suggestion for a provision for old-age pensions, we cannot be too hopeful that a proposal will come from the present Government, at any rate in the immediate future, to provide a fund for industrial accidents. All those who have had any experience in industrial warfare must recognise the need for establishing such a fund. I have often seen fearful accidents result from operations amongst machinery to men who took their lives in their hands day by day. Through the mere fact of earning their livelihood amongst machinery, men sometimes become the victims of accidents, themselves being handicapped for years, their families deprived of their breadwinner, and the State deprived of the labour of a useful citizen, and taxed to support his dependents. When we come to look at this state of affairs we naturally ask ourselves, is it right that they should be dependent upon charity that a breadwinner, if disabled, should be placed in the position of seeing his family starve as the result of an accident of which very often he was not the originator, which was caused sometimes through the negligence of his fellow-employees, and at other times through the grasping cupidity of the employer? Such cases must make us think that it is necessary to create a fund. The man who works amongst machinery, in mines, and at other avocations, renders just as much service as a soldier does on the battle-field, and in some cases takes almost as much risk. Those honorable senators who visited the explosives factory the other day could not but come to the conclusion that the employees take almost as much risk as the men who go to South Africa to serve against the Boers. At the same time we must recognize that under our existing system some provision is made for dealing with these cases. What we have to consider is whether it is adequate. "Under the Employers' Liability Act and the Workmen's Compensation Act, if an employer neglects his machinery, and an accident is caused thereby, an employee or his friends may, if they can prove their case, recover penalties from him. That provision has this advantage, that employers are careful to see that their machinery is kept in good order, and the careless employer suffers from the result

of his own negligence if the employ is able to bring a successful action. But in addition to that - and I think this point was Overlooked by Senator Lt.-Col. Neild when he quoted the experience of continental nations as against what has been done in Great Britain - we have -to remember that in Great Britain and in' the Australian States the friendly societies are carried to a greater extent than they are on the Continent. I think he will find if he hunts up the figures that they distribute amongst their members in payment of sick relief and accident fund a greater amount per head than is distributed from the State funds on the Continent. We have also to remember that the trade unions, especially in Australia, invariably have an accident fund. We must not assume, because we find on the statute-book no provision in this direction, that we have been idle. If anything, the workers have been provided for to a greater extent out of their own savings than has been done by continental nations. Is it advisable that the workers, who very often are not the primary cause of these accidents or sicknesses, should be left to tax themselves from their friendly societies, and trades unions in order to provide a fund which really should be the duty of the State? All sections of the community reap some benefit from the wealth which the industry of the worker creates, and the fact of his meeting with an accident in following his employment proves that he has a claim on the community for support, and that claim should not be thrown, as at present, on the worker only through the medium of his friendly society and trade union. In his valuable speech Senator Lt.Col. Neild gave us food for thought as to the manner in which a fund is provided elsewhere. In Germany, Austria, and other continental countries a fund is provided by a general contribution from employers, employes, and the State.

Senator Lt Col Neild

- In no case. The honorable senator has misunderstood me.

Senator PEARCE

- I. took the trouble to hunt up this very question in the library, and if the honorable senator did not say so I find that it is the case.

Senator Sir Frederick Sargood

- It used to be.

Senator PEARCE

- In the Board of Trade Gazette of June, 1901, the honorable senator will find the contributions to this very fund for the half-year by employers and employes, and the deficiency which had to be made up by the State in Germany.

Senator Lt Col Neild

- The Board of Trade must have got hold of some queer figures, because it is not according to the law on the Continent.

Senator PEARCE

- The Board of Trade Gazette for June publishes the figures, and it makes this comment, that a number of other trades have been included in the provision.

Senator Lt Col Neild

- The honorable senator is confusing the contributions to the invalidity fund - the sick fund - with the question of industrial accidents.

Senator PEARCE

- It gives separate returns for the invalidity fund and the accident fund.

Senator Lt Col Neild

- There are no contributions by employes to the accident fund.

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Senator PEARCE

- I may be wrong in that particular, but I do not think I am because I read the report very carefully. In most cases it gives the contribution by the employers, the employes, and the State, and it makes the comment, that the contribution by the State is continually increasing. Whether it referred to the invalidity fund or the accident fund I do not know, but it says that while greater claims were being made on the invalidity or accident fund, the demands on the old-age pension fund were becoming less.

Senator Lt Col Neild

- Perhaps I did the honorable senator an injustice in contradicting him. The contribution from the State which he refers to in respect to accident insurance will be, now that I come to think of it, the amounts

paid, as stated by me, by the Government for the industrial accident insurance of State employes. The honorable senator is no doubt quite right. The figures he refers to deal with the amount paid by the Government for the insurance of their own employes, the State not contributing to the general fund in respect of persons in private employ.

Senator PEARCE

- The article did not go into details, but it did give the total sum paid by employers, employes, and the State, and I naturally assumed that the State contributed in the manner indicated by either Senator Lt.-Col. Neild or Senator Harney. We should not adopt in Australia the proposal which, I believe, was supported by Senator Harney - that we should call upon the employer, the employes, and the State each to contribute a third. It is to the benefit of all that the worker employs his time. He creates wealth for the benefit of all, and on the general taxpayer this burden should be laid. If in the opinion of the people this provision should be made, then all persons in proportion to their wealth - and in taxing our aim is to tax citizens according to the wealth which by the law of the country they have been enabled to accumulate - should share in the burden of sustaining those who, by accident or sickness, are unable to follow their avocations, and therefore to support their dependents. We are indebted to Senator Harney for the splendid speech he made as to the weakness of the Employers' Liability Act, and the Workmens' Compensation Act. I have taken a great interest in these various labour questions for many years, and I have never heard a clearer exposition of the working of those Acts than he gave. If those' honorable senators who were not present when Senator Harney - spoke will take the trouble to read the Hansard report of his speech, they will find themselves well repaid. They will be convinced that those Acts do not do justice either to the employe or the employes, and totally fail, in achieving the object of laying the burden on those responsible, and giving the relief to those who need it.

Senator Lt Col Neild

- That was the burden of my proposal, and Senator Harney opposed it.

Senator PEARCE

- I certainly think that Senator Harney made a more direct reference to it than Senator Lt.-Col. Neild did, and from his long practice at the bar he was in a position to show the inner working of those Acts, and how they are regarded by those who have the task of elucidating them before the bench. I have no doubt that we shall be met in regard to this proposal by such arguments as have been brought forward against the proposal in favour of old-age pensions in another place, that there is no money available unless we resort to direct taxation. But I trust that if the opinion of the Senate is that such a provision is desirable, and that the time has arrived for it to be placed upon the statute-book, even if we have to resort to direct-taxation, the Senate will not shrink from passing the legislation. If justice demands that such a fund shall be established for the up-keep of those workers who meet with accidents, the people of Australia will be prepared to carry' the burden of direct taxation that would be laid upon them ; and if in the opinion of the Senate the time has arrived for such provision to be made, I trust they will not allow any question of finance to stand between them and carrying their opinion into effect.

Senator Sir JOHN DOWNER

- I presume that this motion does not mean what it says. I suppose that by " State insurance " the honorable senator who has moved the motion does not mean insurance by the States, but by the Commonwealth

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Senator Lt Col Neild

- Government insurance.

Senator Sir JOHN DOWNER

- Insurance, other than State, insurance, is what we have power to deal with. The motion is in favour of State insurance against industrial accidents. May I, before going further, ask the honorable senator whether he means by " State insurance " Commonwealth insurance, or insurance by the States ?

Senator Lt Col Neild

- By the Commonwealth, unless the States choose to take the matter up under section 51 sub-section (37).

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Senator Sir JOHN DOWNER

- I accept the explanation, because we want to talk about something substantial, if there is anything

substantial in the proposal, and not deal in misunderstandings, by which we do not arrive at any sound conclusion. I assume that the mover of the motion means that the Commonwealth ought to undertake insurance against industrial accidents.

Senator Lt Col Neild

- Exactly.

Senator Sir JOHN DOWNER

- On that understanding I proceed. The motion, however, does not read that way. The question arises as to whether this is a matter on which we can legislate at all ; or if we cannot legislate upon it, whether it is of any use for us to pass another innocuous resolution during one afternoon ? We ought to be a little more careful and moderate even in our eccentricities. I submitted, when I was dealing with the point of order raised when Senator Neild moved his motion, that this was a matter that the Commonwealth could not deal with - that insurance in each State, when made a public question of, was a question for the particular State, and that the Commonwealth had no jurisdiction, except where a particular State was not satisfied with legislating for its own State insurance, but extended its province beyond the limits of its own territories. Then the matter would become -

Insurance, other than State insurance

If Victoria legislated in respect of insurance, that would be State insurance. If Victoria legislated in respect of insurance that not only referred to Victoria but to other States as well, that would be going beyond State insurance ; and, although the action of Victoria would not come within the purview of this motion so far as her State insurance was concerned, it would as far as any endeavour was made to extend any State auspices to States other than her own. Therefore the Commonwealth Act puts the matter very plainly -

Insurance other than State insurance.

So that if it is State insurance, we have nothing to do with it. The Commonwealth Act also says -

Also State insurance extending beyond the limits of the State concerned.

Could there be anything plainer? Government insurance within a State is the business of the State itself ; but if any State chooses, in the exercise of its powers over its own local insurance, to endeavour to extend the operations of its law into other States, it comes under the category of -

Insurance extending beyond the limits of the State concerned- and the Commonwealth has power to deal with it. There is the whole question. I have heard doubts expressed as to whether the effect of those provisions of the Constitution Act might not be that the Commonwealth has power to legislate unless a State has passed laws with regard to State insurance. That is, it is a "firstcome first - served " sort of thing. It means that if a State is first in effecting Government insurance, it has a right to do so; but if the Commonwealth is first, we have the right. It is perfectly clear, however, that the Constitution means nothing of the kind. Whenever it comes to be a question of State insurance, the Commonwealth has no jurisdiction. " State insurance " is a well defined term. It means insurance by a particular State. The Commonwealth cannot pass any insurance law in respect of a particular State. The Commonwealth can only pass legislation respecting insurance if State legislation affecting insurance extends beyond the limits of the State concerned. In other words, as I said on the point of order, the Commonwealth has only jurisdiction in the case of an overlap. If we were to pass this motion, it would be like the other motion we have passed to-day, and would have no possible effect. In fact, it would have rather less effect than in the other case. It would be absolutely a provision we have no power of carrying out, and would be almost an illegal provision. But as, putting it in the mildest way, it would be absolutely useless, I venture to oppose the resolution. It is utterly useless for us to carry a resolution which is directly against the very words of the Constitution, because the Constitution says that, as far as State insurance is concerned, we have no power to interfere with it.

Debate (on motion by Senator O'Keefe) adjourned.

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15:58:00

Senate adjourned at 3.58 p.m.