

vides that a deputy may take the president's place on certain occasions. Under the proposed new system, however, there will be no long vacation for the president, who will not be a judge of the Supreme Court. His appointment will be permanent, and his salary will be voted under the principal Act. The president will be removable only by a resolution of both Houses of Parliament.

Mr. Mann: With the condition that the Governor can remove him.

The PREMIER: It will be by a resolution of both Houses of Parliament. The president of the court should devote his whole time to the court. If the right man can be obtained I think we shall have a more satisfactory state of affairs than has been possible in the past, when a judge of the Supreme Court occupied the position of president for a few months, after which a change was made. That is not desirable. There must be continuity. It is necessary that the parties before the court should feel that the president of the court has made the business of the court his continuous study. The method I now propose will give us a material step forward. None of the judges like the work of the court, because it is not in keeping with their experience and training. We want the employers and the employees to feel that the Arbitration Court is there to give them that consideration which is necessary to industrial peace. I think the Bill will contribute to that end.

Mr. McCallum: Other amendments were asked for.

The PREMIER: I do not propose to put those other amendments before the House just now. Among them was the question of the variation of awards. If awards are to be varied, the court must be able to act without undue delay.

Mr. McCallum: What about giving the court power to order the terms on which work should be resumed pending the settlement of a dispute?

The PREMIER: I do not know that we could give that power. I know that at times variations of awards ought to be made, but it means getting near to a basic wage, and it means also miles of evidence. I hope the House will pass the Bill, giving effect to this one amendment now; others which I have discussed with union representatives and with employers we may get later.

Mr. Hughes: You do not want to put a political supporter on the bench.

The PREMIER: I do not think that remark ought to have been made.

Members: Hear, hear!

The PREMIER: In considering such an appointment as this, one takes a very serious responsibility. When the hon. member shall have lived in public life for a few years he will realise that in making an appointment of this sort one faces the position with a feeling of responsibility that ought to be appreciated by everybody. It would be criminal folly if one were to appoint any but the most capable man available. No Premier

would do other than appoint the man whom he believed to be the best for the job. I do not think I can be charged with having ever made an appointment which I ought not to have made. I hope the Bill will go through without undue delay. If the amendment be approved by Parliament, the appointment can be made very soon. The Bill will certainly make for industrial peace. It ought to be possible to avoid, if not all industrial trouble, at all events all strikes. I move—

That the Bill be now read a second time.

On motion by Hon. P. Collier, debate adjourned.

*House adjourned at 12.40 a.m. (Wednesday).*

## Legislative Council.

*Wednesday, 17th January, 1928.*

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

### QUESTIONS (2)—RAILWAYS.

#### *Track Crossings.*

Hon. R. D. ARDAGH asked the Minister for Education: 1, What is the life of the spring frog crossing—(a) in a busy yard like Perth or Midland; (b) at a country station? 2, What is the life of the rigid type under the same conditions? 3, Could not the latter be converted and thus advantage taken of the longer life and lower maintenance cost of the former?

The MINISTER FOR EDUCATION replied: 1, (a) Spring crossings are not used in yards, but only on turnouts on main running roads; (b) The life varies according to the amount and weight of traffic passing over it. 2, It is impossible to state definitely the exact difference between the life of the rigid and the spring crossing, but the spring crossing would last longer than the rigid one. 3, The rigid crossings could be converted, but there would be no advantage in doing so as the department has plenty of use for all the rigid crossings in stock, and

spring crossings are already provided at all places where suitable, and replacements can be made by new spring crossings.

#### *Esperance-Northwards Line.*

Hon. J. CORNELL asked the Minister for Education: 1, Have any rails been delivered at Esperance for the construction of the Esperance-Northwards railway since the 26th October, 1922; if so, what is the mileage? 2, Has the necessary rolling stock together with a locomotive been delivered at Esperance; if not, what is the approximate date of delivery? 3, How many men were employed on construction work on the 26th October, 1922? 4, How many men are at present employed at this work? 5, Have any rails been laid on this railway; if so, what is the approximate mileage?

The MINISTER FOR EDUCATION replied: 1, 17 miles have been delivered since the 26th October, which, with 30 miles already there, makes 47 miles on the job. 2, The rolling stock and plant for plate-laying has been delivered. 3, 24 men. 4, 32 have been sent from Perth since the 26th October, and with casual labour always offering on a job the total now employed is probably 70. 5, Three miles have been laid, and plate-laying is proceeding on a schedule of half-a-mile per day.

#### BILL—INDUSTRIES ASSISTANCE ACT CONTINUANCE.

Read a third time and passed.

#### BILLS (2)—REPORT.

- 1, Jarnadup-Denmark Railway.
  - 2, Interpretation Act Amendment.
- Reports of Committee adopted.

#### BILL—DOG ACT AMENDMENT.

##### Assembly's Message.

The Assembly having modified amendment No. 4 made by the Council in the Bill, the modification was now considered.

##### In Committee.

Hon. J. Ewing in the Chair; The Minister for Education in charge of the Bill.

No. 4.—Add the following:—"Add at end of clause 'the section is further amended by the excision of the proviso.'"

The MINISTER FOR EDUCATION: The Assembly has agreed to all the amendments we made, but has suggested to No. 4 a modification which is really consequential on what we have done. The effect of that modification is to strike out the proviso to Section 10 of the Act of 1903, which, in view of our amendment, has no longer any meaning. I move—

That the modification be agreed to.

Question put and passed; the Assembly's modification agreed to.

Resolution reported, and the report adopted.

#### BILL—CLOSER SETTLEMENT (No. 2).

##### Recommittal.

Resumed from 9th January.

Hon. J. Ewing in the Chair; The Minister for Education in charge of the Bill.

Clause 6—Notice to owner:

The MINISTER FOR EDUCATION: I move an amendment—

That new paragraph (c) of Subclause 2 be transposed to stand as paragraph (b). We have already agreed that that is the right course to adopt.

Amendment put and passed.

Hon. J. J. HOLMES: I move an amendment—

That the following proviso be added to Subclause 3: "Provided that if, within three months after the date when such land shall have been offered for sale as aforesaid the owner shall fail to effect a sale of the whole of the said land, then the owner shall be entitled within three months after expiration of last mentioned period to require the Minister administering this Act to purchase at the upset prices approved as aforesaid the said land or so much thereof as shall remain unsold or, alternatively, to require the Minister to discharge the unsold land from being subject to this Act, and the Minister shall repay to the owner all expenses incurred by the latter in connection with the subdivision and offering for sale of such unsold land."

I think it is a fair and equitable proposition. Having forced a man to put his land on the market, the least the Government could do would be to compensate him. If some was sold and the remaining portion was of no use to him, he should be treated as suggested in the amendment.

The MINISTER FOR EDUCATION: There is a good deal of justice in the first portion of the amendment. If a man subdivided in accordance with the terms laid down by the board and could not sell, his land should be released, but I do not see why the Minister should be called upon to pay. I move—

That the amendment be amended by deleting all the words after "Act" in line 12.

Hon. J. J. HOLMES: The Minister proposes to strike out the most equitable part of the amendment. If a man is compelled to subdivide his land, survey it and offer it for sale, and there is no market for it, surely it is a fair thing that the Government should compensate him.

Hon. A. Lovekin: Some of it may be sold and the rest may be useless to him.

Hon. J. J. HOLMES: But the Minister does not take that into consideration. The man's whole operations would be held up, and, if no sale were effected, surely the Government should recoup him the expense to which he was put.

Amendment on amendment put and negatived.

Amendment put and passed.

The MINISTER FOR EDUCATION: I move an amendment—

That the following subclause be added:

“(4) If the owner elects as set forth in paragraph (b) of Subsection 2, he shall (i) forthwith submit to the board for its approval a scheme for the utilisation of the land; and (ii) effect as and when required by the board the improvements, works and stocking necessary in the opinion of the board for the reasonable utilisation of the land.”

Amendment put and passed.

Hon. A. BURVILL: I move an amendment—

That after “Act” in line 6 of Subclause 4 the following be inserted: “by a Bill whereby a tax is imposed at the same rate on all unutilised and unproductive land (including town, suburban, and rural land) situated within ten miles of a railway.”

I understand the Government acquired the Peel estate for about 9s. an acre. If the group settlement there proves a success, the value of surrounding land will be materially increased. There is another estate close by which is quite unutilised. There should be a tax on unused land in order to compel owners to sell or use their land. This measure will operate against certain parcels of land selected by the board, while other land alongside will escape. If settlement increases in the towns near to which there is closer settlement, the treble tax will not be imposed upon other people holding unutilised land, and many who are waiting for the unearned increment will reap a decent profit.

Hon. J. Duffell: Hundreds of people are giving their land away now owing to the taxation.

Hon. A. BURVILL: But speculators will profit in consequence of the labour of other people. The tax should apply to the whole of the unused land, irrespective of whether such land is singled out by the board.

The MINISTER FOR EDUCATION: It must be obvious that to carry the amendment would be equivalent to rejecting the Bill. If members prefer to destroy the Bill in this manner, instead of rejecting it on the second reading, that is their concern. The effect of the amendment would be to impose a tax on all people alike and leave the measure meaningless.

Amendment put and negatived.

Clause, as previously amended, agreed to.

Clause 7—Acquisition of land:

Hon. J. NICHOLSON: I move an amendment—

That in Subclause 2, paragraph (a), after the word “therein,” line 1, there be inserted:—“but without prejudice to the right of a mortgagee against the mortgagor or any other person under a covenant or agreement for payment of the debt and interest.”

It will be noted that under Clause 7 the land, upon publication of the notice, becomes vested in the Crown free from all encumbrances. The question is whether the rights of a mortgagee are sufficiently safeguarded without the amendment. In the absence of the amendment, country lands might be put in the background as a matter of investment, particularly by banks.

The MINISTER FOR EDUCATION: It seems to me that the position is covered by the following paragraph, which says—

The estate and interest of every person in such land, whether legal or equitable, shall be deemed to have been converted into a claim for compensation under this Act.

Hon. J. NICHOLSON: The estate and interest of the mortgagee cease on the publication of the notice. The claim then becomes one for compensation, obviously against the Crown. The claim for compensation is based upon certain things. One could conceive of a case arising where a mortgagee has carried a mortgagor for a considerable time and the amount of compensation given for the property is less than the amount of the mortgage debt. That has happened before now. In order to protect the rights of the mortgagee, we must safeguard his position. He should retain his rights under the personal covenant for what they may be worth.

Amendment put and passed.

Hon. J. NICHOLSON: It is stated that the compensation shall be based on the unimproved value of the land. Under the Road Districts Act a certain meaning is given to “unimproved value.” During the last few years we have found that lands have acquired a value because of possessing mineral deposits—china clay, for instance. If by reason of my diligence I find that land which I have bought possesses certain minerals, I should get as compensation, when the land is taken away from me, the true value of the land. It would not be fair to say that the land had a certain value because it was bought at a certain price. To meet the difficulty, I move a further amendment—

That in Subclause 3, paragraph (a), the words “unimproved value of the land” be struck out, and “fair value of the land without regard to any improvements” be inserted in lieu.

I shall move later that the first and second provisos to the clause be struck out.

The MINISTER FOR EDUCATION: The hon. member is trying to get back to a

point which we discussed at great length when the Bill was previously before the Committee. The question is, how are we to arrive at the unimproved value? We previously decided that this was the fair method. The object of the present amendment is to destroy the effect of the words "unimproved value."

Hon. J. Nicholson: I am trying to safeguard the right of the owner of the land to recover what is its true value.

The MINISTER FOR EDUCATION: If the words proposed to be struck out are struck out, the provisos become meaningless, and might as well be struck out. The hon. member is trying to go back on what the House has decided.

Hon. J. NICHOLSON: Under the Road Districts Act the words "unimproved value" are given a meaning which excludes machinery, metals, and in the case of land held under tenure peculiar to goldfields, otherwise than a miner's homestead lease, all improvements except buildings. Thus "unimproved value" means the value without taking into account, for instance, mineral deposits. The question is whether that meaning would also be carried into such a measure as this. In connection with resumptions every effort is made to cut down the value of the land to the lowest point possible. If the Government can find a method of exising any one of these claims, they will do so.

Hon. G. W. Miles: If your amendment is carried, there will be nothing but litigation.

Hon. J. NICHOLSON: No. It is only a question of arriving at the true value of the land.

The MINISTER FOR EDUCATION: The amendment is merely an attempt to cut out the provisos. The hon. member tried to do the same thing in another way when the Bill was previously before the Committee. The matter was then fully debated and the amendment he submitted was negatived. The hon. member's desire now is to bring about the same result in a different way, introducing a new and novel argument which has no application at all.

Hon. F. E. S. WILLMOTT: In connection with resumptions in the past, the Government have always kept the Joker up their sleeves ready to produce it at any time. They resumed land for certain purposes, and if the owner objected, it was claimed that the resumption was made under the Public Works Act. Then if there was any difficulty about that they would claim that they had resumed the land under the Land Act. Promises have been made by various Governments that the position in connection with resumptions would be made more equitable. So far, however, nothing has been done. In connection with the mining for minerals on private property, the position is that they still belong to the owner to a depth of 200 feet. In the case of oil, the position is similar. It undoubtedly belongs to the owner of the land, but will any hon. member tell me, that if a man holds a 5,000 acre block, and oil is known to exist

on it how anyone else can get at it? No one can mine on the property without the permission of the owner of the block. It is time that we had a decent Resumption Act in connection with the resumption of land for public purposes.

Hon. J. NICHOLSON: Under the Land Act where the land to be resumed is conditional purchase, the Government can come in and resume it simply by re-payment of the rent which the holder has paid, and without regard to any increase in value due to improvements, and to its occupation for perhaps 20 years. There may be cases where men have worked hard and diligently, and where the Government may come in and compel the owner to relinquish his property on the repayment by the Government of merely the rents received by the State. There is a more equitable method of compensation provided for under the Public Works Act, and my previous amendment to which reference has been made, would have compelled the payment of compensation under the Act. My intention is to give to the owner an equitable measure of compensation.

Amendment put and negatived.

Clause, as previously amended, agreed to.

Clause 8—Default by owner after election to subdivide for sale:

The MINISTER FOR EDUCATION: I move an amendment—

That after the first paragraph the following words be inserted:—"If an owner, after having elected to utilise the land and make the same productive, as set forth in paragraph (b) of Subsection (2) of Section 6, shall not, in the opinion of the board, duly comply with Subsection (4) thereof, the Board may serve upon the owner a notice of his default in the prescribed form; and thereupon the owner shall be deemed to have elected as set forth in paragraph (c) of Subsection (2) of Section 6.

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

Bill further reported with amendments.

## BILL—FEDERAL REFERENDUM.

### Second reading.

Debate resumed from the previous day.

The PRESIDENT: Last evening I put to the House the question that the Bill be read a second time. I have found since that there is an amendment to the question and I think I ought to have put that amendment. The amendment is that all the words after "That" be struck out and that the following be inserted in lieu:—

In order to ensure the financial stability of the States, the Government be requested to negotiate with the Governments of other States with a view to the holding of a convention to consider the existing relationship between the Federation and the States and the need (if found to be necessary) of

securing an amendment of Section 51 of the Commonwealth Constitution.

I have gone into the matter very carefully and have looked up the Standing Orders on the question. Standing Order 186 says:—

No other amendment may be moved to such question except in the form of a resolution strictly relevant to the Bill.

Standing Order 185 says:—

Amendment may be moved to such question by leaving out "no" and adding "this day six months," which, if carried, shall finally dispose of the Bill; or the previous question may be moved.

My ruling is that the amendment is relevant to the Bill. Standing Order 132 says:—

An amendment proposed shall be disposed of before another amendment to the original question can be moved.

Standing Order 134 says:—

Amendments may be proposed to a proposed amendment as if such proposed amendment were an original question.

An amendment has been proposed to the question "That the Bill be now read a second time," and it appears on the Notice Paper. Last night it was agreed that the Bill should be read a second time, but I made a little error. I should have put the amendment before putting the question, the amendment being to strike out all the words after "That" with a view to inserting other words. The amendment is, "That the words proposed to be struck out be struck out."

Amendment put and passed.

Hon. J. W. KIRWAN (South) [5.35]: I move—

That the following words be inserted in lieu of the words struck out:—"In the opinion of this Chamber the Premier should communicate with the Commonwealth and State Governments and urge the summoning of a constitutional convention to consider amendments to the Commonwealth Constitution."

That is a much wider proposal than that made by Mr. Baglin. I am sorry he is not here to-day, but I can hardly conceive he would raise any objection to my proposal. It is rather significant that Mr. Lovekin has just handed to me what almost seems a voice from the grave, inasmuch as it is the point of view of the late Lord Forrest on this particular matter. Mr. Chapman, a member of the House of Representatives, proposed that a Constitutional convention should be held. The terms of the proposal were that, "In the opinion of this House it is desirable that as early as practicable there should be held a constitutional convention for the purpose of considering the need, substance and form of any amendment to Section 51 of the Constitution." The resolution goes on to define the number of members of that Convention. Evidently Mr. Lovekin sent this on to the late Lord

Forrest, because that hon. gentleman's reply is addressed to Mr. Lovekin in his own handwriting. He was not then Lord Forrest, for the communication is dated the 23rd November, 1917. This is what the late Lord Forrest said—

Mr. Dear Lovekin: This is the proposal I mentioned to you, but the convention should be given even wider powers than those in Clause 51.

I particularly quote that because it is in accordance with my own ideas that the convention should not only consider the all important Section 51, but should also take into account the other sections of the Commonwealth Constitution. Lord Forrest continues:—

The powers in Clause 51 are horrible and do not find a place in the Federal Constitutions of the United States or Canada and should not continue. Yours sincerely, John Forrest.

The important point of this note is that the late Lord Forrest was in favour of a convention, but thought it should have wider powers than being merely confined to amendments to Section 51.

The PRESIDENT: According to Standing Order 132 an amendment proposed must be disposed of before another amendment to the original question can be moved. Standing Order 134 says that amendments may be proposed to a proposed amendment as if the proposed amendment were the original question. I take it this is not an amendment to the proposed amendment, but one to the original question. I should, therefore, put Mr. Baglin's amendment.

Hon. A. Lovekin: Mr. Baglin is not here to move it. It therefore lapses. Mr. Kirwan has now moved an amendment to add these words instead.

The PRESIDENT: I will accept Mr. Kirwan's amendment.

Hon. J. Cornell: Is Mr. Baglin's amendment not before the House?

The PRESIDENT: It has not been moved.

Hon. J. CORNELL (South—on amendment) [5.44]: Some extraordinary proceedings and happenings have followed the introduction of this question. There has also been some extraordinary somersaulting and backing and filling. The original question which I seconded was the second reading of a Bill to prescribe for a referendum taken on the day of a Parliamentary election, as to whether or not the people of this State were satisfied with the Federal compact. I was honest enough to tell the mover of the motion that this was the only vote he would get. There is, however, a feeling on the part of some members, and the feeling exists outside as well that Federation has been a blight and curse upon the development of this country, and that we should endeavour to get out of the compact. The only legitimate way of dealing with the question is to ascertain the opinion of the electors in the identical manner in which it was ascertained when they first entered into the compact. The

proposal to ascertain the opinion of the electors as to whether we should withdraw from the Federal compact has been thrown overboard, and a subterfuge has been introduced to save the face of some of those who previously said we should get out of the compact. The words that have been struck out were originally struck out on an amendment the language of which did not suit some hon. members who, accordingly, moved a further amendment couched in different phraseology. The amendment will, in effect, throw overboard the concrete demand that we should ascertain the opinion of the people as to the success or failure of the Federation.

Hon. J. J. Holmes: Having ascertained that, where do we get to?

Hon. J. CORNELL: Let us take one hurdle at a time. The proposition before us has already been affirmed by the House. Eighteen months ago we agreed upon the desirability of appointing a Federal convention to inquire into the working of Federation.

Hon. J. Ewing: That is not the same thing.

Hon. J. CORNELL: Another place appointed its representation on a joint select committee to inquire into this very question, and the Government converted the select committee into a Royal Commission. I believe the mover of the amendment is a member of that commission. Up to date we have had no word from that commission as to whether or not the Federal convention should be called. To my thinking it would have been better had we voted on the question of Parliament itself saying that it is satisfied or dissatisfied with the Federal compact. The result would have been at least an indication of the feeling of the people who sent us here. However, we have thrown over the concrete proposal, and in its place we have something which was affirmed 18 months ago.

Hon. J. W. Kirwan: It was not affirmed 18 months ago.

Hon. J. CORNELL: It is nearly 18 months since the select committee was appointed. So far, I understand, the select committee have had about two sittings and examined one witness. I will vote against the amendment on the ground that it has been already affirmed by this Chamber.

Hon. G. W. MILES (North) [5.50]: I am in favour of Mr. Kirwan's amendment. In moving it he remarked that there was nobody here to move Mr. Baglin's amendment, on which the words were struck out from the original motion.

The PRESIDENT: No words have been struck out from the original motion.

Hon. G. W. MILES: I understood that the House struck out all words after "That."

The PRESIDENT: Yes, that is so.

Hon. G. W. MILES: If Mr. Kirwan will withdraw his amendment for the time being, I will move that of Mr. Baglin. Then, if the House does not agree to Mr. Baglin's amend-

ment, we can carry that moved by Mr. Kirwan.

The PRESIDENT: You should have moved that before.

Hon. G. W. MILES: It would be a way out of the difficulty if Mr. Kirwan were to withdraw his amendment and I were to move that of Mr. Baglin.

The PRESIDENT: Mr. Baglin's amendment has lapsed, there being nobody here to move it.

Hon. A. LOVEKIN (Metropolitan) [5.54]: I move—

That the debate be adjourned.

Motion put and a division taken with the following result:—

Ayes	..	..	..	..	14
Noes	..	..	..	..	5
Majority for					9

#### AYES.

Hon. H. Boan	Hon. A. Lovekin
Hon. H. P. Colebatch	Hon. J. Mills
Hon. J. Cornell	Hon. G. Potter
Hon. J. Duffell	Hon. A. J. H. Saw
Hon. J. Ewing	Hon. H. Seddon
Hon. J. A. Greig	Hon. E. Ross
Hon. E. H. Harris	(Teller.)
Hon. J. W. Kirwan	

#### NOES.

Hon. R. G. Ardagh	Hon. J. Nicholson
Hon. V. Hamersley	Hon. A. Burvill
Hon. G. W. Miles	(Teller.)

Motion thus passed.

House adjourned at 5.58 p.m.

## Legislative Assembly,

Wednesday, 17th January, 1923.

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The SPEAKER took the Chair at 2.30 p.m., and read prayers.