advisable for the regulations to apply as for one year. It is contended that the maximum daily quantity should be established during the months from March to May in each year. If a producer can produce and market a certain quantity of milk during the lean period, he should be allowed the natural increase of his business by his own efforts. It is unreasonable to leave a matter of this kind in the hands of the board, and for the board to treat the industrious and energetic man on the same basis as the one who is not entitled to or deserving of the same treatment. By allowing the maximum daily quantity to be established by the dairyman during the lean period of each year, the true position of the market is established, whereas, on the other hand, percentage increases provided by Regulation 93 grant greater increases to many who perhaps have not the market for such increases, and others are restricted to a percentage increase considerably below that for which they have a market. Therefore the object of the Act is defeated. That is the contention. I admit that the regulations have been in force only a short time, and that presently the question of renewing the Act will be considered by Parliament. The present, however, appears to be the opportune time to raise the point.

Mr. Hegney interjected.

Mr. NORTH: The point at issue is if a certain situation prevailed in 1933, is that to be the rule for all time, or are we going to make the quota in the definition the basis for each year? I have had definite instances of producers having requested an increase in response to extra demands, and have been told to pour the milk into the ground.

Hon. P. D. Ferguson: That would not be so. They would send it to a butter factory.

Mr. NORTH: I have simply mentioned what I have been told. Any extra milk is being poured into the ground. The whole object is to increase the consumption and not have the milk thrown away. If it is possible for conditions in the industry to vary year by year, for some to get larger orders and others to get smaller orders, surely we should abide by the spirit of the Act and resolve that the regulations shall apply year by year. I understand that the regulations may not be amended; otherwise I would have asked for them to be amended to read "annually." Then the whole object of those concerned would have been achieved. There is no intention to upset the regulations. Producers are anxious to increase both the quantity and quality of the milk, but they do not desire to see successful producers handicapped while those who perhaps are getting fewer orders are forced to supply more than is required.

On motion by Mr. McLarty, debate adjourned.

House adjourned at 8.25 p.m.

Legislative Council,

Wednesday, 28th August, 1935.

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

QUESTION—STATE TRANSPORT CO-ORDINATION ACT.

Carriers' Licenses for Kojonup district.

Hon. A. THOMSON asked the Chief Secretary: As Section 10 of the State Transport Co-ordination Act provides that investigations and inquiries must be reported to the Minister, will he lay on the Table of the House the Transport Board's report, giving reasons for refusing licenses to carriers for the Kojonup district?

The CHIEF SECRETARY replied: The Board are required to report to the Minister only when general investigations and inquiries are made. No report has been made to the Minister as to the reasons for refusing to license vehicles to transport goods to and from Kojonup district. (See Sections 35, 36, and 37.)

QUESTION—RAILWAY KALGOORLIE-PERTH, COST.

Hon. A. THOMSON asked the Chief Secretary: What is the total cost of the railway from Kalgoorlie to Perth, including water supplies, deviations, and maintenance from time of construction?

The CHIEF SECRETARY replied: It is impossible to supply this information by way of a "Question," as it involves the operations of various departments over a long period—exceeding 35 years.

LEAVE OF ABSENCE.

On motion by Hon. R. G. Moore, leave of absence for six consecutive sittings granted to Hon. H. Seddon (North-East) on the ground of ill-health.

MOTION—MINES REGULATION ACT.

To disallow Regulation.

HON. J. NICHOLSON (Metropolitan) [4.36]: I move—

That Regulation No. 17a, made under the Mines Regulation Act, 1906, as published in the "Government Gazette" on 8th March, 1935, and laid on the Table of the House on 6th August, 1935, be and is hereby disallowed.

I wish to point out briefly, for the information of hon. members, what is the regulation my motion seeks to disallow. In the "Government Gazette" of the 8th March last, there was published a certain regulation, No. 17a, portion of which reads—

Certificates for Underground Supervisors.—(1) Every person employed or acting as an underground supervisor in the capacity of an underground manager, foreman or shift boss, whose duty it is to exercise some control and supervision over 12 or more underground employees in any mine shall—(a) have been employed underground for a period of not less than five years, and (b) be the holder of a certificate of competency under this regulation.

Besides what I have quoted, many other matters are dealt with in the regulation; but the main point of my objection is contained in the part which I have read out, particularly relating to the requirement imposed of five years' underground employment. This is something distinctly novel in connection with mining operations in Western Australia. I am informed that up to the present time it has never been found necessary for any qualification such as this to be imposed with regard to men occupying such a position as that of mine supervisor. The position is not that of a mine manager, in connection with which one would expect that there would be all sorts of regulations and provisions made as to the training and competency of the man in charge of a mine. But, strange to say, no qualification is required from or imposed upon a mine manager. The mine manager as we all know, is the man who gives directions; and it is for those occupying other positions under him to carry out his instructions from time to time. The actual question which prompts itself to be asked is, why if it is found not necessary to impose regulations with regard to qualifications of mine managers, it should be necessary to impose qualifications with regard to supervisors of mines, whose position is much lower in connection with the working, management and control of a mine? As to these appointments of supervisors, it lies with the manager to make the selection; and up to the present the selections made reflect, I consider, that great care has been exercised by mine managers in determining who should be appointed to the position of supervisors. It will be admitted, I believe, that there has been no gross failure in, and no serious fault to be found with respect to, the method adopted by mine managements in selecting men to fill positions as supervisors. The method pursued in connection with the selection of mining supervisors is something after this style: A man is found to show some special aptitude in the course of his work, much in the same way as in the business of contracting a man is selected from among a number of other men to act as foreman on a job. Similarly, when that aptitude is displayed by any particular person working in a mine, the managements have been in the habit of giving that person a trial as supervisor; and if he proves his quality and shows that he can carry out the duties of supervisor, then he would later be confirmed in the position. Further, a method has been resorted to in order to encourage many of our younger men who aspire to higher positions in the mining world and devote their spare time to study and to gaining, at the technical schools and elsewhere, that technical knowledge which will fit them for more responsible positions than that of a man simply working on the

mines. From time to time there has been selected amongst those younger men a certain proportion of employees who have been studying and so gaining technical knowledge. It must be admitted that that technical knowledge, combined with a certain practical training, necessarily qualifies men all the more fully to discharge the duties of supervisors. But if there should be imposed this extra burden, or this extra requirement which is specified, namely five years' employment underground, the result would be to make it practically impossible to fill the positions of supervisors with suitable men and to replace those supervisors who would be dislodged by the adoption of the regulations in question. To my mind, the result would be to create on our mining fields a position detrimental to the best interests of everyone employed there. As I have said, it must be admitted that no fault can be found with the management of the various mines for the method they have pursued in the past in selecting the men now occupying the position of supervisors. These men have proved their quality. But it can readily be seen that if such a qualification as that of five years' employment underground is to be a sine qua non before the men can take up the positions of supervisors, it will be destroying that ambition which many young men have, to acquire the knowledge to fit them for the higher positions on the mines. The position of supervisor is not that of actual management, but amongst the duties attaching to the position would be the carrying out of the instructions of the manager and seeing that the work is done in accordance with his directions. If anything should arise, the supervisor would report to the man immediately above him, and so any report thus made would duly reach the manager, and the matter would be inquired into. I am informed there are no such qualifications required in other parts of the world. There are two classes of people who are seriously interested in this regulation, namely the mine managers and the supervisors of to-day.

Hon. C. B. Williams: The miners themselves do not count, I suppose.

Hon. J. NICHOLSON: I say there are two classes directly interested in this regulation.

Hon. C. B. Williams: I should say there are three.

Hon. J. NICHOLSON: The miners are interested to a certain extent, but the people directly interested are the mine managers, who have to see that they are able to get supervisors to carry out their duties in the mines, while the other class of persons directly interested are those occupying the position of supervisors at present. We all know that when various bodies, as for instance medical men and legal men, dentists, druggists, accountants, and various other organisations, have sought to get some legislative provisions made touching their profession, invariably it is provided in that legislation that the men already practising and carrying out their duties are admitted and regarded as duly qualified persons without having to undergo the examinations which might be imposed on future applicants who wish to become members of the profession. Thus every man previously engaged in the profession was admitted, but those who sought to become qualified afterwards had to pass certain examinations and do certain things. In this regulation there is no provision whatever for allowing the men who have been employed as supervisors to retain their positions. They are men who have had practical knowledge and who have passed the day when examinations would appeal to them. Yet these men would immediately be thrown out of that employment the duties of which they have satisfactorily carried out, some of them, for many years. That is a great omission in a regulation of this nature.

Hon. J. Cornell: I do not think it is intended, but probably that would be the effect.

Hon. J. NICHOLSON: Undoubtedly it would debar every one of those men who have been satisfactorily discharging their duties up to the present. If one were to submit that alone as a reason for disallowance, it would be quite sufficient, I think, to disallow the regulation. I am also informed that the Minister for Mines, who at present is absent from the State did communicate with the Chamber of Mines in regard to the proposed regulation. But at the time his message reached that Chamber, most of the mine managers were absent in Perth attending a conference, and the Minister's message was not seen or considered by them until they returned to Kalgoorlie. Unfortunately the Minister for Mines is away at present. I believe had he

been here before the publication of this regulation, it would have been presented in a totally different form.

Hon. J. Cornell: He was here when it was gazetted.

Hon. J. NICHOLSON: When the regulation was considered by a full meeting of the Chamber of Mines, the seriousness of the position was thrust home to the mine managers, and they found that if the regulation were passed in its present form it would disorganise the operations of the mines, owing to inability on the part of the management suitably to replace those men who have so satisfactorily discharged their duties as supervisors. That being so, I believe a communication was sent to the present Minister, and I understand he suggested that the Acting Minister should be consulted. But the Acting Minister for Mines, unfortunately, felt he would prefer that the matter should lie over until the Minister for Mines himself returned to the State. Now I hope I have impressed members with the seriousness of the position which will arise if such a regulation as this is passed, and I hope members will agree to the disallowance of the regulation. Then as soon as the Minister for Mines returns the matter can be gone into again, thoroughly discussed, and a regulation agreed to which will be fair and equitable, and make provision somewhat along the lines I have suggested.

Hon. J. Cornell: It will have to be more explicit than this.

Hon. J. NICHOLSON: Yes, it will require to be more explicit than the regulation submitted here. If this regulation be passed in its present form the result will be very serious to the well-being of the mines. For example, Mr. Williams asked what about the miners themselves. I say the management are desirous of seeing qualified men employed as supervisors, men with a proper knowledge of their duties, for it is not the desire of the management to see anybody suffering through incompetence in the supervision. The fact that the mines have been carried on so comparatively free from accidents attributable to supervisors is testimony to the wisdom of the selections that have been made in past years. For the reasons given, I hope my motion will be agreed to.

HON. C. B. WILLIAMS (South) [4.58]: Some time ago the union with which I am connected met the Minister for Mines and asked that certain regulations be framed and submitted to the Chamber of Mines for approval. This regulation before us is one of them. It just goes to show where the men are landed when they do endeavour to work harmoniously with the employers. The Minister agreed that it would be quite useless to put through regulations that would improve the working conditions of the men on the Golden Mile and elsewhere, unless he had the concurrence of the Chamber of Mines; because he knew it would be useless to frame regulations that would suit the workers without the approval of the managers, since those regulations would certainly be disallowed by the Legislative Council. That is what the Minister said to us, and I agree with every word of it. This regulation was submitted to the Chamber of Mines, and at this late date they come along and induce the hon. member to get up and move that it be disallowed. Is that not a breach of faith? Of course it is. All the regulations were agreed to. They did not satisfy the unions 100 per cent., but the position was that the regulations were wanted to improve the conditions. The regulations were submitted to the Chamber of Mines and the unions, and so that we could get somewhere and avoid opposition in this House, such as that previously experienced, we agreed that the Minister should consult the Chamber of Mines and that their concurrence be obtained.

Hon. L. Craig: Did he?

Hon. C. B. WILLIAMS: Yes, but because members of the Chamber of Mines were in Perth, he missed some of them. Personally I agree with the mover of the motion that there should be a provision in the regulations in regard to service, that is to say, a man who has served a period of years should get a certificate. Speaking for myself, I disagree that a supervisor should undergo a test underground on technical lines, and that is what is proposed in the regulations. Really the best supervisor underground is the man who knows the work.

Hon. J. J. Holmes: Under this regulation he would be put out.

Hon. C. B. WILLIAMS: That is so. Until the depression set in, most of them were men who had to start out early in life and obtain work, but since the depression, men of education have been getting employ-

ment in mines. There are very few ordinary men who, like myself, had to start work early in life, who could pass the examination. It is disagreeable to me to find now that the Chamber of Mines has gone back on something which we were told by the Minister the members of it were willing to accept. The manager of a mine who would be governed by this particular regulation after all knows very little of underground conditions. The supervisors are the men who are in charge of the lives of those working underground, not the manager. The man legally responsible is the manager of the mine, but in some cases managers do not know a dug-out from a stope. Just imagine also the manager of the Lake View mine knowing all the men employed on that mine! Why, he would not see some of the working places underground perhaps more than once a year. Who is better able to control the men working underground than an individual who has had five or six years' experience of work below? Never mind about the one year or two years of experience. You can have all your technical training in the School of Mines; it is absolutely useless unless you have had practical experience underground. We have seen and heard quite a lot lately about alleged mining engineers reporting on various properties, men who have seen Western Australia for the first time and who know nothing at all about the methods of mining or the lodes, which for Australia are unique. I would prefer to accept a report on a mining property from a miner or a prospector who would know something about it. A supervisor is a man who has direct control over workers. He reports every day to those who are in authority, and what we ask is that that man should have had practical mining experience, say five years underground, before being placed in control of men. It is not correct that the best men get the positions of supervisors. A miner may be earning £9 or £10 a week, or even more. Is it likely that he would consider accepting a job as a shift boss at £7 or £8 a week? Of course not. The money is not there to get the best possible men. Of course, quite a number of supervisors are good, but there are also some who are not. Mr. Nicholson said that the lack of accidents was a tribute to the supervision underground. He could not have been aware of the facts because there have been more accidents on the Golden Mile in the last two years than in any other period. One has only to read the newspaper to see how frequently accidents occur. The number of men killed in the last few years on the Golden Mile alone is appalling. Members will therefore realise why the unions have taken steps to see that shift bosses—that is what I call them—are experienced men. In most cases nowadays it is a surveyor who gets the underground management, and he always employs a practical miner as foreman. The foreman does the work and the underground manager gets the credit.

Hon. J. Nicholson: You admit there should be some provision for practical men.

Hon. C. B. WILLIAMS: Yes, and I understood that such a provision was to be contained in the regulations.

Hon. J. Nicholson: It is not.

Hon. C. B. WILLIAMS: How can we expect men who have been working underground to pass examinations? I would have the regulation altered on the lines that any person who is now acting as a shift boss for a period of five years or more should be exempt from examination. There are brats up there who have never worked underground, getting £7 or £8 a week, acting as supervisors, and they dictate to experienced men earning perhaps double that amount of money. The men themselves say "We want supervisors who know their business, and we do not care whether they are able to read or write. All we want them to tell us is that the country we are working in is safe, that the timber is all right and the various conditions underground are what they should be." That is all they ask.

Hon. J. Nicholson: You do not want to deprive of their jobs the men holding them now?

Hon. C. B. WILLIAMS: No, but we do want in control men who are capable of taking charge of the lives of others, and the men competent to hold those positions are only those who have had years of experience underground. I am not worrying about the companies' properties; I am worrying about the men who work below. Personally, I think the Government will alter the regulation; certainly the Minister will alter the provision dealing with the five years, that is, giving certificates of service to men who have been shift bosses for that length of

time. I am disgusted to think that the Chamber of Mines, once again after coming to an agreement, are now asking us to pull them out of the mud.

On motion by the Chief Secretary, debate adjourned.

BILL—CREMATION ACT AMENDMENT.

As to Reinstatement of Order.

Message from the Assembly received and read requesting that the consideration of a Bill for an Act to amend Section 4 of the Cremation Act, 1929, and to make provision for the disposal of the ashes of dead human bodies after cremation and for other relative purposes, which lapsed during last session of Parliament, might be resumed by the Legislative Council.

PAPER—ESPERANCE SETTLEMENT, RECONDITIONING.

HON. H. J. YELLAND (East) [5.15]: I move—

That the special report on the Esperance Settlement and a policy for the reconditioning of the settlement, submitted to the Chairman of the then Trustees of the Agricultural Bank by Mr. C. J. Moran (Trustee), be laid on the Table of the House.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central) [5.16]: I do not oppose the motion; in fact, I have brought the papers with me and will lay them on the Table of the House.

Question put and passed.

BILL—CONSTITUTION ACTS AMENDMENT ACT, 1899, AMENDMENT.

Second Reading.

Debate resumed from the previous day.

THE CHIEF SECRETARY (Hon. J. M. Drew—Central—in reply) [5.18]: There is an impression that, under this Bill, a member of Parliament could accept a seat on the Lotteries Commission without incurring disqualification. It was not intended that it should be so, and it is not so. There are two ways in which a member of Parliament can forfeit his seat. One is by accepting an office of profit under, or from, the Crown, and the other is by entering into a contract with the Crown. Both ways are dealt with separately. The one, with reference to accepting an office of profit, appears in Section 37 of the Constitution Act, 1899. Under that section, when any member of Parliament accepts an office of profit from the Crown, his seat becomes vacant. There is no connection between that section and Section 34, which deals purely with contracts. This Bill simply amends Section 35, which now exempts from disqualification a member of Parliament who is a shareholder in an incorporated company of more than 20 persons, when that company enters into a contract with the Government. The Solicitor General, on reading a newspaper report of the debate on the second reading of the Bill, prepared a letter for me as follows:—

Some of the members of the Legislative Council have voiced the opinion that the proposed extension of immunity to members of Parliament, as contained in Clause 2 of the Bill, will operate to enable members of Parliament to be appointed as members of the Lotteries Commission without fear of disqualification. As that suggestion is entirely wrong, I think I should let you know, and explain to you why the suggestion is wrong, so that you can inform the House.

The amendment of Section 35 set forth in Clause 2 of the Bill will extend the immunity to contracts or agreements made or entered into with certain public bodies as enumerated in paragraphs (a), (b), (c), and (d), and also to contracts made or entered into with the Crown or a Crown instrumentality for the borrowing of money on security from the Crown.

It will be obvious that neither paragraphs (a), (c), (d), nor (e) can operate to enable a member of Parliament to accept appointment as a member of the Lotteries Commission without fear of disqualification; but apparently some of the members of the Council fear that paragraph (b) in Clause 2 of the Bill may operate so as to enable a member of Parliament to accept appointment as a member of the Lotteries Commission without fear of disqualification. As a matter of fact paragraph (b) cannot, and will not, operate in the manner feared at all for three very convincing reasons, namely:—

(a) The Lotteries Commission, although a body corporate, is not charged with the administration of the Lotteries (Control) Act, 1932. That Act is definitely administered by a Minister of the Crown; and

(b) The Minister of the Crown, who is charged with the administration of the said Act, does not act in a corporate capacity; and

(c) The Minister appoints the members of the Lotteries Commission, so that the contract of service of a member of the Lotteries Commission is a contract made or entered into by the member of the Commission with the Minister,

who does not act in a corporate capacity, and is not a contract made with the Lotteries Commission at all.

Paragraph (b) as aforesaid relates only to contracts made or entered into with a person or body charged in a corporate capacity with the administration of any Act.

The reasons given above by me should make it clear that paragraph (b) cannot give immunity, as suggested, to a member of Parliament who is appointed by the Minister, who, although charged with the administration of the Act is not so charged in a corporate capacity

Meanwhile I had sent the Solicitor General the notes of Mr. Parker's speech on the Bill, and, based on those notes, Mr. Walker replied as follows:—

I am sending you herewith a letter which I had already written, but not despatched, to you dealing with the suggestion made in the House that the proposed amendment may enable a member of Parliament to accept appointment as a member of the Lotteries Commission without fear of disqualification, and explaining that such suggestion is without foundation. I am forwarding that letter herewith as it deals completely with that particular suggestion. Mr. Parker, however, raises other aspects, which require consideration. As I understand his speech, he makes two suggestions, namely—

(a) The proposed amendment may enable a member of Parliament to accept certain offices of profit, which they cannot now accept, without becoming disqualified; and

(b) The proposed amendment may lead to some commercial or business immorality in the trading and business transactions of members of Parliament with State instrumentalities, which the proposed amendment will enable members of Parliament to enter into.

The exemptions conferred by Section 35 of the principal Act relate only to matters dealt with in Sections 32 and 34. They do not relate to Section 37, which in this discussion is not material because that section provides that when a person holding an office of profit under the Crown, is elected to Parliament and takes his seat, he vacates his office of profit.

Section 32 provides that certain contracts, or an interest in certain contracts, shall disqualify a person from being a member of Parliament. Section 34 provides that the seat of a member of Parliament who holds certain contracts, or an interest in certain contracts, shall in a certain event become void. Section 35 provides the cases in which Sections 32 and 34 shall not apply.

Whilst neither Section 32 nor Section 34 expressly mentions offices of profit under the Crown, those offices are inevitably held under either a contract of service or a contract for personal service, and Sections 32 and 34, therefore, are wide enough in their terms to include those classes of contracts.

The proposed amendment of Section 35 as now contained in Clause 2 of the Bill would, therefore, operate so as to enable members of Parliament to accept some offices of profit under the Crown from certain specified State instrumentalities, which they cannot now do, without disqualifying themselves from Parliament.

If therefore, the Government propose still to prohibit members of Parliament from accepting and holding an office of profit under the Crown, it will be necessary to consider an amendment of Clause 2 of the Bill.

In this regard I suggest for your consideration the following amendment:—

Clause 2, line 15—After the figures "1902-1933," in line 15, insert within the bracket the words "or a contract of service or a contract for personal service."

That amendment would effectively prevent the proposed exemptions permitting any member of Parliament to accept an office of profit under the Crown.

The second suggestion made by Mr. Parker, namely, that the proposed amendment may lead to some commercial or business immorality in the trading and business transactions of members of Parliament with State instrumentalities, no doubt has some element of possibility, but seems to me to be so extremely improbable as not to warrant any great consideration. For one thing public opinion would be an effective deterrent, and Government officials and Ministers of the Crown would hesitate to do or authorise anything which would endanger their official positions or their political existence; and it could be only the acts of such officials or Ministers that could permit any such commercial or business immorality.

Dovetailing the last letter of the Solicitor General into the first, the position seems to be this: Under the Bill, a member of Parliament could not become a member of the Lotteries Commission without forfeiting his seat in Parliament, the reason being that the appointment would have to be made by the Minister—in other words, by the Crown. But it would be possible for the member of Parliament to be employed in a subordinate capacity by the Lotteries Commission.

Hon. J. Cornell: As yardman.

The CHIEF SECRETARY: Or to lick stamps. That could be done by a member of Parliament if he were foolish enough to do such a thing, and if the member of Parliament, by accepting the job, contemplated political suicide. However, as it is advisable that no openings of this kind should be permitted to exist, the Solicitor General has framed the amendment to meet the position.

Mr. Cornell wants to know what concrete cases of hardship has the Constitution Act inflicted on any individual member of Parliament. "What concrete cases have occurred?" he asks, and he suggests that the best way to rectify them is to indemnify members of Parliament in such circum-

stances. The fact that few such cases have arisen in the past is no guarantee that many may not arise in the future.

Hon. J. Cornell: I think it is a guarantee.

The CHIEF SECRETARY: The information necessary to be given in introducing this Bill may have an educative effect on a certain class of people who may think they see an easy way of making £200. Instead of indemnifying members—who unwittingly commit a breach of the Act——

Hon. J. Nicholson: That was done in Tasmania.

The CHIEF SECRETARY: —surely it is much better to amend the Act so that its treacherous aspects may be removed. In moving the second reading of the Bill, I quoted the interpretation given to the Act by two eminent lawyers over 40 years ago. I have since read what the Hon. T. P. Draper, Attorney General in the Mitchell Government, had to say on the matter when he introduced an amendment of the Act in another place in October, 1919. His speech may be seen in "Hansard" of that year, pages 991 to 993.

Hon. H. S. W. Parker: The Bill contained almost the same wording as this one.

Hon. J. Nicholson: But it contained other matter also.

The CHIEF SECRETARY: Let me quote a few extracts from the speech of Mr. Draper——

> If hon. members will look at Sections 32 and 34 of the Constitution Act of 1899, they will see that any person who directly or indirectly, himself or by an agent, for his benefit executes or enjoys in whole or in part any contract with the Government or its agent, or the person who acts for the Government, he is disqualified from holding a seat in this Assembly. Those words are very wide indeed. It is difficult to say what they will not cover, and the difficulty that I see is in deciding clearly what is an agency of the Crown. If all these bodies which have been made corporate bodies were regarded as agents of the Crown for the purpose of this Act, I have no hesitation in saying that a member of Parliament could not live in this State in the ordinary way at all. Everywhere one goes, one comes across State agencies providing the ordinary machinery and requisites of civilised life, and if this wide interpretation is to be put upon Sections 32 and 34 of the Constitution Act, then life in Parliament becomes impossible . . . . Look at Sections 32 and 34, and it will be seen there is a grave necessity for making the position perfectly clear . . . .
>
> As an instance of what may be classed as agencies of the Crown, take the Commissioner of Railways. He is said to be an agent of the Crown. He was made a separate corporation by the Railways Act of 1904. And the Commissioner of Railways, of course, also governs the Tramways Act, and has control of the supply of electricity as well. If the Commissioner of Railways is an agent for the Crown, no member of Parliament can contract with him . . . . The question arises whether we could consign goods, because a contract for the consignment of goods by railway is a contract from which one derives some benefit, and is made for one's benefit; otherwise one would not enter into it. If we are going to include under the word "agent" a corporation of this kind, it will be impossible for a member to remain in Parliament . . . .
>
> Of course it is not likely that a court would construe the words in their widest interpretation if the court could help it, but the court might be forced to accept such construction, and it is time these provisions were put right. Quite a lot of institutions are controlled by personal bodies charged in a corporate capacity. Take the Agricultural Bank, which is governed by trustees. The trustees are a corporation. Members will see that in Sections 5 and 6 of the Act of 1906 . . . . Take, again, the Conservator of Forests. He is a corporate body, created last session . . . .
>
> The Minister for Water Supply, Sewerage, and Drainage is expressly made a corporation for the purpose of controlling, not only the Water Supply, Sewerage, and Drainage Act, but also certain other Acts. The principal contracts under the Acts over which the Minister for Water Supply, Sewerage, and Drainage has control are contracts for the supply of water. I am referring to rates; I am not suggesting that the water supply, for which there is an ordinary rating allowance, is a contract within the Constitution Act. The most one can say of that is that it is a statutory contract. In addition to the ordinary supply of water on the payment of rates, all these Acts contain provisions for the supply of water under agreement, subject to the conditions of such agreement. If members care to look at the Acts they will see that Sections 38, 43, 61 and 99 of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909; Section 3 of the Water Supply Act, 1893; Sections 28 and 38 of the Goldfields Water Supply Act, 1902; Sections 57 and 58 of the Water Boards Act, 1904, all provide for contracts of the nature which I have mentioned.
>
> Now we come to what is a very important part of this subject, and a part which is constantly increasing, namely, the State trading concerns. These are all incorporated under Section 6 of Act No. 12 of 1917. All these State trading concerns make contracts in the ordinary course of business for the supply of goods and material for the rendering of services which occur every day in the ordinary course of life. At the present time we have incorporated as State trading concerns the Government sawmills, the brick works, the implement works, the quarries, the State steamships, the State hotels, shipment of North-West cattle, and State ferries. There is also another State trading concern, the Wyndham meat works, which is incorporated under Act No 16 of 1918 . . . .

There is also another contract which might be made by anybody. Suppose a person stayed at a State hotel for a week; that is a contract. I might also mention the State ferries. A contract, of course, does not necessarily have to be in writing. A majority of the contracts in the course of business are verbal, and it makes no difference whether the contract is verbal or in writing, so far as the purposes we are dealing with are concerned.

Hon. G. W. Miles: What about Mr. Hamersley's contention? Are you going to reply to that?

The CHIEF SECRETARY: What was it?

Hon. G. W. Miles: Get rid of the State *trading concerns* and it will not be necessary to amend the Constitution.

The CHIEF SECRETARY: That would involve, amongst other things, getting rid of the railways. Mr. Moss, in December, 1908, introduced an amendment of the Constitution Act for the protection of members, but it was of a sweeping character and met with criticism from members including myself. The necessity for amending the Act on the lines of this Bill was, however, recognised. In the course of his second reading speech, Mr. Moss pointed out the archaic character of the provisions of our Constitution Act. According to "Hansard," pages 601-5, he said:—

At the time the Australian States were granted their Constitutions by the Imperial authorities, the prevailing idea in connection with the Government of any country was that which prevailed in Great Britain with regard to the government of the mother country; but when one comes to regard the altered circumstances in Australia, the fact that the Governments throughout this continent are embarking in numbers of enterprises which are left to private individuals or to county or borough councils in the old country, it will be realised that the conditions are such that the same constitutional provisions should not exist in the two cases.

I am indebted to the Clerk Assistant of the House, for he has put before me an Act passed *in 1781, the 22nd year of the reign of George* III., a measure put on the Imperial statute-book restraining any person concerned in any contract, commission, or agreement made for the public service, from being elected, or sitting and voting as a member of the House of Commons. That Act will be found on page 541 in the Revised Statutes, Volume 2, being part of the Imperial Statutes, of which copies are in the library of this Parliament. Any member who looks at the Imperial Statutes and compares the sections of that Act with Sections 32 to 36 in the Constittuion Act Amendment Act of 1899—which will be found on pages 118 to 120 of our Standing Orders—will find that the latter are exact transcripts of the section of this old Imperial Act.

And I want to say here there is a popular idea prevailing that a contract is something that must be reduced to writing. My friends, Mr. Jenkins, who is not in the House, and Dr. Hackett, I am sure will both agree with me that the operation of going into a store and buying a pound of nails and paying for those nails constitutes a contract. The operation of going in and asking for a particular commodity in the store, either by paying or getting credit, constitutes a contract.

He referred to the section we propose to amend thus—

I want hon. members to look at the end of the next section which excuses any incorporated company where such company consists of more than 20 persons, and a contract or agreement in respect of any lease, license, or agreement in respect to the sale or occupation of Crown lands. Sections 32 and 34 mean that all contracts you enter into are contracts which disqualify you under this Constitution Act, and save and except the contract whereby you subscribe to a public loan and purchase the waste lands of the Crown from the Government.

Mr. Moss expressed his opinion in another extract I have made—

I have *no doubt in my mind*, and I am confirmed in that opinion by other members of my profession, including gentlemen holding important positions in the Government service, that the purchase of water from the Government constitutes one of the contracts aimed at by the amendment of 1899, and I am sure hon. members will need little convincing of this, that when they go to the railway station of this State and sign a consignment note for sending goods away, there is a contract of guarantee entered into by the Government through the Commissioner of Railways on the one hand, and the member of this or the other House on the other hand, to safely carry goods for a reward.

He added—

Take the Agricultural Bank. We have a million of money invested there, and I have no hesitation in saying that if any member of Parliament borrows from the Agricultural Bank on a holding, or if he purchases from the Minister any of the stock imported to assist in agricultural development, he is certainly entering into contracts in connection with these matters.

He went further—

I think every member of Parliament is in a somewhat precarious position at the present time. Take the agricultural members for instance, who are using these railways *daily for* the transport of their produce from one part of the State to another. Their position is very unenviable. I think they are disqualified and liable to this penalty.

Mr. Kingsmill spoke on the Bill, and though he attacked certain provisions, he supported others. He said—

The preamble of the Act of George III. seems to aim altogether at the contractor, the

vendor of goods to the Government. It reads as follows:—"For further securing the freedom and independence of Parliament, be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the lords, spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the end of this present session of Parliament any person who shall directly or indirectly himself, or by any person whatsoever in trust for him or for his use or benefit, or on his account undertake, execute, hold or enjoy, in the whole or in part, any contract, agreement, or commission made or entered into with, under, or from the commissioners of His Majesty's Treasury, or of the Navy or Victualling Office, or with the Master General or Board of Ordnance, or with any one or more of such commissioners, or with any other person or persons whatsoever, for or on account of the public service, or shall knowingly and willingly furnish or provide in pursuance of any such agreement, contract, or commission which he or they shall have made or entered into as aforesaid, any money to be remitted abroad or any wares or merchandise to be used or employed in the service of the public, shall be incapable of being elected or of sitting or voting as a member of the House of Commons.

Mr. Kingsmill was strongly in favour of an amendment to the Act, but not to the extent proposed by Mr. Moss. During the present debate, doubt was expressed as to whether the Bill would leave the way open for a member of Parliament to enter into a contract with the Commissioner of Railways in connection with the construction of a railway. The Solicitor General, in reply, has stated—

> The answer to that suggestion is that a new railway is definitely a "public work." It is true that as a result of the Public Works Act Amendment Act, 1933, and the Government Railways Act Amendment Act, 1933, the Commissioner of Railways, by delegated authority from the Minister for Railways, can undertake the construction of a new railway and can enter into contracts with contractors in connection therewith, but even so the Commissioner of Railways would definitely be constructing the railway as a "public work" within the meaning of and under the provisions of the Public Works Act, 1902-1933.

I have given authorities which, I think, clearly show that the section of the Constitution Act which is based on conditions applicable to England in the time of George III. calls for a thorough review in order to meet the different conditions operating in this State. I feel sure this can be done without leaving the door open to improper practices. In fact, many of the things which this Bill is intended to cover have been done openly for years past by members of Parliament, in the honest belief that they were not violating the Constitution Act. Even if a constitutional lawyer of high repute were to proclaim from a public platform that a member of Parliament would imperil his seat by signing a consignment note for the carriage of his goods over a Government railway, an intelligent audience would be disposed to come to the conclusion that the man of law had parted with his senses for the time being. We have had the benefit of the knowledge and experience of Mr. M. L. Moss, K.C., one of the most brilliant lawyers who ever came to this House. He is very definite on the point. Then we have had Mr. Justice Draper, a man thoroughly qualified to express an opinion on the points in question.

Hon. J. J. Holmes: Was not Mr. Moss a party to the appointment of a member of Parliament as Chairman of the Fremantle Harbour Trust?

The CHIEF SECRETARY: Yes, by an amendment of the Fremantle Harbour Trust Act.

Hon. J. J. Holmes: So much for legal opinion.

The CHIEF SECRETARY: But it served its purpose. The signing of a consignment note is definitely a contract with an agent of the Crown, for a breach of which the Crown can be sued.

Hon. J. Nicholson: The Commissioner is a common carrier.

The CHIEF SECRETARY: Yes. I have a form of contract here. I agree that this is a Bill that should go to a Select Committee. In my opinion, it could not satisfactorily be dealt with by a Committee of the whole House. Some amendments are necessary, amendments designed to remove absurdities and at the same time leave no loophole for corrupt practices.

The PRESIDENT: Opposition has been expressed during the debate, to the second reading of this Bill. It will, therefore, be necessary to have a division on that question.

Question put, and a division taken with the following result:—

Ayes	20
Noes	3
Majority for	17

AYES.

Hon. E. H. Angelo	Hon. G. W. Miles
Hon. C. F. Baxter	Hon. R. G. Moore
Hon. L. B. Bolton	Hon. J. Nicholson
Hon. J. M. Drew	Hon. H. S. W. Parker
Hon. J. T. Franklin	Hon. H. V. Piesse
Hon. G. Fraser	Hon. A. Thomson
Hon. E. H. Gray	Hon. C. B. Williams
Hon. W. H. Kitson	Hon. C. H. Wittenoom
Hon. J. M. Macfarlane	Hon. H. J. Yelland
Hon. W. J. Mann	Hon. L. Craig (*Teller.*)

NOES.

Hon. J. Cornell	Hon. V. Hamersley (*Teller.*)
Hon. J. J. Holmes	

Question thus passed.

Bill read a second time.

Select Committee appointed.

HON. J. NICHOLSON (Metropolitan) [5.55]: I move—

That the Bill be referred to a select committee of five members, consisting of Hon. J. M. Drew, Hon. C. F. Baxter, Hon. J. Cornell, Hon. H. S. W. Parker, and the mover, the committee to have power to call for persons and papers and records, that three members shall form a quorum, and that the committee report one month from this date.

When I was speaking on the Bill I suggested the appointment of a joint select committee. As the measure originated in this House, and so that as many members here as possible might be given an opportunity to consider it, it has been suggested to me that it should instead be referred to a committee of this House. If it were referred to a joint committee only three members would represent this House, and three would represent another place, and the appointment of such a committee would mean delay in the sending of messages between the two Houses. So that a committee of this House may undertake its duties without delay which is probably the best course to adopt, I have moved that the committee should consist of five members of this House.

HON. J. CORNELL (South) [5.57]: I second the motion. It is best for this House to deal with the Bill and have it amended in a manner that is acceptable to us. When it goes to another place there is nothing to prevent it from being referred to a select committee there. On the Farmers' Debts Adjustment Bill two select committees of another place were appointed. When the measure came here it was also referred to a select committee, of which the Chief Secretary was chairman. Our committee made a good job of that Bill. It is better that each House should deal with it on its merits, and that we should have the two viewpoints brought to bear upon it. The Bill has been brought down first of all in this House. It is logical to assume that if it is rendered acceptable to members of this Chamber it will be acceptable to members of another place.

Question put and passed.

House adjourned at 5.58 p.m.

Legislative Assembly,

Wednesday, 28th August, 1935.

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

RETURN—EDUCATION, SCHOOLS' EXCESS WATER.

HON. N. KEENAN (Nedlands) [4.35]: I move—

That a return be laid on the Table of the House showing—

(a) The amount of excess water (if any) used by each of the undermentioned State schools during the years 1932-33, 1933-34, and 1934-35: (1) James Street, (2) South Perth, (3) North Perth, (4) Victoria Park, (5) Subiaco, (6) Nedlands, (7) Maylands, (8) Claremont, (9) Highgate Hill, and (10) Fremantle.

(b) The amount charged for such excess water in each case.

(c) If paid, by whom was such amount paid?

I understand that no objection is raised on the part of the Government to the presentation of the return.

On motion by the Minister for Agriculture, debate adjourned.