

the community it serves. If we are going to get an efficient body of producers, I quite agree that they should organise and would be glad to help them, but they must not operate at the expense of the community amongst whom they reside. That sort of thing has happened too often in Australia, and it has proved most pernicious. I have mentioned the Paterson butter scheme.

The Attorney General: And that is a voluntary scheme.

Hon. M. F. TROY: Yes, but it is effective. Under it the factory managers come together, and there is no possibility of a producer remaining outside of it.

The Attorney General: No, because the control is in the hands of people few in number.

Hon. M. F. TROY: Yes, and they can stifle competition. I quite agree with the Minister for Railways that some of the provisions of the Bill are ridiculous. I do not wish to hurt the feelings of the member for Guildford-Midland, but I cannot help thinking that the provision in Clause 11, Sub-clause 3, that the board may exempt such eggs as the producer may require for his own use is ridiculous.

Hon. W. D. Johnson: How could you control the commodity without having some such provision? Show me how it can be done and I will accept your suggestion.

Hon. M. F. TROY: If control cannot be effected without such a piffling provision governing the egg used by the wife to make a pudding or consumed by the child at breakfast, this proposed legislation is utterly hopeless.

Hon. W. D. Johnson: If we omitted that provision, the effect would not be piffling.

Hon. M. F. TROY: How would the board know what eggs were used in my own household.

The Minister for Railways: What right have the board to know?

Hon. M. F. TROY: They would not have the slightest knowledge. If the board have to inquire into those trivial things, what sort of expenditure will be incurred and what sort of inspectorial staff will be necessary? They could not possibly do it. I am prepared to support any reasonable legislation for the organisation of the industry, but proper protection must be provided for the community, and the people of the country must have an equal opportunity with other

producers in the market of the city. If that is done, I shall have no great objection to the measure. The first step in legislation of this kind should be to give producers power to organise for export, and I do not mind if it is made compulsory. Give them power to organise for export and leave the local market alone.

Hon. W. D. Johnson: That is impossible. Control is necessary to secure the maximum exports.

Hon. M. F. TROY: It would be much easier to frame acceptable provisions governing export than to secure approval for some of the provisions of the Bill. If opportunity be given to the producers to organise their product for export, much will have been accomplished in their behalf. If the hon. member amends his Bill in that direction, he will secure my support.

On motion by the Attorney General, debate adjourned.

*House adjourned at 9.43 p.m.*

## Legislative Council,

*Thursday, 16th October, 1930.*

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

### QUESTION—COLLIE COAL AGREEMENT.

Hon. G. W. MILES asked the Minister for Country Water Supplies: Does the agreement between the Railway Department and the Collie Mining Companies contain a three months' cancellation clause?

The MINISTER FOR COUNTRY WATER SUPPLIES replied: No.

**BILL—BEEES.**

Report of Committee adopted.

**BILL—INSPECTION OF SCAFFOLD-  
ING ACT AMENDMENT.***Recommittal.*

On motion by Hon. J. M. Drew, Bill re-committed for the purpose of further considering Clause 4.

*In Committee.*

Hon. J. Cornell in the Chair; the Minister for Country Water Supplies in charge of the Bill.

Clause 4—Amendment of Section 11:

Hon. J. M. DREW: I move an amendment—

That after "by" in the second line, the following words be added:—"deleting the word 'human' in paragraph (p), and inserting the word 'the' in lieu thereof, and."

It was necessary to recommit the clause for the purpose of making the further amendment to the principal Act. The application of the amendment to Section 11 we have already agreed to would amount to ridiculous tautology. With that amendment, Section 11 of the principal Act would read, "Where it appears to an inspector—(a) that the use of any scaffolding or any gear would be dangerous to human life or limb of any workman employed on the works, whether he is or is not using such scaffolding or gear." If we agree to the amendment I now propose, the Act will then read, "Where it appears to an inspector that the use of scaffolding or gear would be dangerous to the life or limb of any workman," and so on.

The MINISTER FOR COUNTRY WATER SUPPLIES: I agree that the amendment is necessary.

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

Bill again reported with a further amendment.

**BILL—INDUSTRIES ASSISTANCE ACT  
CONTINUANCE.***In Committee.*

Resumed from the previous day; Hon. J. Cornell in the Chair; the Minister for Country Water Supplies in charge of the Bill.

Clause 2—Continuance of Act (partly considered):

Hon. H. SEDDON: My suggestion was that the Committee should vote against Clause 2, and the position then would be that the board would continue until the 31st March, 1931. I think we can attain the same result by completing the Committee stage and then voting the Bill out on the third reading. That would leave the 1929 Act in operation until the 31st March, 1931, which period will give the board all the time necessary to wind up the accounts that need winding up, and give the Government time to bring down the necessary amendment to the Agricultural Bank Act in order to safeguard the board's securities.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

**BILL—MAIN ROADS.***Second Reading.*

Order of the day read for the resumption from the previous day of the debate on the second reading.

Question put and passed.

Bill read a second time.

**BILL—EDUCATION ACT AMEND-  
MENT.***Second Reading.*

THE MINISTER FOR COUNTRY WATER SUPPLIES (Hon. C. F. Baxter—East) [5.0] in moving the second reading said: The sole object of the Bill is to confer additional powers in connection with the administration of the Education Department, relating to the retirement of teachers. The present power of the Minister in the matter is confined to possible action on his part in two directions. He can transfer a teacher from one school to another under Subsection 2 of Section 7 of the Act, but the transfer shall be of such a kind that the teacher, when transferred, shall receive the same salary. In addition, the Minister can, under paragraph (d) of Subsection 1 of Section 28, dismiss a teacher, but he has no power under the Education Act to exercise

such powers as the Public Service Commissioner can exercise under Subsections 6 and 7 of the Public Service Act. Acting under those subsections, the Public Service Commissioner has power to declare an office an excess office in a department and make other arrangements for the excess officer.

The Bill before the House has come forward because of the fact that, under the influence of the financial depression, there will be nothing like the same number of vacancies for the teaching staff this year as there have been for some years past. The vacancies that occur in connection with the teaching staff every year average 70 female teachers who retire or get married, and 30 teachers who go on long service leave, while 64 vacancies are due to various causes. Some are due to retirements of teachers who reach a certain age; some are due to sickness, while others are due to dismissals. In addition, there are new vacancies arising through new schools being established. In recent years the Education Department has been constantly expanding the number of schools conducted by it. In a normal year the vacancies average about 164, and they would be filled principally by the 134 graduates every year from the Teachers' College. Fifty of the 134 graduates every year are two-year students and the remaining 84 are one-year course trainees. To that total of 134 departmentally trained teachers must be added 30 teachers who return from long service leave. This year the number of vacancies will be reduced to the extent of 35 fewer female teachers leaving the service to marry. That number is not estimated; it is known definitely. The school year is from the 1st January to the 31st December, and before a female teacher can leave the department to marry, in order to preserve her rights to the gratuity, she must give three months' notice of her intention to resign.

Again, in consequence of the financial depression and the necessity to economise, long service leave has been suspended. That means that 30 teachers who normally would have gone on long service leave will not do so this year. Thus the number of vacancies that will be available next year will be 65 less than the average number of preceding years. It is also very doubtful whether the number of 64 vacancies due to retirements from other causes will be reached. A possible variation in the number of retirements

from other causes has not been taken into account. The usual total of about 64 retirements may be reached because the number of deaths is more or less the same in each year, and the number of those who retire for other reasons is also much the same. However, it is thought that there will be fewer vacancies under that heading and under some other headings. If there are 64 retirements from other causes and 35 female resignations, there will be 99 vacancies to fill. Therefore, in consequence of the diminution in the number of vacancies to 99, it is necessary to restrict the output of the Teachers' College.

The position is that the department employs those who come from the Teachers' College after the final examination, and although the department is not legally bound to employ them, it is morally bound to do so, because the persons trained for teachers are not fitted to earn a living in any other way. It would be unjust to invite students into the Teachers' College with the idea that they would, when qualified by examination, enter on a career that would enable them to earn a living, and then advise them that the department was not in a position to employ them. Besides, it would be a waste of money training teachers, who were unnecessary in the staffing of the Education service. As previously stated the output from the College is 134 teachers a year. To prevent difficulties arising in finding vacancies for them, it is proposed to reduce the number this year by—

- (1.) Abandoning this year's September course for 28 short-course students.
- (2.) The cancellation of next February's short-course, which means another 28 students fewer, and
- (3.) The abandonment of one long-course for 30 trainees.

Thus there will be 86 fewer students in the College next year than there has been in recent years. Therefore, instead of 134 students, as in normal years, there will be only 48. Notwithstanding that reduction, there will be ample teachers available to carry on the work of the department in the years ahead. In 1931 there will be seven teachers available who came out of the College in August last, and for whom no appointment has been found to date. There will also be 28 short-course students coming out in December, 50 long-course students coming out in December, and 28 short-course students coming out in May. That gives a

total of 113. Allowing for the reductions, there will be an excess of 14 students next year over the 99 vacancies. If the position for 1932 is investigated there will be 56 short-course students and 50 long-course students. The latter are already at the College. They have commenced tuition and the State is under a contract to finish their training. It is a definite contract that must be observed, no matter what the circumstances may be. With the carry-over, therefore, the State should have 120 teachers available in 1932 to fill the possible vacancies numbering 99. On these facts it must be clear that the present staff at the Teachers' College is largely in excess of present requirements, and certainly in excess of the requirements as from the beginning of next year. That fact is abundantly clear when it is remembered that from the beginning of next year, instead of having 134 new students entering the college, there will be only 48. Those who are occupying lectureships and other posts at the Teachers' College have won those positions by merit. They have been promoted from the ranks of teachers to their present positions. Although the needs of the times make it necessary to reduce the staff, it seems to me that it would be very extreme and unjust to dismiss those men and women. Instead of that drastic step it is proposed to introduce the scheme contained in the Bill.

Briefly stated, that scheme would retire the surplus members of the college staff to the position whence they came, and grade down step by step until the bottom of the ladder is reached. Clause 2 of the Bill proposes to insert a new section, and subclause 1 gives power on the report of the Director that, for the efficient working of the department, any office of the department other than an office under the control of the Public Service Commissioner is in excess of requirements, the Governor may declare it an excess office, and call upon the holder to retire from the service. That is on the same lines as the provision in the Public Service Act. Subclause 2 provides that the officer so retired from the service shall become an excess officer in consequence of that declaration. Subclause 3 proposes that on the report of the Director that an excess officer can be advantageously employed in any other office of the department, the Minister may transfer such excess officer to such other

office, notwithstanding that it is of a lower grade and bears a lower salary.

Subclause 4 is important. It contains the scheme of the Bill. There may be no office vacant to which an excess officer may be transferred, although he may be advantageously employed. Power is therefore given to the Minister to create a vacancy by moving an existing officer out of an office and putting into it the officer who was in the Teachers' College. Subclause 5 will enable the Minister to create an office for the second officer who has been disturbed in his position, and so on until all the officers have been transferred and until the lowest rung of the ladder has been reached. Subclause 6 will enable the Minister to carry-on the moves from one position to another. Subclause 7 may appear redundant, because an officer who is retired and subsequently transferred must be deemed to have been in continuous employment. That provision has been inserted at the request of the teachers. It is declaratory of what is absolutely necessary if the scheme proposed is to be carried out. The rest of the Bill consists of mere definitions.

The measure is necessary because the State will not want anything like the number of teachers that the Teachers' College at present is capable of turning out, and as there will be less than half the number of students, it is obvious that the staff of the college must be reduced because the State cannot afford to maintain the staff if there is no work to be done. I move—

That the Bill be now read a second time.

On motion by Hon. J. M. Drew, debate adjourned.

## **BILL—LOCAL COURTS ACT AMENDMENT.**

*Second Reading.*

**THE MINISTER FOR COUNTRY  
WATER SUPPLIES** (Hon. C. F. Baxter—East) [5.19] in moving the second reading said: The routine of law is always tedious and expensive to litigants, and in order to afford some relief to those involved in actions this Bill for the amendment of the Local Courts Act is submitted. The main objects of the Bill are to cheapen and expedite actions involving sums of less than £500. At present all actions, except by con-

sent of both parties, involving more than £100 have to be commenced in the Supreme Court. That involves all the expensive preliminaries necessarily incurred in a Supreme Court action. The process in a local court action is very much simpler, quicker and cheaper. The proposal is that actions involving more than £100 but less than £500 shall be commenced in the local court, but actually shall be heard by a Supreme Court judge. That proposed procedure would give such actions the benefit of the simple and cheap process of the local court, and in addition the benefit of the greater skill and experience of Supreme Court judges. In effect the actions referred to will be local court actions, but the actual trial will be before a Supreme Court judge. That will substantially decrease expense and increase celerity. The scheme is modelled on South Australian legislation, which has operated very successfully for many years. At present the normal course in a Supreme Court action is something like this: A writ is issued, and on the back of the writ is stated in a few lines a precis of the claim. The writ is then served on the defendant, who has 10 days within which to enter an appearance. That involves going down or sending someone to the Supreme Court and handing in a paper stating "I enter an appearance to this action." Then the plaintiff has five weeks within which to deliver a statement of claim, that is, an expansion of the precis endorsed on the writ. The defendant, having had delivered to him the statement of claim, then has 10 days in which to deliver a defence. If the case requires it, the plaintiff has another 10 days within which to deliver a reply, and in some cases after the reply is delivered there are further pleadings, for each of which 10 days are allowed for delivery and rejoinder and so on.

Having got to that stage, generally there is in a Supreme Court action a procedure known as discovery. That is, each side is called upon to produce and show to the other side all the documents it possesses touching matters in the action. When all that is finished, the plaintiff gives notice of trial and the case is then set down for hearing. It then appears in the month's list; counsel appear before the court on the first day of the month's sitting, the list is called

over, and the judge fixes a suitable date for the hearing of the trial. In important matters most of the things mentioned are probably necessary, but in a great number of cases which at present have to be taken to the Supreme Court there is no necessity for all those drawn-out and expensive preliminaries. If this measure be passed, most of the procedure at present necessary in actions involving less than £500 can be eliminated. The procedure then will be to issue a summons. The statement of claim will be endorsed on the back of the summons, and after it is served the defendant, if in the metropolitan area, will have five days in which to enter an appearance. Then the case will be set down for hearing and will probably come before the court within two or three weeks. The saving will be substantial, because much less work will be done for the litigant by the solicitor. Efficient trial will be guaranteed by the fact that a Supreme Court judge will conduct it, and the speed with which such actions will be disposed of will be very much greater than it is at present. That is the main principle of the Bill. Another feature of the Bill is to give a right of appeal, by leave of the Supreme Court, from a decision of a local court magistrate on an interlocutory order or decision. That was thought to exist until the Full Court decision in the case of *Kidd versus Sayle*. The general view of the profession is that the decision of the local court magistrate should not be absolutely final in such matters, some of which are very important. The amendment set forth in this Bill will enable an appeal to be made wherever the Supreme Court is of opinion that the matter is important enough. Suppose the statement of claim endorsed on the summons is not full enough. The defendant is then entitled to apply for particulars. Suppose the plaintiff mentioned an agreement, the defendant would want to know what sort of agreement it was, whether it was in writing, and what was the date of it. He asks the plaintiff to furnish those particulars. The plaintiff refuses. The defendant may then appear before the magistrate in chambers and ask for an order for those particulars to be delivered. The Full Court has held that, from that order of the magistrate there is at present no appeal.

The remaining important proposal in the Bill is to take away the absolute right of appeal from the local court in matters involving less than £20, and to permit such

appeals only by special leave. In the past it has frequently happened that paltry matters have been litigated right to the Full Court, sometimes greatly to the detriment of one of the parties, who was unable to stand the expense. At the present time a litigant might have judgment given against him in the local court in a matter involving some trifling amount. He has an absolute right of appeal to the Full Court and, if he wins, he is entitled to receive costs, which may amount to anything between £30 and £40. That is wrong. In petty matters it should be possible to reach finality speedily. Even where the amount involved is small, there might be an important principle at stake, and it should be possible for a litigant who claims that an important principle is involved to obtain leave of the court to appeal. In that event the court would probably say, "We agree that an important principle is involved, although the amount at issue is only a few pounds. We shall allow you to appeal, but you will have to pay the costs." That might happen in a case where a powerful corporation had sued some apparently poor person for a small sum. Judgment might be given against the corporation, who would desire to appeal. The Full Court would probably hold that, while there was a principle to be determined, if the powerful corporation wanted to drag the poor person into the Full Court, where he could not afford to go, they would have to pay the costs. It is thought the alteration proposed in this Bill will prevent a lot of unnecessary and frivolous appeals, without causing any hardship or defeating the ends of true justice. When the Bill is in Committee a new clause to amend Section 111 will be moved. It is purely a technical one concerning the extension of the powers of the Supreme Court on appeal. Anything else in the Bill will be explained when the Bill is in Committee if members will be good enough to give me prior notice of their queries. I move—

That the Bill be now read a second time.

Hon. A. Lovekin: Is there any provision for limiting the cost?

The MINISTER FOR COUNTRY WATER SUPPLIES: No.

On motion by Hon. J. Nicholson, debate adjourned.

*House adjourned at 5.30 p.m.*

## Legislative Assembly,

Thursday, 16th October, 1930.

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

### QUESTION—LAWYERS AND CLIENTS.

Mr. SAMPSON asked the Attorney General: 1, Is he aware that an Act to protect the public in their financial dealings with lawyers has been approved in New Zealand, and that a similar Act is under consideration in Victoria? 2, Having in view different instances where moneys entrusted to certain Western Australian lawyers for investment have been misappropriated and clients ruined, will he advise whether it is his intention to introduce a similar measure? 3, If so, when?

The ATTORNEY GENERAL replied: 1, Yes. 2 and 3, The matter is now under consideration.

### BILLS (3)—FIRST READING.

1. Stamp Act Amendment (No. 2).
2. Stamp Act Amendment (No. 3).  
Introduced by the Premier.
3. Reserves.

Introduced by the Minister for Lands.

### LOAN ESTIMATES, 1930-31.

Message from the Governor received and read, transmitting the Loan Estimates for the year 1930-31 and recommending appropriation.