

Division taken with the following result:—

|              |    |    |    |    |    |
|--------------|----|----|----|----|----|
| Ayes         | .. | .. | .. | .. | 11 |
| Noes         | .. | .. | .. | .. | 9  |
|              |    |    |    |    | —  |
| Majority for | .. |    |    |    | 2  |
|              |    |    |    |    | —  |

## AYES.

|                    |  |                    |
|--------------------|--|--------------------|
| Hon. C. F. Baxter  |  | Hon. G. W. Miles   |
| Hon. J. Cornell    |  | Hon. E. Rose       |
| Hon. J. M. Drew    |  | Hon. H. Stewart    |
| Hon. G. Fraser     |  | Hon. H. J. Yelland |
| Hon. E. H. Hall    |  | Hon. G. A. Kempton |
| Hon. V. Hammersley |  | (Teller.)          |

## NOES.

|                       |  |                    |
|-----------------------|--|--------------------|
| Hon. F. W. Allard     |  | Hon. W. J. Mann    |
| Hon. J. T. Franklin   |  | Hon. Sir C. Nathan |
| Hon. E. H. Harris     |  | Hon. H. Seddon     |
| Hon. Sir W. Lathlain  |  | Hon. J. Nicholson  |
| Hon. J. M. Macfarlane |  | (Teller.)          |

## PAIR.

|                       |  |                        |
|-----------------------|--|------------------------|
| AYE.                  |  | No.                    |
| Hon. C. H. Wittencoom |  | Hon. Sir E. Wittencoom |

Amendment on amendment agreed to.

Hon. G. A. KEMPTON: I move a further amendment on the amendment—

That all the words after "Act" in line 3 be struck out.

Further amendment on amendment put and passed.

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

Progress reported.

House adjourned at 10.20 p.m.

## Legislative Assembly,

Tuesday, 28th July, 1931.

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

## QUESTIONS (2)—DAIRY STOCK.

### Bull Subsidy.

Mr. McLARTY asked the Minister for Agriculture: 1, How many bulls were subsidised last year, and what was (a) the average subsidy per bull; (b) the number of each breed? 2, Do the Government intend to subsidise the purchase of bulls this season?

The MINISTER FOR AGRICULTURE replied: 1, 44; (a) £11 19s. 10d., (b) Guernsey 21, Jersey 15, Milking Shorthorn 8. 2, Yes.

### Herd Testing.

Mr. McLARTY asked the Minister for Agriculture: In view of the vital importance of herd testing to the dairying industry and the reported discontinuance of Federal Government assistance in that direction, will it be possible to continue both stud and grade testing?

The MINISTER FOR AGRICULTURE replied: It will be possible to expend a limited amount only on herd testing, now that the Federal grant has been withdrawn.

## QUESTION—FACTORY REGISTRATION NOTICES.

Mr. SAMPSON asked the Minister for Works: 1, Is he aware that under the Factories and Shops Act, Department of Labour notices for the renewal of factory registration invariably contain a threat? 2, That notices state: "In future it is not intended to issue any reminder and I, (the Chief Inspector of Factories), "shall instruct that you be prosecuted without notice"? 3, In view of the almost unlimited troubles being experienced and the multiplicity of forms and returns to be supplied will he have the circular amended by deleting the threat to prosecute without notice?

The MINISTER FOR WORKS replied 1, Yes. The notice has been in use during the past ten years. 2, Yes. 3, The circular is a printed final notice issued only after due notice has been given through the Press and by police officials. The redrafting will be considered when a reprint is necessary.

**QUESTION—STATE TAXATION.***Fine for Overdue Payments.*

Mr. SAMPSON asked the Premier: 1, Though consideration is sometimes extended by the Taxation Department where time is required to pay State land and income tax, is it intended to reduce the fine of 10 per cent. levied on overdue assessments? 2, Having in mind the excessive fine and the heavy difficulties of tax owners, will he reduce the fine from the 1st July?

The PREMIER replied: Ten per cent. is the maximum penalty imposed, but where circumstances warrant, the penalty is reduced or remitted. Extensions of time to pay tax are frequently granted without penalty. The department is not unmindful of the present difficult circumstances confronting taxpayers and will extend consideration when necessary.

**MOTION—STATUTE OF WEST-MINSTER.***Protest against Enactment.*

**THE PREMIER** (Hon. Sir James Mitchell—Northam) [4.39]: I move—

That this Parliament of the State of Western Australia, a State of the Commonwealth of Australia, hereby enters its emphatic protest against the passing by the Parliament of the United Kingdom of a statute at the request of the Parliament of the Commonwealth of Australia to give effect to certain resolutions passed by the Imperial Conference held at London in the year 1930, and in particular to the provision that no Act of the Parliament of the United Kingdom passed after the commencement of the said statute shall extend or be deemed to extend to the Dominion of Australia as part of the law of that Dominion unless it is expressly declared in that statute that the Dominion of Australia has requested and consented to the enactment thereof, on the ground that any such provision would inflict great injury on the State of Western Australia and tend seriously to weaken the link between the people of Western Australia and the people of the Home Country which it is the desire of both to strengthen and preserve.

I have a copy of the speech made by the Federal Attorney General when introducing the motion to the Commonwealth Parliament and shall make it available to members. This is a highly technical matter. Members are aware of the fact that we are a sovereign State and that we have powers entirely our own.

Hon. J. C. Willcock: We gave limited powers to the Federal Government.

The PREMIER: We thought we were giving limited powers under the Federal Constitution. We certainly intended to limit the powers of the Federal Government, but as they have unlimited powers of taxation, they are taking much greater control over the affairs of Australia than was ever intended under the Constitution. That has been going on for many years. Power has been taken year by year, not only to impose additional taxation, but to set up new departments, often overlapping the departments of the States. The power of taxation is the all-important thing, and as the Federal Government in years gone by had ample funds at their disposal, they extended their operations beyond what was originally contemplated. Before explaining the provisions of the motion submitted to the Commonwealth Parliament, I should like to mention, though every member is aware of it, that the Commonwealth Constitution was granted by Act of the British Parliament.

Hon. J. C. Willcock: Both the State Constitution and the Federal Constitution were granted in that way.

The PREMIER: Yes, but I am referring to the Federal Constitution. Provision was included for its alteration. As members know, the Federal Constitution can be altered only on a vote of a majority of the electors of Australia and a majority of the States of Australia voting in favour of it. Consequently it has not been a very easy matter to secure an alteration of the Constitution. Still, alterations have been made, but the point to be remembered is that by such means alone can the Constitution be altered. It would be quite possible for an alteration to the Constitution to be made with every elector in this State voting "No." It might be that the States of Tasmania and Queensland were entirely opposed to an amendment of the Constitution, but the people of those States would have to live under the altered Constitution provided the alteration were made in the manner laid down.

Mr. Kenneally: The passing of this motion would not prevent that.

The PREMIER: I shall show that it might, because the protection that the State enjoys is its right to appeal to the British Parliament, which gave the Constitution and which by Act of Parliament could alter

the Constitution. That is our only protection. Suppose unification were decided upon by all the other States of Australia under a vote providing for an alteration of the Constitution, it would not be right that Western Australia, probably entirely disagreeing with the idea of unification, should have no protection but should be obliged to become a part of the unified Australia and accept government under that system. The protection we have at present—and it is highly important that this protection should be retained—is our right to appeal to the British Parliament which gave us the Constitution and which can amend the Constitution. This appears to be the only protection we have. Here we are, a handful of some 400,000 people among the 6½ millions forming the population of Australia. It would be easy for this State to be out-voted and compelled to accept a form of government that might be repugnant. The Federal Attorney General, Mr. Brennan, as hon. members will see, in introducing the matter had the Constitution in his mind. He said:

To meet the position of those Dominions which have a more or less rigid Constitution, that is to say, a Constitution which can be amended only by special procedure and not by the ordinary process of legislation, it is proposed to insert a provision to prevent the statute purporting to have the effect of enabling the Parliaments of those Dominions to alter their Constitutions in any other than the established manner. Thus the Commonwealth will have no greater or lesser power to amend the Commonwealth Constitution after the passage of the Statute of Westminster than it has at present. The rights of the States with regard to the maintenance of their constitutional powers are also therefore fully safeguarded.

To an extent, that is so; but it is the protection we get from the British Parliament that would not be ours any longer if the statute was passed. I regard that as highly important. Every time we have given way and amended the Constitution, Western Australia has been a loser. In fact, it has lost very considerably, as under the last amendment of the Constitution.

Hon. J. C. Willecock: That is very questionable, anyhow.

The PREMIER: It is not questionable at all. At all events, that is not the matter before the House just now. The amendment has already been made.

Hon. J. C. Willecock: Without it, you would have been half a million worse off.

The PREMIER: We can discuss that matter at some other time. The amendment was made under the powers which the Constitution gave. When the hon. member interrupted me, I was about to suggest that we should not give away anything more than can be avoided. We have nothing to gain by increasing the powers of the Federal Parliament, or by the taking-away of the protection we now have from the British Parliament. I hope the House will by a unanimous vote accept the motion I have read. It is so easy to drift from one thing to another, always losing and never gaining. This is not the place to discuss the question generally, but it is the place to discuss the further giving-away of protection. It will be contended that no appeal to the British Parliament will result in the protection which, in my opinion, it was intended should be ours. The motion passed by the House of Representatives of the Commonwealth Parliament was to the effect that the Government of the Commonwealth be authorised to request and to consent to the submission by the Government of the United Kingdom to the Parliament at Westminster of a Bill for a statute containing provisions set out in a schedule attached to such motion. That followed on the conference of Prime Ministers of the Dominions, as hon. members know. These provisions, shortly put, come under three heads—

(1.) A provision that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

(2.) (a) A provision that the Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of the new statute by the Parliament of a Dominion.

(b) A provision that no law and no provision of any law made after the commencement of the new statute by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation, in so far as the same is part of the law of the Dominion.

(3.) No Act of Parliament of the United Kingdom passed after the commencement of the new statute shall extend or be deemed to extend to a Dominion as part of the law of that Dominion unless it is expressly declared in the statute that that Dominion has requested, and consented to, the enactment thereof.

It is a proviso to the above that nothing in the new statute shall be deemed to confer any power to repeal or alter the Constitution Act of the Commonwealth of Australia otherwise than in accordance with the law existing before the commencement of the new statute, and that nothing in the new statute shall be deemed to authorise the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

I now deal with these provisions seriatim. As regards (1), whilst in strict legal concept the legislation of the Parliament of the Commonwealth is limited to the land and territorial waters of the Commonwealth, it has always been conceded that the jurisdiction of the Legislature of the Commonwealth extended to such extra-territorial limits as were necessary for the proper enforcement of the powers given to it under the Commonwealth Constitution Act. This view has been upheld in the Privy Council Chamber in *A.G. of Canada v. Cain and Gilhula*, reported in 1906 Appeal Cases at p. 542. As examples of the exercise of such powers, see the Defence Acts of the Commonwealth of Australia. The provision in the new statute is, therefore, not wanted to relieve any present disability, and conceivably may lead to possible complications if availed of indiscriminately.

As regards (2), the second part of the first provision is also, from the point of view of any present disability, wholly unnecessary. Since the year 1865, when the Colonial Laws Validity Act was passed by the Imperial Parliament, the position has been that no law passed either by the Commonwealth Parliament or the Parliament of any of the States could be held void or invalid by reason of repugnancy to any Imperial statute in any case other than that such statute in express words or by necessary intendment was designed to extend to the Commonwealth or to any State.

As regards (3), it is also a case of demanding a right which is wholly unnecessary to relieve any existing disability. Since the inception of overseas dependencies the Parliament at Westminster has always claimed, and been allowed, the right to legislate for the whole British Empire. It is needless, however, to state that the Imperial Parliament is not in the very least likely to pass legislation affecting the Commonwealth or any State without prior consultation with the Commonwealth or the State concerned, and without obtaining their consent to such legislation. To abolish the power of the Parliament of the United Kingdom to legislate for the whole British Empire is to weaken the links of such Empire without gaining any good whatever by the step.

In the particular case of the Australian Commonwealth this provision would debar any of the States obtaining from the Imperial Parliament any redress in the relationship of such State and the Commonwealth, except with the previous consent of the Parliament of the Commonwealth, which, inasmuch as the first nine sections of the Commonwealth of Australia Constitution Act are not part of the Constitution and subject therefore to alterations under the provisions of Section 128 of that Act, would place all the States in a position of grave disability. I have explained that that is really the strongest objection to the passing of the Bill by the Imperial Parliament. It has also to be borne in mind that there can be no justification whatever for imposing on legislation passed by the Parliaments of the States and that passed by the Parliament of the Commonwealth a different rule as to being void by repugnancy to existing English law.

Hon. M. F. Troy: This will be an excellent speech to read in the newspaper tomorrow.

The PREMIER: This is a highly technical matter; and I am reading certain remarks, as the hon. member knows has often been done in this House. The hon. member should also be aware that in the preparation of a statement on such a subject some aid is needed from the legal gentlemen associated with the Government. For my part I consider it would be very foolish to fail in making this protest, because undoubtedly, if the Bill passes, our position will be weakened. It is quite conceivable

that some day we may need to apply for the protection of the British Parliament in some such matter as I have mentioned. I presume that when the Federal Constitution was framed, and was accepted by the people of Australia, it was assumed that such protection was contemplated.

Hon. J. C. Willcock: Could you not suggest such an amendment as would not take away any of the existing rights of the States?

The PREMIER: Then it would be of very little use to pass the Bill. It would give the Commonwealth certain powers which are not needed at the moment. What I am concerned about is that if the statute is passed by the British Parliament, we shall lose what we ought not to lose.

Hon. J. C. Willcock: Unless those rights are specifically reserved. I presume the statute would prevent the British Government from declaring a war in which Australia would be involved.

The Chief Secretary: This would not do that.

Hon. J. C. Willcock: Yes.

The Chief Secretary: No. A war is never declared by Act of Parliament.

Hon. J. C. Willcock: We might become involved automatically, whereas now we do not.

The PREMIER: This would not affect a declaration of war.

Hon. J. C. Willcock: It is giving Dominion status to the various portions of the British Empire.

The PREMIER: The Chief Secretary has said that war is not declared by statute. I refer to the power of the British Government by statute—

Hon. J. C. Willcock: There was the Boer War, for instance.

The PREMIER: It may come to Australia's turn to be protected. She has needed protection for a hundred years, and will always need it. The proposed statute will not affect that position.

Hon. A. McCallum: If some people had had their own way, it would not have been left to the individual to decide.

The PREMIER: No. It would not have been left that way, if I had had my way. I do not think it fair that the whole of the male members of one family should stay at home while others went to fight for them. There is no fairness in that. On the other hand, it is manifestly unfair.

Hon. A. McCallum: But you just cited that phase in favour of your contention!

The PREMIER: Yes. The question of conscription is to-day a matter entirely for the Commonwealth Parliament, not for the States.

Hon. J. C. Willcock: Is not the proposed British statute intended to give the Dominions the extra sovereignty that was decided upon in 1927?

The PREMIER: That may be so, but the States were not represented at that conference.

Hon. J. C. Willcock: The statute will give effect to the decisions of that conference.

The PREMIER: But it does not make the slightest difference to me, or to the hon. member, as to which party was in power when the proposals were made. It is our right to look after the interests of our own people. The fact that the resolutions were adopted in 1926, and it is now 1931, and that there has been an Imperial Conference in the meantime, has nothing to do with it.

Hon. W. D. Johnson: It would have made a vast difference if you had protested in 1926, when the resolutions were agreed to.

The PREMIER: I did not happen to be in power then. It is only now that the statute has been proposed. Do not let us concern ourselves as to which of the parties in the Federal House was in power, when these powers were requested or agreed to.

Hon. J. C. Willcock: I was not suggesting anything of the sort.

Hon. W. D. Johnson: It is a bit late to protest against something that was agreed to in 1926.

The Chief Secretary: It was not necessary then.

The PREMIER: The time to protest is when the legislation is proposed.

Hon. W. D. Johnson: It was suggested in 1926.

The PREMIER: Yes, but that did not mean that the legislation would be proposed in that year: it simply meant that the resolutions were agreed to at that time. Now the Bill has been framed to give effect to the resolutions, and provide the Commonwealth with the extra powers. I do not submit the motion because Mr. Scullin happens to be Prime Minister.

Hon. W. D. Johnson: We understand that, but it is somewhat late now.

The Minister for Lands: Better late than never.

Hon. W. D. Johnson: Perhaps you ought to have said better late than not at all.

The PREMIER: I hope the protest will be carried unanimously because it would be very unwise, in the interests of our people, to surrender the protection they have under the Constitution.

Hon. J. C. Willcock: Would you not suggest that our existing rights be conserved, and include them in the motion? There could be no objection to that.

The PREMIER: It would be impossible to conserve our rights if the Westminster Statute were passed. Our rights come from the protection that can be afforded us by the British Parliament. I do not see that we could amend the motion to give effect to what the member for Geraldton desires.

Hon. J. C. Willcock: We could set them out.

The PREMIER: I do not think so. At any rate, I submit the motion to the House.

On motion by Hon. A. McCallum, debate adjourned.

## **BILL—FINANCIAL EMERGENCY.**

Report of Committee adopted.

## **BILL—CONSTITUTION ACTS AMENDMENT.**

### *Second Reading.*

Debate resumed from the 16th July.

**HON. A. MCCALLUM** (South Fremantle) [5.8]: No objection can be raised to the Bill. It merely brings those mentioned in the Fourth Schedule into line with those whose wages or salaries will be dealt with under the Bill, in respect of which we have just adopted the Committee's report. It means that the salaries paid to the Governor, the Governor's Private Secretary, the Clerk of the Executive Council, the judges and Ministers of the Crown will be reduced as in the Bill we have just dealt with relating to the wages and salaried men in Government employment. Their pensions will also be affected in the same way. It would be most inconsistent if we were not to pass the necessary legislation to apply the same reduction to those mentioned in the Fourth Schedule of the Constitution Acts Amendment Act, 1899. I take it that when the

Bill is before us in Committee, the Minister will move amendments to it to conform to those agreed to in the Financial Emergency Bill, dealing with the date from which it shall commence to operate and the duration of the legislation.

The Attorney General: Yes.

Hon. A. McCALLUM: If that were not done, it would be unfair to single out anyone to suffer the reduction as from the 1st July and make the measure permanent, whereas those who will be affected by the Financial Emergency Bill will suffer as from the 9th July and the legislation affecting them will terminate at the end of 1932. The Bill before us is really part of that other Bill, and is certainly one to which we cannot object. If the lower paid men in the Government service are to be dealt with, it is only right that those on the higher rungs should also take part in the sacrifice.

**MR. SLEEMAN** (Fremantle) [5.10]: I oppose the Bill as it stands. It would be more in keeping with the times if the Premier had embodied in the Bill a provision authorising the State to do away with the services of certain people mentioned. I refer to the State Governor in particular. In looking through the report of the Premiers' Conference, I notice that the only dissentient, when the proposal regarding the abolition of State governors was before conference, was our own Premier, Sir James Mitchell.

The Premier: The question was not considered.

**MR. SLEEMAN**: It was, and the Premier was the only dissentient. This is the most opportune time that such a question could be taken up. We require to effect economies and surely this is the most outstanding direction by which economy can be effected. We could dispense with the services of a State Governor, and so provide money for men and women who are now in a state of semi-starvation and are crying aloud for clothing. I understand that something like £5,000 is involved in the payment of our State Governor. It is scandalous that, at a time like the present, when we are talking about economy and are actually prepared to reduce the wages of a man who may have two days' work in a week or in a year, when we have agreed to reduce the wages of little boys and little girls who are supporting, in many instances, their widowed

mothers and their orphaned brothers and sisters, some attempt has not been made to do away with the State Governor's position. All that the Bill asks us to agree to is a reduction in the salaries paid to those referred to by the Deputy Leader of the Opposition, corresponding to that to be effected in the salaries of civil servants. The time has long gone when we should have dispensed with the practice of importing Governors from the Old Country, or even choosing one from among our own people. We do not want Governors in this State, and certainly we can do without the vice-regal office at the present juncture.

**MR. MARSHALL** (Murchison) [5.12]: I shall support the second reading of the Bill because it is necessary as consequential legislation following upon that already passed dealing with wages men and salaried men in the State service. The Bill will apply the reductions to the salaries of those whose remuneration is provided under special statutes. By this means those affected will contribute their quota to the financial sacrifice, having regard to the condition of affairs at the moment. To my mind, there is scope for additional economy in the direction of the abolition of the vice-regal position entirely. We have already passed legislation affecting the salaries of valuable employees of the State and have directed them to contribute towards the relief of Western Australia from the financial depression that exists for the time being. We must recognise the fact that the officers I refer to render valuable service to the State. Those services are indispensable; they are necessary in view of the complex nature of our social system. It is entirely different when we come to consider the position of the Governor. It would be very difficult indeed for the Premier to indicate what services are rendered by the State Governor that are worth the money we pay for the upkeep of his office. In these times of stress when we are looking in every direction for means by which we can effect economy, at a time when we are forcing people to exist on wages below that which the Arbitration Court regards as fair and reasonable, the spending of £4,000 in connection with the State Governor's appointment is wrong. The Premier cannot show us that we get value for that expenditure.

The Premier cannot justify the expenditure on the State Governor. So far as I know, Governors in the past have performed their functions quite well; certainly none of them has ever been dismissed, while some have been re-appointed. But we do not even know what their functions are. If we could get the Attorney General, or somebody else who understands the functions of the Governor, to expound those functions it would be of great interest. We know that the Governor has to assent to Bills; but the Lieutenant-Governor or the Administration can fulfil that job equally well. What other work of value is done by the Governor? There are only the opening of agricultural shows and attending at race meetings.

**Mr. Parker:** The same as members of Parliament.

**Mr. MARSHALL:** The hon. member can speak for himself; he may be of no value whatever here, but I am not speaking for him. We pay out a large sum of money on the Governor's establishment for which the State gets no value in return. The Treasurer and the Attorney General are bringing down Bills for the purpose of economising, while on the other hand the State pays £4,000 per annum to the Governor for services of no value whatever to the State. It should be obligatory on the Treasurer to abolish the position of Governor, since a small community of 400,000 people cannot afford to pay for a useless office which does not render one iota of service. It has been said that most of the gubernatorial appointments are filled by gentlemen who have run short of cash in the Old Land and are sent out here to rehabilitate their finances.

**The Attorney General:** As a matter of fact, it costs a Governor £1,200 or £1,500 per annum out of his own pocket.

**Mr. MARSHALL:** That may be so. I have not gone into the Governor's pocket, as the Minister has done.

**The Premier:** I wish you had gone in, and stayed there.

**Mr. MARSHALL:** The time is most opportune for the abolition of the office of Governor.

**The Minister for Lands:** We could not do it, since the Federal Government have appointed a Governor-General.

**Mr. MARSHALL:** The Governor-General may be necessary as a link between the

Imperial Government and the Commonwealth Government, but that does not apply to a State Governor.

Hon. S. W. Munsie: The abolition of State Governors was put forward as a special argument for Federation.

Mr. MARSHALL: I would not delay the Chamber if we were getting any value whatever in the services rendered to the State by the Governor.

Mr. Piesse: We must retain our sovereign rights.

Mr. MARSHALL: What has the Governor to do with our sovereign rights? In the absence of the Governor, the Lieutenant-Governor or the Administrator can equally well fulfil the duties of the position. Our Administrator has a legal training, whereas imported Governors are not legally trained, but are mere laymen.

Mr. Parker: Why do you want a legal training in a Governor?

Mr. MARSHALL: Because frequently a legal training enables a man to give a valuable opinion. The hon. member has a legal training, notwithstanding which any opinion he might give would be of no value at all. Apart from attending garden parties and race-courses and theatres, the Governor is of no use to the State. I merely rose to support the member for Fremantle's proposal that the position of Governor should be abolished. There is nothing sensational in the Bill, for it is merely a corollary of that which has already passed. I will support the second reading.

Question put and passed.

Bill read a second time.

#### *In Committee.*

Mr. Richardson in the Chair; the Attorney General in charge of the Bill.

Clause 1—agreed to.

Clause 2—Commencement and operation:

The ATTORNEY GENERAL: I move an amendment—

That in line 3 "first" be deleted and "ninth" inserted in lieu.

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

Clause 3—Application of this Act:

Hon. S. W. MUNSIE: The Constitution Act provides for six Ministers, whereas

there are now eight. Does this clause cover the eight?

The Attorney General: Yes, the Act was amended to cover eight Ministers.

Mr. SLEEMAN: If I wish to move an amendment to abolish the Governor's salary altogether, should I move it on this clause, or on the next?

The Premier: Not in this Bill at all.

The CHAIRMAN: The Bill provides, not for the abolition of the Governor's salary, but merely for a temporary reduction thereof.

Mr. SLEEMAN: But I wish to extend that reduction. I propose to move that the reduction of the Governor's salary be 100 per cent. Would such an amendment be in order on this clause?

The CHAIRMAN: No, the hon. member would have to move a substantive motion.

Mr. SLEEMAN: Well, if I move for a reduction of the salary by 99½ per cent. will it be in order on this clause?

The CHAIRMAN: Not on any clause of this Bill. We cannot single out any particular officer.

The Attorney General: You might do it on the Schedule.

Mr. SLEEMAN: Very well.

Clause put and passed.

Clause 4—Salaries subject to reduction:

Hon. A. McCALLUM: I had intended to initiate a discussion on the position of the State Governor when the Estimates came down. Probably that will be the correct place for my challenge. But I do not know whether the Government contemplate making another appointment.

The Premier: You will have an opportunity to discuss the question on the Estimates.

Hon. A. McCALLUM: But suppose there is no such line on the Estimates?

The Premier: There will be.

Hon. J. C. Willecock: You will be providing on the Estimates a salary for the Governor?

The Premier: Yes.

Hon. J. C. Willecock: Then you do not contemplate not appointing another Governor?

The Premier: Members will have a chance to discuss the question on the Estimates.

Hon. A. McCALLUM: If the Government do not intend to make such an appointment this year, there will not be on the Estimates



a line for the salary, and so we shall not be able to discuss the question.

The ATTORNEY GENERAL: If no appointment is made until the Estimates are brought down, it will give you the desired opportunity.

Hon. J. C. Willcock: But if you decide to make no appointment, there will be no such line on the Estimates.

The ATTORNEY GENERAL: There will be such a line on the Estimates.

Hon. A. McCALLUM: So long as we have the assurance that there will be a line on the Estimates I shall be content.

The Premier: I will give you that assurance.

Hon. A. McCALLUM: I want to have the position established so that the Chief Justice will do the work, in which case some expense will still be necessary. When we come to the Estimates members can say whether this shall be the established principle or not. Having had an assurance from the Premier, I am prepared to wait until the Estimates are brought down.

Mr. SLEEMAN: I have never seen a line on the Estimates to enable us to deal with the position of Governor.

The ATTORNEY GENERAL: You once made a speech on the subject.

Mr. SLEEMAN: I was told the Governor came under a special Act, and could not be dealt with on the Estimates. On one occasion when I wanted to discuss his salary, I was told I could not do so, although I could have moved to reduce the salary of the Private Secretary, his typiste or his orderly. It is not safe to leave the matter until we reach the Estimates, so I think we should have a division now to see what members think about the matter.

Hon. M. F. TROY: A motion to reduce or abolish the Governor's salary cannot be moved on the Estimates.

The Premier: It was moved once.

Hon. J. C. Willcock: That had to do with the Governor's establishment.

Hon. M. F. TROY: The only way to alter the salary of the position is to amend the Constitution Act accordingly.

The ATTORNEY GENERAL: That matter can well be discussed on the Estimates. If the vote connected with the Governor's establishment is wiped out, the Governor himself can hardly hold out.

Mr. Marshall: You would put him up at the Palace Hotel.

The ATTORNEY GENERAL: I suppose that could be done. It is open to a member to move a motion at any time to test the feeling of the House on the question of the abolition of the position, but it would be ridiculous to include such a proposal in this Bill.

Hon. W. D. JOHNSON: I hope no effort will be made to discuss this principle on a side issue. My opinion is there should be no re-appointment of a State Governor, as there is no necessity for one. This is not, however, the time to approach the question, which should be dealt with in the proper manner, so that the decision arrived at may reflect the opinions of all members.

Mr. SLEEMAN: It is so difficult to get an opportunity to discuss this matter that I think we should take every opening that is available. The Constitution Act definitely gives the Governor's salary at £4,000 a year. The only motion I can put up is that in the opinion of the House the position should be abolished. A few weeks ago I was instrumental in having passed a motion dealing with the repatriation of migrants, but nothing has since been done. No doubt if I had a motion dealing with the abolition of the position of Governor passed by the House nothing would be done. It would be very difficult to amend the Constitution Act.

Clause put and passed.

New clause:

The ATTORNEY GENERAL: I move—

That a new clause be added as follows:—  
“This Act shall continue in force until the end of the year 1932 and no longer.”

New clause put and passed.

Schedule, Preamble, Title—agreed to.

Bill reported with an amendment.

## BILL—TRUSTEES' PROTECTION.

### *Second Reading.*

**THE ATTORNEY GENERAL** (Hon. T. A. L. Davy—West Perth) [5.43] in moving the second reading said: There is more preamble than Bill about this short measure. It is more or less identical with

the draft agreed to by the Melbourne Conference. It is designed to put trustees in a position to be able to convert bonds without being liable to account for having done so to the beneficiaries of the trust. The difficulty which the Bill is designed to meet was raised by trustee companies in Sydney and Melbourne. The legal sub-committee of the Melbourne Conference met various gentlemen representing such companies, and after a discussion this measure was prepared to meet the position. If it were not for this measure, a trustee might feel himself impelled to withhold his consent to bonds—which he was holding in trust—being converted, whereas his own desire would be to convert.

Hon. J. C. Willcock: Where would he be able to invest the money, if he were repaid?

The ATTORNEY GENERAL: That is as may be.

Hon. J. C. Willcock: There are only a few directions in which he can invest such moneys.

The ATTORNEY GENERAL: True. If he consented to the investment being depreciated, as it will be by its income-producing power being reduced by 22½ per cent., he may find himself charged with a dereliction of duty. The Bill is self-explanatory. I move—

That the Bill be now read a second time.

On the motion by Hon. A. McCallum, debate adjourned.

## **BILL—FINANCE AND DEVELOPMENT BOARD ACT AMENDMENT.**

### *Second Reading.*

**THE PREMIER** (Hon. Sir James Mitchell—Northam) [5.45] in moving the second reading said: The Bill is easily explained. It will be remembered that we took power to raise money by means of bearer debentures. Now it is suggested by the Agent General—and it was suggested to him by Lord Glendyne—that we should raise money not only by bearer debentures, but by inscribed stock. The Agent General advises that we should amend the Act accordingly, and that is the purpose of the Bill. Many clauses will have to be altered by adding to the words "bearer debentures" the words "inscribed stock." In the original

Act there is no provision for renewal or a redemption, and that is necessary because the banks advance funds pending the raising of loans by the Commonwealth Government. For the money borrowed from the bank it is necessary for the board to issue debentures. The Bill will make it possible for the debentures to be renewed if necessary.

Hon. J. C. Willcock: The sinking fund will not come under the Financial Agreement?

The PREMIER: No.

Hon. J. C. Willcock: The sinking fund will go towards the redemption of the debentures? We have to pay the lot?

The PREMIER: Yes.

Hon. J. C. Willcock: The Government will raise the money through the Loan Council.

The PREMIER: In the case of overdrafts short-term debentures are given and there is no question of sinking fund. A Commonwealth loan of 12½ millions was authorised but it has not been raised. This was required to assist farmers in distress and to pay a bonus on wheat. In the meantime the Commonwealth Bank made temporary advances of certain sums to the Governments against the loan when raised. The provision it is proposed to include in the Bill now should have been included in the Act when it was introduced. It is seldom that we pay off a loan of 2½ millions from sinking fund; we have several loans totalling a million maturing next year. Even our ordinary loans cannot be paid from sinking fund because they have a currency of much less than eight years. They are renewed from time to time, and it will be necessary to have the power to renew debentures and inscribed stock from time to time. Those are the only amendments to be made to the Act. The board of works and half a dozen others in Melbourne and Sydney operate in this way. The Harbour Board in Melbourne also raises money by this method all the time.

Hon. W. D. Johnson: This is internal money; why not external money?

The PREMIER: Because for the moment we cannot go on the London market.

Hon. W. D. Johnson: Has the Premier reason to feel sure that the inclusion of "inscribed stock" will overcome the difficulty of the Loan Council?

The PREMIER: I do not think we need bother about the Loan Council, but London is bothering us.

Hon. W. D. Johnson: Do you propose to raise inscribed stock locally?

The PREMIER: No. As I have already said, the suggestion to alter the Act has come from the Agent General who acted on the advice of Lord Glendyne. I do not know that I am entitled to say that the position, in respect of raising money, looks hopeful.

Hon. W. D. Johnson: The Agent General said that it was worth while trying in this way?

The PREMIER: No. He said that without the amendment we would not succeed, but that with it we could try. The position is hopeful only because the suggestion has come from the Agent General. What he wrote was this—

I notice that in Section 14 the board have only taken power to borrow by means of bearer debentures. This would be a disadvantage, so far as London is concerned, as stock is more popular with investors in this country than bonds.

We know that money is cheaper in London than in Australia.

Hon. J. C. Willcock: For the State or for anybody else in view of the exchange.

The PREMIER: I do not know that the amendment will mean that we shall be able to borrow in London, but we must make the amendment. I move—

That the Bill be read a second time.

On motion by Hon. M. F. Troy, debate adjourned.

## **BILL—TRUSTEES' POWERS.**

### *Second Reading.*

**THE ATTORNEY GENERAL** (Hon. T. A. L. Davy—West Perth) [6.0] in moving the second reading said: Trustees in many instances desire to reduce the rent they are receiving for trust properties, because they realise that the rent is higher than the market value at the moment and that the tenants will not be able to continue paying the rent. If they do not reduce the rent, the tenants will fail, and when the trustees give a new lease, they will have to accept a substantial reduction.

Hon. J. C. Willcock: Even more than the reduction they are prepared to give.

The ATTORNEY GENERAL: Yes. Unfortunately, the law prevents trustees from making a voluntary reduction without fear of being charged with breach of trust or, at any rate, negligence or dereliction of their duty as trustees. This measure proposes to

give them the necessary power voluntarily to reduce rents. The Financial Emergency Bill proposes compulsorily to reduce interest payable on mortgages, and trustees feel that it may be their duty in each instance where interest is compulsorily reduced to apply to the court for exemption. Otherwise the beneficiaries might claim subsequently that they should have resisted the reduction of interest by the law. This Bill will enable them, so long as they exercise their powers bona fide, to reduce interest without applying to the court. So long as they exercise discretion and consider the real merits of the case and the exigencies of the moment, they will be quite safe if they allow the measure to operate without applying for leave of the court. Another problem that arises is the apportionment between income and capital of the premium to be issued on the debt conversion. If a trustee holds £1,000 worth of, say, 6 per cent. stock, it will probably be converted into £1,200 of new stock at 4 per cent. The question then arises, what will the trustee do with the extra £200 of stock? Should he regard it as income or as capital?

Hon. J. C. Willcock: There is no doubt of what he ought to do.

The ATTORNEY GENERAL: If the hon. member considers the matter a little further, he will realise that there may be a nice point involved.

Hon. J. C. Willcock: There may be a nice point but his moral duty is obvious.

The ATTORNEY GENERAL: What is it?

Hon. J. C. Willcock: He should treat it as capital.

The ATTORNEY GENERAL: I agree that it should be treated as capital, but I do not agree with the hon. member that the course to be followed is quite obvious. Morally and legally there is a nice argument that portion of it, at any rate, should be treated as income.

Hon. J. C. Willcock: Anyhow, it would not be subject to income tax according to the definition of income.

The ATTORNEY GENERAL: That is not the question. A trustee holds £1,000. That is the corpus, and the income goes to Jones for life. On Jones's death, the capital passes to Smith. The £1,000 is suddenly increased to £1,200. It might be argued that the £200 is compensation for the reduction of income payable. That is the opposite viewpoint to the one put by the mem-

ber for Geraldton. A nice little argument in morals and law might arise as to whether the £200 should be paid to the tenant for life, or kept intact and handed over in due course to the remainder—the person who eventually comes into the corpus. It is proposed to give the trustee discretion in the matter. He may determine, after advice, whether the £200 shall be corpus or income. There is a good precedent for so doing. Every properly drawn deed of settlement gives a trustee discretion as to the apportionment of any particular fund between income and capital. We propose to give similar power under this measure. Thus, the Bill deals with three matters. It proposes to give trustees discretion to reduce rents under the existing laws, to allow the interest under any mortgage to be reduced, and to make the apportionment between capital and income. I would have preferred to have all these measures included in one Bill, but the Bill with which we dealt earlier is in the form adopted by the Premiers' Conference.

Hon. W. D. Johnson: And is part of the conversion arrangement.

The ATTORNEY GENERAL: Yes. Therefore I thought it proper to deal with these matters in separate measures.

Hon. W. D. Johnson: It has no direct bearing on the conversion.

The ATTORNEY GENERAL: No, but it has a direct bearing on the reduction of interest and rent. As I promised the House the other night, we propose to introduce a measure to extend to rents the same reduction that has been applied to mortgages. Generally speaking, this measure is part of the emergency legislation. I shall be glad to have criticism of the details of this Bill, not only from members opposite, but from the public and particularly trustees. They may see in it some defects, or may desire that other matters of a similar nature should be dealt with, and therefore I invite criticism of the measure in order that we may succeed in giving effect to what we have in mind.

Hon. J. C. Willcock: You are practically inviting the appointment of a select committee, are you not?

The ATTORNEY GENERAL: Not at all. I move—

That the Bill be now read a second time.

On motion by Hon. J. C. Willcock, debate adjourned.

## BILL—FIREARMS AND GUNS.

### *Council's Amendments.*

Consideration resumed from the 16th July of three amendments made by the Council.

### *In Committee.*

Mr. Richardson in the Chair; the Minister for Police in charge of the Bill.

No. 1. Clause 4.—Delete this clause and insert the following.—

4. This Act shall have the following application:—

To pistols and air guns generally.

(1.) It shall apply throughout the State to pistols and air guns.

To Asiatic and African aliens generally.

(2.) It shall apply throughout the State to any person who is an Asiatic or African alien, or who is an Asiatic or African alien claiming or deemed to be a British subject.

To municipalities and towns.

(3.) Subject to the provisions of paragraphs (1) and (2), it shall apply to all municipalities and towns and within one mile of the boundaries of any municipality or town.

License for a firearm other than pistol or air gun not necessary in other portions of State, unless the Governor declares by Proclamation.

(4.) Subject to the provisions of paragraph (2) Section 5 of this Act, relating to licenses, shall not apply, so far as regards firearms other than pistols and air guns, in any portion of the State not particularly specified in paragraph (3) of this section, unless the Governor by Proclamation from time to time declares it to apply to any portion or portions not so specified.

The MINISTER FOR POLICE: Before the Bill left this Chamber we altered Clause 4 to provide that portions of the State beyond one mile from the boundaries of a municipality should be brought under the measure by proclamation. We lost sight of the fact that the general provisions of the Bill would be inoperative except in municipalities. It is as serious an offence for a man to be under the influence of liquor and playing with a loaded gun 1½ miles outside a municipality as within a municipality. The Bill, insofar as it provides for the taking out of licenses, should apply within municipalities or in portions of the State that might be proclaimed, but the other provisions regarding the posses-

sion and use of firearms should apply generally. I move—

That the Council's amendment be amended by striking out of Subclause 3 the words "and towns" and the words "or town," and by adding "In all other respects it shall apply generally throughout the State."

*Sitting suspended from 6.15 to 7.30 p.m.*

Mr. MARSHALL: The Minister's amendment, though conceding a good deal, still leaves him power under Subclause 4 to proclaim any town as coming within the measure. Will the ground of proclamation be population? Will, for instance, Nannine with a very small population and with no police be proclaimed? There must be many similar centres in the country districts, where facilities for regulation would be non-existent locally.

The MINISTER FOR POLICE: This matter requires some little investigation, but I assure the hon. member now that I shall not proclaim portions of the State where there are not facilities for obtaining regulation. Nannine can hardly be called a town. Such towns as I have in view for proclamation are the main centres of road board districts. Towns like Leonora and Gwalia should also be proclaimed.

Amendment put and passed; the Council's amendment, as amended, agreed to.

No. 2. Clause 12.—First column, items 7 and 8—Insert after the word "silencer" the words "or any contrivance of a similar nature."

The MINISTER FOR POLICE: The object of this amendment is to give a wider definition to the word "silencer." I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

No. 3. Clause 18.—Insert a new paragraph to stand as paragraph (b), as follows:—" (b) permitting dealers, without the production of a license, to deliver ammunition to any person who represents himself as entitled to obtain it, or as the agent of a person entitled to obtain it, subject to the bona fide observance of precautionary conditions."

The MINISTER FOR POLICE: This amendment deals with the licensing of dealers, and is acceptable to traders. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

Resolutions reported, the report adopted and a message accordingly returned to the Council.

## BILL—FEDERAL AID ROADS AGREEMENT.

### *Second Reading.*

THE MINISTER FOR WORKS (Hon. J. Lindsay—Mt. Marshall) [7.40] in moving the second reading said: This short Bill proposes to ratify an agreement made between the Prime Minister of the Commonwealth and the Premier of Western Australia. It amends the Federal Aid Roads Agreement Act of 1926. The agreement under the original Act stipulated that the Federal Government should provide £2,000,000 annually for the purposes of road construction by the States. Of that amount of £2,000,000 the State of Western Australia was to receive £384,000, the State on its part providing 15s. for every £1 provided by the Commonwealth. Of the State's quota, £36,000 was required to be provided annually from revenue. Since then various conferences of Premiers have been held, and it has been agreed to vary the original agreement. The variation has not yet been ratified by Parliament. The necessity for variation arises from the fact that the Commonwealth Government find that their revenue from the duty of 2d. per gallon on petrol and from duties on motor parts is not sufficient to provide the £2,000,000 annually. Perhaps I should tell hon. members what was the position at the 30th June last. Under the agreement the amount to be spent by the Government of Western Australia was £672,000 annually, but that has not been done. The reason is that on the 21st February last it was agreed between the Commonwealth and the States that the latter should not be required to find the 15s. in the pound. As a result, Western Australia has since that date

been spending only its quota of the Commonwealth allocation. I wish to stress that point, because my predecessor asked the local governing bodies to put up a five-years' programme, in connection with which each local governing body was to receive a quota of £2,000 per annum. Unfortunately, they have not received that quota. I frequently receive requests from local governing bodies to be paid the £2,000. The reason the quota has not been paid will be found from an analysis of the following figures. The Commonwealth contributions up to the end of last month totalled £1,812,542, of which £30,565 has been retained by the Commonwealth for sinking fund purposes, and that, accordingly, we still have to collect £107,458, of which £21,148 will be returned as sinking fund. It should be mentioned that commitments have been entered into by the State for the full amount mentioned. During the same period the State has contributed £704,933 from Loan funds and £90,277 from revenue, making a total of £795,210, against the £1,440,000 which it should have contributed on the 15s. to £1 basis if the full terms of the agreement had been adhered to. In other words, the State has not paid, by £645,000, as much as was estimated when my predecessor informed the road boards that they were to receive a quota of £2,000. The Loan Council not being able to borrow the necessary funds, the State has not received the money, and accordingly the local governing bodies have not received their quota; nor are they likely to receive it in future. The sinking fund deducted from the moneys allotted to us by the Commonwealth amounts to £21,148. Under the original agreement, in respect of all moneys spent by the State from Loan funds 3 per cent. sinking fund had to be provided. The percentage in question was deducted by the Commonwealth from allocations made to this State. Another matter I want to clear up relates to the £192,000 that was supposed to be made available to Western Australia under the Commonwealth road grant. This matter was dealt with at the conference at Canberra in December, 1929. On that occasion it was decided that in order to relieve unemployment an advance of £1,000,000 should be made to the States. Every Minister at the conference understood that that money was to be in addition to the Federal Aid Roads grant. At the next conference we found

that the money was portion of that year's allocation. After considerable discussion at a further conference, the Commonwealth Government agreed to extend the operations of the agreement for another six months and that meant that we would get £192,000 under that agreement. We have received £384,000 each year. I want members clearly to understand that the Commonwealth quota of £384,000 a year was not increased by the £192,000, which was supposed to be a grant for unemployment. I shall deal with the main provisions of the amended agreement, which it is now sought to ratify. The principal alteration, of course, is that which will vary the contributions to the States by the Federal Government. In future we will receive 2½d. per gallon on motor spirits imported into Australia and 1½d. per gallon on petrol refined in Australia. The proceeds under those headings will be in lieu of the £384,000 that we have received in the past. Taking the figures for the financial year ended the 30th June last, the levies on petrol that I have referred to represented a return of £1,580,000. On that basis, Western Australia would receive £303,360, but out of that amount we would have to provide for the sinking fund of £21,148. Assuming that the importations this year are the same as for the last financial year and that the petrol refined within the Commonwealth represented a similar quantity to that refined last year, we would receive approximately £280,000 from the Commonwealth Government.

Hon. A. McCallum: As against the £384,000?

The MINISTER FOR WORKS: Yes. Here again we cannot say that we can reasonably expect to receive that amount, because the money raised by the imposition on petrol to which I have referred must be divided amongst the States monthly according to the returns. It will be seen, therefore, that the Commissioner for Main Roads will have to be careful when budgeting for next year's operations because the importations of petrol and the quantity refined within the Commonwealth this year may be considerably less than in 1930-31. At the same time, the contribution to Western Australia will be on the same basis as in the past. I believe this agreement is the only one with the Commonwealth that has benefited Western Australia more than the other States. In this instance, the contribution is made on the basis of three-fifths according to the

population and two-fifths according to the area. The agreement that has been varied had another  $5\frac{1}{2}$  years to run, and the new agreement will operate over the balance of that term. We will have to provide a three per cent. sinking fund during the term of the agreement, and when it expires, we will have to provide a sinking fund at the rate of  $2\frac{1}{2}$  per cent., which will have to be continued until the debt is redeemed. Hon. members will see that instead of receiving, as in the past, an average of £672,000 a year, we will receive something like £280,000 a year in future. We cannot make the money go so far as we have been able to in the past, and I believe the first duty of the Commissioner of Main Roads will be to maintain roads already in existence. We receive certain traffic fees, but the revenue from that source has been considerably reduced. The second duty of the Commissioner will be to provide bridges and other requirements that the local governing authorities cannot construct out of revenue. As far as possible, any balance from the grant will be handed over to the local governing authorities. How much will be left over, time alone can tell. The Government have decided that this year the local authorities will receive an average of £250. Even so, they will not be able to receive the money all at once. That is one of the unsatisfactory features of the new agreement, seeing that we will not know, except from month to month, what money we shall receive from the Federal Government.

Mr. Marshall: Have you the machine for weighing heavy loads?

The MINISTER FOR WORKS: Apropos of that interjection, it is interesting to note that the amount received on account of heavy traffic fees is £1,547. It will be seen that we are not receiving much under that heading. The agreement must be passed by Parliament. The report of the conference proceedings shows that the Premier bitterly opposed it and there seems nothing for us to do but accept the agreement. Every other State is in favour of it. Although we shall be losing, we shall lose in proportion to the other States of Australia, and I believe the position of the Commonwealth Government is such that we have no option but to accept the revised agreement.

Mr. Marshall: Why should Western Australia lose in proportion to the other States? Why must we always be picked?

Hon. A. McCallum: Are we losing in the same proportion?

The MINISTER FOR WORKS: Yes. In the division of the money derived from the revenue from petrol, area as well as population is taken into consideration. As Western Australia has the largest area, we actually receive the largest amount under that heading. New South Wales is the only other State that will receive more than Western Australia. Instead of £2,000,000, the amount may be £1,500,000, but we will receive whatever we do get in exactly the same proportions as the other States that are included in the present agreement. I move—

That the Bill be now read a second time.

On motion by Hon. A. McCallum, debate adjourned.

*House adjourned at 7.55 p.m.*

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## Legislative Council,

*Wednesday, 29th July, 1931.*

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

### BILL—HIRE-PURCHASE AGREEMENTS.

*In Committee.*

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

Postponed Clause 5:

Hon. J. M. DREW: In Subsection 1, I wish to strike out after "vendor" in line 1 the words "except at the request or at the instance of the purchaser."