Legislative Council,

Wednesday, 17th November, 1920.

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

BILL—CITY OF PERTH ENDOWMENT LANDS.

Report of Committee adopted.

BILL—GUARDIANSHIP OF INFANTS.

Recommittal.

On motion by Hon. J. Cunningham, Bill recommitted for the further consideration of the Title.

Hon. J. Ewing in the Chair; Hon. J. Cunningham in charge of the Bill.

Title:

Hon. J. CUNNINGHAM: I move an amendment—

That the Title of the Bill be amended by adding the words "And to assure the widow or widower and family of a testator an adequate maintenance from the estate of such testator."

The reason for this amendment has arisen in consequence of the Committee adopting the new clause moved by Mr. Dodd last evening.

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

Bill again reported, with an amendment.

BILL—PUBLIC SERVICE APPEAL BOARD.

Assembly's Message.

Message from the Assembly notifying that amendments Nos. 1 to 7 and 9 requested by the Council had been made, and that amendment No. 8 had not been made, now considered.

In Committee.

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

No. 8. Clause 6, Subclause (4).—Add at the end the following: "the jurisdiction of the board shall also extend to such cases as have been the subject of correspondence between the Civil Service Association and the Government, and that have arisen subsequent to the 1st July, 1916."

The MINISTER FOR EDUCATION: I move—

That the amendment be not pressed.

The position is that this Chamber made nine amendments in the Bill, eight of which have been agreed to by another place. One was rejected, and that is the amendment which has been returned to the Committee. It was moved by Dr. Saw, and it would have enabled the Appeal Board to inquire into cases of persons who left the public service during the past four years. I took no exception to the amendment at the time and the Government were not hostile to it. There was, of course, always the danger that if we were to go back four years in order to include certain cases the question would arise as to why we did not go back five, six, or ten years. That is apparently the view which was taken by another place and they declined to make the amendment. In the circumstances I do not think that the amendment should be pressed.

Hon. A. J. H. SAW: I am sorry that the amendment was not agreed to by another place. Rather than see the Bill delayed and the possibility of a conflict with another place, and, in the end, perhaps, the object I had in moving the amendment not gained, I do not ask the Committee to press the amendment. I see by to-day's paper that it is believed that my motive in moving the amendment was to benefit certain of my friends. I can assure the Committee that there is no truth in that belief. I have a slight knowledge of two of the people concerned. One is out of the State and the other is a lady. Certainly I would have liked to see her benefit under the amendment. I laid my cards on the table when I moved the amendment, and said that I was doing it at the suggestion of the Civil Service Association, and as I agreed with their object, I had no hesitation in asking the House to adopt it. In the circumstances, however, I do not ask the Committee to insist upon the amendment.

Question put and passed; the Council's amendment not pressed.

Resolution reported and report adopted, and a Message accordingly transmitted to the Assembly.

Title—agreed to.

Bill reported and the report adopted.

MOTION—FEDERAL CONSTITUTION, CONVENTION.

Debate resumed from the 9th November on following motion by Hon. A. Sanderson—

That in the opinion of this House a Federal Convention, with equal State representation should be appointed by the electors of each State on the basis of proportional representation to make recommendations with a view of revising the

Federal Constitution, and that the Government of Western Australia be requested to urge this opinion upon the Commonwealth Government.

The MINISTER FOR EDUCATION (Hon. H. P. Colebatch—East) [4.42]: I intend to support the general principle embodied in the motion submitted by Mr. Sanderson. There can be no question that the Commonwealth Constitution requires amendment, and so far from it being a reflection upon the framers of the Constitution, I think it would be entirely extraordinary if a written Constitution did not require amendment after the lapse of 20 years and particularly after 20 years, the latter portion of which has seen such remarkable changes in our conditions. It has been suggested by Mr. Panton that the proper method by which amendments of the Constitution should be made, would be for the Federal Parliament to frame the amendments and then submit them by way of referenda to the people. This method of amending the Constitution piecemeal has been tried several times with but little success. To my mind, it is only to be expected that amendments sought in that way will fail, for the very sufficient reason that the tribunal which framed the amendment in the first instance is not the same as the tribunal that has to pass judgment by way of referenda. For instance, in the Federal Parliament itself the preponderance of power rests with the big States. They have by great numbers, the larger percentage of members in the House which frames the amendments. It is necessary for these amendments to be approved by way of referenda not merely by a majority of the people of Australia, but by a majority of the States. It is quite competent therefore for three small States, even by a narrow majority to defeat amendments which might be accepted by an overwhelming majority in the three larger States. This is a position which may at any time arise. Mr. Panton suggested that it was undemocratic that we should ask in the convention to amend this Constitution for equal representation as between the different States. That argument suggests to my mind that the hon. member does not fully appreciate the nature of the Federal Constitution.

Hon. A. Sanderson: Hear, hear!

The MINISTER FOR EDUCATION: The Federal compact was an agreement between States; it was an agreement between six States, and the essential feature of that compact was that the sovereignty of each State should be maintained, together with the equal rights of States.

Hon. A. H. Panton: We were bluffed into it.

The MINISTER FOR EDUCATION: The hon. member may think that this was right or wrong; I am telling him what was really done. Six States came together and made a compact, and that was the essence of the compact. If we turn to the Federal Constitution we find many instances in which this idea of the sovereign rights of the States is maintained, or at all events is intended to be maintained. Take for instance the clause relating to amendments to the Constitution. I have already referred to one of these provisions. Another provision in the same section reads—

> No alteration diminishing the proportionate representation of any State in either House of Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve of the proposed law.

I quote this merely to show the extent to which the Constitution recognises the rights of the States, even though the preservation of those rights may be opposed to the will of the great majority of the people all over Australia, and to emphasise the point that the Commonwealth Constitution is the creation of all the States as States, and for that reason the State of Western Australia is entitled to just as much say in the amending of the Constitution as is the State of New South Wales, notwithstanding that New South Wales may have a vastly greater population than has Western Australia. It is also very pertinent to remember that the conventions which provided the Constitution for submission to the Australian people were in every instance composed of an equal number of representatives from each of the States. The small State of Tasmania had exactly the same representation in the conventions which framed the Constitution as did the large States of New South Wales and Victoria. The second point involved in the motion is as to the method of election, assuming that there is to be a convention. This is a point about which I am not particularly concerned at the moment. If it is to be an election by the people of each State, it seems to me that proportional representation is the only just and proper system to adopt. Personally, I have favoured proportional representation for elections generally for many years, although the project does not seem to have made very great progress. I think it is the sound and proper system for electing Parliaments, but whatever may be said with regard to the election of Parliaments generally, the arguments in its favour are very much stronger when we come to elect representatives for the whole of the State. It is the only possible way by which the people of the State can elect representatives for a convention of this kind, and I do not hesitate to say it is very regrettable that the Federal Parliament, when it amended its electoral system to the extent of providing for preferential voting for the House of Representatives, did not at the same time establish the system of proportional representation for the election of the Senate.

The present system is entirely unsatisfactory. I used to argue that it was altogether unsatisfactory at a time when the Labour party had the whole of the representation of this State in the Senate, but at that time I found no echo or endorsement from those who supported the Labour party. Now that the Labour party find themselves without representation from this State in the Senate, they see the injustice of it, and I entirely endorse their view.

Hon. J. Cornell: It is a just retribution.

The MINISTER FOR EDUCATION: Probably that is so. I do not take up the attitude which Labour members adopted when they had the whole of the State's representation, and recognised the position as being entirely fair and proper. Now that the Labour party have no representation from this State in the Senate the position is entirely improper, and the sooner the Federal Parliament provide for a just method of electing the Senate the better it will be. There is another method by which the convention might be elected, that is appointment by Parliament in the same way as the previous convention were appointed. I do not intend to split straws on the motion on this point. I merely wish to protect myself by saying that I recognise these two methods, either election by the people of the State on the basis of proportional representation, or appointment by Parliament. If it comes to the point, I for the present intend to keep myself free to advocate whichever system seems most desirable. Mr. Sanderson in moving the motion made some reference to a speech I delivered in this House about 2½ years ago. After the lapse of 2½ years there is not a figure in the speech I delivered on that occasion which I wish to correct. There is not a single conclusion contained in the speech which I am not prepared to advocate and stand by to-day. The contention set out there was that financially and economically Western Australia had been prejudiced by Federation in a manner never intended by the framers of the Constitution. That was briefly the point I endeavoured to make. I do not intend to repeat the arguments I advanced on that occasion. I am prepared to stand by them now, and I say it can be demonstrated before any convention willing to listen to reason. I contended then that, as compared with the other States, Western Australia was not receiving her fair share of revenue from the Commonwealth. I pointed out that, comparing the first year of Federation with the year ended 30th June, 1917, the return to Western Australia by the Commonwealth had declined by £4 9s. per head of the population, while the reduction in the big States of New South Wales and Victoria had been only 10s. 6d. and 6s. 9d. per head of the population respectively. When the framers of the Constitution got together, they weighed the different conditions in the different States and set aside a certain return for Western Australia, a certain return for Victoria and New South Wales, and then after the lapse of a very few years and in a manner that the framers of the Constitution never contemplated, Western Australia's share per head of population had dropped by £4 9s., while the reduction to the big States of New South Wales and Victoria had scarcely declined at all. In according special treatment to Western Australia the framers of the Constitution took two main factors into consideration, firstly, the size of our territory and the expense involved in its development, and secondly, our large contributions to customs and excise because of the relatively higher masculinity of our population. Neither of these conditions has altered so much as to justify the enormous drop there has been in the contributions of Federal revenue to Western Australia, as compared with those paid to the Eastern States. One important point is that this payment to the States is not, as so many people are inclined to term it, a subsidy. At a recent Premier's conference it was put up as one of the matters to be considered, the continuance of the present per capita subsidy of the Commonwealth to the States. The word "subsidy" is quite a wrong word to apply in that sense. Subsidy means a financial grant made by a Government to an institution or other body as an act of grace. It contains the idea of a financial dole to a needy applicant. This payment by the Commonwealth to the States is nothing of the kind. It is the most essential feature of an agreement entered into between the whole of the States on which the foundation of the Commonwealth rests. I have here details showing exactly the manner in which the payments to Western Australia have declined during the period since the Constitution first came into operation, but I do not intend to weary members by reading it. The figures only demonstrate the point to which I have previously referred, that the contributions we have received from Federal revenue have declined by £4 9s. per head of the population since the Constitution was framed. With regard to the masculinity of the population, the position is still that Western Australia is the only State of the Commonwealth that has an appreciable excess of males over females. Prior to the war the Commonwealth as a whole had an excess of male population. One result of the war has been that at the present time the Commonwealth has an excess of female population. For every 100 males there are 101.67 females in Australia. In some of the States, South Australia for instance, the number of females per 100 males is 107.64. Western Australia and Queensland are the only States in which there is a majority of males. Our majority of males is 106.68 per 100 of the population, while Queensland's is 101.69. The Tasmanian figures show that the sexes are about equal, while Victoria has an excess of women of 4.26 per 100, and South Aus-

tralia has an excess of 7.64. The point as to the size of territory and responsibilities with regard to developing it might be stressed at great length, but there is no doubt that it is a point which was recognised by the framers of the Constitution. It was considered that if Western Australia was to give up its customs and excise revenues and allow them to be collected by the Commonwealth, these two factors must be taken into consideration, and consequently Western Australia must receive a larger sum than she would otherwise have been entitled to. A very careful estimate has been prepared by Mr. Owen, and notwithstanding a certain amount of criticism to which his original report was subjected, I do not hesitate to say it is a most valuable report. It is the best report of its kind that has been prepared, and anyone who is selected to represent Western Australia at the convention, of who has to thrash out this matter before the Federal Parliament, would be singularly blind to the interests of the State if he did not take Mr. Owen's report and peruse it very carefully. Mr. Owen has made a calculation showing the loss in each State for the year 1918-19, and that calculation shows that whereas some of the States, like Victoria, lost only £1 17s. 11d., Tasmania only £1 2s. 2d., New South Wales only £2 3s., and the average loss for the whole of the States of the Commonwealth was only £2 2s., the loss to Western Australia was £2 16s. 10d. There is no other conclusion to be drawn from this except that, if we eliminate altogether the question of our large area and our difficulties and responsibilities in developing it —an item which ought to be taken into consideration—and if we confine ourselves entirely to the basis of contribution, Western Australia received in the year 1918-19 14s. 10d. per head of the population less than she should have received by comparison with the Eastern States.

Hon. H. Stewart: That is after the payment of the grant.

The MINISTER FOR EDUCATION: Yes, that is including the special payment to Western Australia, which of course is a diminishing quantity. It started when the Surplus Revenue Act was passed in 1910 at £250,000 and decreases by £10,000 each year. Even including that special subsidy Western Australia received 14s. 10d. per head of population less than she was entitled to receive by comparison with the other States, even if we eliminate altogether the other very important point which should have secured for us additional consideration, namely, the size of our territory and the difficulty and the cost of developing it. There is one other matter to which I think public attention might very well be directed in this connection, and I mention it for the purpose of pointing out that however the Constitution is amended, it will be necessary to place those amendments in very clear and unmistakable language, because, it seems to me, that the Commonwealth's evasion of both the letter and the spirit of the Constitution, and of Acts relating to financial matters, particularly in regard to the distribution of surplus revenue, is absolutely shameless. The Constitution itself makes very generous provision for the financing of the Commonwealth. Contrary to the expectations, I think, of those who framed the Constitution, the Commonwealth takes absolute power in regard to the raising of its revenue, and it invades all forms of revenue raising that the framers of the Constitution undoubtedly thought would be preserved to the States. But there was this feature in the Constitution, that the Commonwealth Government "shall distribute all surplus revenue amongst the States." It has no right to any revenue beyond its requirements. Section 87 of the Constitution Act makes special provision for this during the bookkeeping period, and that section concludes—

> The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

That applied during the first 10 years. In 1908 an Act was passed called the Surplus Revenue Act, 1908, and the concluding section of that Act made the following provision:—

> Where any Trust Account has been established under the Audit Acts, 1901-1906, and moneys have been appropriated by the Parliament for the purposes of the Trust Account or for any purpose for which the Trust Account is established—
> (a) Notwithstanding anything in the Audit Acts, 1901-1906, the appropriation shall not lapse nor be deemed to have lapsed at the close of the financial year for the service of which it was made; and—

This is the important point—

> the Treasurer may in any year (subject to Section 87 of the Constitution) pay to the credit of the Trust Account out of the Consolidated Revenue Fund such moneys as the Governor General thinks necessary for the purposes of the appropriation.

Although that section says that it shall be subject to Section 87 of the Constitution, it has been interpreted to mean that during the financial year the Treasurer may pay into this Trust Account any money he otherwise thought might become a surplus, and therefore available for distribution amongst the States.

Hon. J. E. Dodd: He did so.

The MINISTER FOR EDUCATION: Yes, but a curious feature is this, that in 1910, when it was competent for the Commonwealth Parliament to amend this provision, an Act was passed called the Surplus Revenue Act, 1910, Section 6 of which reads—

> In addition to the payments referred to in Section 4 of this Act, the Treasurer shall

pay for the several States in proportion to the number of their people, all surplus revenue (if any) in his hands at the close of each financial year.

That is the law as it stands to-day, that the Treasurer shall at the end of each year divide the surplus revenue on a population basis amongst the States. What do we find under that law? Sir Joseph Cook delivered his Budget on the 17th September of this year and this is an extract from that speech—

> The Commonwealth revenue of 1919-20 was £52,782,748. The expenditure out of revenue was £50,558,383, leaving a surplus on the year's transactions of £2,224,365. There was brought forward from the previous year a surplus of £3,523,058.

The pretence of transferring this money to a Trust Account, as provided for in the Surplus Revenue Act, 1908, does not seem to have been bothered about. They simply carried the surplus forward in flagrant evasion of the provisions of the Constitution and of the Surplus Revenue Act, 1910. The intention was to apply that surplus for 1918-19 for the purposes of the year 1919-20, and the Federal Treasurer went on to say—

> The accumulated surplus at 30th June, 1920, was thus £5,747,423.

So that at the end of June the Commonwealth Treasurer had in hand 5¾ millions sterling which he should have distributed amongst the different States. He went on to say—

> When the Budget was introduced—

Not the Budget he was speaking on then, but the Budget of the previous year—

> it was expected that the surplus on the 30th June, 1920, would be £334,844, that is to say the £3,525,058 surplus brought forward from the previous year would be almost wholly absorbed.

A clear indication that that 3½ millions, instead of being distributed amongst the States as the law required, instead of being paid into a trust account, was really applied to the ordinary services of the following year. Then it appeared that it was not required for those services, that on the contrary the actual revenue received during the year exceeded the expenditure by over two millions; so that the Treasurer, instead of finding himself with a surplus of £334,000, actually found himself with a surpus of nearly six millions sterling.

Hon. R. J. Lynn: A pity that was not our experience.

The MINISTER FOR EDUCATION: I quote this to show how futile it is for the States to fight the Commonwealth, how essential it is, whatever amendments are made, that they should be made clearly so that in the future we may get what we were led to expect we were entitled to. I should like it to be understood that I do not make these remarks in any un-Federal spirit. I believe that the people of Western Australia are as truly Australian as people in other parts of the Commonwealth. We do not want to get out of the Federation; we recognise it has advantages and that there exists a national sentiment. What we are entitled to contend, however, is that the intentions of the original framers of the Constitution under which we entered into the Federation shall be given effect to. I do not believe that Australia can be satisfactorily developed except by the steady and equal development of all parts of it, and in order to secure that, a big State like Western Australia must have that measure of State rights, that measure of financial independence which we thought we had preserved to ourselves under the Constitution and under the Surplus Revenue Act, 1910, but which apparently has disappeared and which, if it is not brought into observance in some way or other, may drive Western Australia into a desire for unification or something else that will be equally disastrous. We have to keep these two points in view, that the successful development of Australia depends on the successful development of every portion of it, and that a big and distant State like Western Australia cannot be developed satisfactorily unless it has that measure of financial independence that is necessary to enable an intensely patriotic and virile people to work out their own salvation. I have much pleasure in supporting the motion.

Hon. J. CORNELL (South) [5.10]: The motion before the House as a motion may appear simple, but its purport is great indeed, and it should be understood by those who are not as fortunate as hon. members in this Chamber, and who look for guidance to those hon. members who are sent here as leaders of thought, some with every degree of hopefulness, for a lead on the question as to whether or not in the light of experience the time has arrived for the amendment of the Commonwealth Constitution. That is the only reason why I rise to offer a remarks on the motion. Those who were responsible for sending me here, as well as those who were not, expect to hear how I view the question of the Federal Constitution after 20 years' experience of it, so as to be in the position to judge whether or not I sufficiently advocate their views. As the leader of the House has said, it is not only feasible, but it is to be expected that after a lapse of 20 years, we should have arrived at a reasonable idea of its weaknesses, its virtues and its defects. And if an Australian community, or a West Australian community, are prepared to say that it is all that is desired, then I would throw over my preconceived ideas as to the immutability of mankind within the confines of the Commonwealth. Allow me to clear the ground by stating that I am not or never was a party to separation. The very preamble of the Constitution clearly and definitely lays it down that the union shall be one and indissoluble. My interpretation of that is that the only way in which a State can secede

from the union is by taking up arms. Though we have in our midst some very pugnacious individuals who talk separation, I think that if it came to a practical test they would, like Cox, lead the army from the rear. Federation is with us for all time, but I do not accept it and I am not likely to accept it at its present worth. It was to be expected that the work of those great men which was exemplified in the Constitution would at a later stage have to be altered. Although I do not intend to touch upon the invasion of State rights—because that is hardly the question under discussion—it is remarkable that, taking the data on which those great men had to work, the Constitution has stood the test as well as it has. The leader of the House has pointed to alleged invasion of State rights by the Commonwealth Parliament. In the pursuance of power and of the added halo which surrounds the Federal Parliament, it was only to be expected that its members would strive to do what men placed in power have done all through the ages, namely, seek more power. The Constitution Act vests the interpretation of the constitutionality of any Commonwealth law in the High Court of Australia. I have always accepted the majority decision given some years ago by that court which, so far as my memory serves me was this: that if ambiguity existed in the wording of that portion of the Constitution under which any law was passed by the Commonwealth Parliament, the Constitution being a written one, and the several States, parties thereto, having without prejudicing their sovereignty surrendered or given to the Commonwealth certain specific powers, such States therefore came within the category of givers, and the Commonwealth within the opposite category, the benefit of the doubt should rest with the givers and not with the recipients. A recent High Court ruling upset this decision and it is now very hard to tell what is the actual position as between the State and the Commonwealth. However, the question now is, do we think the time has arrived when the Constitution should be amended. Personally I do. Then comes the question as to the best method to pursue in order to secure such amendment. I think that any convention which seeks to alter, amend or make better the work of the framers of the Australian Constitution should be on the same basis as that of the convention that framed it; that is to say, equal representation of all States. Then comes the next point as to how that convention should be elected. I agree with the mover of the motion that on a question of such far-reaching importance the Commonwealth Constitution should be adhered to inasmuch as all men and women should be equal in the election of their representatives to form the convention. There is only one method by which that consensus of opinion can be crystallised, namely, proportional representation. It would go further if this State voted as one electorate. For the first time in the history of the Commonwealth it would give as far as possible from one State the truest reflection of the principle of proportional representation; that is to say, with the whole State voting as one electorate. As one who had followed electoral systems, I say that by the method of the single transferable vote and the State voting as one electorate with, say, six or 10 candidates, the choice of the electors would be such as to indicate that the several interests and parties or parties espoused by all candidates had secured that representation to which each interest or party was entitled. Therefore, no other party or individual can ask for more. I have no time for the present Senate system, but I must say that the present position is a just retribution. I remember attending in 1912 the Labour conference at Hobart.

Hon. J. Hickey: You will never attend one again.

Hon. J. CORNELL: One never knows. By the instructions of those who sent me there, I brought forward a proposal for proprotional representation for the Senate and endeavoured to get a motion through. I pointed not that although they thought we were then affluent and strong the day might come when the scales would be reversed, but that if the system of proportional representation was adopted they would get the representation they were entitled to. The answer I received—I had about four supporters—was that it had taken us a long time to reach the position we then occupied and that the system by which we had reached it was good enough to enable us to maintain it. Time, in politics as in men, works wonderful changes. The star which all men should try to follow in electoral representation is the star of justice which will give representation in accordance with the vote of the country. This proposal by the hon. member will do that. Any convention must be representative of the people, and must be elected on a vote of the people by a system which will give the truest reflex of the conditions of the various parties.

Hon. A. H. Panton: How many parties have we now?

Hon. J. CORNELL: I do not know. Virtually every man is a party to himself. However, I am not going into a dissertation on the various systems of proportional representation. If the State votes as one electorate on a single transferable vote we can get satisfactory representation for each party. Having dealt with the questions of the need for amending the Constitution, the method by which we should suggest the amendment, who should suggest it and how we can amend it, we arrive at this interesting position: that, whatsoever convention may be appointed for the amendment of our Constitution, I incline to the opinion that it can only be an advisory body, that the power of initiation is vested solely within the Parliament of the Commonwealth. If members will turn up the Commonwealth "Year Book" they will find on page 31 how the Constitution may be amended. Before the

Constitution can be amended it is necessary that any constitutional amendment shall pass by an absolute majority of both Houses, and then it shall within six months of its passing be submitted to a referendum of the electors of the Commonwealth. If it does not secure a majority of votes in a majority of the States, the proposed amendment must pass in the negative. However, we may camouflage the position I am always inclined to the belief that in the amending of our Constitution, whatever advice we may tender through our representatives, we must throw ourselves on the mercy of those in the Federal Parliament.

Hon. A. H. Panton: It shows the absurdity of the convention.

Hon. J. CORNELL: It does not. The first duty of every elector who has the idea of a better Australia at heart is to fight in the direction of giving it a Constitution compatible with the freedom which free men should exercise.

Hon. A. H. Panton. The initiative and referendum would do it better.

Hon. J. CORNELL: As soon as we appoint a convention, that convention makes certain recommendations. Parliament will turn them down, and then we have this weapon which is above all other weapons and which, above all, Parliamentarians fear, namely, the wielding of public opinion through the ballot box. And if the collective wisdom of Australia, through its representatives elected on a proportional representation system, expresses by a reasonable majority the direction in which the Constitution should be amended, and if Parliament turns it down, there is only one logical course to pursue, namely, for the electors to turn that Parliament out.

Hon. A. H. Panton: They have done that two or three times.

Hon. J. CORNELL: The curse of our efforts to amend our Constitution, and the curse of any future efforts will be vested in party politics. I say advisedly that on a question of such importance as the amending of our Constitution, men should rise above party politics. When I say this I judge all parties to be on about an equal footing. I give the motion my hearty and cordial support. My advice to anyone outside is that on such a question as the amendment of our Constitution there should be no party differences and no party factions in guiding the intellects of the citizens of Australia in the interests of their freedom.

On motion by Hon. J. Cunningham debate adjourned.

BILL—OPTICIANS.

Second Reading.

Debate resumed from the previous day.

Hon. J. W. HICKEY (Central) [5.31]: I have not much to say in connection with this Bill. I am one of those who is always very careful not to interfere with anything that has to do with the public health. I have long since recognised the necessity for legislation of this nature, but I am somewhat disappointed in that the Bill now before us does not go far enough, and does not more nearly reach my ideal of what we should have. It appears to have followed precedent, and aims at creating a closer preserve such as has been created in some other professions. The Bill contains many good points, however, and I appreciate the motive of those responsible for it. It certainly will have the tendency to uplift what is now looked upon as a trade to the rank of a profession. I, therefore, intend to vote for the second reading of the measure. I regret that it is not of a more substantial nature. It tends to create a system of centralisation, and to bring the people of the State to the more congested centres, instead of permitting the operations of these professional gentlemen to be localised in those centres which we all desire to see developed. I realise and appreciate the great responsibility which would devolve upon a layman if he interfered with any such questions of public health as this. I looked forward with a good deal of interest to the remarks that were likely to fall from Dr. Saw. Although I appreciate a Bill of this nature I was not influenced one iota by the fine reasoning of those who have supported it, and are anxious to see it become law. Whilst I had many reasons given to me why I should support the Bill, I was looking forward to hearing something which would tend to convince me as to the attitude I should adopt. I felt that the Bill fell far short of what I desired, and I was anxious to hear some argument which would perhaps help me to come to a more definite conclusion. With all due respect to Dr. Saw I must say that his remarks have decided me on the course I should take, for I now intend to support the second reading of the Bill. Seeing that I had looked forward to Dr. Saw's remarks to furnish me with some logical reasons for voting against the Bill, after hearing them I could only be influenced in the direction I have been. The hon. gentleman quoted the opinion of the medical fraternity in Brisbane. He said, amongst other things, that it was dangerous to the welfare of the public that opticians, however well qualified they may be as such, should be registered as sight-testing opticians. It is quite right for the hon. member to stand up for his profession, but he has to remember that there are other portions of Western Australia outside the metropolitan area. I do not think it is essential that medical men should alone be entitled to practise in any particular direction. It is true that when we come to deal with such an important organ as the eye, or with other important aspects of public health, we expect the professional men concerned to be thoroughly well qualified to handle such matters, and to be men in whom their clients have confidence, and it is also true that there is

no organ of the body which requires greater supervision than the eye. But the hon. member goes so far as to claim that the only individual qualified to deal with the eye is a member of the medical fraternity. I think I am correct in making that deduction from the remarks that fell from Mr. Saw. We all respect the opinions of the hon. gentleman, and I admit I am not prepared to pit my opinion on such a matter against his. I do say, however, as one who has travelled about the country, that if this is to be the principle upon which we should work, there are many people who will have rather a bad time in this State. If Dr. Saw were to express his candid opinion I am sure he would admit that there are many medical men in this State who are incompetent to deal in any way with the eye. This has been proved on many occasions. I think Mr. Cornell gave rather an apt illustration yesterday of some of these so-called qualified medical men. I have no desire to labour that phase of the question just now. There are people in the State who possess a considerable amount of knowledge of the subject and are highly trained in it, and have given a considerable amount of time, thought and study to the question, who are just as qualified to prescribe for a patient who is suffering from eye trouble as many members of the medical fraternity. On questions of nerves or troubles of other kinds such men have to refer their patients to a medical practitioner. We also find that the medical practitioner frequently refers his patients to an eye specialist or an optician. I can hardly understand the hostile attitude of the hon. member towards the registration of people who to-day are unregistered. We claim that public health and education are the two things that matter most in the community. There are quacks and hangers-on operating throughout the State as persons qualified to deal with the eye. This is the experience of most people who have taken note of such things. I am in accord with Dr. Saw to the extent that some protection should be given to the general public in this regard. It is strange that no action has been taken by the medical profession to deal with this question up to date. We now find opposition coming from that very quarter. I do think this Bill will have the effect of causing those who are now dealing with the eye in this way to pass some examination and produce their bona fides in the country. This, of course, is not the only object of the Bill. To-day any poor old thing can go along in a caravan and say that he is an optician, and there is no means of proving anything to the contrary. Apparently the aim of this Bill is to eliminate such people from the profession, and I intend in Committee to move to strike out the clause dealing with this subject. I would also point out that the medical fraternity have offered no particular objection to persons being enabled to roam about the country and claim that they are opticians. The Bill will, however, afford at least some degree of security to the general public that the man who claims to be an optician has passed through the hands of the board that will be constituted under this Bill. Dr. Saw went on to say that the testing of errors such as long sight and short sight, cannot be safely carried out by any other person than a qualified medical practitioner especially trained in the work. If we are to confine ourselves to this, I am not sure that it will carry us very far. I do not know that there are very many medical practitioners in this State who would come within the category specified by the hon. member.

Hon. J. Nicholson: To what clause do you refer?

Hon. J. W. HICKEY: To no clause. I am referring to the remarks made by Dr. Saw, who ought to know something about the business. The reasons given by the hon. member for his attitude on this question were firstly, that the eye is a part of the human body and not merely an optical implement, and secondly, that a full knowledge of the various sciences is considered necessary for a graduation in medicine, and further that this knowledge is as essential to the proper treatment of the eye as it is for any other organ of the body. I quite agree with those remarks, but this being so it is necessary that we should prevent impostors from roaming about the country, posing as opticians, and have legislation which will cause all those persons who practice on the eye to possess the authority of some body to do so. Although this Bill does not lay down that opticians must possess a great deal of knowledge, it will make it necessary for them to pass examinations and prevent them from wrongfully posing as qualified men. I certainly cannot support the second reading of the Bill with any great degree of enthusiasm, because it does not conform to the principles that I uphold. There are many clauses in it to which I am opposed. Clause 8, for instance says that no person who is an undischarged bankrupt or of unsound mind shall be capable of being elected to or shall act as a member of the board. For the life of me I cannot understand this. The opticians are claiming to be allowed to register, and to form a democratic institution, but the only plea that they advance for the support of their object is that they are bringing this Bill forward entirely in the interests of the people. There are many people in various walks of life who are undischarged bankrupts. I know of one man who would probably occupy a fairly high position in the State but for the fact that through no fault of his own he is an undischarged bankrupt. It is impossible for him to be otherwise. If an optician under this Bill required to be registered, he may be well enough qualified for registration, but if he is an undischarged bankrupt he cannot be registered. I think that is a wrong principle. When the Bill is in Committee I intend to move that the particular words bearing

on this point be struck out of the clause. The opticians claim that they have framed this Bill in the interests of public health.

Hon. J. Nicholson: That provision applies only to a person acting as a member of the board.

Hon. J. W. HICKEY: Still, it does apply; and, personally, I do not think a man is necessarily any the worse for being an undischarged bankrupt. I have certain objections to raise to Clause 6, and also to paragraph (c) of Clause 9. Further, I object to paragraph (b) of Clause 21, which provides that—

> Subject to this Act, any person of or over the age of 21 years being a natural born or naturalised British subjects who . . before the commencement of this Act has been engaged, as a principal, manager, or assistant, for at least three years in the practice of optometry, and has for the three months immediately preceding such commencement been continuously resident in the State, and applies for registration within three months after such commencement . . . shall be entitled . . . to be registered as an optician . . . .

The opticians are more modest than are some members of the other professions; but I fail to understand why a man who is qualified as an optician in, say, South Australia, and holds a certificate issued in that State, thus having proved his bona fides, should not be accepted here on the very day he steps off the steamer or the train. We have heard a good deal about Imperialism latterly, and I suggest that we should be Imperial in this connection. In this Bill even the modest opticians insist on three months' residence in Western Australia before registration. Does such residence make a better man of the applicant? The registration in South Australia or elsewhere—I am not referring to Queensland—should be regarded as in the nature of a letter of introduction and recommendation to this State. If a man is good enough to practise as an optician in, say, Adelaide—I will not say Brisbane—he is good enough to practise in Perth.

Hon. A. J. H. Saw: That is so as regards the medical profession. A medical man is admitted here straight away.

Hon. J. W. HICKEY: I understood that the opticians were putting forward their claims purely in the interests of the public, but when I see such a provision as that it causes me to question their bona fides somewhat. Again, take Clause 24, which reads—

> No registered optician shall solicit business or engage in the hawking of spectacles. Penalty: ten pounds.

The hawking of spectacles would, of course, be utterly undignified. In Committee I shall seek to have Clause 24 deleted, even if the fate of the measure depends on that clause. It is an utterly undemocratic provision. In legislation of this nature we have to consider the less populous centres as well as the cities. Take the Murchison, or the North-West. An optician qualified under this measure, and to qualify under it would not be very hard, might have his headquarters in, say, Cue. Clause 24 as it stands would prohibit such an optician from taking a motor trip through the stations and the mining camps for the purpose of prescribing for the employees on the stations and the men on the camps. Professional men established in the Murchison towns occasionally go through absolutely to the North-West on business trips. Presumably it pays them to do so. Now, it would cost a man on a station 300 or 400 miles inland a great deal of money to journey to, say, Carnarvon, for the the purpose of getting professional advice. Clause 24 not merely aims at preserving the dignity of the optician's profession, but also has a tendency towards centralisation. In other respects, I support the second reading, and I trust the Bill will pass into law. Something of this nature must be done sooner or later, and it is better to have the profession under control. The liquor traffic is regarded as an evil, and we think it well to have that evil under control.

Hon. J. E. DODD (South) [5.53]: I support the second reading, though, like many other members, I do not agree with the measure in its entirety. Indeed, it contains a large number of clauses with which I do not agree at all. For a layman to deal with a measure of this kind is somewhat difficult, but we are here to do our best in the interests of the public. I believe the opticians state that the object of the Bill is to afford protection to them and also to the public. If we can mould a measure on such lines, we shall have done very well; and I shall try to act in that direction during the Committee stage. The Bill is not provided with marginal notes to show which of its clauses have been drawn from Acts of other countries. The mover referred to a Queensland Act and a South Australian Act, but there are no references in the Bill to show in what respects it derives from those Acts or other Acts. We need to exercise the greatest possible care in dealing with a measure of this kind. During the past few years we have had Bills referring to accountants, dentists, architects, and nurses; and various other measures which have passed contain provisions protecting the interests of various professions. One can easily realise what a close corporation might be set up under such a measure as this. Let us bear in mind what happened in the case of Mr. Titus Lander and the Veterinary Surgeons' Board. Mr. Lander as a veterinary surgeon is, I believe, the equal of any other man in this State; and yet he was denied the right to practise. He took the matter to the Supreme Court, but there the Veterinary Surgeons' Board were found to be so closely hedged that it was impossible for him to secure registration. I do not know whether Mr. Lander is registered now or not.

Hon. J. Cornell: He is not.

Hon J. E. DODD: That case in itself shows that we need to be very careful as regards the powers we give to boards such as that proposed under this measure. Personally I have always been opposed to the granting of powers to individuals under Acts of Parliament. I strongly objected to the powers given the medical fraternity and others under our health legislation. I took exception to the powers which the Conservator of Forests exercises under the Forests Act, and I take exception to the powers sought to be given to any board of opticians under this Bill. The board is to consist of six persons, and I believe that to-day there are in Western Australia only ten persons qualified to become opticians under this measure. Six of those ten persons would form the board. I observe that the board may appoint a registrar and examiners and other officers. Clause 15, referring to the power of the board to examine witnesses, says—

> The board may, with respect to matters within its jurisdiction, examine or cause to be examined on oath any person appearing before it, and for that purpose the chairman or registrar may administer any oath.

Now, what are those "matters"? There is nothing in the Bill to define those "matters" in any shape or form. It seems to me that the Bill may mean anything. Clause 15 further provides—

> The chairman or registrar of the board may by writing under his hand summon any person to attend before the board for the purpose of being examined with respect to any matter within the jurisdiction of the board, and to produce for the inspection of the board any document in his possession, custody, or power relative to any such matter, and every person duly summoned as aforesaid who, without reasonable excuse, fails to attend after reasonable expenses have been paid or tendered to him, or attending refuses to be sworn or examined or to produce any such document when required so to do, shall be liable to a penalty not exceeding ten pounds.

That is a strange power to place in the hands of the chairman or registrar of the board to be established under this Bill. We need to be very careful indeed. However, I am fairly certain that this Bill will not become an Act during the present session. So far as I see, the measure has no chance of getting through another place before the prorogation. Again, there is Clause 21, dealing with qualifications for registration, and paragraph (c) of that clause refers to a person who—

> has been employed as an apprentice or engaged in the manufacture of spectacles and spectacle lenses in the business of an optician for a period of at least three years and passes the prescribed examination . . . . .

We ought to know what the "prescribed examination" will be. The Bill contains nothing to say what the examination shall be.

Hon. J. Nicholson: It will be prescribed by regulation.

Hon. J. E. DODD: But there are no regulations in this Bill. Six persons out of the ten qualified for registration under the measure may prescribe almost any examination—even an examination which would make it impossible, or unprofitable, for any person to seek admittance into the optician's profession. Thus we have something the same as with the dentists to-day.

Hon. A. J. H. Saw: Only worse.

Hon. J. E. DODD: These 10 people, we should realise, may be there for all time and may be able to charge whatever they like. There is no protection whatever under the Bill for the public generally. Although Mr. Cornell said that there was nothing between an oculist and the greatest impostor regarding glasses, we want to know where the public come in. I agree that we should eliminate the impostor element, if we can, but the main thing to be considered is where and how the public are protected. In Clause 26 it is provided that no person shall be apprenticed to a registered optician unless such person has first obtained from the board the prescribed certificate of educational fitness. What is that prescribed certificate of educational fitness? Are we to allow the whole thing to rest with these few people, with men who are most keenly interested from a financial standpoint? What does that phrase mean? Does it mean that they must have a university education? Must they have secured their B.A. or M.A. degree before they are passed by the opticians' board? I do not take the same stand as Dr. Saw, because I believe the opticians have just as good a right to protect their own interests as any other section of the community. Trades unions have always asked for that right. Engine-drivers have to pass an examination, but we can ascertain what that examination is on application to the machinery board. Members cannot say from this Bill what the examination may be. No man is allowed to drive an engine unless he passes an examination, and the same thing applies in the plumbing trade. No one can do any plumbing work unless he has a license, and that is a good thing too. I want to find out, before I support the second reading of the Bill, what this examination means, and what "educational fitness" means. I intend to restrict, as far as I can, the power of the board. Clause 29 says that the board shall, as necessity arises, hold examinations of persons desiring to qualify for registration under this Act, and fix the places where, and the times when, examinations shall be held. There is no reference whatever to what the examination is to be. Regarding drugs, to which Dr. Saw drew attention, the Bill provides that no registered optician shall administer any drug for the purpose

of paralysing the accommodation of the eye. Dr. Saw took exception to that and said that the drug must be administered. I will not dilate upon my experiences regarding the medical fraternity and quacks, regarding drugs or vaccine. Perhaps no one has had more experience than I have had, and the fact that I am here to-day shows that I have a good deal of vitality.

Hon. J. Cornell: You have a big share of experience.

Hon. J. E. DODD: Dr. Saw quoted several medical works in relation to the treatment of the eye. Mr. Lynn will remember an occasion when we were going Home, in company with a medical man from Victoria, a man of fairly high standing. In speaking to me regarding what I was going Home for, that doctor said, "Well, look here, whatever you do, don't touch drugs. Drugs never cured. They have done harm since the beginning of the world. All drugs should be scrapped." That was the medical opinion that was given to us then. I informed him that I was not to undergo treatment with drugs but with vaccine. The doctor replied that the vaccine treatment was only in its experimental stage and that it might, or might not, do me good. I asked him what he thought about it and he said that the only remedy was the knife. I have come across a couple of little books dealing with the treatment of people suffering as I have suffered, and one was by Dr. Abramowski of Mildura, who is well known perhaps to many members. The title of his little work is: "Eating to Live." The author condemns drugs and advises a fruitarian diet for all cases The other work is by Elma Stuart, who follows on the lines laid down by Dr. Salisbury regarding the hot water cure. In this work the author is also right up against the use of drugs. One doctor believes in fruitarian diet and the other in the hot water and minced beef and toast treatment.

Hon. J. Cornell: And some believe in starvation cure.

Hon. J. E. DODD: Who will decide this question? Here are two medical men each diametrically opposed to the other. I have followed both treatments and am still alive, which shows, at any rate, that I have vitality. I can quote dozens of medical works diametrically opposed to one another and many of them oppose the use of drugs altogether. I do not think because Dr. Saw has quoted some medical works in reference to drugs, that that means anything at all. I think the opticians might attend to the eyes of any individual with as good results without drugs as with them. I do not know that there is anything else I can add at the present time. I support the second reading of the Bill. I take strong exception to certain portions of it and if I can prevent a close corporation, whether composed of opticians or anyone else, I will do so. I trust that, after alterations in Committee, the Bill will emerge in a better form than it is in at present.

The MINISTER FOR EDUCATION (Hon. H. P. Colebatch—East) [6.10]: This Bill was introuced by a private member and I think it necessary for me to explain that the Government were requested, not only this year but as far back as 1917, to introduce a Bill of this nature. The Government were not prepared to do so, but on the present occasion we told those who desired the Bill to be brought forward, that if a private member introduced it, the Government would afford every facility for having it discussed. That is the attitude I take up at the present time. I do not feel very strongly regarding the Bill, and my only purpose is to give the House an opportunity to consider it. I think it my duty to read a letter I received this morning. It is from the secretary of the Australian Optometrists' Association and is dated, Melbourne, 10th November. The letter reads—

> I am instructed to bring before you the following resolution passed by the annual Interstate Conference of Optometrists and Opticians held at Adelaide in October, 1920:—"That this Conference of Australasian optometrists forward a letter to the Chief Secretary of Western Australia pointing out the benefits of legislation providing for registration of optometrists and opticians in those States enjoying such legislation, and pleading for the introduction of a similar measure in Western Australia." Enlarging upon this it was decided, in discussion, to point out that in Tasmania, where such legislation has been in force for many years, the registrar of the optical board had publicly stated that the Act was of undoubted benefit, and that the corrupt practices of the unscrupulous quacks and charlatans and hawkers who professed to be opticians, had been eliminated; and that cordial, harmonious relations now existed between the optician and the oculists, who appreciated the results after experience. Similar reports are received from Queensland where legislation is of later date. The fact that other States, i.e., Tasmania and Queensland, have measures providing for registration, whilst a Bill on similar lines is now before the second House of Parliament in South Australia, and is likely to become law any moment, makes it doubly imperative that the public of Western Australia be granted full protection against incompetence. Any person failing to qualify in any of those three States is at liberty to practise in this State, and have the unsuspecting public at his or her mercy. The Australasian Association of Optometrists therefore pleads with your Cabinet for the early introduction of this essential measure.

I thought it only fair that I should read that letter and at the same time I consider it to be my duty, as Minister for Public Health, to place before the House the views of the Department of Public Health on this question. I do not suggest that the views of the

Commissioner of Public Health are binding, but I think I would be lacking in my duty if I did not give this information to the House. This, briefly, is the opinion of the Commissioner of Public Health—

> There are only two States of the Commonwealth of Australia which have adopted legislation in the direction of the registration of opticians, namely, Queensland and Tasmania. The Tasmanian Act is dated December, 1913. Whilst the Queensland Act was assented to only last year, upon its first presentation it failed to pass the Upper House, but at the second attempt was successful. Such an Act was presented in Victoria in 1913, but was finally discharged from the Notice Paper. In New South Wales, the Government recently, on the advice of the Minister of Public Health declined to introduce such a Bill on the ground that the registration of opticians as sight-testers was not in the public interest. In the United Kingdom the question was dealt with by the General Medical Council in 1906, when Sir Donald Macalister reported to the Privy Council against such legislation. The Federal medical committee of the British Medical Association is opposed to the registration of opticians in any State, as sight-testers, on the ground that it is detrimental to the public interest. They consider that the registration of opticians as sight-testers would be entirely parallel to the registration of chemists as prescribers of medicine, and they consider further that the acceptance of seats upon a board, which register opticians as sight-testers, would be incompatible with the interests of the public and unworthy of the medical profession.

Hon. J. Cornell: Even there, any qualified chemist can dispense prescriptions.

The MINISTER FOR EDUCATION: The next portion of the Commissioner's minute deals with various parts of the Bill, and they can be quoted to the Committee later on when we are dealing with the clauses. Finally, the Commissioner of Public Health says:—

> You ask me for my opinion in regard to this Bill. I do not favour the introduction of legislation for the registration of opticians.

The attitude of the Government regarding the Bill is that, while we were not prepared to introduce the legislation, we were prepared to facilitate its consideration by Parliament in order that Parliament might be given an opportunity to express its opinion on the objects it seeks to secure.

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

BILL—FACTORIES AND SHOPS.

Received from the Assembly and read a first time.

House adjourned at 6.15 p.m.

Legislative Assembly,

Wednesday, 17th November, 1920.

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

QUESTION—FLOUR STOCKS, CENSUS.

Mr. BROWN asked the Premier: In view of Parliament having to fix the price of wheat for local consumption early in December, will he ask the Prices Regulation Commission to take a census on 27th November of the flour stocks held by millers, bakers, and traders?

The PREMIER replied: The revised price comes into force on 1st January, 1921. The Prices Regulation Commission have intimated that they intend to take a census of flour stocks before that date.

QUESTION—GOLD, PRODUCTION AND PREMIUM.

Mr. DUFF asked the Minister for Mines: In regard to the gold production of Australia and the operations of the Gold Producers' Association, 1, What proportion of the gold produced in Australia is dealt with by the Gold Producers' Association? 2, Is any part thereof reserved by the Federal Government for Commonwealth purposes? 3, If so, what premium, if any, over £4 4s. 4.45d. per fine ounce (Royal Mint price) is paid for the gold, and who gets that premium? 4, Who gets the premium, or the increased value of all gold sent to the Royal Mint by prospectors and mine owners whose gold is not dealt with by the Gold Producers' Association? 5, What are the reasons which cause gold to be dealt with differently from other products, such as wheat, wool, etc., which have a free market, and for which the world's price can be obtained by the producers?