

## Legislative Assembly,

Thursday, 12th July, 1928.

the acquisition of knowledge concerning the intricacies of State finance as I have been in connection with the Bill that has just been passed. We have had able speeches from every standpoint, and in no Australian Parliament has the measure received such a probing and such thoughtful consideration as that to which it has been subjected in this Chamber. The points raised have rendered it necessary for me to unfold to public view almost the whole of the ramifications of State finance in Western Australia. I think all of us will benefit in consequence. Nor need the opponents of the Bill, though they failed in their object, as Mr. Holmes has just indicated, feel that their labour has been in vain.

Hon. J. J. Holmes: It was a worthy object.

The CHIEF SECRETARY: I do not think it has been, nor will be, labour in vain. The case put up by the opponents is a valuable contribution from the standpoint of the disabilities which the State is suffering and may continue to suffer, through entering the Federation. Their audience has been a widespread one. During the last few weeks the whole of the Commonwealth has been listening intently to the proceedings of this House. Never before has there been opened up such a channel for the communication of our grievances as has been provided by the introduction of this Bill for the ratification of the Financial Agreement. In many ways outside the agreement, and in keeping with the Federal Constitution, the present Commonwealth Government and successive Commonwealth Governments can render material help in stimulating the great resources of this State. By reason of the speeches in this House those Governments will be in a better position than ever to realise the difficulties we have had to encounter, and probably will have to encounter in the future, through having entered the Federation, at a time when we were scarcely equal to the financial strain involved, and before we had commenced to establish secondary industries on a scale which would enable us to become more self-contained than we are to-day. The discussion has been of much value, and should have more than temporary effect. That is an honest expression of my feelings, and I believe that nothing but good will accrue from the intelligent discussion of this measure in the Legislative Council of Western Australia.

Question put and passed.

House adjourned at 9.47 p.m.

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

### QUESTION—(3) RAILWAYS.

#### *Employment of Labour.*

Mr. LINDSAY asked the Minister for Railways: 1, Is it a fact that instructions have been issued to the officer in charge of the relaying of the Wyalkatchem-Merredin railway that no men be employed locally unless they have been registered at the Labour Bureau in Perth? 2, Is it a fact that 15 men who were engaged locally have been put off to make room for men sent from the Labour Bureau in Perth? 3, Is he aware that many of these local men are searching for work in the country districts in preference to hanging about Perth and accepting charity? 4, If questions 1 and 2 are correct, will he give instructions to alter the method and allow local men, where suitable, to be given employment?

The MINISTER FOR RAILWAYS replied: 1, No. The policy of the Government is for all workers to be engaged through the various labour bureaux throughout the State, and a proportion of men required are picked up through labour bureaux in proximity to the job. When, however, there is a vacancy on any job and two or three men are available locally to fill vacancies, these may be picked up on the job, if they are suitable. This would not apply if, say, eight or ten men were required; in such circumstances men would be engaged through the various bureaux where men are registered for employment. 2, No. The 15 men referred to were engaged for a specific job, on completion of which they were paid off in the usual way. 3, Yes. 4, Answered by 1 and 2.

*Light Lines.*

Mr. GRIFFITHS asked the Acting Minister for Works: When will the Engineer-in-Chief's report regarding the light line railways, i.e., Stronach-Dutton, Decauville, etc., be made available?

The ACTING MINISTER FOR WORKS replied: No report has been made. From time to time methods of traction alternative to railways of the standard Western Australian gauge have been considered, but no alternative involving the use of a special track has yet been found which would give more satisfactory or more economical results than the standard railway track. The Stronach-Dutton has not been successfully employed elsewhere. The Decauville system is merely a light railway system, using light section rails and a narrow gauge. The conditions have not arisen at any point within the State where use of a gauge less than 3ft. 6in. can be justified.

*Yarramony Line.*

Mr. GRIFFITHS asked the Premier: 1, Seeing that unemployment is so acute, will he take into consideration the matter of starting the Yarramony railway, with the object of absorbing workless men? 2, As the settlers have now waited for one-fifth of a century for railway communication, will he add to the many other notable objects for the Centenary the celebrating of that event by the opening of the first section of the promised railway?

The PREMIER replied: 1 and 2, No.

**LEAVE OF ABSENCE.**

On motion by Mr. Wilson, leave of absence for one month granted to Mr. McCullum (South Fremantle) on the ground of urgent public business.

*Sitting suspended from 4.25 to 8.35 p.m.*

**BILL—FINANCIAL AGREEMENT.***Council's Amendments.*

Bill returned from the Council with schedule of three amendments.

*Standing Orders Suspension.*

**THE PREMIER** (Hon. P. Collier—Boulder) [8.38]: I move—

That so much of the Standing Orders be suspended as to enable a message from the

Legislative Council returning a Bill with amendments to be taken into consideration and dealt with immediately.

Question put.

Mr. SPEAKER: I am satisfied there is an absolute majority voting on the question.

Question passed.

*In Committee.*

Mr. Lutey in the Chair; the Premier in charge of the Bill.

No. 1—Clause 3—Insert after the figures "1915" in the last line the following: "Shall be suspended during the period fixed for the operations of Part II. of the said agreement, and as from the time that Part III. of the said agreement shall come into force the same."

The PREMIER: The effect of this amendment is definitely to limit the operation of this subclause to the two-year period. As the clause left this Chamber, it will be possible, in the event of the agreement being lost on the referendum, and therefore the whole matter falling to the ground, with this Act on the statute-book to give effect to Subclause 4. The amendment definitely limits it to the temporary period of the agreement. If the agreement should be confirmed by referendum this amendment will cease to have effect.

Hon. Sir James Mitchell: Will that cover the sinking fund supposed to be held by the trustees in London, and to which we have suspended payment?

The PREMIER: It covers the matters set out in the subclause. There was no question about that in the passage of this clause through the House.

Hon. Sir James Mitchell: Yes, there was.

The PREMIER: I do not think this subsection was questioned in Committee.

Hon. Sir James Mitchell: They were all queried.

The PREMIER: The Leader of the Opposition will not admit that a line or a paragraph was allowed to go through Committee without being questioned, but I think this is one paragraph that escaped his criticism.

Hon. G. Taylor: The Leader of the Opposition opposed this on the second reading.

Hon. Sir James Mitchell: The point was raised in Committee.

The PREMIER: If so, it was raised in the direction in which the Council has now amended it. I remember the hon. member raised some opposition here but was defeated, although he secured his way in another place by this amendment.

Hon. Sir James Mitchell: I had nothing to do with it.

The PREMIER: No doubt another place has not gone as far as the hon. member would have liked. This is one of the things that does meet with the approval of the hon. member in that it definitely limits Subsection 4 for two years, or until the Act comes into operation, that is, until Part III. comes into force. Then, of course, the amendment will cease to operate. I move--

That the amendment be agreed to.

Hon. Sir JAMES MITCHELL: The Premier knows what is covered by the amendment. I would like to know whether during these two years, money that ought to be paid to the sinking fund trustees in London is to be set aside and held so that if the agreement be not approved by the people we shall be in a position to make good the amount to the sinking fund trustees.

The Premier: That is a contingency we must always keep in mind.

Hon. Sir JAMES MITCHELL: When the Bill was first brought down I said that the clauses had no connection with the agreement.

The Premier: But they are very advisable, though they do not form part of the agreement; they are necessary because of the agreement.

Hon. Sir JAMES MITCHELL: We are substituting another sinking fund for the one to which we have been contributing. Now we are making an agreement which we are told will be of considerable benefit to the State, and we are asked to sanction the cancellation of the sinking funds in London and to take back into revenue all that is held by the sinking fund trustees. If the agreement is not ratified by the people, the Premier says that we shall restore our sinking fund. We will have to do that. It is an extraordinary thing if we are to have an interlude of two years during which we shall pay nothing. I know that under the agreement it is proposed to pay to our creditors £225,000 a year instead of £610,000, which was the amount paid last year. I repeat, there should have been two Bills.

The Premier: Yes, there could have been two Bills, but it really makes no difference.

Hon. Sir JAMES MITCHELL: It is no use going over the whole ground and telling the unfortunate people that great harm is likely to be done to the country, and we need not add to their trouble by permitting the Premier to use the sinking fund. As a matter of fact, we have not been paying anything to the sinking fund for more than 18 months.

The Premier: If the agreement is rejected we shall have to restore the position by an Act of Parliament.

Hon. Sir JAMES MITCHELL: We shall have to get back to decency by an Act of Parliament.

The Premier: We shall do the right thing if the agreement is not approved by the people.

Hon. Sir JAMES MITCHELL: The wrong thing has been done up to now.

The Premier: No.

Hon. Sir JAMES MITCHELL: At any rate, we ought to be thankful for small mercies, and I hope we hear no more about their agreement until the referendum is taken. If Parliament has done the wrong thing, I hope we can trust the people to do the right thing.

Hon. G. TAYLOR: The amendment proves that the Leader of the Opposition was right when he said on the second reading that two Bills should have been brought down instead of one. Two Bills would also have removed the confusion that exists. The Bill we considered could not well be altered because it was sent to us merely for ratification, but if there had been two Bills it would have been possible for us to handle the part we are dealing with now in a different form. Hon. members in this House voted in the full belief that they could not make any alteration whatever to any part of the Bill. What has taken place emphasises the need there is for someone to check our figures.

The Premier: This does not affect figures.

Hon. G. TAYLOR: What I mean is, check our work here. We are given to understand that this was what was wanted and nothing else, and that was our belief until the Bill went to a wiser House.

The Premier: Not a bit wiser.

Hon. G. TAYLOR: Yes, wiser and more mature, and a House not dictated to by

reason of the absence of party politics. In no unmeasured terms they declared, "It is not necessary to give so much latitude; we will let you run for two years and no longer."

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

No. 2—(Clause 4, Subclause 1: In the third line, after the figures "1907," insert: "shall be suspended during the period fixed for the operation of Part II. of the said agreement, and as from the time that Part III. of the said Agreement shall come into force the same.")

The PREMIER: The wording of this amendment is precisely similar to that of the amendment we have just dealt with. The principle involved is the same, the only difference being that this deals with sale of Government property instead of with the other matters. I move—

That the amendment be agreed to.

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

No. 3—Clause 6, in line 3 strike out the word "Act," and in line 4 strike out "or other matter," and also the word "passed," and insert "or" before "regulation."

The PREMIER: I move—

That the amendment be agreed to.

It really makes no difference. For the sake of peace and the passing of the Bill I suggest that the amendment be accepted. It seeks to take out of the hands of the Government, perhaps, some of the power which the clause gives.

Hon. G. Taylor: Perhaps!

The PREMIER: I know the hon. member interjecting read into the clause, during the Committee stage, an interpretation which it did not carry.

Hon. G. Taylor: The Upper House thought the same.

Hon. Sir JAMES MITCHELL: Naturally we took exception, when the clause was being discussed, to the Government having power to rescind an Act of Parliament; but the Premier contended that it was necessary to have the power.

The Premier: I said the power would not do any harm.

Hon. Sir JAMES MITCHELL: We pointed out that it would do considerable

harm. I cannot understand another place making this amendment in the Bill while allowing the same thing to remain in the agreement. The Federal Parliament, in fact, reserves to itself the right to amend the agreement if the Federal Legislature so pleases.

The Premier: Governments only take powers which may be necessary in order to make such agreements as this effective.

Hon. Sir JAMES MITCHELL: It has been pointed out time and again how well London has treated this State because of the sinking fund that we have invested in London, and I am very glad indeed that the Council has seen fit to exercise an extraordinary power. Perhaps we ought to refer the Bill back to another place and ask members there to amend the agreement so as to bring it into line with this clause as amended. The agreement will be referred to the people, who have a right to vote on the question; and if the agreement is then defeated, it will be because of the extraordinary powers the people are asked to grant to the Federal Parliament. It is unthinkable that any State law should be set aside between the Federal Government and the State Government without reference to the people. I feel sure that we as a Parliament will not be consulted regarding any future financial agreement. The only Parliament consulted will be the Federal Parliament.

The Premier: Do you mean with regard to future amendments or alterations?

Hon. Sir JAMES MITCHELL: Yes.

The Premier: Oh no!

Hon. Sir JAMES MITCHELL: The provision was inserted because that is to be the case in future. However, it does seem extraordinary that an amendment so stoutly resisted here should be so readily accepted from another place. It is highly inconsistent.

The Minister for Justice: It will mean a lot more trouble to us, if we find that there are some Acts that will have to be amended.

Hon. Sir JAMES MITCHELL: I do not think any responsible Minister would argue that the Governor-in-Council should have the right to do these things without consulting Parliament.

The Premier: Yes, if it were to give effect to a decision of Parliament with regard to another Act. That is all it means.

Mr. E. B. Johnston: It refers to what may be "necessary or convenient."

Hon. Sir JAMES MITCHELL: The Premier would have us believe that the

clause refers only to the Financial Agreement, but it will extend to every other agreement that may be made.

The Minister for Justice: Of course not.

Hon. Sir JAMES MITCHELL: But it says so.

The Minister for Justice: It refers to the agreement in the schedule, not to any agreement.

Hon. Sir JAMES MITCHELL: I assure the Minister that that is what the clause means.

The Minister for Justice: You are quite wrong.

Hon. Sir JAMES MITCHELL: We should send the Bill back to the Council to give them another opportunity to amend the agreement!

The Premier: The members of the Council have exhausted themselves trying to get the agreement amended or rejected, and it would not be fair to send it back to them!

Hon. G. TAYLOR: The Council's amendment will take away the power of the Governor-in-Council to do work that Parliament is called upon to do, namely, to amend legislation. Despite that fact, the Minister for Mines says that the Government are prepared to accept amendments by the Council that mean nothing! When I discussed this clause, it was made to appear that I read into it something that was not there, but the Legislative Council have placed the same interpretation upon the clause, and now the Government are accepting the Council's amendment. To support my contention that it is wrong to take away from Parliament powers that should be vested in the legislative body alone, I will quote an eminent authority. *Libert* in his "Legislative Methods and Forms" said years ago—

In the year 1539 Henry VIII. made a bold and interesting attempt to take the power of legislating by proclamation, an attempt which, if it had been successfully maintained, would have introduced a system of "administrative law" prevailing in continental countries. But his Statute of Proclamations was repealed in the reign of Edward IV., and in 1610 a protest of the judges established the modern doctrine that Royal proclamations have in no sense the force of law, they serve to call the attention of the public to the law, but they cannot of themselves impose upon any man any legal obligation or duty not imposed by Act of Parliament. Thus it was gradually recognised that a law made by the authority of Parliament could not be altered except by the same authority.

The Minister for Mines: In the year 1530! I thought it would be some time ago.

Hon. G. TAYLOR: The work was published in 1901, yet the Minister says that it means nothing.

The Minister for Mines: There is no analogy between that and what you are attempting to discuss.

Hon. G. TAYLOR: *Libert* also has this to say—

In continental countries, as is well known, the delegation of legislative powers is far more extensively exercised than in England or in English-speaking countries. In France, statutes are often couched in general terms and enunciate a principle which the executive is to carry out in detail. Sometimes the President of the Republic is expressly given power to make regulations, but even without any special authority he has a general power to make them for the purpose of completing the statutes, by virtue of his general duty to execute the law. Power to make similar regulations is often conferred on Ministers or prefects, and on mayors. The regulations thus made are described in France as secondary legislation. The President's Ordinances are called *décrets*, and the regulations issued by other officials are distinguished as *arrêtés*. In Italy the power of the executive officials to make regulations is even more extensively used. The Constitution declares that "the King makes the decrees and regulations necessary for the execution of the laws, without suspending their observance or dispensing with them." But the interpretation put upon this provision is so broad that the Government is practically allowed to suspend a law subject to responsibility to Parliament and even to make temporary laws which are submitted to Parliament later.

Mr. Panton: That is out of date now. Mussolini does all that!

Hon. G. TAYLOR: *Libert* continues—

And Parliament uses very freely the power of delegating legislative power to the Minister. "In the case of the recent Criminal Code, for example, the final text was never submitted to the Chambers at all, but, after the subject had been sufficiently debated, the Government was authorised to make a complete draft of the code, and then to enact it by Royal decrees, harmonising it with itself and with other statutes, and taking into account the views expressed by the Chambers. The same was true of the electoral law of 1882, of the recent laws on local government and on the Council of State, and of many enactments." Without express power for the purpose, the Ministers, prefects, syndics, or other officials are in the habit of making decrees on subjects of minor importance.

Now I come to the last few lines which will appeal to members opposite—

Such extensive delegation of legislative powers would not be tolerated in England. Every Anglo-Saxon feels that a power so indefinite (as that of making regulations) is in its nature arbitrary, and ought not to be ex-

tended any farther than is absolutely necessary. Englishmen have a deep-seated distrust of official discretion, a deep-seated scepticism about bureaucratic wisdom.

The Government desired to place bureaucratic power in the hands of the Executive. How can members opposite sit there and stare those on this side of the House in the face and parade their democracy! Members opposite say they represent the democracy, and yet the people they represent have to be protected from the farce of legislation by another place, of which they speak only to despise it. Surely we have reached a pretty pass!

Mr. Panton interjected.

Hon. G. TAYLOR: Members opposite may treat it as a joke but they dare not adopt that attitude in Unity Hall, Beaufort-street. Members opposite can afford to laugh seeing that on this question they have the daily Press of the State behind them. According to the Press, anyone who opposes the agreement is absolutely devoid of any comprehension of its benefits, while anyone who supports it is an intellectual giant. I ask any supporter of the Bill whether that clause can be justified on democratic grounds. It is a shocking example of the desire to hand over extraordinary powers to half a dozen Ministers.

Mr. E. B. Johnston: For 58 years.

Hon. G. TAYLOR: Yes.

The Premier: It is for all time.

Hon. G. TAYLOR: Members opposite try to make a joke of it, but it would be no matter for joking if the Ministers actually obtained the power—

Mr. Panton: What, to sit there for 58 years?

Hon. G. TAYLOR: To suspend this, that and the other Act that might stand in the way of carrying out the agreement. It would be absurd. However much I appreciate the advantage of having a Legislative Council wisely to mould legislation that is sometimes sent to it in a rough and ready condition, owing to the strength of the Government in this House, I have never yet said, "Thank God, we have an Upper

House." Yet the Premier has said it repeatedly and so has the Minister for Agriculture, and published it in the Press. Still their thankfulness was justified.

The Premier: See how far-seeing I was.

Hon. G. TAYLOR: Yes, and yet next session we shall have the Premier telling us that he wishes to abolish the Legislative Council. I am indeed pleased that the Upper House has made this amendment, which we failed to get passed owing to the numbers against us. It shows that the only way of getting the Government to listen to reason is to have power to enforce it. Legislation carried by force of numbers and without due consideration cannot be of advantage to the State.

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

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

#### ADJOURNMENT—CLOSE OF SESSION.

**THE PREMIER** (Hon. P. Collier—Boulder) [9.35]: I move—

That the House at its rising adjourn until Thursday, the 19th July.

For the information of members I may state that we shall not meet again this session. Parliament will be prorogued within the next week or so.

Mr. E. B. Johnston: Without passing a Supply Bill?

The PREMIER: I think the Parliament will meet again in time to get supply in the usual way, not later than supply has been obtained in years gone by. It was thought that the new session would not begin until the middle of August, but the Government have come to the conclusion that that would be rather late. Consequently we shall meet, if not exactly at the usual time, then towards the last week in July or very shortly afterwards.

Question put and passed.

*House adjourned at 9.37 p.m.*

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By Proclamation published in the *Government Gazette* of 20th July, 1928, Parliament was prorogued to the 2nd August, 1928.