

signed by him to any person to use such dwelling-house for purposes of habitation, upon and subject to such conditions as the Commissioner may deem fit to impose and which are specified in the permit so granted.

The Commissioner desires that clause to be inserted in the Act.

Mr. MARSHALL: Water is found to be poisonous in the vicinity of the stack at Wiluna. That is likely to be the case whenever refractory ore is in process of treatment. Fortunately for the people of Wiluna, it was discovered in time to save their lives.

New clause put and passed.

Title—agreed to.

Bill reported with amendments.

*House adjourned at 11.35 p.m.*

## Legislative Council,

*Tuesday, 29th November, 1932.*

	PAGE
Standing Orders suspension: Close of session	2030
Bills: Companies Act Amendment, 1R.	2030
Financial Emergency Tax Assessment, Assembly's Message	2030
Traffic Act Amendment, 3R., passed	2030
Tenants, Purchasers, and Mortgagees' Relief Act Amendment (No. 1), 3R., passed	2030
Swan Land Revesting, 3R., passed	2030
Mining Act Amendment, 1R., 2R.	2030
Cattle Trespass, Fencing, and Impounding Amendment, Assembly's amendments	2032
Municipal Corporations Act Amendment, 1R., 2R.	2033
Wheat Pool, 1R., 2R.	2033
Health Act Amendment, returned	2034
Brands Act Amendment, Assembly's amendments	2034
Financial Emergency Act Continuance, 1R., 2R.	2035
Motion: Superphosphate bonus	2035

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

### STANDING ORDERS SUSPENSION.

*Close of Session.*

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [4.33]: Several Bills are due to come forward to-day from another place. If we followed the usual procedure these

would be read a first time to-day, and read a second time to-morrow or at some later date. As there is very little business on the Notice Paper, and the session is coming to a close, I shall be pleased if the House will agree to my moving without notice for the suspension of Standing Order 181 for the remainder of the session to allow of the second reading stage of Bills to be taken without delay, and messages from another place to be dealt with immediately upon their receipt. I move—

That leave be granted to move, without notice, for the suspension of Standing Order 181.

Question put and passed.

THE CHIEF SECRETARY (Hon. C. F. Baxter—East) [4.34]: I move—

That Standing Order No. 181 be suspended for the remainder of the session so as to allow the second reading stage of Bills to be taken without delay, and messages from the Legislative Assembly to be dealt with on being received.

Question put and passed.

### BILL—COMPANIES ACT AMENDMENT.

Introduced by Hon. J. Nicholson, and read a first time.

### BILL—FINANCIAL EMERGENCY TAX ASSESSMENT.

*Assembly's Message.*

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

### BILLS (3)—THIRD READING.

- 1, Traffic Act Amendment.
  - 2, Tenants, Purchasers and Mortgagees' Relief Act Amendment (No. 1).
  - 3, Swan Land Revesting.
- Passed.*

### BILL—MINING ACT AMENDMENT.

*First Reading.*

Received from the Assembly and read a first time.

*Second Reading.*

**THE CHIEF SECRETARY** (Hon. C. F. Baxter—East) [4.47] in moving the second reading said: The purpose of this Bill is to amend Part VA of the Mining Act, 1904. This section of the Mining Act at present deals with separate subjects, namely, mining for mineral oil and tribute agreements. In regard to the section dealing with mineral oil, it is considered that these provisions should never have been included in the Mining Act. There is nothing similar about prospecting for and working mineral oil, and ordinary mining, and to meet the position, a separate Bill is being drafted to deal with this class of mining. The Bill I am now presenting makes provision for the repeal of the relative sections in the Mining Act on a date to be proclaimed. This provision is necessary to preserve the existing law relative to mining or prospecting for mineral oil until the proposed new legislation has been passed. The remainder of the Bill deals with tributing on mines. The existing legislation was enacted when the sterling price of gold was at practically a fixed price, and the only other factor to be considered was any production bonus that might be, or had been granted. Owing to the unforeseen financial collapse and the discarding of the gold standard for currency the price of gold has appreciated, and as a result there have been numerous disputes between tributers and mine owners in reference to the allocation of the resulting premium on gold produced. This has led to litigation, and the case was finally decided by the Privy Council.

It was considered therefore that new legislation should be drafted to clarify the position and to prevent future litigation. It is necessarily a difficult task to frame suitable legislation affecting agreements between mine owners and tributers, so as to give satisfaction to both parties. In the past these agreements have been drafted without considering the interests of the Crown, and the proposed new legislation makes provision for the protection of Crown rights in such matters. The Crown owns such lands and only leases them to the mine owner to enable him to recover the gold which may be in the area leased to him, and the lease contains a covenant setting out the various conditions with

which he must comply. One of the conditions in the principal Act, Section 80, is that the lessee shall not assign, underlet or part with the possession of the land or any part of it without the previous consent in writing of the Minister or of an officer acting with the authority of the Minister. This section has been practically flouted, and tributing agreements have been made by which tributers were working for practically nothing. Various amendments were made to the Act to correct this state of affairs, and for a time things worked very smoothly. Then came the premium on the price of gold, and disputes cropped up as to who was entitled to that premium, the mine owner or the tributer, and a further amendment was made to the tributing section of the Act, providing that the tributer should get at least 50 per cent. of any premium which might accrue on the sale of gold won by the tributer. This was done when gold was still apparently at a fixed price. The present increase in the price of gold was not then foreseen, and consequently no definition of the word "premium" was made. This technical omission has been the cause of litigation. Now these amendments have been framed with the intention of deciding definitely what portion may be taken by the lessee, and what portion the tributer shall get. The amendments make provision that all tribute agreements shall be lodged by the lessee for approval by the warden. It will be compulsory for the warden to refuse to register a tribute agreement if it does not contain certain specified provisions and essentials, and he is given discretionary power to refuse to register an agreement if in his opinion any term or condition contained in the agreement is inequitable; with a condition that the warden can be requested to refer any objection, either by himself or by the interested parties, to the State Mining Engineer for decision, and such decision must be accepted by the warden. Provision is made for alternative methods for payment of royalties, either by means of a percentage on a sliding scale to be fixed by the agreement or by means of an equal division of the gold extracted or of the gross proceeds thereof, and also for cases in which the lessee treats the tributers' ore and where the ore is treated by the owner of a treatment plant who is not the lessee.

Other provisions deal with the conditions and methods of payment. Under these the tributer does all the necessary mining and delivers the ore to the plats, and from then on the lessee takes charge and delivers the ore to the surface and extracts the gold contents. The basis of extraction is fixed at 90 per cent. of the assay value of the ore. Of this amount 45 per cent. shall belong to the tributer, and out of that he will pay wages and all other mining charges, and the lessee will pay out of his proportion all royalties and charges that can be charged for bringing the ore to the surface, transporting, crushing, treating and recovering the gold from the ore. The basis of payment to the tributer is that the lessee shall not be bound to pay anything to the tributer until a reasonable time has elapsed to enable the ore to be taken to the surface, treated and the gold recovered. Then he is asked to pay on the basis of £2 an ounce less the cost of services rendered by the lessee, and is given another month to realise on the gold. At the end of that period he has to return, on a fifty-fifty basis, to the tributer the difference between £2 an ounce to the tributer and £2 an ounce to himself as lessee, and the actual return at current market rates in Australian currency for the gold contents of the ore dealt with. Provision is also made for cases where the lessee buys the ore on the assay value and treats it along with his own ore, and in the cases of mines where there is no treatment plants, and where ore has to be treated at a custom's mill.

There has been some trouble in connection with treatment at custom's mills, as the owners in some cases in addition to charging for treatment of the ore, have claimed 50 per cent. of the premium. This is an outrageous proceeding as they merely render the service of treating the ore and recovering the gold contents, for which they are paid. They have also had sliding charges for the treatment of ore on the basis of the gold contents. If the ore varies in value from a few dwts. to ounces the charge for treatment may vary as much as £3 per ton. Provision is now made that there shall be fixed charges on a tonnage basis for treatment, no matter what the value of the ore may be, and these charges shall be embodied in the agreement. In cases where the fifty-fifty division is agreed on and the lessee does not treat the ore, he has to set

out the conditions in the agreement as to how it shall be handled. A certain amount shall be charged for treatment, and that charge shall be taken out of the 50 per cent. due to the mine owner. If the charge is not equitable to either party, the State Mining Engineer can say what is a fair and equitable rate. In the case of refractory ores where a 90 per cent. extraction is considered to be unobtainable, the lessee may apply to the warden for a variation of the amount. The Bill prescribes that the new provisions shall take effect from the 30th September and in the case of any agreement made before the 30th September, or of any extension, the agreement must be amended to comply with the new law. I consider the amendments here provided are necessary owing to the unforeseen circumstances that have arisen. They will make for fairer and more equitable treatment of tributers, who are an asset to the mining industry, and will clarify what was previously a contentious section of the Mining Act. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

## **BILL—CATTLE TRESPASS, FENCING AND IMPOUNDING AMENDMENT.**

### *Assembly's Amendments.*

Returned from the Assembly with two amendments which were now considered.

### *In Committee.*

Hon. J. Cornell in the Chair, the Chief Secretary in charge of the Bill.

No. 1. In line one of proposed new subsection 4A after "any" the word "justice" be struck out and "two justices" inserted in lieu.

The CHIEF SECRETARY: I move

That the amendment be agreed to.

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

No. 2. Add the following proviso to paragraph (ii) of Clause 4A:—"Provided that any one justice may exercise the jurisdiction of two justices under this Act whenever no other justice usually residing in the district can be found at the time within a distance of ten miles; provided that the justice certifies

in writing that no other justice can be found within ten miles."

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

It will be obvious that if the services of a second justice are not obtainable, one justice should act. The position will be safeguarded by the manner in which the proviso is drafted.

Hon. J. Nicholson: Although it is cumbersome.

The CHIEF SECRETARY: That is so, but there can be no objection to the amendment.

Hon. W. J. MANN: The distance of ten miles is rather too much. Five miles should be the limit.

Hon. E. Rose: It means if there is no other justice within ten miles.

Hon. J. M. Drew: My objection is to the word "found." A search party might be required.

Hon. J. NICHOLSON: The Chief Secretary should report progress and consult with the Minister who is responsible for the amendment and from him ascertain exactly what the amendment does mean.

Progress reported.

## BILL—MUNICIPAL CORPORATIONS ACT AMENDMENT.

### *First Reading.*

Received from the Assembly and read a first time.

### *Second Reading.*

**THE CHIEF SECRETARY** (Hon. C. F. Baxter—East) [5.10] in moving the second reading said: The object of the Bill is to relieve a trustee from personal liability for rates. At present if a man accepts the position of a trustee, either in bankruptcy or otherwise, he becomes personally liable to pay out of his own pocket rates that may be due or that may accrue on lands vested in him as trustee. It is obvious that it is not right that because a man has become a trustee of property, he should be made personally liable for the rates on that property. A similar provision to this was made in the Road Districts Act Amendment Bill which we dealt with recently and I

feel sure members will agree that the Municipal Corporations Act should also contain the same provision. I move—

That the Bill be now read a second time.

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

## BILL—WHEAT POOL.

### *First Reading.*

Received from the Assembly and read a first time.

### *Second Reading.*

**THE CHIEF SECRETARY** (Hon. C. F. Baxter—East) [5.15] in moving the second reading said: This is purely a machinery Bill, with the object of incorporating the trustees of the Wheat Pool. The pool has been successfully conducted in this State for about 10 years. The reason for the proposed incorporation is because the Companies Act is not applicable to a non-profit earning organisation, and one which does not involve proprietary interests or shareholding. At the present time, the trustees, who are elected by growers who are members of the pool, are a registered firm, which is not permitted to make any profit, as it is run on a co-operative basis, entirely for the benefit of the members of the pool and represents about 70 per cent. of the wheat-growers of the State. It is now considered advisable that the trustees should be incorporated, as it is felt that this will make for more expeditious handling of wheat and will give greater security to pool participants. Incorporation will enable the trustees to function as a single entity, the continuity of which will not be affected by changes in the personnel of the trustees through deaths, retirements, or other causes. It will facilitate the making of contracts, because all future contracts and engagements can be entered into and undertaken in the corporate name, instead of in the names of the individual trustees. It will also simplify the procedure in regard to investment of reserve funds by doing away with the necessity for transfers of investments occasioned by a change in the personnel of the trustees, and will facilitate arrangements for finance for the purpose of enabling the trustees to make advances to members against their pooled wheat, it is also proposed to give the corporation

power to establish and conduct a bulk handling scheme, whether voluntary or under specific statutory authority. The provisions of the Bill are to incorporate the trustees as a body corporate with perpetual succession and a common seal; to make necessary provision for the proceedings of the trustees; to provide for the election and retirement of trustees at periodical intervals, and to provide that the election of trustees will be in the hands of a body known as the growers' council, which body will be constituted and elected by members of the pool in accordance with rules contained in the Schedule to the Bill and which is in conformity with existing pool conditions; to entitle the trustees to such remuneration as shall periodically be fixed by the growers' council; to vest in the trustees in their corporate capacity all assets and property now belonging to the registered firm, and to make provision that all liabilities and engagements of the present firm shall become the liabilities and engagements of the trustees in their corporate capacity. It will also invest the trustees, as a corporation, with full power to establish, maintain and conduct wheat pools, to establish and maintain a bulk handling scheme and will give the trustees all necessary borrowing powers. The Schedule provides the rules governing the constitution of the growers' council, to which members are appointed by the growers themselves.

Hon. Sir Edward Wittenoom: What responsibility will the Government assume?

The CHIEF SECRETARY: None. The members of the council will act in an advisory capacity to the trustees, considering any matters submitted to them and conferring with the trustees whenever necessary. I feel sure that the provisions of this Bill will enable the pool to function in a more efficient and business-like way and will give greater security to the growers participating in the pool. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

#### **BILL—HEALTH ACT AMENDMENT.**

Returned from the Assembly with amendments.

#### **BILL—BRANDS ACT AMENDMENT.**

##### *Assembly's Amendments.*

Returned from the Assembly with three amendments which were now considered.

##### *In Committee.*

Hon. J. Cornell in the Chair; the Chief Secretary in charge of the Bill.

No. 1. Clause 4. Strike out "stud" and "breeder" in line 3, and insert in lieu of "breeder" the word "owner."

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

As the provision appears in the Bill it reads, "In the case of stud sheep the breeder may" and so on. The effect of that is to confine the use of numerals, in addition to the registered brand, to breeders of stud sheep only. The Assembly have altered the words to read "In the case of sheep the owner may," etc. Why should the breeder only have the privilege?

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

No. 2. Clause 4. Strike out "mutatis mutandis" in line 16.

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

The Minister in charge of the Bill in the Assembly informs me that it does not matter whether or not the words appear in the clause.

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

No. 3. Clause 9. After "fee" in line 7, insert the words "not exceeding one shilling."

The CHIEF SECRETARY: I move—

That the amendment be agreed to.

The clause provides that on payment of the prescribed fee any person who seeks information concerning any registered brand and makes the application on the prescribed form, may secure the information he desires. I think the information should be available at a moderate fee.

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

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

**BILL—FINANCIAL EMERGENCY ACT  
CONTINUANCE.**

*First Reading.*

Received from the Assembly and read a first time.

*Second Reading.*

**THE CHIEF SECRETARY** (Hon. C. F. Baxter—East) [5.30] in moving the second reading said: The object of this Bill is to continue the operation of the Financial Emergency Act for a further period of one year. The principal Act was drafted to carry out the plan agreed upon by the Commonwealth and the States to meet the grave financial emergency existing in Australia, and I submit that the measure has gone a long way towards meeting that emergency. Members must admit that, without the aid of the various emergency measures, the affairs of the Commonwealth and States would have been in a parlous condition to-day. There have been many criticisms of the plan, but none of those who have criticised has been able to submit anything constructive that would have met the situation in a better or more profitable way. I venture to say that the heroic measures that have been adopted have had their effect in proving to the world our willingness to face our difficulties, and that the credit of Australia has been appreciated through those efforts. The trouble is that the depression is world-wide and we cannot look for prosperity until the rest of the world begins to return to normal conditions. Until that time comes, we must be prepared to maintain the emergency measures in order to try to re-establish financial stability. The most serious aspect of the world-wide depression has been that our exportable primary products have been realising low, and in many cases, unprofitable prices, with the result of decreased revenue and spending power. The one bright spot has been the gold mining industry. Owing to the premium on the price of gold, the industry has been stimulated, and this has led to increased activity and output. The industry has absorbed many workers who would otherwise have been thrown on the labour market. I am convinced that the outlook is much brighter, and I hope that the necessity for this kind of legislation will soon pass. I move—

That the Bill be now read a second time.

**HON. J. NICHOLSON** (Metropolitan) [5.33]: On the Notice Paper is a Bill to amend the same Act, and it occurs to me that it might be wise to incorporate the other Bill in this measure.

Hon. J. J. Holmes: It cannot be done.

Hon. J. NICHOLSON: That is regrettable. If it could be done, it would obviate the necessity for referring to two amendments.

Hon. J. J. Holmes: This is a Bill to continue the Act: the other is a Bill to amend the Act.

Hon. J. NICHOLSON: I think this Bill could be amended to include the matter contained in Mr. Holmes's Bill, and the Title could then be altered.

Hon. J. Cornell: No, it cannot be done.

Hon. J. J. Holmes: Leave well alone.

THE PRESIDENT: I think the hon. member is overlooking an amendment of the Standing Orders dealing with the subject matter of Bills.

Hon. J. NICHOLSON: I regret that the Bill was not introduced in such a form that would have permitted us to move amendments. Had we been able to move amendments, we might have reversed the position regarding applications in respect to mortgages, etc. I wish to repeat an observation I made previously regarding emergency legislation, that I hope it will not be necessary to renew the application for extension.

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

**MOTION—SUPERPHOSPHATE BONUS.**

Order of the Day read for the resumption from the 17th November of the debate on the following motion by Hon. H. V. Piesse (South-East):—

That should the proposed Federal Government cash bonus on superphosphate be definitely decided upon, this House is of the opinion that it should be distributed on a cash basis of £1 per ton of superphosphate used by each farmer or grazier during the year 1932-33.

**HON. H. V. PIESSE** (South-East) [5.36]: In view of the legislation now before the Federal Parliament, I ask leave to withdraw the motion.

Motion, by leave, withdrawn.

*House adjourned at 5.37 p.m.*