

might in its general policy oppose State enterprise I suggest there are—even to a Government of the class of the present one—certain vital undertakings, affecting the life of the people, that must be protected in the interests of the population as a whole.

The Attorney General: We have tried to do it with the railways, but they have not proved a great success.

Hon. A. R. G. HAWKE: I do not at this stage wish to enter into a discussion on the railways, though I quite understand why the Attorney General is anxious to get away from the question now before the House. If there were to be a thorough stocktaking of the railway system, especially in regard to the value it has conferred on the State in the development of our lands and the production of agricultural and mineral wealth, I am sure the railways would be shown to have thoroughly justified their existence.

Mr. Marshall: They have paid this State handsomely.

Hon. A. R. G. HAWKE: That is so. It might well be that a different method of accountancy must be adopted in the years of the future. In view of the assurance given by the Premier to the Leader of the Opposition and myself that these papers would be tabled when the motion was moved, I do not desire to go further into the matter at the present stage. After the papers have been tabled and members have had opportunity of going thoroughly into them and studying them in detail, members of the Opposition, at all events, will reserve to themselves the right to take such further action as they might feel is justified.

On motion by Mr. Brand, debate adjourned.

BILL—PRICES CONTROL

Returned from the Council with amendments.

House adjourned at 9.15 p.m.

Legislative Council.

Thursday, 9th September, 1948.

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

QUESTIONS.

ELECTRICITY SUPPLIES.

As to Loss on Current to Municipalities and Railways.

Hon. A. THOMSON (without notice) asked the Honorary Minister for Agriculture:

On the 1st September I asked a question dealing with electricity supplied by the Government. Part of the question was answered, but I also asked if a complete statement would be obtained from the Auditor General showing the loss incurred in supplying the electricity below cost for the years 1946, 1947 and 1948 respectively. Can the Honorary Minister now answer my question?

The HONORARY MINISTER replied:

I discussed this matter with the Minister in charge of the Electricity Commission and he has made representations to the Auditor General for the report. I understand it will take a little time to get the information but the matter will not be overlooked. As soon as the information is available, it will be laid on the Table of the House.

GALVANISED WIRE AND NETTING.

As to Utilisation of Imported Material.

Hon. A. L. LOTON asked the Honorary Minister for Agriculture:

In answering my question No. 1 on Tuesday, the Honorary Minister advised that of the 4,000 tons of rods imported, 248 tons

were manufactured into barbed wire, 1,366 tons into plain wire, and 1,110 tons into wire netting. Will the Honorary Minister advise how the manufacturer utilised the remainder of the tonnage, i.e. 1,276 tons?

The HONORARY MINISTER replied:

The figure of 4,000 tons was only approximate. In addition to the figures given in the previous answer, 495¼ tons were made into field fencing and 607½ tons into wire nails. Also, some was made into wall ties and wire stretchers (cyclone).

NORTH-WEST.

As to Lightering Facilities.

Hon. R. M. FORREST asked the Honorary Minister for Agriculture:

(1) Is the Government aware that on the North-West coast, the only lighter left, which belongs to the Cossack Lightering Company, has been offered for sale to a firm operating in New Guinea?

(2) In the event of a jetty being destroyed by a "willy willy" at one of the ports on the North-West coast during the coming summer season, can the residents of the North be assured that lightering facilities will be provided for such an eventuality?

The HONORARY MINISTER replied:

- (1) I have no information to this effect.
 (2) I will have the position investigated.

BILL—INTERPRETATION ACT AMENDMENT.

Second Reading.

THE HONORARY MINISTER FOR AGRICULTURE (Hon. G. B. Wood—East) [5.37] in moving the second reading said: This is a small Bill by which it is sought to amend the Interpretation Act. Its object is to prevent any repetition of the circumstances which occurred both last session and this session, when the Legislative Council adjourned for a period and certain regulations were not tabled within the prescribed 14 days as required under Section 36 (1) (d) of the Act. The regulations therefore ceased to have any effect as provided by Subsection (2) of Section 36, although they had been tabled in the Legislative Assembly. It was necessary in the circumstances to have

them again made by the Governor, gazetted, and tabled in both Houses.

In order to obviate any recurrence of this nature, it is proposed to delete paragraph (d) of Subsection (1) of Section 36, which sets out that any regulation following publication in the "Government Gazette"—shall be laid before both Houses of Parliament within 14 days after such publication, if Parliament is in session, and if not, then within 14 days after the commencement of the next session of Parliament,

and to insert in lieu the words—

shall be laid before each House of Parliament within the ten sitting days next following such publication.

In common with other members, I thought that regulations had to be laid on the Table of the House within 14 sitting days, but the Crown Law Department advises that they must be laid on the Table of the House within 14 consecutive days, and not sitting days.

Hon. J. A. Dimmitt: We have always acted on that.

The HONORARY MINISTER FOR AGRICULTURE: Yes, but the Solicitor General advises that the 14 days referred to means 14 consecutive days and not 14 sitting days.

Hon. A. Thomson: I think we had better leave the provision as it is.

The HONORARY MINISTER FOR AGRICULTURE: Then it might again happen that regulations would have to be re-gazetted if the 14 days expired and the House was not sitting at the time. The insertion of a period of 10 sitting days will clarify the position. With three sitting days per week, 10 sitting days would extend over an actual period of 22 or 23 days, and as we sometimes miss a week early in the session and sometimes do not sit on Thursdays, a period of 30 days might elapse, which should be enough to satisfy any member. The amendment is a reasonable one and I move—

That the Bill be now read a second time.

HON. J. A. DIMMITT (Metropolitan-Suburban) [4.41]: I am completely in accord with the Honorary Minister, but the question arises whether we in the past may not have done something that we ought not to have done and whether it will be necessary to introduce a validating Bill to legalise some of the things done illegally under

a misapprehension. Over the years, I imagine, we must have disallowed regulations after the 14 consecutive days had elapsed, and I wonder whether the point ought to be referred to the Crown Law authorities so that, if necessary, a validating measure may be introduced to legalise such acts.

The Honorary Minister for Agriculture: That would mean introducing another Bill.

Hon. J. A. DIMMITT: Yes.

HON. G. FRASER (West) [4.42]: There is one point that ought not to be overlooked. It would be possible for the new provision to work both ways. We might find regulations being tabled towards the end of the session when there were only seven sitting days left. The Government might have some regulations that it did not wish the House to have a shot at and would be quite in order in not tabling them—ten sitting days would extend over a fairly long period—and therefore any move to disallow the regulations would be deferred for six months.

The Honorary Minister for Agriculture: That can happen now with the period of 14 consecutive days.

Hon. G. FRASER: But in that case there is a limit, whereas the 10 sitting days proposed might extend over a month.

The Honorary Minister for Agriculture: We have been working on the period of 14 sitting days.

Hon. A. Thomson: That is so.

Hon. Sir Charles Latham: The period is clearly set out in Section 37 (3) of the Act.

Hon. G. FRASER: I am not greatly concerned because we do not often move for the disallowance of regulations, but I merely point out that it would be possible to have the regulations in force for a period of six months when the House was not sitting.

On motion by Hon. Sir Charles Latham, debate adjourned.

BILL—FISHERIES ACT AMENDMENT (CONTINUANCE).

Second Reading.

THE HONORARY MINISTER FOR AGRICULTURE (Hon. G. B. Wood—East) [4.45] in moving the second reading said:

This is a small continuance measure. Owing to the shortage of fishing nets and other gear required by fishermen, when the National Security Regulations that controlled these things expired in 1946, legislation was introduced to continue control so that genuine fishermen would have first call upon this material. The Bill therefore seeks to continue the operation of Section 36A of the Act which gives the Minister for Fisheries power to control the purchase, sale and disposal of certain fishing gear including nets, netting and hanging and mending cotton. It does not include any second-hand material. The section was inserted in the Act in 1946 at the request of the League of Professional Fishermen's Associations.

Parliament last year approved of the continuance of the section until the end of 1948, and its continuance for a further 12 months has been recommended by the Fishermen's Advisory Committee, which consists of the Chief Inspector of Fisheries as chairman and three professional fishermen representative of deepsea fishing, estuarine and beach-fishing and crayfishing. The object of the section is that available stocks of fishing gear may be allocated fairly between fishermen throughout the State. There is still a world-wide shortage of cotton for nets and netting, and it is feared that if control of distribution ceased, metropolitan fisherman who are nearer the source of supply would have an unfair advantage over men in more distant parts of the State.

Hon. A. L. Loton: Who has asked for this, the fishermen's union?

The HONORARY MINISTER FOR AGRICULTURE: They do not call their organisation a union. The continuance of the provision has been recommended by the Fishermen's Advisory Committee. I point out that no control would be exercised in the case of fishermen making purchases of gear from outside the State. I move—

That the Bill be now read a second time.

On motion by Hon. G. Fraser, debate adjourned.

BILL—FACTORIES AND SHOPS ACT AMENDMENT.

Second Reading.

THE HONORARY MINISTER FOR AGRICULTURE (Hon. G. B. Wood—East) [4.48] in moving the second reading said:

This is quite an interesting Bill in a small way. It is one of two measures to be introduced this session, the companion measure being an amendment of the Licensing Act. This Bill seeks to amend the Factories and Shops Act to remove discrimination against Asiatics who are natural born British subjects and who are permanently resident in Western Australia. The two sections proposed to be amended read—

26. No person of the Chinese or other Asiatic race shall be—

(a) registered as the owner or occupier of a factory unless he satisfies the Minister that he carried on the business which he proposes to carry on in such factory before the first day of November, 1903, or

(b) employed or engaged by the occupier of a factory in or about the factory, unless the occupier satisfies the inspector that such person was so employed or engaged in a factory on or immediately before the date aforesaid.

135. No person of Chinese or other Asiatic race shall be employed in any factory for longer hours than women may be employed under this Act; nor shall he be employed before 8 o'clock in the morning nor after 5 o'clock in the evening.

It is proposed to add a proviso to each of the sections as follows:—

Provided that this section shall not apply to—

(1) any person of the Asiatic race who is a natural born British subject and whose domicile is in the State on the day of the commencement of the Factories and Shops Act Amendment Act, 1948, nor

(2) to any descendant of any person referred to in the next preceding paragraph if the domicile of the descendant is in the State.

The genesis of the Bill was questions asked in the Legislative Assembly of India in 1946 as to the rights and disabilities of British Indians permanently settled in Australia. Subsequently the Government of India requested particulars of any legislation in Western Australia discriminating against British Indians. In July, 1947, the High Commissioner for India interviewed the Attorney General and asked for the removal of discrimination against Indians born in British India (now the Dominions of India and Pakistan) and their descendants. The High Commissioner suggested that this could be confined to such persons now permanently resident in Western Australia and their descendants as the immigration of British Indians is not allowed under Com-

monwealth law. It would not apply to very many people. There would be no fear, therefore, of an influx of British Indians into the State as a result of the lifting of the racial bar.

There is no discrimination under Commonwealth law or the laws of other States against British Indians resident in Australia, and such persons are entitled to vote both for the Commonwealth Parliament and the Western Australian Legislative Assembly. It seems extraordinary that, although a man can vote for the Legislative Assembly, he cannot, except under certain conditions, be employed in factories. Indians born in British India are not aliens but are natural born British subjects. The 1933 census revealed that there were 100 male and seven female British Indians in Western Australia, including descendants born in Australia. It will be seen that the concession provided by the Bill will apply only to persons who are now of considerable age and their descendants who were born in Australia.

Hon. A. Thomson: That goes back to 1903?

The HONORARY MINISTER FOR AGRICULTURE: Yes. I would stress that in this category, there are only 100 males and seven females in Western Australia, and I do not suppose many of them would be in factories.

Hon. Sir Charles Latham: Those temporarily at the University would be included in that number.

The HONORARY MINISTER FOR AGRICULTURE: Yes. It could not apply to many people. Cabinet decided that this concession should include all Asiatics of British nationality, there being very few of these apart from British Indians in Western Australia. The High Commissioner for India has intimated his Government's pleasure at the proposal to remove the discrimination. He did not consider the matter was of any great importance to British Indian residents of Western Australia but it denoted a willingness to accept these persons as full citizens of the State and to accord them equal opportunity with other British subjects, as well as falling into line with the policy of other States.

Members will observe the spelling of the word "domicil" in the Bill. I asked the

Parliamentary draftsman why the word was not spelt "domicile" and was informed that "domicil" is the correct legal version according to international law and in law has a broader and legally safer meaning than "domicile." I do not profess to know why, but that is what the lawyers say.

Hon. H. Hearn: It is "domicile" in this Bill.

The HONORARY MINISTER FOR AGRICULTURE: It is not advisable to use the words "who is permanently resident in the State" in lieu of "whose domicile is in the State" as Section 117 of the Commonwealth Constitution Act states that a British subject resident in any State shall not be subject to any disability or discrimination that would not be equally applicable if he were resident in another State. The High Court has ruled that this discrimination is based on residence. In such cases it has been ruled that the word "domicil" is not contrary to the Constitution. It is advisable to comply with this ruling, as I understand that at present there may be discrimination in other States against British Asiatics not of Indian origin. I move—

That the Bill be now read a second time.

On motion by Hon. E. H. Gray, debate adjourned.

BILL—LICENSING ACT AMENDMENT.

Second Reading.

THE HONORARY MINISTER FOR AGRICULTURE (Hon. G. B. Wood—East) [4.58] in moving the second reading said: This Bill also deals with the question of Asiatics. My remarks on the Factories and Shops Act Amendment Bill relative to the removal of discrimination against Asiatics of British nationality who are resident in the State, apply also to this Bill which seeks to amend Section 130a of the Licensing Act, which states—

Every licensee by whom any person of Asiatic race was employed in or about his licensed premises on the 15th day of August, 1922, shall cause the name of such person to be registered in a register to be kept at the Licensing Court for the district in which the licensed premises are situated; and no licensee shall, elsewhere than in the North Province of the State, employ any person of Asiatic race in or about his licensed premises whose name is not so registered: Provided that this section shall not apply to persons of the Jewish race.

The Bill proposes to lift this discrimination so far as Asiatics who are natural born British subjects and their descendants are concerned, this being confined to persons now resident in the State. The word "principal" in paragraph (1) of Clause 3 is extraneous and misleading. It was included in error and I have prepared an amendment for its deletion in Committee. This Bill has the same application to Asiatics in licensed premises as the previous Bill has to Asiatics in factories and shops.

Hon. A. Thomson: Does it go back to 1903?

The HONORARY MINISTER FOR AGRICULTURE: No, to 1922. I move—

That the Bill be now read a second time.

HON. A. L. LOTON (South-East) [5.0]: I would like to draw the Minister's attention to the fact that in this Bill the word "domicil" occurs whereas in the previous Bill the word "domicile" is used. I was wondering whether he would like to take note of that so that he can make the necessary correction at the next sitting.

The Honorary Minister for Agriculture: I can do that in Committee.

On motion by Hon. E. H. Gray, debate adjourned.

House adjourned at 5.2 p.m.