

## Schedule:

Hon. W. D. JOHNSON: I move an amendment—

That the Schedule be struck out, and the following inserted in lieu:—

## Part I.—Rates of Reduction.

| Grades of Salary.  | Rates of Reduction.            |
|--|--------------------------------|
| Annual salary not more than £200 above the basic wage                      | Five pounds per centum.        |
| Annual salary more than £200 but not more than £400 above the basic wage   | Ten pounds per centum.         |
| Annual salary more than £400 but not more than £600 above the basic wage   | Fifteen pounds per centum.     |
| Annual salary more than £600 but not more than £800 above the basic wage   | Twenty pounds per centum.      |
| Annual salary more than £800 but not more than £1,000 above the basic wage | Twenty-five pounds per centum. |
| Annual salary more than £1,000 above the basic wage                        | Thirty pounds per centum.      |

We contend that the rates of reduction proposed by the Bill—18, 20, and 22 per cent.—are neither equitable nor just. That a man on £251 should pay 20 per cent. while the man on £249 pays 18 per cent. is unreasonable. Still worse is it that the men on £251 should pay as high a rate as the man on £999. The amendment does not contain all we desire as to gradation of the rates of reduction. I would prefer something more along the lines of the schedule embodied in the Victorian Bill, but it is difficult for a private member to get sufficient information to frame such a schedule. The Government could undertake that task with the assistance of the Government Actuary, so as to arrive at a scientific and equitable scale. In the schedule we propose we start with 5 per cent. on salaries to £200 and rise by 5 per cent. on gradations of £200, till we reach 30 per cent. on salaries of more than £1,000. I shall not repeat what has been said earlier regarding the injustice of the schedule proposed by the Government but shall content myself with moving the amendment.

Amendment put and a division taken with the following result:—

|                  |    |    |    |    |
|------------------|----|----|----|----|
| Ayes             | .. | .. | .. | 17 |
| Noes             | .. | .. | .. | 21 |
|                  |    |    |    | —  |
| Majority against | .. |    |    | 4  |
|                  |    |    |    | —  |

## AYES.

|                |                |
|----------------|----------------|
| Mr. Collier    | Mr. Munsie     |
| Mr. Corboy     | Mr. Panton     |
| Mr. Coverley   | Mr. Raphael    |
| Mr. Cunningham | Mr. Sleeman    |
| Mr. Johnson    | Mr. Wansbrough |
| Mr. Kenneally  | Mr. Willcock   |
| Mr. Marshall   | Mr. Withers    |
| Mr. McCallum   | Mr. Wilson     |
| Mr. Millington |                |

(Teller.)

## NOES.

|                |                    |
|----------------|--------------------|
| Mr. Angelo     | Mr. McLarty        |
| Mr. Barnard    | Sir James Mitchell |
| Mr. Brown      | Mr. Parker         |
| Mr. Davy       | Mr. Patrick        |
| Mr. Doney      | Mr. Piesse         |
| Mr. Ferguson   | Mr. Sampson        |
| Mr. Griffiths  | Mr. Scaddan        |
| Mr. Keenan     | Mr. Thorn          |
| Mr. Latham     | Mr. Wells          |
| Mr. Lindsay    | Mr. North          |
| Mr. J. I. Mann |                    |

(Teller.)

Amendment thus negatived.

Schedule put and passed.

Preamble, Title—agreed to.

Bill reported with amendments.

House adjourned at 6.8 a.m. (Friday).

## Legislative Council,

Tuesday, 28th July, 1931.

|   | PAGE |
|---|------|
| Assent to Bill  | 4037 |
| Leave of absence  | 4037 |
| Motion: Statute of Westminster, protest against enactment       | 4038 |
| Bill: Hire-Purchase Agreements, Select Committee's report, Com. | 4041 |

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

## ASSENT TO BILL

Message from the Administrator received and read notifying assent to the Debt Conversion Agreement Bill.

## LEAVE OF ABSENCE.

On motion by the Minister for Country Water Supplies (for Hon. C. H. Witte-noom), leave of absence for six consecutive sittings granted to Hon. W. T. Glasheen (South-East) on the ground of ill-health.

## MOTION—STATUTE OF WESTMINSTER.

### *Protest against enactment.*

**THE MINISTER FOR COUNTRY WATER SUPPLIES** (Hon. C. F. Baxter—East) [4.35]: I move—

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

The motion has reference to the grave question of the sovereign rights of the State, and to the proposal now before the Federal House of Representatives to take away those rights, which it is proposed to do in the shape of a request to the Parliament of the United Kingdom that it should legislate on the legal and constitutional rights of the Dominions as proposed by the Imperial Conference of 1930. The matter is too grave to leave unchallenged, and I am sure members will concur in that view when they look into the aspects involved in the request of the Federal Parliament. Sponsored by the Federal Attorney General (Hon. Frank Brennan) the motion now being considered in the Federal Parliament is to the effect that the Government of the Commonwealth be authorised to request and consent to the submission by the Government of the United Kingdom to the Parliament at Westminster of a Bill for a statute containing provisions set out in a schedule to the motion, which reads—

Whereas the Imperial Conference held at London in the year 1930 by resolution approved the report of the conference on the operation of dominion legislation (which is to be regarded as forming part of the report of the said Imperial Conference) subject to the conclusions hereinafter recited:

And whereas the said Imperial Conference by resolution recommended—

- (a) that the statute proposed to be passed by the Parliament at Westminster should contain the provisions set out in the schedule annexed to the said resolution;
- (b) that the 1st December, 1931, should be the date as from which the proposed statute should become operative;
- (c) that with a view to the realisation of this arrangement, resolutions passed by both Houses of the Dominion Parliaments should be forwarded to the United Kingdom, if possible by 1st July, 1931, and, in any case, not later than the 1st August, 1931, with a view to the enactment by the Parliament of the United Kingdom of legislation on the lines set out in the schedule annexed;
- (d) that the statute should contain such further provisions as to its application to any particular dominion as are requested by that Dominion;

Now, therefore, this House resolves that the Government of the Commonwealth be authorised to request and consent to the submission by the Government of the United Kingdom to the Parliament at Westminster of a Bill for a statute containing the provisions set out in the following schedule, and the enactment of the said statute:—

### *Schedule.*

#### *Clauses in Proposed Legislation.*

1. In accordance with the recommendation in paragraph 43 of the report of the conference on the operation of dominion legislation, a clause as follows:—

“It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.”

2. In accordance with the recommendation in paragraph 53, a clause as follows:—

“(1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

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

3. In accordance with the recommendation in paragraph 55, a clause as follows:—

“No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend or be deemed to extend to a Dominion as part of the law of

that Dominion unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof."

4. In accordance with the recommendations in paragraph 66, clauses as follows:—

"Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia otherwise than in accordance with the law existing before the commencement of this Act.

"Nothing in this Act shall be deemed to authorise the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia."

5. In accordance with the recommendation in paragraph 81, a clause as follows:—

"Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any province or State forming part of a Dominion."

6. In accordance with the recommendations in paragraph 123, clauses as follows:—

"Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act 1894 shall be construed as though reference therein to the legislature of a British possession did not include reference to the Parliament of a Dominion.

"Without prejudice to the generality of the foregoing provisions of this Act section four of the Colonial Courts of Admiralty Act 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of court for regulating the practice and procedure of a colonial court of admiralty, shall cease to have effect in any Dominion as from the commencement of this Act."

#### *Certain recitals in proposed legislation:*

1. In accordance with the recommendation of paragraph 54, a recital as follows:—

"And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion."

2. In accordance with the recommendation in paragraph 60, a recital as follows:—

"and whereas it is meet and proper to set out by way of preamble to this Act that inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as

they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the succession to the throne or the royal style and titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom.

A copy of that motion has been handed to members. Shortly put, the provisions in the proposed Statute of Westminster come under three headings, as follows:—

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

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

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

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

Hon. J. Cornell: That applies to all dominions—Canada, South Africa, New Zealand, etc.?

The MINISTER FOR COUNTRY WATER SUPPLIES: Yes. There is also a provision that nothing in the new Statute shall be deemed to confer any power to repeal or alter the Constitution Act of the Commonwealth of Australia, otherwise than in accordance with the law existing before the commencement of the new Statute, and that nothing in the new Statute shall be deemed to authorise the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia. Take the first proposed provision that the Parliament of a Dominion is to have full power to make laws having extra-

territorial operation. It cannot be contradicted that whilst in strict legal concept the legislation of the Parliament of the Commonwealth is limited to the land and territorial waters of the Commonwealth, it has always been conceded that the jurisdiction of the Legislature of the Commonwealth extended to such extra-territorial limits as were necessary for the proper enforcement of the powers given to it under the Commonwealth Constitution Act. That view has been upheld in the Privy Council Chamber in *A.G. of Canada v. Cain and Gilhula*, which is reported in 1906 Appeal Cases at p. 542; and as examples of the exercise of such powers the Defence Acts of the Commonwealth of Australia can also be cited. Therefore the proposed provision in the new Statute is not wanted to relieve any present extra-territorial disability, and conceivably if laid down in the terms proposed it may lead to possible complications if availed of indiscriminately.

The second part of the first provision, that no law and no provision of any law made after the commencement of the new Statute by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, etc., is also, from the point of view of any present disability, wholly unnecessary. Since the year 1865, when the Colonial Laws Validity Act was passed by the Imperial Parliament, the position has been that no law passed either by the Commonwealth Parliament or the Parliament of any of the States could be held void or invalid by reason of repugnancy to any Imperial Statute in any case other than that such Statute in express words or by necessary intendment was designed to extend to the Commonwealth or to any State.

The third proposed provision is that no Act of Parliament of the United Kingdom passed after the commencement of the new Statute shall extend or be deemed to extend to a dominion as part of the law of that dominion, unless it is expressly declared in the Statute that the dominion has so requested; and in that regard also it can be said that it is again a case of demanding a right which is wholly unnecessary to relieve any existing disability. Since the inception of oversea dependencies the Parliament at Westminster has always claimed and has been allowed the right to legislate for the whole British Empire. In that connection it is needless to state that the Im-

perial Parliament is not in the least likely to pass legislation affecting the Commonwealth or any State without prior consultation with the Commonwealth or the State concerned, and without obtaining their consent to such legislation. The governing dominions "are autonomous communities within the British Empire, equal in status, in no way subordinate to one another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations"; and therein lie our repose and liberty. To abolish the power of the Parliament of the United Kingdom to legislate for the whole British Empire is to weaken the links of the Empire without gaining any good whatever by the step.

Hon. J. Cornell: That Parliament would never attempt such a thing.

The MINISTER FOR COUNTRY WATER SUPPLIES: In my opinion the solidity of the Empire needs no legislative adornment. In the particular case of the Australian Commonwealth, the provision referred to would debar any of the States obtaining from the Imperial Parliament any redress in the relationship of such State and the Commonwealth except with the previous consent of the Parliament of the Commonwealth of Australia which, inasmuch as the first nine sections of the Commonwealth of Australia Constitution Act are not part of the Constitution and are therefore subject to alteration under the provisions of Section 128 of that Act in that regard, would place all the States in a position of grave disability.

It has also to be borne in mind that there can be no justification whatever for imposing on legislation passed by the Parliaments of the States, and that passed by the Parliament of the Commonwealth, a different rule as to being void by repugnancy to existing English law. There is some urgency in dealing with my motion, as it has been learned that the Imperial Conference resolved that resolutions of both Houses of Dominions Parliaments, with a view to the enactment or otherwise of the Statute, should be forwarded to the United Kingdom by 1st July, 1931, if possible, and, in any case, not later than 1st August, 1931, so that, in the absence of dissent, the Statute should become operative from 1st December, 1931.

**HON. J. CORNELL** (South) [4.55]: If the urgency claimed for the motion is justified, it shows a poor sense of responsibility on the part of the present Government. The question before us has been dealt with by the Commonwealth Parliament for some three or four weeks, and has been given a certain amount of publicity through the Press in this State for the last five or six weeks. The discovery is suddenly made that this is a question of extreme urgency, and the leave of the Council has to be obtained for the moving of the motion after all the preliminary notices of what has been happening. On that ground I protest against the manner in which the subject has been dealt with. The way in which we are now dealing with it can only hold us up to ridicule. It would be ludicrous for the Council to give leave to the Minister as he desires, and to pass the motion almost without question. That would do us more injury than if we did not tackle the question at all. Through no fault of our own, but through the fault of the powers that be, because the question was not brought down earlier, this House has had no opportunity to consult authorities in order to arrive at a proper vote on the question. Upon this subject I am almost as ignorant as a new-horn babe. This is the first occasion on which I have had the opportunity to read what it is proposed to do by the statute of Westminster. I support the motion. Not that I think if it is agreed to or disagreed to, it will prevent Western Australia getting secession. Probably it will be about 100 years before Western Australia gets secession. Whether it is agreed to or not, my opinion is it will have no effect upon the Imperial Parliament on the question of secession. Up to date it can be said that whenever an integral part of the British Empire, a colony or a dependency, has arrived at the position of being able to govern itself, the Imperial Parliament and the Crown of Great Britain have never stood in the way of its doing so. As you know, Sir, when you come down to committing to writing things that you may do and things that you may not do, you begin to tread on dangerous ground. This is not a question of Australia alone but of other Dominions—New Zealand, Canada, India and South Africa. The representatives of the Dominions arrived at the conclusion that the

best thing to do was to set out their decisions in a statute. Western Australia, as part of a Dominion, had no say at the conference or sitting that brought about this arrangement. Whether or not what is set out here is put into law by the British Parliament, the medium for dealing with Australia will, I think, in the future, as has been the case since Federation, be the Commonwealth of Australia. I hope the House will not arrive at a decision to-day.

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

### **BILL—HIRE-PURCHASE AGREEMENTS.**

#### *Select Committee's Report.*

Debate resumed from the 22nd July, on the following motion by Hon. H. Seddon:—

That the report of the select committee be adopted, and that the recommendations embodied in it be taken into consideration when the Bill is in Committee of the whole Council.

**HON. H. SEDDON** (North-East—in reply) [5.5]: I secured the adjournment of the debate at the previous sitting because I desired to reply to one or two remarks made by the speakers who criticised the recommendations of the Committee. It is recognised that it is the province of the House to agree or disagree with any of the recommendations made by select committees. The remarks of Mr. Cornell with regard to the procedure adopted by select committees caused me a considerable amount of thought. It has been the custom in this House to move for the appointment of select committees at the conclusion of the second reading of a Bill, and when the committee have been appointed it has been understood that the powers possessed by the committee can be exercised as freely as the members think desirable. In illustration of that, I could quote the findings of the select committees appointed to deal with the Dwarda Railway Bill, the Anatomy Bill at the beginning of the present session, and also the Bill to afford relief to tenants and mortgagors under the emergency conditions through which we are passing. The hon. member contended that the Bill having passed the second reading, the Committee were not justified in suggesting the amendments

that are contained in the report. I do not know whether members generally are prepared to agree with that idea, but it appears to me that if it were put into general application, the proceedings of a select committee would be stultified, and in nine cases out of ten the select committee would find it impossible to carry on any investigation. Another point of view was referred to by an hon. member who commented on the constitution of the select committee. He pointed out that of the five members, two represented metropolitan provinces, one a goldfields province, another a South-West province, and the fifth the Central Province. The inference behind that statement was that the Committee was not properly constituted to deal with a Bill affecting hire purchase agreements. The hon. member knows the manner in which such select committees are appointed, and that the idea is to make the choice as wide as possible. That practice was followed in this instance. While it may be suggested that there were two members on that Committee representing Metropolitan Provinces, one represented the West Province which has in its area quite a number of electors who cannot in any way be classified as being in the metropolitan area. Moreover, that representative had experience as a farmer and consequently was qualified to pronounce on any of the aspects of the Bill.

Hon. J. Cornell: How long is it since he was a farmer?

Hon. H. SEDDON: I do not know that that enters into the position very much. The fact remains that the hon. member had experience as a farmer and, I have no doubt, was familiar with the conditions applying to hire purchase. So that I contend the reference to the qualifications of the Committee are ill-founded. I will go further and say that the members of the Committee were able to deal with the subject impartially and that there was no question of pressure being applied from their district. The same hon. member also alluded to the witnesses that were examined. He pointed out that two only were farmers' representatives and that six came from the hire purchase people. It is only fair to state that the first witnesses called were those representative of the farmers' organisations. It was the duty of those

bodies to see that they sent along the right representatives. If there is to be any fault found with the evidence given by those representatives, the blame cannot lie at the door of the select committee. The hon. member also suggested that we should have travelled round the country or alternatively provided transport for farmers to come to the city. That would have involved an expense the Committee considered they were not justified in undertaking. Regarding the hire purchase representatives, it was recognised that the Bill would apply to many chattels purchased by classes of the community other than farmers, and therefore the witnesses called were as widely representative as it was possible to obtain. Again, before the select committee concluded their investigation, the representatives of the primary producers were given the opportunity to return and give further evidence. The only additional evidence they adduced, however, was an informative letter that was sent along.

Hon. J. Cornell: Why did you limit Clause 6 to cases of re-possession?

Hon. H. SEDDON: I shall deal with that point in Committee. My opinion is that the Bill as amended will undoubtedly have the effect of dealing with the position as it exists in cases of re-possession. If it is the intention of the House, after mature consideration, to make the Bill retrospective, then the question of amending Clause 6 will have to be dealt with on those lines. The report of the Committee was framed with due regard to the desire of the Government to provide for the equity where chattels were being re-possessed, and the finding is really on those lines. I will deal with the select committee's recommendations clause by clause when we are considering the Bill in Committee.

Question put and passed; the select committee's report adopted.

#### *In Committee.*

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

Clause 1—agreed to.

Clause 2—Interpretation:

Hon. H. SEDDON: I move an amendment—

That all the words after "and" in the definition of "chattel" be struck out with a view to inserting "chattel personal."

It is considered desirable that hire-purchase conditions should apply to all chattels purchased. Subclause 3 deals particularly with chattels purchased by those engaged in industries. Obviously it is intended to correct any unfair conditions, and it is reasonable to ask that the same consideration be extended to the purchase of chattels by any other section of the community. Therefore the select committee suggested that the clause be amended to apply to chattels personal. The term "chattel personal" was adopted on the advice of Dr. Stow.

Hon. J. NICHOLSON: It is the most comprehensive term.

Hon. H. SEDDON: Yes.

The MINISTER FOR COUNTRY WATER SUPPLIES: "Chattel personal" would cover cheques, bills of exchange and promissory notes. It was never intended that the measure should have such wide application.

Hon. J. NICHOLSON: Money and cheques are not the subject of hire-purchase agreements. There is a difference in law between chattels personal and chattels real, and that is why the term "chattel personal" was employed. However, the point would be made sufficiently clear if we stipulated chattels personal which might be the subject of a hire-purchase agreement.

Hon. G. W. MILES: What about the false teeth mentioned during the debate?

Hon. J. NICHOLSON: If they are dealt with under hire-purchase agreements, I see no reason why they should not be brought within the measure. Regardless of the nature of the article, the client should have the benefit of the legislation.

The MINISTER FOR COUNTRY WATER SUPPLIES: "Chattel personal" has a highly technical meaning, and it would be advisable not to employ it in a measure of this kind. I suggest the following definition:—

"Chattel" means and includes any tangible thing capable of complete transfer by delivery. The term does not include a chose in action.

Hon. J. M. DREW: "Webster's Dictionary" defines chattels as personal or real, personal being those belonging immediately to a person, such as a watch and chain, stud, etc. That definition would not cover a plough or a harvester.

Amendment (to strike out words) put and a division called for.

Hon. J. NICHOLSON: Assuming that the Committee fail to pass the amendment, as seems likely, shall we be entitled subsequently to strike out the same words at the same sitting?

The CHAIRMAN: On recommitment.

Hon. J. NICHOLSON: Then the Committee would be wise to strike out the words proposed.

The CHAIRMAN: The Committee are well aware of the question. Whatever the decision may be, the Bill can be recommitted at a later stage.

Hon. J. NICHOLSON: It will mean loss of time.

The CHAIRMAN: The hon. member is pretty good at that sometimes.

Division resulted as follows:—

|                  |    |    |    |    |
|------------------|----|----|----|----|
| Ayes             | .. | .. | .. | 9  |
| Noes             | .. | .. | .. | 10 |
|                  |    |    |    | —  |
| Majority against | .. | .. | .. | 1  |
|                  |    |    |    | —  |

#### AYES.

|                    |                      |
|--------------------|----------------------|
| Hon. F. W. Allsop  | Hon. Sir C. Nathan   |
| Hon. G. Frazer     | Hon. J. Nicholson    |
| Hon. E. H. Gray    | Hon. H. Seddon       |
| Hon. E. H. H. Hall | Hon. Sir W. Lathlain |
| Hon. W. J. Mann    | (Teller.)            |

#### NOES.

|                     |                       |
|---------------------|-----------------------|
| Hon. C. F. Baxter   | Hon. G. A. Kempton    |
| Hon. J. M. Drew     | Hon. J. M. Macfarlane |
| Hon. J. T. Franklin | Hon. G. W. Miles      |
| Hon. V. Hamersley   | Hon. E. Rose          |
| Hon. E. H. Harris   | Hon. H. Stewart       |
|                     | (Teller.)             |

Amendment thus negatived.

Clause put and passed.

Clause 3—Hire-purchase agreements to be in writing:

Hon. H. SEDDON: I move an amendment—

That after "purchaser" in Subclause 1 the words "and the word 'writing' in this section shall be deemed to include such printing only as is in type not smaller than eight point face."

The object of the amendment is obvious to anyone who has seen hire-purchase agreements. Sometimes the clauses are printed in such small type as to be very difficult to read, and thus the farmer signs an agreement which he has not studied. The type should be such as can readily be perused.

Hon. W. J. MANN: Eight-point type is one size smaller than the type used for the Notice Paper of this House. Some hire-purchase forms which came before the select

committee were among the worst printed ever seen. I have one here known as six-point, with a very small face, and set so closely that a child of 14 would have difficulty in reading it. Moreover, the punctuation is often bad. Therefore the ordinary farmer has no chance of reading and understanding such an agreement. Probably he simply says, "I suppose it is all right," and signs it. On the other hand, the select committee had before them hire-purchase forms which were nicely printed, well paragraphed, and easy to read. No purchaser would have the right to say he could not read a hire-purchase form of that kind.

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

Clause 4—Responsibility for agents' statements not to be negatived:

The CHAIRMAN: The first of the select committee's amendments, to insert "or" before "promises," can be treated as consequential.

Hon. H. SEDDON: I move an amendment—

That the words "or terms" be struck out.

To the lay mind the word "terms" signifies more particularly the financial conditions of the purchase. The legal definition of "terms" is much wider, and refers not only to financial conditions but to all the conditions embodied in the agreement, such as the return of an article after default has been made. Therefore the retention of the word "terms" would carry the matter further than intended in the original Bill.

Hon. G. W. MILES: It seems to me that to strike out the words "or terms" would be to exempt the vendor from responsibility for the action of his agent, whereas he should be fully responsible for any statements made by his agent.

Hon. J. NICHOLSON: The whole matter is wrapped up in the word "representations." The retention of the words "or terms" would lead to endless confusion, endless litigation, and waste of money to the hirer. The Chamber will be doing a wise and proper thing in the interests of the purchaser by adopting the select committee's recommendation, which was arrived at after much thought and after consultation with Dr. Stow, the Parliamentary Draftsman. The word "representations" is full

and comprehensive, and means everything that any hire-purchaser may desire.

Hon. G. A. KEMPTON: I agree with Mr. Miles. Mr. Nicholson says the clause will lead to litigation and all sorts of trouble, but he does not tell us why. I wish him to tell us. Personally, I shall vote against the amendment.

Hon. G. FRASER: I agree with Mr. Kempton and Mr. Miles. If the word "representations" covers everything, why retain the words "or terms"? I should prefer to see "promises" struck out and "terms" left in. In fact, I prefer the clause as it stands.

Hon. J. NICHOLSON: "Terms" has in legal phraseology a signification which it has not in the mind of the ordinary layman. It would include the payments and everything else. What the select committee aim at is the case of a man who seeks to get at an unwitting purchaser. The man makes certain representations which are afterwards found not to be true. On the strength of those representations, which may be in the nature of promises—and that is why the word "promises" is left in—the hire-purchaser is induced to sign a contract which but for those representations he would not have signed.

Hon. H. Stewart: Might not he offer special terms to get the purchaser's signature?

Hon. J. NICHOLSON: No. The terms are set out. The purchaser would sign the promissory notes, and the terms would be set out in the hire-purchase agreement. It is the representations which would move a man to exercise his right at law in order to recover damages or to have the contract set aside.

Hon. G. W. Miles: But does not the amendment relieve the vendor of responsibility for the statements of his agent?

Hon. J. NICHOLSON: The vendor is not relieved. There seems to be in the minds of hon. members a great apprehension that the select committee have allowed their minds to be, as it were, dominated by the views of others who might be in the position of vendors.

Hon. J. M. Macfarlane: By representations.

Hon. J. NICHOLSON: So far from that being so, I think, if the Committee consider



the position clearly, they will see that the proposal will protect the hire purchaser.

Hon. G. W. MILES: That is not disclosed in the clause as you propose to amend it.

Hon. J. NICHOLSON: It will be in the interests of a hire purchaser because then, if false representations are made, the purchaser will have his remedy at law and will be able to set the contract aside.

Hon. G. W. MILES: It appears to me that the clause, if amended as suggested by the select committee, will protect the vendor.

Hon. J. NICHOLSON: Mr. Miles has misunderstood the effect of the clause as amended.

Hon. G. W. MILES: I see the point. I was wrong.

Hon. H. STEWART: Viewing the clause as one that will protect the interests of the purchasers against misrepresentation, nothing must be done that will enable the vendor to escape from his share of the responsibility involved in any representations on the part of his agents, servants or representatives. I cannot understand why the word "or servant" should be struck out. To my mind the clause is satisfactory.

The CHAIRMAN: Order! We are not dealing with that amendment yet.

Amendment put and passed.

Hon. H. SEDDON: I move an amendment—

That in line 4 the words "or servant" be struck out.

It was held that when a sale was made it should be by responsible persons—either the vendor himself, his representative or his agent. For instance, a mechanic might be sent to a farm to repair a machine and he might make all sorts of statements to the farmer for the purpose of effecting the sale of another implement, and so collect the commission. That would be quite outside his proper sphere, and the vendor should not be bound by statements of such a person, but only by those of his recognised salesman or by his own statements.

Hon. V. Hamersley: How will a purchaser know that the mechanic is not authorised?

Hon. H. SEDDON: That will be for the vendor to decide. It would be unfair to bind the vendor by the words of a servant acting as I have indicated.

The MINISTER FOR COUNTRY WATER SUPPLIES: I want something much more substantial from Mr. Seddon before I can agree to strike out the words pro-

posed. The vendor must be responsible for the actions of his employees whether they be representatives or servants. Mr. Seddon pointed out that the mechanic might make all sorts of statements in order to effect a sale and collect commission. The vendor has to pay that commission and therefore must be held responsible for the words and actions of his servants. If the amendment be agreed to, it will go far towards undoing the good we seek to do by passing the Bill. Where is the difference between a "representative" and a "servant"? Both are responsible to the employer and the employer must be equally responsible with them.

Hon. G. W. MILES: The Minister is in the same frame of mind as I was when I raised a point earlier.

The Minister for Country Water Supplies: No, I am right; you were wrong.

Hon. G. W. MILES: The point is that the provision will be made in the hire-purchase agreement, and the clause put in the agreement will be void in the circumstances that have been outlined.

Hon. H. Stewart: The clause is all right as it stands, but if you take out the reference to "servant," it will be wrong.

Hon. G. W. MILES: If the hon. member looks into it he will see that the amendment is quite proper.

Hon. H. STEWART: It would be extremely dangerous and serious to agree to the amendment. Employees who have at heart the business that supplies them with their wages, will interest themselves in pushing sales. If we agree to the amendment, it will mean that the employers whose servants may make incorrect representations inducing a sale, will escape from the responsibility attaching to the actions of such employees.

Hon. Sir Charles Nathan: A servant is not a representative.

Hon. V. Hamersley: And so, I suppose, can make any statement he likes!

Hon. H. STEWART: If the amendment be agreed to, the clause will be practically useless.

The MINISTER FOR COUNTRY WATER SUPPLIES: It is on the statement of the servant that the sale, to which Mr. Seddon has referred, will be made, and if we agree to the amendment, the vendor will not be held responsible for misrepresentations on the part of his servant. If we agree to the amendment, the effect will

be that all references to agents or representative will be struck out of the relevant clause in the hire-purchase agreement, and servants will be mentioned. That will restrict the voiding of contracts in accordance with the clause.

Hon. J. M. DREW: I thoroughly agree with the Minister. If we agree to the amendment, vendors will alter their hire-purchase agreements as he has suggested. That will mean that the vendor will not be responsible for any representations or promises made by the servant. If we retain the word "servant" it will not involve any additional liability on the vendor, but the vendor will not be able to cover himself by the agreement, should misrepresentations be made, which will have to be settled in a court of law.

Hon. J. NICHOLSON: The position of a servant and the position of an agent or representative of any hire-purchase firm are very different. Take for example the position of a country storekeeper and of his counter hand. Is the counter hand to be regarded as capable of making representations on behalf of his employer? None of us would think of negotiating with such a man. Then take the agriculturist who has to call up a mechanic from a hire-purchase firm to adjust a tractor or a harvester. That mechanic is not clothed with authority to sell the farmer a machine; he is there merely to effect repairs. But the man who goes out to sell a machine on behalf of his firm is fully authorised by that firm. I fear this is an instance where we can carry legislation to too great an extreme.

Hon. E. H. HARRIS: Mr. Nicholson has put up the case of a mechanic going out to a farm. But what about the farmer who comes to the city and goes into a shop to buy something under a hire-purchase agreement? He indicates that he cannot pay for it, and the man behind the counter conducts the transaction, and is able to say anything he likes and get away with it. I urge that the words remain in the Bill.

Hon. H. SEDDON: It not worth two-pence whether the amendment be agreed to or not. If we leave in the words, no vendor is going to sign an agreement unless the agreement is perfectly fair.

Amendment put and negatived.

Clause, as previously amended, put and passed.

Clause 5—Proceedings on vendor repossessing chattel:

The MINISTER FOR COUNTRY WATER SUPPLIES: I move an amendment—

That after "shall" in line 1 the words "except by the request or at the instance of the purchaser" be inserted.

Hon. H. SEDDON: Cases may occur in which the purchaser would take advantage of the Bill by returning a chattel to the vendor and to that extent avoid completing the agreement. The Bill is intended to protect the purchaser where a wrong has been done him by the vendor repurchasing the chattel. The amendment will restrict the operation of the clause to such cases, while the vendor has protection under a subsequent provision.

Hon. J. M. DREW: On the second reading I pointed out that under this clause if a machine were handed back to the vendor for examination or repair, the purchaser would automatically come under the Act. If this amendment passes he will not come under the Act at all, but will be excluded from the benefits of the Act. Finding that he cannot pay his instalments, he will come to an arrangement with the vendor for the re-possession of the machine, but having been excluded from the Act he will not have the advantage of going to a local court to get the machine valued. What should be done is to add to Clause 5 a proviso dealing with the position.

The MINISTER FOR COUNTRY WATER SUPPLIES: There is something in what Mr. Drew has said. I think it would be better to proceed with this and subsequently recommit it. In the meantime I will get a more satisfactory amendment drafted.

Hon. H. STEWART: As Mr. Drew has pointed out, this amendment will not meet the position. There are instances of the goods supplied not being satisfactory, or requiring some adjustment. There are many such cases, and they should be provided for. Under the Bill as it stands, there would be no redress for the hirer.

Hon. Sir CHARLES NATHAN: The clause as it stands is open to grave abuse. What we are trying to do is to secure for a purchaser the equity he may have in a piece of machinery which he has acquired and which, under force of circumstances, he has been compelled to relinquish. But

to extend the clause as proposed would mean that the purchaser would have no responsibility at all; he could keep the machine as long as he liked, get six months' wear out of it, and then send it back. The merchant community who carry on this hire-purchase business would be placed in a most serious financial position once the purchasing community achieved a full appreciation of what this clause meant. Some amendment should be made to remove that danger from the Bill.

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

Amendment put and a division taken with the following result:—

|      |    |    |    |    |
|------|----|----|----|----|
| Ayes | .. | .. | .. | 12 |
| Noes | .. | .. | .. | 6  |

|              |    |    |   |
|--------------|----|----|---|
| Majority for | .. | .. | 6 |
|--------------|----|----|---|

#### AYES.

Hon. F. W. Allsop  
Hon. C. F. Baxter  
Hon. J. T. Franklin  
Hon. E. H. H. Hall  
Hon. Sir W. Lathlain  
Hon. J. M. Macfarlane

Hon. W. J. Mann  
Hon. Sir C. Nathan  
Hon. J. Nicholson  
Hon. H. Seddon  
Hon. H. Stewart  
Hon. E. H. Harris  
(Teller.)

#### NOES.

Hon. J. M. Drew  
Hon. G. Fraser  
Hon. G. A. Kempton

Hon. G. W. Miles  
Hon. E. Rose  
Hon. V. Hamersley  
(Teller.)

Amendment thus passed.

Hon. H. SEDDON: I move an amendment—

That in line 3, after the word "twenty" the word "one" be inserted, and in line 4 the word "fourteen" be struck out and "twenty-one" inserted in lieu.

There are three time periods provided in the clause. The idea of the amendment is to make these uniform. In the case where 14 days are provided, this will afford insufficient time for the necessary action to be taken.

Amendment put and passed.

Hon. H. SEDDON: I move an amendment—

That in line 3 of Subclause 2, the word "shall" be struck out, and "may" inserted in lieu.

As the word "shall" appears in the subclause, it insists on the vendor fixing the value of the chattels. The idea of the amendment is to give a certain amount of latitude regarding the manner in which debits shall

be assessed against the hire-purchaser by the vendor, when the parties are discussing the question of arriving at an amicable agreement. The amendment leaves it open to the vendor to debit certain charges against the purchaser, or to refrain from doing so.

Hon. J. M. DREW: I think the word should be left as it is. The vendor should supply the purchaser with accounts.

Hon. J. Nicholson: That is already provided for.

Hon. SIR CHARLES NATHAN: The subclause at present says that the vendor shall debit the purchaser with instalments of rents due and not paid. The word "may" will enable the vendor to come to an amicable arrangement with the purchaser whereby it may not be necessary for him to debit the latter with the whole of the charges. I support the amendment.

Hon. H. STEWART: The first subclause provides that only if an account is demanded shall credit be made, and this amendment provides that the debit may be made. If the amendment were not agreed to, any difference there is between the word "may" and the word "shall" would probably be to the detriment of the purchaser.

Amendment put and passed.

Hon. E. H. HARRIS: By law it is possible to debit a man with interest at the rate of 8 per cent. There is a Bill in another place which may not permit of so high a rate of interest being collected. Will that measure apply to hire-purchase agreements?

Hon. J. NICHOLSON: The provision regarding interest is much the same as that which is provided for in the Supreme Court rules. That rate of interest is fixed by statute. Whether the Financial Emergency Bill covers the point raised by the hon. member I do not know, as I have not yet had the Bill before me.

Hon. H. SEDDON: I move—

That after "account," in line 1 of Subclause 4, the words "and has failed to arrive at an amicable agreement thereon with the vendor" be inserted.

The object of the amendment is to clarify the subclause. In the event of a farmer desiring to come to terms with the vendor, he will have the right to do so. In that case there will be a far greater chance of avoiding litigation.

Amendment put and passed.

Hon. H. SEDDON: I move an amendment—

That in line 2 of Subclause 4 "twenty" be struck out and "twenty-one" inserted in lieu.

Amendment put and passed.

Hon. H. SEDDON: I move an amendment—

That in line 2 of Subclause 4, after "service," the words "of such account on him" be inserted.

The MINISTER FOR COUNTRY WATER SUPPLIES: While I have no great objection to the amendment, I cannot see the need for it.

Hon. H. SEDDON: It clarifies the subclause.

The MINISTER FOR COUNTRY WATER SUPPLIES: The subclause as it is is sufficiently clear. The account cannot be served on any other person.

Amendment put and negatived.

Hon. H. SEDDON: I move an amendment—

That the following proviso be added to Subclause 4:—"Provided that the date fixed for appearance before the magistrate shall be not less than one month after the date on which the chattel was taken possession of by the vendor."

It was thought advisable to fix this minimum period. It might be possible for the vendor to take possession of the implement and then the farmer immediately demand an account to be promptly rendered. The minimum period is advisable in which to make arrangements to approach the court.

The MINISTER FOR COUNTRY WATER SUPPLIES: The addition of so many words to the clause will only complicate the position. After all, these matters are left to the clerk of the court. If a man, on approaching the court, has not had sufficient time, he can always get an adjournment. This is merely loading the Bill with words that are not necessary.

Hon. J. NICHOLSON: Unless it is clearly defined what the time is to be within which the hearing shall take place, the ordinary rules of the court will apply. But this would not be suitable in cases such as these, particularly where there are many people who are located in inconvenient places and where mails may arrive at odd times. A man may be busy harvesting and may not call

for his mails for a couple of weeks. The result would be that he would not receive the notice, and so he would be deprived of the advantages of the Act. The amendment is designed to help such a man.

Amendment put and passed.

Hon. H. SEDDON: I move an amendment—

That the following proviso be added to Subclause 5:—

"Provided that if after the vendor has taken possession of the chattel it shall have been sold by public auction—

- (a) at a place agreed on by the vendor and purchaser, or in default of agreement at the place where the hire-purchase agreement was entered into by the purchaser; and
- (b) subject to reasonable conditions of sale which permitted both vendor and purchaser to bid; and
- (c) at a reasonable time and after adequate advertisement and due notice to the purchaser,

then the price for which the chattel was so sold, after deducting the expenses occasioned by the sale, shall, for the purposes of this section, be conclusively deemed to be the value of the chattel at the time when and the place where such sale was effected."

This will tend towards arriving at an amicable agreement without having to go to the trouble of asking a magistrate to make a valuation of a chattel in regard to which he has perhaps very little evidence on which to base the valuation.

Hon. J. M. DREW: If the suggested course is adopted, in nine cases out of ten the machine will be sold for a mere song. Recently I heard two farmers discussing the sale of a couple of harvesters, both of which, it was said, were in good order. One brought £5 and the other £12.

Hon. H. Seddon: This will have to be agreed to by both parties.

Hon. J. M. DREW: I wish we could be very definite on that point. If both parties agreed to a sale by auction, everything would be all right. The magistrate of the local court is the proper authority to decide the question. Every week he is deciding claims for damages to machines, and in those cases he relies on the evidence adduced. The amendment is a very dangerous one. Under it farmers' agricultural implements having been seized would be sold for next to nothing.

The MINISTER FOR COUNTRY WATER SUPPLIES: Under the amend-

ment the parties have to agree to a sale in the country. What money is available in the country to-day to make a purchase of machinery? Then it is provided that both parties shall be liable to bid for the article at the sale. If the purchaser has had to give up a machine because he cannot pay his instalments, he certainly will not be able to so arrange his finances as to bid for the machine at public auction. So there is here no protection for the purchaser. Then we have the condition that the sale is to be held at the place where the agreement was entered into.

Hon. J. M. Macfarlane: Would not the purchaser be in the same position as the vendor?

The MINISTER FOR COUNTRY WATER SUPPLIES: The purchaser who has paid so much money for the machine would lose all.

Hon. J. Nicholson. He would receive his account.

The MINISTER FOR COUNTRY WATER SUPPLIES: He wants more than an account; he wants protection for his equity in the machine.

Hon. H. SEDDON: I appreciate the point taken by the Minister, but if he reads on he will see there is still protection for the purchaser. If he thinks he has been victimised he can take exception to the sale as not being held under reasonable conditions. It will then have to be referred to a magistrate. All that the amendment provides is an intermediate method of adjustment prior to going to court where, as Mr. Drew pointed out, certain expenses will be involved, if only in the production of evidence. On the other hand, if a sale is agreed to, if the purchaser is satisfied with the conditions of sale, the sale can be proceeded with.

Hon. Sir CHARLES NATHAN: The proposal to hold an auction sale was first advanced by the Hire Purchase Traders' Association. I then pointed out that if the conditions were made mandatory, as was suggested, it would be unfair. Also I saw an equal objection to the clause as drafted. It seems to me the select committee have viewed the thing very much in the same light as I did, and have endeavoured to arrive at an equitable and fair method. The whole principle underlying the work of this select committee has been to endeavour to bring the parties together, to make an amicable ar-

rangement between them and to use the Act only when no such arrangement can be arrived at.

Hon. H. Stewart: Something like the Farmers' Debts Adjustment Act.

Hon. Sir CHARLES NATHAN: Very much the same. The select committee have retained Clause 5, but have added a method which enables the parties to arrive at a reasonable understanding. Paragraphs (b) and (c) of the amendment safeguard both parties. If they cannot arrive at an amicable arrangement, the whole thing will be referred to a magistrate. I think I can support the amendment.

Hon. J. M. DREW: The amendment gives a definite right to the vendor in case of default to seize a machine and sell it by public auction. If the parties cannot agree as to the place of sale by public auction it has to be held at the place where the hire-purchase agreement was entered into, while if the parties cannot agree as to the conditions of sale, they will be for the magistrate to determine. Then it is provided that after all these conditions have been complied with, the price at which the chattel was sold shall be deemed to be the value of the chattel. It is all totally against the interests of the purchaser.

Hon. J. NICHOLSON: Subclause 2 of Clause 5 provides that in the account to be submitted the vendor shall credit the purchaser with the value of the chattel at the place and time it was seized. Who is to determine that value?

Hon. J. M. Drew: The public auction will determine that.

Hon. J. NICHOLSON: That is so. One of the most difficult tasks to be submitted to any local court will be the determining of the value of a chattel repossessed. One set of people would arrive at it by one method, and another set by a totally different method. When a mortgagee seizes property, the method of arriving at the value is that of public auction. This has been found to be the most equitable and certain method of determining the value of any article. I might give a bar of gold for a drink of water.

Hon. H. Stewart: And you a Scotsman!

Hon. J. NICHOLSON: The drink of water might be more valuable at the time than the gold. If a property were sold for less than the mortgage debt, the mortgagor would be liable to the mortgagee for the deficiency.

The Minister for Country Water Supplies: You cannot class farming machinery with a transaction of that kind. Farming machinery has only seasonal use and is of little value at any other time.

Hon. J. NICHOLSON: The committee tried to devise equitable means to ascertain the value. The conditions in the proviso are clear and specific.

Hon. H. Stewart: And hopeless.

Hon. J. NICHOLSON: Then the hon. member should suggest something better. The value might be determined by amicable arrangement. Mr. Drew would have the matter referred to the court. If that were done, the vendor could send his experts to give evidence, and the magistrate could not dispute the weight of evidence.

The CHAIRMAN: The hon. member is straying from the proviso.

Hon. J. NICHOLSON: I am endeavouring to show that, if the decision were left entirely to the magistrate, he would be placed in an awkward position. The conditions suggested are fair and equitable. I would not object if the chattel were sold by public auction at a place determined by the magistrate.

Hon. G. Fraser: That would be an improvement.

Hon. J. NICHOLSON: The magistrate could say that the conditions of sale were unreasonable, and decline to be bound by the value obtained at auction. Then he would fall back on the procedure in Subclause 2 and fix the value.

The CHAIRMAN: Unless Mr. Seddon can convince me that this proposal is a proviso and not an alternative, I shall rule it out of order. Under Clause 5 a re-possession takes place, and the vendor must notify the purchaser and render an account setting forth the value of the chattel repossessed. If the purchaser is dissatisfied with the value, he may begin an action under Subclause 5, which clearly sets forth the method of arbitrating on the value. The proviso contains an alternative method. Am I to understand that the purchaser, notwithstanding the proviso, may avail himself of Subclause 5, or, if he takes advantage of the proviso, will deny himself the right of coming under Subclause 5? If that is so, I shall accept the amendment as a subclause and not as a proviso.

Hon. J. Nicholson: Make it a subclause.

The CHAIRMAN: I had to make a long speech in order to ascertain that.

Hon. H. SEDDON: The intention of the committee was clearly to make it a proviso so that there should be a method of arriving at a value to avoid going into court.

The CHAIRMAN: Then it cannot be a proviso, because the subclause deals with the position in court. I rule that it is an alternative and not a proviso to Subclause 5.

Hon. H. SEDDON: I suggest that further consideration be postponed.

The MINISTER FOR COUNTRY WATER SUPPLIES: I move—

That the further consideration of Clause 5 be postponed until after the consideration of Clause 9.

Motion put and passed.

Clause 6—Re-opening hire-purchase agreements:

Hon. H. SEDDON: I move an amendment—

That in Subclause 1 the words "or taken in any court in respect of any matter arising out of a hire-purchase agreement, or for the purpose of obtaining relief under this section" be struck out.

This point was raised by you, Mr. Chairman, when discussing the report of the select committee. The idea was that proceedings under this clause would be consequent on proceedings under Clause 5. There were two objections to Clause 6 as originally worded. We were under the impression that this would practically open the door to the admission of any hire-purchase agreement, that might be considered to be harsh or might contain too high a rate of interest, into a court to be revised. This would mean that the Bill would be practically retrospective in this direction. The second objection was that it would be possible for the hire-purchaser or vendor, who was dissatisfied with the conditions set out in Clause 5, to have the matter re-opened in any court, and under Clause 6 have the whole case fought over again. This amendment is, therefore, put forward as a means of providing against such contingencies.

The MINISTER FOR COUNTRY WATER SUPPLIES: I cannot accept the amendment, which is too far-reaching in effect. To a large extent it destroys part of the Bill and the benefits to be derived under it. The opinion of the Crown Law Department is that there are not only cases where the chattel has been seized, and the

hirer may get some relief, but it is possible for a case to arise where the owner of a chattel under hire may leave it in the possession of the hirer, who may default in instalments until the whole of the rent is due and payable. It would be open to the owner under the terms of the hire-purchase agreement to sue the hirer for the whole arrears of rent and then seize the chattel. If action is taken against the hirer to recover arrears of instalments, and the chattel is also taken from him, it would be open to the hirer to recover the arrears of instalments and to seek the relief he would be entitled to obtain if the matter had been an ordinary seizure under the provisions of the preceding clause. In effect, the amendment will, in the case of an unfair agreement, give the vendor the right to go to the court to the detriment of the purchaser. No case has been made out for the striking out of these words.

Hon. H. Seddon: Do you say that a man whose implement had not been seized could go into court on the ground that the agreement was unfair?

The MINISTER FOR COUNTRY WATER SUPPLIES: Yes.

Hon. H. Seddon: Although the agreement had been entered into prior to the passing of the Act?

The MINISTER FOR COUNTRY WATER SUPPLIES: Yes. If a harsh agreement is in existence, the purchaser should be able to go into court.

Hon. H. SEDDON: I see that the clause does appear to involve the question of bringing existing agreements under the Act. If that be so it is for this Committee to decide the point.

Hon. J. NICHOLSON: The question of retrospection does arise here with very great force and seriousness.

The CHAIRMAN: Where does it arise?

Hon. J. NICHOLSON: It arises in the words "taken in any court in respect of any matter arising out of a hire-purchase agreement or for the purpose of obtaining relief." Retrospection comes in under paragraphs (a), (b), (c) and (d). It is a serious matter for any Government to make a Bill retrospective.

Hon. G. Fraser: I suppose you will be supporting that in a night or two.

Hon. J. NICHOLSON: Contracts have been made and acted upon.

Hon. G. Fraser: So they have been in the other cases.

Hon. J. NICHOLSON: When existing agreements were made, no one knew anything about this measure. It appears to me the Government are going to penalise people and take a very unwise step. When the Bill is passed everyone will know that these agreements must be made in conformity with it. Meanwhile it would be quite inequitable to bring them under the Act. I hope the recommendation of the select committee will be adopted; otherwise it will be necessary to limit the scope of the clause to agreements made after the passing of the Act.

The MINISTER FOR COUNTRY WATER SUPPLIES: Mr. Nicholson suggests it would be unreasonable and inequitable for the Committee to disagree with the recommendations of the select committee. Does he want to cover up the work of unscrupulous men?

Hon. J. Nicholson: You do not see the point.

The MINISTER FOR COUNTRY WATER SUPPLIES: Yes, I do. If excessive interest is being charged, if excessive charges are being made, if attempts are being made to deprive the purchaser of the benefits of this legislation, and if any particular transaction is of a harsh nature, should not the Act be made to apply? We should not attempt to protect people who make unscrupulous agreements. I hope the words will not be deleted.

The CHAIRMAN: It is suggested that this Bill is retrospective in character. My ruling is that no part of the Bill can be retrospective prior to its being passed, unless the Legislature inserts a special clause saying that it shall be retrospective in effect.

Hon. H. SEDDON: Whilst I submit to your ruling, Mr. Chairman, I should like the position outlined by the Minister more fully explained. He says that the clause as printed contains the words, "in any proceedings taken in any court in respect of any matter arising out of a hire-purchase agreement."

The CHAIRMAN: Made after the passing of this Act.

Hon. J. Nicholson: If those words were inserted, it would be all right.

The CHAIRMAN: I think that no law is retrospective in the absence of a specific declaration to that effect.

Hon. H. SEDDON: Accepting that explanation, I ask the Minister to state why the clause is worded as it is. The Minister's whole argument was that existing hire-purchase agreements could be brought under the clause; and you, Mr. Chairman, have ruled to the contrary.

Hon. Sir CHARLES NATHAN: In view of your ruling, Mr. Chairman, I rather differ from the advice which the Minister has read as coming from the Crown Law Department. Any harsh agreements now in existence could not, according to their advice, be reviewed by a court. Perhaps the Minister will enlighten us further on the subject.

Hon. J. M. DREW: I agree that the clause is not retrospective; but it is highly important, and the amendment will destroy the remedy provided. The clause enables an unfortunate purchaser who has been tricked, to go before some court.

Hon. H. STEWART: If the words are struck out, unscrupulous people, few in number though they may be, will be able to go on exactly as they have been doing. The Chamber can decide whether Clause 6 shall apply also to existing agreements.

Hon. H. SEDDON: The iniquity of some hire-purchase agreements has been freely ventilated, but will farmers go on signing harsh and inequitable agreements? Surely the farmer has common sense and realises what he is signing. Under Clause 6 as it stands, he knows that he can take an agreement into court and get it broken.

The CHAIRMAN: On the retrospective phase, I think the select committee themselves have admitted that the Bill as it went to them was not retrospective, as otherwise there would be no reason for the proposed amendment to Clause 9.

Hon. H. SEDDON: We made that provision in order that nobody should take advantage of the time since the introduction of the measure.

Hon. G. FRASER: I hope the amendment will not be carried. There are many silver-tongued gentlemen knocking around the country districts, and they are shrewd enough to put it over plenty of people, who are induced to sign agreements which they ought not to sign. Either they sign them unread, or their attention is drawn off while they are reading. Such people should be protected. The amendment will take away the right of redress. The clause should pass as printed. Vendors should not be afraid of

inquiry into any agreements they induce people to sign. The courts will not grant variation without good cause.

Hon. V. HAMERSLEY: I hope the clause will pass as printed. The Bill deals mostly with farmers who are up against trouble owing to the extraordinary conditions that prevail. They signed agreements with the full intention and in the full expectation of meeting their obligations. Some agreements are extraordinarily stiff, but the farmers signed them because they were satisfied with their prospects. When risks are taken, the magistrate should extend reasonable consideration. In unforeseen circumstances let the vendor share the risk with the purchaser.

Hon. H. SEDDON: The last speaker seems oblivious of the fact that if a man is unable to meet the conditions of an agreement he has signed, he can still carry on until the machine is repossessed, and then he can get the benefit of Clause 5. Clause 6 renders agreements not worth the paper they are written on.

Hon. J. Nicholson: The clause is an invitation to go into court.

Hon. H. SEDDON: Undoubtedly.

Amendment put, and a division taken with the following result:—

|                  |    |    |    |    |
|------------------|----|----|----|----|
| Ayes             | .. | .. | .. | 8  |
| Noes             | .. | .. | .. | 10 |
| Majority against |    |    |    | 2  |

| AYES.                 |                                   |
|-----------------------|-----------------------------------|
| Hon. F. W. Allsop     | Hon. Sir C. Nathan                |
| Hon. E. H. Harris     | Hon. J. Nicholson                 |
| Hon. J. M. Macfarlane | Hon. H. Seddon                    |
| Hon. W. J. Mann       | Hon. Sir W. Lathlain<br>(Teller.) |

| NOES.               |                                 |
|---------------------|---------------------------------|
| Hon. C. F. Baxter   | Hon. V. Hamersley               |
| Hon. J. M. Drew     | Hon. G. W. Miles                |
| Hon. J. T. Franklin | Hon. E. Rose                    |
| Hon. G. Fraser      | Hon. H. Stewart                 |
| Hon. E. H. H. Hall  | Hon. G. A. Kempton<br>(Teller.) |

Amendment thus negatived.

Hon. J. NICHOLSON: In view of the vote just taken and the fact that the select committee have an amendment on the Notice Paper seeking to make the Bill retrospective to the 21st May last, I wish to anticipate the later amendment by moving to alter Clause 6.

The CHAIRMAN: Order! The discussion will take place when that amendment is moved.



Hon. J. NICHOLSON: I desire to anticipate it in order to help the Government out of what seems to be an awkward position in connection with a Bill of this description. I move an amendment—

That in line 4 of Subclause 1 after "section" the words "in respect of any agreement made after the passing of this Act" be inserted.

The CHAIRMAN: Would it not be better to ascertain first whether the Committee will agree to the select committee's proposed amendment to Clause 9? If not, that ends the matter. If the hon. member's amendment be agreed to, and the select committee's later amendment is also accepted, it will be necessary to modify it in accordance with the amendment to Clause 6. It would be better to deal with the later amendment and then, if necessary, recommit the Bill for the further consideration of Clause 6.

Hon. J. NICHOLSON: It is a question for debate as to whether the Bill is or is not retrospective. I want to remove any such doubt.

The CHAIRMAN: But the Committee will have an opportunity to decide that question on the select committee's amendment.

Hon. J. NICHOLSON: In so grave a matter, I think the position should be made quite clear. I look upon it as a very serious matter for any Government to introduce and any Parliament to pass legislation applying to contracts made years ago without notice of any such legislation.

The CHAIRMAN: Order! On the question of retrospection, I have already ruled that there is nothing in the Bill to indicate that it comes within that category. Unless an amendment be inserted by the Committee making the Bill retrospective, it is certainly not retrospective. It is proposed to test the point on Clause 9.

Hon. J. NICHOLSON: I submit there is a suggestion of retrospection in Subclause 1 of Clause 6, and I want to make the position quite clear.

The CHAIRMAN: I cannot accept the amendment. The select committee placed on the Notice Paper an amendment to Clause 9 which will itself make the Bill retrospective. The select committee propose that it shall be retrospective in all its phases to the 12th May, 1931, the date, I understand, of the introduction of the Bill in another place. Why does the hon. member want to make Clause 6 retrospective, when the select com-

mittee desire to make the provisions of the whole Bill retrospective?

Hon. J. NICHOLSON: I desire to move my amendment because the Committee decided that words the select committee desired struck out, should remain part of the clause.

The CHAIRMAN: To oblige the hon. member, I will accept his amendment and leave it to the good sense of the Committee to decide whether they will accept it.

The MINISTER FOR COUNTRY WATER SUPPLIES: I oppose the amendment, which I regard as passing strange, seeing that the select committee desire the Bill as a whole to be made retrospective to the 12th May.

Hon. J. Nicholson: Bear in mind that the Committee decided to retain words that the select committee desire struck out, and I wish to restore the position.

The CHAIRMAN: Order! The hon. member seeks to restore nothing; he wants to put in something new!

The MINISTER FOR COUNTRY WATER SUPPLIES: Yes, something entirely new.

Hon. H. SEDDON: Reference has been made to the select committee and the question of retrospection. I intended waiting until our amendment was dealt with, but in view of the trend of the discussion it is perhaps fair to indicate that we considered the Bill should operate from the date the measure was introduced to Parliament. That was the only reason why we suggested the amendment that appears on the Notice Paper.

Hon. J. Nicholson: You will agree to my amendment?

Hon. H. SEDDON: Yes, but I think it imports perhaps a rather unfair inference regarding the attitude of the select committee, seeing that we are asked to consider the position on Clause 6 instead of on our proposed amendment to Clause 9. In view of the Chairman's ruling that Clause 6 is not retrospective, there should be no objection to the amendment, because it merely supports the ruling.

The CHAIRMAN: If the amendment be agreed to, the select committee's amendment, when moved, will have to be qualified to the extent indicated by the proposed amendment to Clause 6.

Hon. G. FRASER: I hope Mr. Nicholson will not press this amendment. If he does

I trust the Committee will negative it and let us have the discussion on retrospection at the proper time. It appears to me the hon. member is attempting to get in the "king hit," and I hope he will not go on with it. Let the clause stand as it is now, and let us have a discussion on the retrospective provision at the proper time.

Hon. J. NICHOLSON: I take it the Minister will have no objection to my moving to recommit the clause later. That being so, I will withdraw my amendment.

Amendment, by leave, withdrawn.

Clause put and passed.

Clauses 7 and 8—agreed to.

Clause 9—No contracting out:

The CHAIRMAN: Before the select committee's amendment is moved it appears to me this amendment was drafted in anticipation of the proposed amendment to Clause 6 being agreed to, which would have confined the Bill to repossession. The proposed amendment to Clause 9 would apply in its retrospective character only to any chattels repossessed. If that is so, the amendment is not now in order, because the scope of the Bill has not been narrowed.

Hon. H. SEDDON: This amendment was drafted with the intention of providing that no one should unfairly repossess a chattel during the time the Bill was before Parliament. The contingency which you, Sir, have raised, that the amendment will be out of order in view of the Committee having decided to retain the words in Clause 6, was not taken into consideration by the select committee. On your ruling it will be necessary to redraft this proposed amendment.

The CHAIRMAN: No, I will accept the amendment, but I want the Committee to understand that if the amendment is agreed to it will be retrospective only in respect of re-possession.

Hon. H. SEDDON: Then, I move an amendment—

That the following be added to the clause:—"and shall extend to any hire-purchase agreement made before the commencement of this Act if any chattel comprised therein has been taken possession of by the vendor, except by the request or at the instance of the purchaser, after the twelfth day of May, one thousand nine hundred and thirty-one, and before the date of the commencement of this Act; provided that when such possession has been taken between

the dates aforesaid then, for the purpose of calculating any period of time fixed by this Act by reference to the date of the taking of possession, such possession shall be deemed to have been taken on the date of the commencement of this Act."

The CHAIRMAN: It is now within the province of any member to move an amendment on this amendment which will make it retrospective without qualification.

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

That after "contrary" in line 2 of the clause the following be added:—"and shall extend to any hire-purchase agreement made and in operation at or before the commencement of this Act."

In the report of the evidence taken by the select committee it is shown that the chairman asked Dr. Stow this question:—

335. Then there is the wording of Clause 9. It has been held that that makes it retrospective in that once the Act is passed any agreement may be brought under it by virtue of the seizing of a chattel?

To that Dr. Stow replied—

I do not think it would. It would be better to make it perfectly clear. The Bill as originally drafted was clear on the point, but certain words have been struck out, leaving the door open to argument. It would be as well to abolish all possibility of argument on the matter.

I am moving this amendment to make it perfectly clear that the Bill shall be retrospective. On Wednesday night last I gave many reasons why it should be retrospective, and I do not think it necessary to add to them. But it is very necessary that those who have bought machinery under hire-purchase agreement should be protected. Many of the hire-purchase merchants have been very fair and just, but some of them have been quite the reverse.

The CHAIRMAN: The hon. member will have to achieve his object in two stages. First of all he must move as an amendment on the amendment to insert after "made" in line 2 of the amendment the words "and in operation at or." Then if that be agreed to he will have to move a further amendment on the amendment, to strike out all words after "Act" in line 3.

Hon. G. A. KEMPTON: Very well, I move an amendment—

That after "made," in line 2 of the amendment, the words "and in operation at or" be inserted.

Hon. H. SEDDON: I take it Mr. Kempton wishes to bring under the Bill every hire agreement that is in existence. In the course of the evidence taken by the select committee representatives of farmers, while perfectly ready to say that some of the existing agreements were harsh, could not suggest what would happen in the event of agreements being made void. On the other hand we had evidence from representatives of hire-purchase merchants. This is what one of them said—

There are many hire-purchase traders who discount their paper. A great many of them at present are working on the absolute limit of their overdrafts. If they have to purchase back, as proposed under the Bill, thousands of pounds worth of trucks and cars, they will not be in a position to pay the farmers back for them. A rough estimate of the amount of money involved is that there is a quarter of a million outstanding on motor trucks and cars. There is a tremendous capital employed amongst distributing merchants in the motor industry, leaving out the repairers. Our estimate is about half a million. The annual wages and salaries paid approximate £150,000. In reply to your question I will instance one or two cases I have looked up in our own books. We have just repossessed a truck from a farmer who is in rather a big way but who, unfortunately, like a lot of men who are over progressive, has big liabilities. We have been forced to repossess a truck which he has had for three years. Our used-car department estimates our loss on that vehicle at £200. The same man has a sedan car, and he has made an appeal, being a very old client of ours, to be allowed to keep the car because he is 18 miles from the railroad and his wife is very delicate and it is necessary to get medical assistance very promptly at times. The car position is much better so far as we are concerned, as he owes us only £112. It is quite likely that if we had to repossess that car under the Bill—we have threatened to repossess it, I have not the amount owing on it—it is not unlikely that a magistrate would estimate the value of that car at £200. This means that we would have to give back to that man £88 in order to get the car, whereas we have lost £200 on his truck deal. Under our agreement, and I think it is the same with others, we give the hirer the right to return his vehicle.

The point is that in many cases hire-purchase vendors have been able to complete their sales simply by discounting the bills of the purchasers. If the Bill be made retrospective, those men will not only be responsible for having endorsed the bills, but will also have to face the possibility of paying back in the form of equity to the farmers some thousands of pounds. That would bring upon the community very serious effects. From that standpoint alone the

retrospective application of the Bill should be carefully considered. Mr. Kempton, in criticising the report of the select committee, said another place passed the Bill under the impression that it would have retrospective effect. The Minister in charge of the Bill in another place, when moving the second reading, said, "I cannot make the Bill apply to existing agreements," and during the Committee stage he said, "We ought not to pass retrospective legislation." The Minister was definite on both those occasions, and his remarks indicated the attitude of the Government. If we pass retrospective legislation for agreements of this kind, to be consistent we must make all other agreements retrospective. The farmers insist that this measure should be made retrospective as it applies to their machinery. Are they prepared to accept the same principle with regard to their wheat? If wheat rises to 3s a bushel, are they prepared to accept to-day's price of 1s. 8d. or 1s. 9d.? If it is good enough to have retrospective legislation for their machinery, it should be good enough to apply to all the commodities with which they deal.

Hon. V. Hamersley: They are used to getting it in the neck.

Hon. H. SEDDON: The amendment will introduce a most pernicious principle into our legislation.

Hon. G. W. Miles: It is emergency legislation.

Hon. H. SEDDON: In the past this Chamber has strongly opposed retrospective legislation. I ask members to regard it from the standpoint of principle. If we wish to command the respect of the community, we must be consistent. If we make this legislation retrospective, we cannot complain if the public ask for retrospective action regarding other things that appeal strongly to them.

Hon. E. H. Harris: Such as a reduction of wages.

Hon. H. SEDDON: If we once begin to make agreements retrospective, we shall be confronted with some serious situations.

Hon. G. W. Miles: We did it last week.

Hon. H. SEDDON: I ask members to pause and consider the seriousness of breaking existing contracts, as will be done if the amendment be passed.

Hon. G. W. MILES: I hope the Committee will make this measure retrospective. Mr. Seddon referred to a principle that this Chamber has always observed. Gen

erally we have objected to giving retrospective effect to legislation, but last week, when considering emergency legislation, we went back on that principle. This is emergency legislation to protect the farmers against unscrupulous vendors of machinery. Unless the Bill be made retrospective, it will not be worth the paper on which it is printed.

Hon. G. FRASER: I hope the amendment will be passed.

Hon. Sir William Lathlain: You are in good company to-night.

Hon. G. FRASER: I have found myself in similar company quite a lot recently. The Bill must be made retrospective or it will be useless. In the last 12 or 18 months people have felt the pinch, and they will not now enter into contracts as they did at that time. Unless legislation of this kind is passed, many people are in danger of losing all they have purchased under hire-purchase agreements. I am surprised at the attitude of some members. In recent months this Chamber has passed at least two measures having retrospective provisions. The Salaries Tax Bill was one.

Hon. W. J. Mann: That referred only to members of Parliament and they do not count.

Hon. G. FRASER: It referred also to civil servants.

Hon. E. H. Harris: This is a rehearsal for the Financial Emergency Bill to-morrow.

Hon. H. Seddon: Will you be consistent to-morrow?

Hon. G. FRASER: I am always prepared to adapt myself to prevailing conditions. Members agreed to the Salaries Tax Bill, and yet they hold themselves up as being consistently opposed to retrospective legislation. The other retrospective measure passed by this House was the Debt Conversion Agreement Bill.

Hon. Sir William Lathlain: Conversion is to be voluntary.

Hon. G. FRASER: It will not be voluntary for long. That measure, no less than this one, dealt with existing contracts. I have no doubt what the attitude of this Chamber will be to the Financial Emergency Bill, which contains retrospective provisions. I shall not vote for it. Other members, however, will no doubt adapt themselves to prevailing conditions and vote for it.

The CHAIRMAN: We are dealing with retrospection, not adaptation.

Hon. G. FRASER: Where wages are concerned, some members have no scruples about passing retrospective legislation. Hundreds of people in the metropolitan area are suffering hardship under hire-purchase agreements and are desirous of securing relief under this Bill. Unless they get relief, they will lose many of their chattels. I admit that some people think more of a Baby Austin than of a baby perambulator, but it is necessary that chattels other than farmers' machinery should be brought under the Bill.

Hon. H. Seddon: Clause 2 was passed.

Hon. G. FRASER: But it is to be further dealt with on recommitment.

Hon. H. STEWART: I agree with Mr. Miles that this is emergency legislation. Many people have entered into agreements that are harsh and unjust, and the amendment would enable them to get the transaction reviewed by the court. I wish to show Mr. Seddon and other members that this Chamber has always been prepared to consider proposals on their merits, and to deal out equity and justice without being limited by slogans or catchwords. In 1919 there was a very full debate regarding what was a moral right and a legal right. It was in connection with an amendment of the Land Act. I will review the position as an illustration of the principle embodied in the amendment. Prior to the war the Land Act was amended to allow pastoralists to continue on their holdings, and they had an extension of time provided they paid double the rent subject to reappraisal, and provided they got rid of their surplus areas over and above 1,000,000 acres in any one division. They were also given a certain time in which to get rid of those surplus areas. During the war they came to Parliament and asked for an extension of the time in which to get rid of the surplus, and pleaded the difficulty of the existing conditions. Before the debate took place in 1919 a bright and distinguished member of the legal profession discovered some way to get round the principle of the amending legislation which had been passed by Parliament in 1917, in which it was held that a company was not an individual and an individual was not a company. Instead of getting rid of more than a holding of 1,000,000 acres, some of the holders of pastoral leases converted themselves into com-

panies, the principals of which held the bulk of the shares. There was a moral principle in which Parliament agreed. That was not only overridden, but overridden during the period when the pastoralists were given consideration by Parliament. After a long debate this House decided in favour of taking from these people that to which they had no right. There was a conference between the Houses and a compromise was arrived at by the managers, although it did not agree to as much as this House desired. Not many of those members who took part in the debate are here now.

Hon. H. Seddon: Do you say that is a case parallel to this one?

Hon. H. STEWART: It was a matter of equity and justice. On broad lines there is something decidedly similar. The twelve who voted for the principle of standing by what Parliament intended are all alive, if they are not in this Chamber. This House considered the matter from the point of view of what was fair and equitable. The matter came into being because of the emergency of the situation. A good deal has been done under the heading of emergency legislation, and it all requires a great deal of thought. Seeing that the court will decide, and that tribunal will say whether an agreement and its conditions are equitable or just, I am going to vote for the amendment.

Hon. J. M. DREW: I support Mr. Kempton's amendment. Some of the hire-purchase agreements are distinctly immoral and entitled to no consideration. The agreements have been tolerated by the public and Parliament for about 30 years. Some 25 years ago I brought down a Bill to regulate the sale of machinery under hire-purchase agreement, but could not get a supporter. Only after a long review of the situation can I bring myself to support retrospective legislation of this character. Parliament should have taken action long ago to suppress these agreements. This is a time of national crisis. The agricultural industry is almost on its last legs, and if it goes down Western Australia will certainly follow. Seeing that there is so much legislation abroad of a peculiar character, I can bring myself to support the amendment. The retrospective legislation dealing with pastoral leases was passed in the interests of agricultural development and the good of the country. The machinery firms have had a good innings unrestricted by law for the last 30 years.

Now that the country is in distress, they still want to be free.

Hon. V. Hamersley: They want their pound of flesh.

Hon. J. NICHOLSON: I am astounded at some of the views expressed by members on the question of emergency legislation.

Hon. G. W. Miles: Is this not emergency legislation?

Hon. J. NICHOLSON: This Bill does not come under that heading.

Hon. W. J. Mann: We have been waiting 30 years for it.

Hon. J. NICHOLSON: It is far removed from being emergency legislation. I could understand the introduction of a Bill to help the Government balance the Budget, and such a Bill being dated back to the beginning of the previous financial year. If we date this Bill back to cover a lot of old hire-purchase agreements, we shall be attacking those principles which make for good government.

The Minister for Country Water Supplies: If people have made unscrupulous agreements, why should they not be reviewed?

Hon. J. NICHOLSON: It is for the court to review anything that is unscrupulous, and it has full power to do so.

Hon. G. W. Miles: Do you want those cases, which have been referred to by Mr. Kempton, to go uncared for?

Hon. J. NICHOLSON: There are two sides to every case, and it is our duty to hold the scales of justice evenly. A genuine effort has been made by the select committee to do this. The proper method to pursue is to declare a moratorium. That is the way to save the situation. We are pursuing a wrong course.

Hon. V. Hamersley: And have been doing it for a long time.

Hon. J. NICHOLSON: The hon. member seems to think there is only one set of people to be considered. It is our duty to look at the Bill from every standpoint. This is considering the interests of only one party.

Hon. V. Hamersley: It is time that party had an innings.

Hon. J. NICHOLSON: Both sides should receive a hearing. Financial disaster would ensue to some firms if the clause were made retrospective. Apparently some hon. members have not given the matter that full consideration which is essential to a realisation of the consequences. The select committee

tried to protect the interests of the hire-purchaser by ante-dating the operation of the measure to the time of its introduction in another place. They recognised what was fair and equitable between the parties, without infringing the great principles we have inherited from the Mother of Parliaments.

Hon. J. M. MACFARLANE: I claim to be as sympathetic as any man with the farmer in his need, but the commercial section of the community is also involved here. The merchant has received his bill from the hire-purchaser and has discounted it, and it has gone away—mostly to America. By no means all farmers are fools; they can read an agreement, even if it is in small type. There will be disaster if we do not take into account the other side of the case as well as the farmer's. The position will get back to where the farmer will have to honour the whole of his undertakings, without receiving any such redress as suggested by Mr. Kempton. Let the redress apply from now onwards, but it is manifestly unfair to apply the Bill to past agreements.

Hon. H. SEDDON: From the manner in which some members have argued, it would appear that the emergency need only be desperate enough and the case strong enough to entitle one to sink one's principles. The case cited by Mr. Stewart is not parallel to the present case. That case was one where the decision of Parliament had been deliberately evaded by legal trickery, and this House simply insisted that the decision of Parliament be adhered to. The agreements in question were entered into by responsible men. Now it is proposed to introduce a principle by which such man may sign any agreement they choose, in the knowledge that it can be taken into court and revised. In such circumstances what is the value of any agreement?

Hon. G. W. MILES: To those hon. members who talk about principles, I put this question: Are they in favour of the crooks who have defrauded the farmers, instances of which Mr. Kempton cited last week, being allowed to continue their operations?

Hon. J. M. Macfarlane: You are arguing about agreements made with honest men.

Hon. G. W. MILES: Honest men will not be affected. It is scandalous to think of the way some of these machinery people have dealt with the farmers. Some hon. members say that it is all right to talk about balancing the Budgets but we must remember

principles. Who is keeping the country going? If we are to allow the farmers to be exploited by the city dwellers who send their men out and sell machinery which they repossess under such circumstances as we have heard, it will be scandalous. I understand Clause 5 is to be recommitted with the intention of amending it so as to prevent any purchaser from handing back his machinery and chattels to vendors. Probably Clause 2 will be recommitted in order to protect men who have discounted bills. Let me tell those who talk about principles on this occasion that I am out to protect the farmer.

Hon. E. H. H. HALL: I was a member of the select committee and I shall vote in accordance with the indications I gave in my minority report. Mr. Kempton has moved his amendment on the amendment with the object of dealing with instances of grave injustice and hardship under hire-purchase agreements. I am fully in sympathy with much that Mr. Nicholson and Mr. Seddon have said in that a certain amount of hardship and injustice will be suffered by machinery merchants and others who have been trading under the hire-purchase system. On the other hand, I have to ask myself who are suffering most during this period of distress. I am not prepared to stand by and see the farmers, upon whom the prosperity of this State mainly depends, exploited as we know they have been, because if they suffer the rest of the State must suffer. The value of the primary producer has not been sufficiently realised by members of Parliament in the past. If the attempt made by Mr. Drew many years ago to deal with this vexed question had been more successful, we would not be confronted with such a position to-day.

Amendment on amendment put and a division called for.

The CHAIRMAN: Before the tellers tell this is an occasion on which all members should record their votes. I shall give my vote with the ayes. It occurs to me that the times through which we are passing are full of hardships. Vendors and purchasers alike are suffering. In my opinion the purchasers are passing through the graver period of hardship and they are likely to continue in that position for some time. In consequence I shall vote for the amendment on the amendment.

Division taken with the following result:—

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

## AYES.

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

## NOES.

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

## PAIR.

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

Amendment on amendment agreed to.

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

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

Further amendment on amendment put and passed.

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

Progress reported.

House adjourned at 10.20 p.m.

## Legislative Assembly,

Tuesday, 28th July, 1931.

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

## QUESTIONS (2)—DAIRY STOCK.

### Bull Subsidy.

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

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

### Herd Testing.

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

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

## QUESTION—FACTORY REGISTRATION NOTICES.

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

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