

Nos. 7, 9, 10, and postponed No. 1:

The HONORARY MINISTER: I move—

That the amendments be not insisted on.

Question put and negatived; the Council's amendments insisted on.

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

#### *Ministerial Statement.*

The HONORARY MINISTER: I desire to make a brief statement. The message with which we have just dealt will not be finally disposed of by the Assembly this evening, owing principally to the fact that the Minister in charge of the Bill in the Assembly is out of town on urgent State business and will not return until to-morrow. It is therefore the Assembly's intention to adjourn until to-morrow, when this message will be considered there. We shall then be advised as to the attitude taken by the Assembly. I therefore suggest that it is necessary for this Chamber to meet to-morrow at the usual hour, but naturally I must leave a motion to that effect to be moved by the Leader of this House.

#### **ADJOURNMENT—SPECIAL**

**THE CHIEF SECRETARY** (Hon. J. M. Drew—Central) [7.57]: I move—

That the House at its rising adjourn until to-morrow at 4.30 p.m.

Question put and passed.

*House adjourned at 7.58 p.m.*

## **Legislative Assembly.**

*Thursday, 1st February, 1934.*

	PAGE
Question: North-West hospitals ... ..	189
Bill: Financial Emergency, Council's amendments ...	189
Financial Emergency, Council's Message ...	194
Adjournment, special ... ..	194

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

### **QUESTION—NORTH-WEST HOSPITALS.**

Mr. COVERLEY asked the Minister for Health: When will leased hospitals in the North-West revert to Government control?

The PREMIER (for the Minister for Health) replied: No date can be indicated. One hospital has already reverted to departmental management, and the same policy in respect of the others will be pursued in due course.

### **BILL—FINANCIAL EMERGENCY.**

#### *Council's Amendments.*

Schedule of thirteen amendments made by the Council now considered.

**MR. SPEAKER:** Before proceeding with the consideration of this Order of the Day, I desire to make a statement regarding the Council's amendments to the Bill, and particularly to the amendment commonly referred to as "Part V." because that particular amendment raises the very important question of the admissibility of an amendment that is beyond the scope of a Bill. Had the amendment been moved in this Chamber, I feel sure that it would have been ruled out of order as irrelevant to the subject matter of the Bill. I understand the amendment was accepted in the Legislative Council on the ground that it was not new matter, having been previously before members when considering the Financial Emergency Bill of 1931, which became an Act and lapsed at the end of last year. With all due respect to the Chairman of Committees of the Legislative Council who, incidentally, is Deputy President of that Chamber, it seems to me there is a great difference between a matter that is already part of a Bill, as was the position in 1931, and one respecting which the Bill contains no reference, that being the position with the Bill before the Chamber at present. Naturally, the question could not have been raised in 1931, when Part V. was part and parcel of the Bill. That is not the position regarding the Bill under discussion now. It is inconceivable to me that a Chairman has power to take into consideration the provisions of an Act that has lapsed, in determining the admissibility of amendments. The Chairman had nothing before him but the Bill as presented to the Committee for consideration. In my opinion, on that Bill alone must he determine what amendments

are admissible. This is an important matter, and I propose to take this opportunity to explain the position with regard to Parliamentary practice. The main object of the rule against permitting amendments beyond the scope of a Bill as introduced, is that such amendments have not received the sanction of the House during the preliminary stages of introduction, first and second readings. There is nothing against a separate Bill embodying the amendments being introduced. If that be done, the principle is submitted for approval, and new matter is not sprung upon the House without sufficient notice. The Legislative Council's amendments introduced a new principle into the Bill, which had not had approval on its second and third readings in the Assembly or on its second reading in the Council.

Reviewing the principle, I would like to point out the substance of a ruling given by Mr. Speaker Peel in the House of Commons on the Tithe Rents Bill, 1897, when he said—

The Government had put new clauses on the paper, and, on comparing the Bill as it would stand with these new clauses embodied in it, with the original Bill, that, namely, for the introduction of which leave was given and which was read a second time, I am bound to say that I see a complete difference between them.

I express the practice of the House rather than the rule of the House, if I may distinguish between them. The practice of the House has unquestionably been, when a Bill has been so transformed, as, in my opinion, this Bill has been, that a new Bill should be introduced, that leave should be given to introduce it, and that the second reading should be gone through when the general principle of the measure, as distinguished from its component clauses, could be affirmed. I express my opinion on this point without the least hesitation, and I desire to affirm that opinion on this point without the least hesitation, and very strongly. Having said this much, I think I ought now to leave the matter in the hands of the House and the Government.

On that occasion the Bill was withdrawn and a new Bill introduced. With regard to the amendments made by the Legislative Council, I submit that the amendments that appear in the message from that House, if agreed to, will make a complete difference between the Bill as it was introduced in that House, and the Bill as passed by them. The general principles of Parliamentary practice with regard to this question, broadly speaking, are these—

That if such substantial amendments are made during the passage of a Bill in Committee as materially to affect the form and sub-

stance of the Bill in such a way as to make it, for all practical purposes, a new Bill, then it is necessary for that Bill to be withdrawn, and a new Bill to be introduced.

In 1912 a Bill was introduced by the Government in the House of Commons making an extension of the franchise in the first instance, to males, but, after consideration, the Government decided to extend the scope of the Bill to include females. Upon these amendments appearing on the Notice Paper, the then Leader of the Opposition (the Rt. Hon. A. Bonar-Law), drew the attention of Mr. Speaker Lowther to the ruling given by Mr. Speaker Peel, which I have already quoted. Mr. Speaker Lowther, as the Bill had not passed through the Committee stage, declined then to give anything in the nature of a ruling, but, on a subsequent day, when pressed by the Prime Minister (the Rt. Hon. H. H. Asquith), gave the following opinion—

If the amendments of which notice has been given by the Government, and one or two of the amendments designed to grant women's suffrage were to be inserted in this Bill, my opinion is that under those circumstances the Bill would be substantially a new Bill. Therefore, in accordance with the practice of the House, it ought to be withdrawn, and a fresh Bill ought to be introduced.

That Bill also was withdrawn. Coming a little nearer home, many members of the House will perhaps remember that at the end of the session of 1920, an amendment was received from the Legislative Council to the Criminal Code Amendment Bill, which had been introduced by the then member for Perth (Mr. H. Mann), and which dealt with the death penalty. The amendment in no way dealt with the subject matter of the Bill and was ruled out of order by me in my capacity as Deputy Chairman of Committees. In order to satisfy himself of the correctness of the ruling, the then Clerk Assistant, the present Clerk, Mr. Steere, corresponded with the Clerks of the other Parliaments of the Empire. The result of the correspondence showed that, in the opinion of those officers, the ruling was right, but it was deemed wrong for the Chair in this House to dictate to the Chair in the other House, the procedure to be adopted in the Legislative Council. One of the letters was received from Sir T. Lonsdale Webster, then Clerk of the House of Commons, who, I understand, is an authority on Parliamentary practice. In his reply

Sir T. Lonsdale Webster wrote—

As to the amendment itself, I agree that an amendment dealing with the period of time in which a prosecution can be brought for an offence not punishable with death would be clearly out of order in connection with a Bill confined to procedure on a trial of a person raising a certain plea when charged with a crime for which the death penalty can be inflicted, and that generally when the Title of a Bill is drawn widely and the Bill deals with a limited matter—

This is important—

—the Bill must be considered rather than the Title in determining the subject matter of the Bill, and that amendments, to be in order, must be relevant to this subject matter.

Where, however, our practice would appear to differ fundamentally from yours is in the fact that the Speaker declines to rule as to order in the case of any amendments made by the Lords to a Bill passed by the Commons. He directs the attention of the House to a Lords' amendment which infringes the privileges of the Commons, but that is another matter. In this connection I should like to quote the Evidence in Criminal Cases Bill in session 1898: In Clause 2 (Calling of wife or husband in certain cases) the Commons had inserted an amendment that "Nothing in this Act shall affect the Evidence Act, 1877," which simply enacted that in the trial of indictments as to highways or for enforcing a civil right, the husband or wife of the defendant shall be a competent witness. The Lords accepted this amendment, but amended it by adding words excepting the proceedings of courts-martial from the Bill.

Mr. Caldwell submitted that the Lords' amendment was out of order, because there was not a word about courts-martial in the clause inserted by the Commons—

Nor is there any reference in the Bill now before the House to matters referred to in the Part V. amendment—

—and this amendment proposed by the Lords had not the smallest consequential relation to the Commons amendment.

Mr. Speaker, in reply, said:—

The amendment is relevant to the Bill, but not consequential on the Commons' amendment. If the Commons' amendment had come down to this House as a Lords' amendment, and the present Lords' amendment had thereupon been proposed in this House, it would have been my duty to decline to put the question on the ground that it did not arise out of the amendment of the other House; but as it has been inserted by the Lords, it is my duty (while informing the House that it is not consequential) nevertheless to put the motion just made by the Attorney General, "That this House doth agree with the Lords in the said amendment," leaving it to the House

to agree, if they think that is the convenient course, or to disagree on the ground of inconvenience, or upon any other ground.

Similarly, on being asked to rule out of order a new clause inserted by the Lords in the Local Government (Emergency Provisions) Bill in session 1914-16, Mr. Speaker Lowther said:—

The Rt. Hon. Baronet wishes me to rule the clause out of order. Does he consider that I should then be over-ruling the House of Lords on a point of order? I should not dare to do that. The House of Lords have inserted this clause. They have presumably considered whether it is in order or not; they have sent it down to us, and it is not for me to overrule their Lordships on such an important matter. . . . When a Bill comes into the possession of the House of Lords, they can do what they like with it. They can strike out or insert things. I have no authority to hold that their Lordships were wrong in inserting a particular clause in a Bill. They are entitled to do that.

I do not think that any difference in principle arises from the fact that you consider the amendments made by the other part of Legislature in Committee instead of the House, as is our custom. Therefore, while I agree with the ruling in itself, I should say that the Chair would feel itself precluded here from ruling on an amendment coming from the other House.

While making the statement that the amendments restoring Part V. to the Bill would be ruled out of order in this House as being beyond the scope of the Bill as introduced, I feel that the action of Mr. Speaker Lowther quoted above is the correct attitude for the Chair in this House to take, and I am determined not to give a ruling on these amendments, leaving the question of their acceptance or rejection to the decision of the Committee.

#### *In Committee.*

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

THE PREMIER: I propose to group a number of these amendments, because the greater number of them are consequential upon two or three main amendments that have been made by the Council. All these amendments come into three divisions. The first set deal with the relief proposed to be granted to Government employees, quite a number of whom did not come within the scope of the Bill as passed by this House. All Government wages employees, ordinarily subject to the basic wage adjustments, were made subject to the Arbitration Court. That is as the Bill passed this House. It also

removed other wages employees and salaried employees of the Government drawing less than £293 per annum at the 30th June, 1930, and made them subject to the operations of the cost of living. The Council by their amendments to this part of the Bill propose to reinstate in the Bill all Government employees whether on wages or salaries, and practically to put them back as they were under the Act, only making the deductions 14 per cent., 16 per cent. and 18½ per cent. instead of 18 per cent., 20 per cent., and 22½ per cent. as imposed by the Act that has expired. That is to say, the Council have made a remission of 4 per cent. all round on the deductions that were operating last year. These amendments are entirely opposed to the principle upon which the Government based their proposed relief to their employees, and so we are not able to accept them. It has been stated in another place that the 4 per cent. remission will amount approximately to the £115,000 which the Government had allowed for. My latest information is that the 4 per cent. if agreed to, would amount to considerably more than £115,000; that if it were not to exceed that amount the remission would have to be 2½ per cent., or at all events certainly not more than three per cent. Also the Government are not able to accept this because they do not consider there is need for the same percentage of relief to Government employees in receipt of high salaries, up to £1,000, £1,500, or even £2,000 per year, as to the men on lower wages and salaries. We do not think it would be equitable to give the same percentage of relief to the highly paid employees of the Government as would be given to the lower paid employees. I do not propose to argue these amendments at any length, because the position is well known to members of the House; in fact, practically the whole of the ground was covered in the discussions on the Bill of December last, and again when the present Bill passed through this House during recent weeks. I have no intention of going over the old ground and arguing against the Council's amendments, because all that can reasonably be said pro and con by members of the House has been said and the whole of the ground has been fairly covered. So without labouring the question I move—

That the following Council's consequential amendments, Nos. 2, 3, 4, 5, 6, 7, 11, 12, and 13, be not agreed to:—

No. 2.

Clause 5, line thirty-two—Strike out "twenty" and insert "sixteen."

No. 3.

Clause 6, Subclause (1).—Strike out the words "eighteen per cent., twenty per cent. or twenty-two and one-half per cent.," in lines one and two on page 6, and insert "fourteen per cent., sixteen per cent. or eighteen and one-half per cent."

No. 4.

Add the following paragraphs after paragraph (iii) of the proviso:—

(iv) Where the salary of an officer is payable at piece work rates under the provisions of any award or industrial agreement made under the Industrial Arbitration Act, 1912-1925, or under the provisions of any other award, determination or agreement in force at the commencement or during the continuance of this Act, such piece work rates shall be reduced by sixteen per centum.

No. 5.

(v) No variation in the basic wage shall affect the rate of salary of an officer unless such variation reduces the basic wage by an amount exceeding sixteen per centum of the amount of the basic wage declared as at the thirtieth day of June, one thousand nine hundred and thirty.

No. 6.

Add the following paragraph after paragraph (iv) of the proviso:—

(v) Where the application of the provisions of subsection (1) of this section would result in the rate of salary of an officer classified in one grade being reduced below the rate of salary (as reduced under this Act) of an officer classified in a lower grade, then in such case the rate of salary of such first-mentioned officer shall not be reduced below the said rate of salary of such last-mentioned officer.

No. 7.

Clause 6, Subclause (4).—Strike out the whole of this subclause.

### *The Schedule.*

#### *Part I.*

"Rates of reduction," second column.

No. 11.

Strike out "eighteen" and insert "fourteen."

No. 12.

Strike out "twenty" and insert "sixteen."

No. 13.

Strike out "twenty-two" and insert "eighteen."

Mr. LATHAM: It seems to me the amendments sent here by another place indicate that from their investigation they believe there is a certain amount of money for

distribution amongst the public servants whose salaries and wages were reduced under the Financial Emergency Act of 1931. Whilst I have not had opportunity thoroughly to go through the report submitted, I still disagree with another place. I believe that if the £115,000 was available to the Government and it was thought that the distribution should be made, the proposal submitted by another place would be fair and equitable. But I say the £115,000, if the Treasurer has it, should be passed over to those who are in want. However, I am only repeating the argument I used before, namely, that if there is £115,000 which the Treasurer can spend over 12 months, it should be paid to those out of employment or on part time, for they have the first claim upon the Government. So while I disagree with the amendments submitted by another place, I disagree on ground entirely different from that submitted by the Premier, which is that the policy of the Government is that the lower paid men should receive the benefit. I say that if the money is available it is the responsibility of the Government to pay it to those in want, that it is the first duty of the Government to see that the men who are out of employment should be provided with work, or at least that their meagre allowance should be supplemented.

Mr. Wansbrough: You mean put them on the dole?

Mr. LATHAM: Many of them are on the dole. In a country like Western Australia there is any amount of work; it is a question of finding the money to pay for the work. The Council by their amendment seem to indicate that there is £115,000 available for relief, but I say they are wrong in advising this House to allocate this money as they suggest. It would mean that members of this House would get a 4 per cent. increase.

The Premier: We don't want that.

Mr. LATHAM: We know the disabilities that many of our people are suffering under. One has only to travel through the country districts to realise it. And besides the men actually out of employment, we have the wheat-farmers, whom it is proving very difficult to keep on their farms. A little relief for them is coming from the Federal Government, but it is very little. Then we have our dairyman. The Minister

for Lands has been down the South-West inquiring into their condition. Certainly they have a far greater claim against the Treasury than have those already provided for. The £115,000 should not be given to men above the basic wage. The responsibility of the House is to distribute it, first to our people in real want, and secondly to our primary producers who are carrying on industry at a great loss. So I will support the Premier against these amendments, but for reasons different from those he has given.

Mr. McDONALD: The member for Nedlands on behalf of those sitting in this part of the House has previously explained his reasons for opposing the proposals contained in the Bill, and we agree with the Premier in feeling that no good purpose can be served in recapitulating arguments for or against, which have already taken up so much of the time of the House. As for opposing the proposals of another place, we feel that there is nothing to be gained by entering upon an examination of their effect and whether they represent an equitable basis of distribution of any money the State can afford to pay out: because the basis of distribution of that money will no doubt be subject to discussion at another time and in another place when the whole matter can be fully considered. For that reason I do not propose to say anything about these amendments, and those sitting in this part of the House do not propose to take up the time of the House in discussing what has already received ample discussion.

Question put and passed; the Council's amendments Nos. 2, 3, 4, 5, 6, 7, 11, 12 and 13 not agreed to.

The PREMIER: The second set of the Council's amendments affect that portion of the Bill dealing with superannuation allowances. In Clause 7, Sub-clause 1, and paragraph (iii.) of the proviso give the Governor power to exempt persons from reductions of the amount of retiring allowances or to vary the rate of reduction. The Council propose to strike out "vary" and insert "decrease." The amendment will clarify the object of the paragraph and will not affect the position in any way. There was no intention to vary except in the direction of minimising the reduction, but it was feared by some people in receipt of superannuation payments that we might increase

the amount of the cut. That idea is wholly untenable and had not entered into the mind of the Government. The other part of the amendment provides that no superannuation allowance shall be reduced below £185 per annum for a male person, or £100 per annum for a female. This restriction is similar to that placed on the salaries of adult officers. The Government had intended to afford some relief in the direction indicated under the clause that gives the Government discretionary power, and the cost would be covered by the original estimate. *I move—*

That the amendments be agreed to.

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

No. 1. Clause 3.—After the reference to Part IV., insert "Part V.—Sections 9-16—Variation of contracts of service."

No. 10. Insert a new part as follows:—"Part V.—Variation of contracts of service." (For details of this amendment, see Council report ante.)

The PREMIER: The Council propose the insertion of a new part identical with Part V. of the expired Act dealing with private employment. That was one of the most debatable provisions in the December Bill, as well as in the Bill now under consideration. We seem to be hopelessly divided on the point, but the attitude of the Government has been fully expressed in former debates, and so has the attitude of members of the Opposition, who are not in agreement with the Bill as introduced. *I move—*

That the amendments be not agreed to.

Mr. LATHAM: While I would have liked to see provision to continue the arrangements made through the Arbitration Court between employers and employees, there is much in the proposed amendment with which I cannot agree. When the measure of 1931 was introduced, we provided a time limit in which employers could apply to the court, and that was 12 months after the passing of the Act. Consequently, after the 18th August, 1932, until the 31st December last, no application could be made to the court. Under the Council's amendment it would be possible for employers again to apply to the court during a further period of 12 months. I was a member of the Government that considered 12 months was long enough in which to apply for relief.

The PREMIER: It was considered that 12 months was sufficient time for those in need of relief to apply.

Mr. LATHAM: Yes, but under the amendment, the period would be extended for a further 12 months. Still, it would have been wise to insert a provision continuing existing awards until an application was made to the court for a variation, or until the emergency legislation expired. Obviously, the Government have definitely made up their minds not to accept the amendment, so it would be hopeless for me to move an amendment on the Council's amendment.

Question put and passed; the Council's amendments not agreed to.

Resolutions reported and the report adopted. A committee consisting of the Premier, Mr. McDonald and Mr. Thorn drew up reasons for disagreeing to 11 amendments. Reasons adopted and a message accordingly returned to the Council.

*Sitting suspended from 5.11 to 8.3 p.m.*

#### *Council's Message.*

Message from the Council received and read notifying that it insisted on its amendments to the Bill, disagreed to by the Assembly.

#### **ADJOURNMENT—SPECIAL.**

**THE PREMIER** (Hon. P. Collier—Boulder) [8.4]: *I move—*

That the House at its rising adjourn till 4.30 p.m. to-morrow.

We will not deal with the Council's message this evening, and the conference will be held to-morrow.

Question put and passed.

*House adjourned at 8.6 p.m.*