

Colonial Secretary direct to the Premier of the day in an effort to stifle the measure, because they knew it would clip their wings and place everybody in the racing world on an equal footing. In criminal jurisdiction even the worst criminal has the right of appeal, and in civil law parties to litigation also may appeal against a judgment. Surely the same privilege should be extended to people in the sporting world, when their character is impugned and their living is taken away. I trust that the Colonial Secretary will take some action to end this victimisation exercised against persons in the lower stratum of society by the Australian Jockey Club Committee.

Motion agreed to.

House adjourned at 5.30 p.m.

Legislative Council.

Tuesday, 28 October, 1947.

Co-operation (Further Amendment) Bill (second reading)—Police Regulation (Appeals) Amendment Bill (second reading)—Special Adjournment.

The PRESIDENT took the chair at 4.30 p.m.

The opening Prayer was read.

CO-OPERATION (FURTHER AMENDMENT) BILL.

SECOND READING.

The Hon. W. E. DICKSON (Assistant Minister): I move:

That this bill be now read a second time. The object of the bill is to increase from £750,000 to £1,250,000 the aggregate amount of contingent liability which the Government may incur under what are known as the "indemnity" provisions of the Co-operation Act relating to building societies. To permit of a better understanding of the matter I shall give a short sketch of the various steps which have necessitated the introduction of the bill. The original legislation provided that if a society lent to a member an amount which, reduced by the value of

his share in the society, exceeded 80 per cent. but did not exceed 90 per cent. of the value of the security, the Colonial Treasurer was empowered, where the loan did not exceed £750, to indemnify the society against loss sustained by reason of the fact that its loan exceeded 80 per cent. of the value of the security. It is a necessary condition that the money shall be lent for the purpose of enabling a person to purchase land upon which a dwelling-house is already erected, or to purchase land for the purpose of erecting a dwelling or to erect a dwelling-house on land already owned by him. It is also a condition that the house is to be occupied by the person securing the loan. This liability on the Government's part continued until the loan, reduced by the member's share capital, did not exceed two-thirds of the value of the security. The Government's aggregate contingent liability under this provision was limited to £500,000.

The Co-operative Building Advisory Committee at an early date laid down the principle that any provision made for loans should contemplate the erection of a home of three bedrooms of proper standard and with reasonable fittings. Even in those days—some ten years ago—it was frequently not possible to secure a home for £750—particularly in "brick" areas, and the maximum indemnity loan was therefore increased to £900. This was in 1937. The onset of the war and other factors brought about a rise in building costs—which unfortunately has not yet been arrested—and as the £900 maximum had become inadequate according to the estimates of the technical officers of the registry, it was increased in 1941 to £1,000.

Normal home-building virtually ceased in 1942. In 1945, when cessation of hostilities was reasonably in sight with ultimate victory for the Allies assured, the building society movement proceeded to gear up its machinery to make its contribution to post-war housing. The Government reviewed generally the "Indemnity" provisions of the Co-operation Act and, as

its policy was to enable workers on the basic wage to take advantage of the liberal terms which the Government's assistance to building societies enabled those societies to give, and as experience showed that the greatest obstacle was the finding of the original 10 per cent. deposit, the Government decided to take the bold step of permitting building societies to make 100 per cent. loans. Its indemnity remained as before—that is against loss sustained by reason of the fact that the society's loan exceeded 80 per cent. of the value of the security. It was fully realised that this liberalised provision would greatly increase the number of applications as also the average amount in each case. To meet this, as the Government's aggregate liability was then approaching £400,000, the total contingent liability which it might incur was increased from £500,000 to £750,000.

This brings us up to the present year when the Co-operative Building Advisory Committee, following on representations from the Association of Co-operative Building Societies, pointed out to the Government that the substitution of the 100 per cent. loan for the 90 per cent. loans with a maximum of £1,250 had created an unforeseen anomaly in that a person may have a block of land on which it would be uneconomic to build a three-bedroom home with a £1,250 loan. Further, the land may be in a brick area in which case it would, in general, be impossible to do so. Such persons were thus forced to rely on an 80 per cent. loan and many were unable to find the additional 20 per cent. plus the other expenses inescapable from the setting up of one's home. The Co-operative Building Advisory Committee appreciated this difficulty and recommended to the Government that whilst retaining the 100 per cent. loans at £1,250 the 90 per cent. loan scheme be revived with a maximum individual loan of £1,540. The Government accepted this recommendation and brought down the necessary legislation early in this year.

The Hon. W. E. Dickson.]

It was recognised that this provision would accelerate the increase of the Government's total contingent liability but as large numbers of indemnities were then expiring and would increasingly do so it was hoped that the total contingent liability of £750,000 would prove sufficient. However, so popular has the Government's liberalised housing policy through Co-operative Building Societies proved, and so great has been the increase in the number and amount of indemnities that already an increase of the present figure of £750,000 is required. As in previous cases the figure of £1,250,000 now mentioned is a more or less arbitrary fixation. While the increases in building costs contribute to the necessity for increasing the total authorised indemnity liability the major factor is the Government's liberalised housing policy. We are all well aware of the unfortunately high building costs, but I can assure hon. members that the relative increase has been less in Australia than in any other country from which figures were procurable and these include the United Kingdom, the United States of America and Canada.

The great increase in the number of indemnities is due very largely to the fact that the surprisingly large sum of £22,000,000 has been made available to building societies under Government guarantee since home-building recommenced in 1945. This £22,000,000 is additional to the £15,000,000 previously made available under Government guarantee. Much of this money came from lending bodies which had not previously lent to building societies. The acceleration in building society activities is clearly indicative of the confidence which the financial world and home-seekers have in the soundness of the Government's housing scheme through Co-operative Building Societies.

The Hon. Sir HENRY MANNING [4.40]: The principle underlying the introduction of this measure recognises the desirability of giving every encouragement to those persons who wish to build homes. That, I think, is the

main purpose of the bill, and I am sure that it will meet with the approval of the whole community. The Minister has given us a very full presentation of the case, and in the light of it I am sure that the measure will meet with the ready acceptance of all hon. members. It is important, I think, to notice the steps by which these building schemes were brought about. In 1932, and consistently on until 1938, the idea was developed of co-operative building societies' being financed by the Government. Hon. members may remember that this was carried out in careful detail and with the most telling effect by the Stevens Government, to the great benefit of all in the community who desired to own the homes they occupied. Owing to the war and the shortage of materials, the growth of population, and increased settlement in the city and suburbs, the need for home building has got out of hand, so that any desire exhibited by the present Government to supplement the schemes introduced by the Stevens Government will naturally receive the hearty co-operation of all those hon. members who have followed that legislation from its inception to the present time.

The bill provides that £1,250 is to be the amount that can be advanced for the building of a home. If that is the minimum amount that is regarded as effective for this purpose, I hope the Minister will inform the House whether anything is being done to increase the home-building advance of £750 to soldiers in connection with soldier-settlement schemes. When the bill relating to the settlement of soldiers was brought before us, an amendment was moved to increase the amount from £750 to £1,250, but I do not recollect whether it was accepted. If not, I hope that some attention will be directed to that legislation so as to bring the amount provided therein, in that respect, into line with the £1,250 provided by this measure.

The Hon. W. E. DICKSON (Assistant Minister) [4.45], in reply: I am not aware of the limit of advances to

soldier settlers. In this bill the amount of £1,250 relates to 100 per cent. advances. If a property is valued at £1,540, the society can advance up to 90 per cent. on it. The Government guarantees the difference between 80 per cent. of the value of the security and an advance of 90 per cent. or 100 per cent.

Motion agreed to.

Bill read a second time.

IN COMMITTEE.

Clause 2 (Amendment of Co-operation Act).

The Hon. Sir HENRY MANNING [4.47]: This is a very important clause, and I am sure hon. members will be glad to have some information about it. In order that the Committee may be placed in possession of some of the important steps that were taken by the Legislature from 1932 onwards, that being the date when the Stevens Government introduced this important facilitating measure, I might indicate the thought that has been given to it during its subsequent development. The Co-operation Act was amended in a most important respect in 1932, as I have indicated. The next amendment was in 1935, and that was followed by another one in the same year, all designed to facilitate this home-building scheme. In 1936, two more measures were submitted to Parliament at different times to meet additional requirements. Then again in 1937 and also in 1938, the Act was again amended. Thus, it will be seen that there has been a series of legislative enactments, beginning in 1932 and continuing until 1938, then continued in 1941, and now supplemented by the bill before us. I am glad to see that the great success that attended the introduction of this scheme by the Stevens Government has met with the approval of the present Government, and that the Minister is prepared to carry it on and to add by this bill those further legislative details that are made necessary by modern circumstances.

Clause agreed to.

Bill reported without amendment; report adopted.

With concurrence, bill read a third time.

POLICE REGULATION (APPEALS)
AMENDMENT BILL.

SECOND READING.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [4.51]: I move:

That this bill be now read a second time. This is a short measure designed to bring the Police Force into line with the public service generally. The House will recollect that in 1944 it passed a bill, which later became known as the Crown Employees Appeal Board Act, under which statutory provision was made for appeals by Crown employees against decisions of employing authorities where, for example, the seniority of such employees would be affected by the suggested promotion of other officers. The House will recollect that Part V of the Crown Employees Appeal Board Act amended the Police Regulation (Appeals) Act under which was established a police Appeals Board, recourse to which could be had by members of the Police Force in certain circumstances. Those circumstances follow fairly closely the provisions of section 10 of the Crown Employees Appeal Board Act. Section 6 of the Police Regulation (Appeals) Act provided that any person who, at the time of the decision of the Commissioner, is a member of the Police Force, if dissatisfied with any decision respecting promotion, dismissal or other action, had a right of appeal to the Police Appeals Board.

The Police Appeals Board could not make a final determination; its decision was subject to ratification by the Minister or its recommendation could be disregarded by him. In 1944 it was decided to alter that procedure by having appeals by police officers made to the Crown Employees Appeal Board, whose decision is final. Experience, however, has shown

that the law is defective in certain respects. For example, an appeal lodged with the Crown Employees Appeal Board by a police officer against the promotion of a junior officer is rendered ineffective because of a provision in the Police Regulation (Appeals) Act giving power to the Commissioner to determine the number of sergeants and constables which are necessary for the preservation of the peace. In effect, what happens is this: a junior police officer is promoted to the rank of sergeant and the appeal of the senior officer was made ineffective because the number of vacancies for sergeants having been determined by the Commissioner, no vacancy is available to him. It is sought under the bill to apply to the Police Force the same principles that apply to other employing authorities set out in the second schedule. Under that provision if a junior officer is promoted those senior to him are required to be notified and the promotion cannot take effect until there has elapsed a period of thirty days. At the end of that time, if there is no appeal, the promotion is confirmed. If an appeal has been lodged, then the promotion does not have effect until the appeal is determined.

The Hon. Sir HENRY MANNING: That is elementary justice.

The Hon. R. R. DOWNING: I agree. The notice must be given to every officer who is senior to the person whose promotion is recommended.

The Hon. Sir HENRY MANNING: To everyone affected.

The Hon. R. R. DOWNING: Yes, to everyone affected. In the public service at present a promotion cannot take effect until the determination of any appeal. In the Police Force the promotion takes effect, but the right of appeal is defective to the extent that the Crown Employees Appeals Board has held that section 6 of the Police Regulations Act renders certain appeals ineffective. When an officer who is junior to others has been promoted, there is no vacancy that can be filled by a senior officer who succeeds in his appeal, because

Part V of the Crown Employees Appeal Board Act, which amends the Police Regulation (Appeals) Act, altered only the nature of the tribunal to which the appeal must be made and did not provide for the adoption of the procedure which must be followed in the case of other public-employing authorities. So that this measure, so far as it amends the Police Regulation (Appeals) Act, does not introduce any new principle, but merely gives the police the same rights as are enjoyed by the members of the Public Service proper and officers of authorities, such as the Board of Fire Commissioners, the Comptroller-General of Prisons, the Metropolitan Meat Industry Commissioner, the Metropolitan Water, Sewerage and Drainage Board and others.

The other amendment, which is contained in clause 3, provides for an appeal in the case of the intended forfeiture of the superannuation or allowance paid to any person under the Police Regulation Act. Section 33 of that Act provides that any person to whom an allowance, compensation, remuneration or superannuation has been granted under the Act and who refuses when called upon to assist the police in the suppression of a riot, or is convicted of a felony or misdemeanour, or is guilty of conduct which, if he were a member of the Police Force, would be deemed to be to the prejudice of discipline, is liable to have his superannuation or allowance cancelled. Such a person had the right of appeal to the Police Appeal Board, which could make a recommendation to the Minister. The Police Appeal Board was, however, abolished in the amending Act of 1944, and no provision was made for an appeal to the Crown Employees Appeal Board. Under the provisions of the bill, any person may appeal to the Crown Employees Appeal Board, whose decision shall be final, against the intention to recommend that the superannuation being paid to him be forfeited wholly or in part. Those two provisions are not new, but are designed to give to members of the

Police Force the full benefit of the policy that was carried into effect in 1944 on the passing into law of the Crown Employees Appeal Board Act.

The Hon. Sir HENRY MANNING [5.5 p.m.]: The speech just delivered by the Minister is one of the most refreshing that has been heard in this House for some time. The Minister enunciated certain principles to which I venture to suggest the whole of the House will give its ready assent. Some of them do nothing more than conform to an elementary principle of common justice. The provision which calls for particular attention to-day is that which entitles persons who may be adversely affected by the actions of the body making promotions in the Police Force to the elementary justice of being notified that their rights may possibly be affected by a promotion which is to take place. That is a principle to which I am very glad to say that the Minister gives his fullest assent, and I think that we may take it that it is an indication that the Government to which the Minister belongs assents to that very important principle. I suggest, also, that this House would do anything that it could to facilitate the incorporation of that provision in our statutes. One of the greatest outrages perpetrated in a democracy is to subject people to the tyranny of forcing upon them measures which they have never had the slightest opportunity to consider, to which they have never given their assent, and with respect to which no remedy is available to them. Over and over again the charge has been made that Governments have introduced measures that the community has had no opportunity to consider, although it may be most vitally affected, as the police are in this particular case. Simply because they happen to be members of the community, and not members of the Police Force, they are deprived of the elementary principles of common justice, and are allowed to look on in a helpless condition while those whom they have placed in power do just what they choose. In the circumstances, it is most refreshing

to see the principles set out in this measure advocated by the Minister without the slightest qualification.

The two other matters to which the Minister referred are elementary matters of common justice and civil treatment of an ordinary community. One is the disappearance from the existing legislation of the autocratic tyranny of the Minister, who was given power under the Principal Act to over-ride the decisions which had been made by the Police Appeal Board. The Minister has pointed with justifiable pride to the removal of that autocratic power. One can only hope that the House will assent to the principle enunciated by the Minister, because otherwise it would be establishing a precedent for the investiture of autocratic tyranny in the Minister in any respect that the Government might see fit. I refer to those matters to show the importance of not questioning what the Minister is advocating. When we come to look further into the matter, we see that the exercise of this autocratic power on a helpless community is to be taken from not only the Minister but also the Minister's delegates, who were told that they should have power to inflict on a community what they considered to be justice, irrespective of what the community might think. That disappears also, because the power that was previously given to the Commissioner by legislation is taken away from him. Here again I am in complete agreement with the Minister. However, I do no more than take this opportunity to record my full assent to three main principles—First, that no man, woman or child in this community should be subjected to the imposition of legislation that they have had no opportunity to consider, and which they are powerless for the time being to prevent. Secondly, that the investiture of supreme and autocratic power in the Minister should be avoided as one of the obvious violations of common justice and common humanity. Thirdly, if that principle be carried through, supreme authority will give to a delegate of the Minister, or

to the *persona designata* of the Government, to exercise of its own free will, or by bureaucratic pressure, powers that will deprive the community of its ordinary rights in respect of property. That would be a vile incursion into the liberty of the subject, which I am very glad the Minister refuses to recognise. Accordingly, I suggest that the fullest assent be given to the vindication of these principles by the acceptance of the measure.

The Hon. J. M. CONCANNON [5.12]: The Hon. Sir Henry Manning expressed his appreciation of the Minister's refreshing explanation of the provisions of the bill. I congratulate the Hon. Sir Henry Manning upon his very refreshing speech. When the Government, of which he was an outstanding representative, was in office, the organisation of Crown employees persistently requested the establishment of a Crown Employees Appeal Board, with the power of final determination, but the application was refused. It was left to a Labour Government in 1944 to pass an Act to provide for the constitution of a Crown Employees Appeal Board. As one who led a deputation to the former Premier, Mr. McKell, who is now the Governor-General of Australia, requesting the introduction of this principle, I was pleased that the representations I made were the basis of the Crown Employees Appeal Board. That board has operated as the Crown employees expected it to do, with every satisfaction.

The bill confers upon officers of the Police Force the same principles as those which are embodied in section 10 of the Crown Employees Appeal Board Act. It is a principle that confers upon a police officer power to lodge an appeal if a senior man is passed over by the appointment of his junior officer. It is in reality a machinery measure, and I am pleased the Hon. Sir Henry Manning has stated that it is refreshing for him to agree to the principle that every citizen is entitled to the right of appeal, and that every citizen, from the humblest member in the community to the

The Hon. Sir Henry Manning.]

highest, is entitled to appeal from one Court to a higher court, and then to the Privy Council. However, it was left to the Labour Government in 1944 to pass legislation for which Crown employees had been agitating for twenty-five years. I suggest that it is not out of order for me to request the Minister to consult the Premier upon representations that have been made to him by the Crown Employees' organisation for an improvement of the statute. The Act was of an experimental character. Since it was passed in 1944, certain shortcomings have been revealed. One is that under Section 10 (1) (a), an appeal shall lie against any decision or determination—

- (a) for the promotion or appointment to any permanent office of an officer other than the officer who, according to the rules governing promotion in the service in which those officers are employed, is next in seniority for the promotion or appointment.

The organisation of Crown Employees has made representations to the Assistant Minister who officiated in the absence of the Premier, in receiving the last deputation, asking that the provisions of the statute be extended to all branches of the service. Under the provisions of Section 10, the Act relates merely to permanent employees in the Public Service, or in the corporate bodies as outlined in the second schedule of the bill, to which the Minister has referred. The Crown employees suggest that the most peculiar position that arises is that the Government can appoint to a position in the Public Service an officer from outside, against which appointment an appeal shall not lie, and they ask that this defect be remedied. In their opinion an appeal should be extended to any appointment in the Public Service, permanent or otherwise.

It was further suggested to the Assistant Minister by the two deputations that I introduced to him that the

salary limitation of £1,000 a year should be increased to an unlimited amount, or to a figure considerably above it. The amount of £1,000 was inserted by the former Premier, Mr. McKell, in order to cover senior positions in the Service. Since 1944, because of various determinations and awards of the Industrial Tribunal, the position has completely altered. The time is opportune for an appeal to lie in respect of salaries beyond £1,000 a year. This would enable an appeal to be made under the provisions of the statute by persons receiving a salary in excess of that amount. Under the Commonwealth Conciliation and Arbitration Act, the court has unlimited jurisdiction in respect of appeals. There is no limitation of salary rate to £1,000 a year, and I trust that in future the State law will follow the Commonwealth statute in that respect, and that there will be the right to approach an independent Industrial Tribunal for the fixing of rates in respect of public servants receiving salaries in excess of £1,000 a year. The legislation under review does more than ordinary justice to the police force. It safeguards their right of appeal, and it is a wise provision, because it extends the provisions of the Crown Employees Appeal Board Act to the police force.

The Hon. Sir HENRY MANNING: And confers the principle of justice upon the individual.

The Hon. J. M. CONCANNON: I agree with the Hon. Sir Henry Manning that no person should be subjected to legislation in respect of which he has not been consulted. I do not know that to which he refers but we shall probably have an opportunity of discussing that aspect on a subsequent occasion. Labour will not then shirk the issue.

The Hon. Sir HENRY MANNING: The hon. member knows that to which I have referred.

The Hon. J. M. CONCANNON: The Labour Government has been elected on a certain policy. That policy has been introduced. It included an amendment of the Crown Employees Appeal Board Act. This bill has nothing to do with the principle to which the Hon. Sir Henry Manning referred in his second point, namely, that the vesting of autocratic authority in the Minister should be avoided as one of the obvious violations of common justice and common humanity. After all, we believe in the democratic establishments of the Parliament, the judiciary and the executive. The Labour party believes that no body should function in this State that has not the overriding supervision and authority of a Minister. That is a principle of democracy. If the people elect their representatives and the representatives elect a Cabinet, surely there can be no objection if that Cabinet by its various Ministers exercises an overriding authority over the operations of a subsidiary body. I agree with the hon. member from that point of view. First, Parliament is supreme; second, the executive is supreme; then comes the judiciary, which is created by Parliament and by the Executive. That is a principle of ordinary democracy. I do not agree with the Hon. Sir Henry Manning that a Minister should not have autocratic power. He calls it "autocratic"; I call it ordinary common-sense supervision over the operation of a subsidiary body. That is Ministerial responsibility—which is fundamental to democracy.

The Hon. W. E. V. ROBSON: The hon. member ought to be opposing this bill if he believes that.

The Hon. J. M. CONCANNON: I support the bill because it extends to the police officers the same appeal provisions as are given to other public servants and employees of corporate bodies by the Crown Employees Appeal Board Act. The principles to which the Hon. Sir Henry Manning has referred are completely beyond the scope of this

measure, but I congratulate him on his superlatively refreshing speech on the principles of democracy.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [5.23], in reply: I am gratified with the response that the bill has received. It seems to me that hon. members have excelled themselves—the Hon. Sir Henry Manning particularly—in their approval of the measure. The Hon. Mr. Concannon referred to certain amendments of the Crown Employees Appeal Board Act. Those would be matters for consideration by the Premier; the bill only amends the Police Regulation (Appeals) Act and the Police Regulation Act. I have no doubt that the Premier will give every consideration to those representations of the Hon. Mr. Concannon and his colleagues. As to the principles enunciated by the Hon. Sir Henry Manning, all I would say is that if they had been followed by him in past years, when the Labour Government was returned by an overwhelming majority, the work of the Government would have been greatly facilitated. At the same time I am glad that he has at last seen the proper light, and that in future he will approach the Government's legislative proposals in a true democratic spirit.

Motion agreed to.

Bill read a second time and reported from Committee without amendment; report adopted:

With concurrence, bill read a third time.

SPECIAL ADJOURNMENT.

Motion (by the Hon. R. R. Downing) agreed to:

That this House, at its rising to-day, do adjourn until Tuesday, 11th November, 1947, at 4.25 o'clock, p.m. sharp, unless the President, or if the President be unable to act on account of illness or other cause, the Chairman of Committees shall, prior to that date, by telegram or letter addressed to each member of the House, fix an earlier day and the hour of meeting.

House adjourned at 5.30 p.m.