

Legislative Council,

Thursday, 13th December, 1906.

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THE PRESIDENT took the Chair at 3 o'clock p.m.

PRAYERS.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Annual Report of the Registrar of Friendly Societies, 1905.

By the PRESIDENT: Annual Report of the Auditor General for the last financial year.

URGENCY MOTION—LAND TAX ASSESSMENT VOTE.

A NEWSPAPER STATEMENT.

HON. W. PATRICK (Central): I beg to move "that the House at its rising do adjourn until this day month." I make this motion for the purpose of drawing attention to a matter appearing in the *Morning Herald* of December 11th. There is an account of an alleged interview between a representative of the *Morning Herald* and the Colonial Secretary. My attention was drawn to this matter by Mr. Drew last night, otherwise I would not have known anything about it. The interview is headed "The Colonial Secretary disappointed—Broken Promises." It is in reference to the motion to reinstate the Land Tax Assessment Bill, and the last paragraph of the interview is as follows:—

The absentees who did not explain why they abstained from voting were Mr. Patrick and Mr. Hamersley. The former was a Government supporter until a few days ago; but one of the opponents to the Bill, with whom he was seen a good deal in conference on Friday, won him over, and on Saturday

morning he suddenly decided to leave the city for Cue, where he was when the vote was taken yesterday. Captain Oats and Mr. Dempster paired. The outcome of this action on the part of the Council is that a special session will be held in February next.

The statement is made in this paragraph to the effect that a certain member of this House won me over, and on Saturday morning I suddenly decided to leave the city for Cue. That statement is untrue. There is no necessity to emphasise the word "untrue;" it is as strong as it can be. I may explain that at considerable inconvenience I remained in the city for 14 days purposely to assist in the reinstatement of the Bill. As members know, the reinstatement was proposed by the Colonial Secretary on the 6th December last, and on that day Capt. Laurie moved the adjournment of the debate until Monday. On the Monday, the voting was 14 for and 9 against, and in consequence the motion was lost. On the Friday night preceding the vote, I was sitting in the lobby with a number of gentlemen—I believe Mr. Kingsmill was one. I do not know if he is the "well known opponent of the Bill" with whom I was in conference or not, but I do say that during the whole of Friday, while I was talking to the gentlemen in the lobby, having a cup of tea and talking on subjects in general as is usual, I never mentioned this Bill at all. In the evening the Colonial Secretary came forward to me and asked to speak to me for a moment or two. I spoke to him, and he asked it if were true I had paired with Mr. Hamersley. I told him that was so, that it was absolutely necessary I should be in Geraldton on Monday. The Colonial Secretary therefore was perfectly well aware on the Friday night that I would not be present on the next Monday. The statement that I conferred with anyone for the purpose of leaving the city and not being present on Monday is untrue. The Colonial Secretary knew I should not be present on the Monday. I told him I would be here certainly on Wednesday, and that if the matter was of great importance there was no reason why the debate could not be adjourned until that day and the sittings of the House extended if necessary for another week.

seems to me that on the day this motion as proposed there were, as a matter of fact, fully 16 members present in favour of the motion when the adjournment as proposed; and the motion would have been carried on that day, for in addition to the whole of the members who voted on the Monday, there were present on that day Mr. Randall and myself, so that there would have been no difficulty whatever in carrying the motion if the Colonial Secretary had had sufficient courage to put it before the House. I have nothing else to say, except that the statement that I conferred with anyone is untrue. It is well known—and the Colonial Secretary knows this so—that during the whole of this session I have been of considerable assistance to the Government, but that assistance has always been given without conferring with anyone. It has been purely on my own initiative, and when I have opposed the Government I have opposed them because I have thought they were wrong; it is in the majority of cases I have supported them, because I have thought they were right in their actions. I do not expect any gratitude. I have only done what I conceived to be my duty this session, but it seems to me very unfair that a statement of this kind should be made in the paper. The Colonial Secretary will be able to say whether the statement emanated from him or not.

HON. V. HAMERSLEY (East): This is the first intimation I have had of any mention of an interview with the Colonial Secretary or that any public mention has been made of any conference that Mr. Patrick and I had in connection with the Land Tax Assessment Bill, as has been stated by Mr. Patrick. The whole thing to my mind is a fabrication. When the question of pairing cropped up, it was simply that Mr. Patrick mentioned how essential it was he should leave the City, and in the event of any vote being taken would I be good enough to pair with him. So far as any question of this kind arising, it was never mentioned between us. We happened to be together the evening previous to that arrangement, and I cannot call to mind

having mentioned the matter of the Land Tax Assessment Bill or the land tax proposals of the Government in any way whatever. There was no conspiracy on my part to attempt to pair with Mr. Patrick, and it was only at the last moment that it dawned on me, after we had made the arrangement, that Mr. Patrick would not be present on the following Monday, when another vote was likely to take place. And to show the House that there was no factious opposition on my part, and that as far as Mr. Patrick was concerned there was no special objection to that measure on his part, the Colonial Secretary was notified that we would not be present when that vote was taken, to give him an opportunity of adjourning any debate or vote he wished to take upon the measure. It rested entirely with him to adjourn the debate until the following day or the day after, when that pair was entered into. I regret very much to learn a statement of the kind has appeared in the public Press. There seems to me to have been no necessity for any such statement.

THE COLONIAL SECRETARY (Hon. J. D. Connolly): I certainly cannot congratulate Mr. Patrick on his courtesy. I have understood that if the adjournment of the House was to be moved, the Leader was generally made acquainted with the fact. I did not have the least inkling that the hon. member intended to move the adjournment of the House, nor had I seen this particular paper or paragraph until two minutes ago. I asked Mr. Patrick to see me. I have no recollection at all of making any statement to any paper. I am not in the habit of doing that. I might have spoken to some of the representatives of the Press in a general way. What I do remember saying was that Mr. Patrick had paired with Mr. Hamersley. I certainly did not say I did not know why Mr. Hamersley was absent, and I certainly never stated that he was spirited away because he was seen in conference with some members of the Opposition. By the way, I do not take the assertion in the paper as a statement by the Press that the Colonial Secretary said these

things. It simply says that he was seen—and then it makes a sort of general statement. It is not clearly set forth that I said it had taken place. However, would there be anything untruthful in saying that a certain member who was bitterly opposed to the Government made himself busy outside the House? The Press has stated that before.

HON. W. KINGSMILL: And it has been objected to.

THE COLONIAL SECRETARY: Certainly the hon. member objected to it, but I cannot help the Press saying these things. They have eyes and make use of them. I take very strong exception to Mr. Patrick's implying that I did not wish to carry the Assessment Bill. He states what he must know is not true, that there were 16 in favour—

MR. PATRICK: I ask that the statement that it was not true be withdrawn.

THE PRESIDENT: The hon. member will withdraw that.

THE COLONIAL SECRETARY: I will withdraw that. It was very strange to make a statement of this kind. It was only yesterday in this Chamber he asked me why the division was not taken on the Thursday. I then replied that Mr. Bellingham had to leave here before five o'clock, and it was not possible to take the division. The discussion was going on and he had to leave a little before five. I distinctly told that to Mr. Patrick, and I do not think there was any necessity for him to imply that I could have carried it if I had so desired. The House knows perfectly well that I would not miss an opportunity of putting the vote, if it were favourable. I did not put the vote because Mr. Bellingham had to go away. It was adjourned at his request until Monday. I do not know that I have anything more to say.

HON. W. KINGSMILL (Metropolitan-Suburban): Mr. Patrick has mentioned me in connection with this matter as being present when he interviewed the Colonial Secretary in the Corridor. What Mr. Patrick says is correct, subject of course to the interview which I am unaware of. I have felt a certain amount of curiosity since that statement appeared

—emanating as it seemed, though now we know it did not do so, from the Lead of this House—as to whether I was the hon. member referred to as a “we known opponent of the Bill.” If that be so, I beg to give the statement, from whomsoever it emanates, that I in any way influenced Mr. Patrick in leaving Perth in order to avoid that division, most unqualified denial. I have been wrongly accused throughout this debate of using influence towards members to get them to vote against this measure. I have not done so, except in regard to whatever influence I may have wielded from my place in the House. I have always, as the hon. gentleman knows, been an opponent of this measure, which I have looked upon as foolish, useless, and futile, and if it comes up again in the same form I will again be an opponent of it. But to say that I have used any undue influence or influence in any way outside this House with members to get them to vote against this Bill is, from whatever source it emanates, absolutely incorrect and untrue.

HON. E. M. CLARKE (South-West): I can only say that I was well aware, from a remark passed to me by Mr. Patrick, that he would not be here on the Monday. I am absolutely certain that took place. He remarked that he was bound to leave. That took place before this so-called conference with Mr. Kingsmill occurred. It was an open secret that Mr. Patrick could not be there on this particular occasion. I have nothing farther to say, only I do not think there was anything in this statement. I feel sure Mr. Patrick is a man who has his own opinion, and will act on that opinion without respect to anybody.

HON. G. RANDELL (Metropolitan): My name also has been included in the so-called report of an interview with the Colonial Secretary. I feel it is only due to myself to make some remark with reference to the action I did not take, that is that after having expressed my intention to support the reinstatement of the Bill I walked out. I cannot give all the reasons which induced me to do

my views on the matter, but this much I knew, that my vote would not have made any difference. I knew there would not be 16, even if I voted. One thing that influenced me was what I considered a very insulting remark in the leading article of the *West Australian*, that it was understood there were several who were repentant. I at once took strong exception to that remark, which I thought entirely uncalled for and insulting. The next thing is that I made no private promise. What passed between him and me might be construed into a promise by the Colonial Secretary, and I think perhaps he may be justified in holding that opinion; but in the interview I had with the Premier on the matter, I distinctly and without the slightest disguise informed the Premier that I could make no promise on the question.

HON. W. KINGSMILL: Was the hon. member approached by the Premier?

HON. G. RANDELL: The hon. member was seen by the Premier with regard to that Bill, and I certainly was inclined to support the reinstatement, because I felt sorry for the way in which the Bill was thrown out, and that was the principal reason I had. But there was another reason. I found that certain amendments in the Bill which I was desirous of obtaining would not be secured, if the reinstatement was carried. I do not say what would have happened if there had been 15 other members to vote in the House. I think it is probable that I should have voted so as to reinstate the Bill, but under the circumstances I felt it due to myself not to remain to vote. The only thing which I consider can be construed into a promise I made was what was said across the table of the House when you yourself I think were in the Chair—I am not quite sure about that—in which I expressed my intention to vote for the reinstatement of the Bill.

THE COLONIAL SECRETARY: Do you remember the conversation with me five minutes before I gave notice, in which you promised to support the reinstatement, but you made no promise as to what you would do afterwards?

HON. G. RANDELL: I do not know what I urged the hon. member, but I

suggested that he should go on with it, certainly. And there was no reason why he should not, because I think he was bound to make an effort on behalf of the Ministry to reinstate that Bill. However, I say I made no private promise, although I think the Colonial Secretary may have misunderstood me. I think that is very likely. The only thing that can be construed into a promise consists of the words spoken across the table before the whole Council. I think those are the reasons so far as I can explain them at the present moment which induced me to walk out and not vote upon the Bill.

HON. W. PATRICK (in reply): From what was said by the Colonial Secretary, I am not exactly clear whether he repudiated the authorship of this interview. I should like to satisfy myself as to whether he authorised a statement of this kind to be made, that I was won over.

HON. W. KINGSMILL: You were one less, not one over.

HON. W. PATRICK: If the Colonial Secretary has nothing to say in reply, I will say that my object in making the present motion was to draw attention to the newspaper statement. If it emanated from the Colonial Secretary, I am sorry for him; that is all I can say. Up to the time I entered this House, I had a clean record; and I feel very keenly anything that reflects upon my personal honour, and especially anything that would reduce the respect with which I expect to be treated by my fellow members in the Legislative Council. I think it is a monstrous thing that a statement of this kind should be made, practically meaning that one of the members of this House has been bought over for a specific purpose; and if it emanated from the Colonial Secretary the word "uncourteous" is not strong enough to characterise his action. I am not perfectly clear from what he said whether it did emanate from him or did not. He qualified the statement. He said he might have said this or might have said the other. He did not say distinctly that he did say it, and he did not say distinctly that he did

not say it. At any rate the statement has appeared in the public Press, it has gone broadcast over Western Australia, and I considered it my duty to give a distinct denial to the statement on the floor of this House. If there is one possession that any man should value more than anything else it is his personal honour. It was said by the greatest man who ever wrote or spoke in England, that a man's character was far above gold and rubies. I confess that when I read this I almost lost my head, I was so savage at such a statement having been made in reference to me, whilst all through the session I had scrupulously abstained from entering into an alliance. I assert boldly that no man in this room can say I have associated myself with any single member or any group of members, in order to oppose or to carry any measure in this House. If there has been any regular opposition in the House, whether I supported that opposition or whether I opposed it, the opposition is perfectly well aware that I never joined with it in a co-operative manner either to defeat or carry any measure during the present session. This matter having been brought before the House will, I trust, be made as public in the newspapers as the newspapers were good enough to make public the untrue statements of which I complain. I beg leave to withdraw the motion for adjournment.

Motion by leave withdrawn.

QUESTION—RAILWAY SUNDAY EXPRESS TO GOLDFIELDS.

HON T. F. O. BRIMAGE asked the Colonial Secretary: 1, Will the Government run a train on Sunday evenings to the Eastern Goldfields for a period of two months, if guaranteed against loss? 2, Is the Government aware that it is depriving business men and others of the opportunity of a run to the coast during the hot weather? 3, Is it a fact that the trains are crowded every day at the present season? 4, Is not a daily service warranted during the Christmas holidays?

The COLONIAL SECRETARY replied: 1, It will be impossible to ascertain what

loss the additional train would entail, and passengers may travel by the Sunday night's train in preference to the regular trains, and no increase in revenue will result, as one train would rob the business of the other. 2, No. 3, No. Sufficient accommodation is provided for traffic offering. 4, No, but if found required, the Commissioner would take the necessary action.

QUESTION—MEDICAL REFEREES, WORKERS' COMPENSATION ACT.

HON. J. M. DREW asked the Colonial Secretary: 1, Has the British Medical Association interfered in the matter of the appointment of medical referees under the Workers' Compensation Act? 2, Have the present occupants of the position given any cause for dissatisfaction? 3, Does the hon. the Colonial Secretary consider it advisable to duplicate an appointment which is essentially that of an arbitrator whose services are only invoked when there is a difference between medical experts? 4, If the answer to the first question is "yes," has the hon. the Colonial Secretary protested in any way against the interference of a foreign medical institution in what is purely a matter for Ministerial administration.

THE COLONIAL SECRETARY replied: 1, No. 2, Not to the knowledge of the Minister controlling the Act. 3, The Act does not limit the number of referees to be appointed by Governor-in-Council in any locality. The Minister intends to recommend an increased number, and to fill vacancies caused by appointees leaving the State and district. 4, See answer to question 1.

BILL—MINES REGULATION.

Read a third time, and *passed*.

BILL—DIVIDEND DUTY ACT AMENDMENT.

Received from the Legislative Assembly and read a first time.

BILL—CRIMINAL CODE AMENDMENT.

SECOND READING.

THE COLONIAL SECRETARY (Hon. J. D. Connolly) in moving the second reading said: As members will see, this is only a short amendment of the Criminal Code Act 1902. Most of the clauses are machinery provisions, and some are only to supply missing words. The most important clause is No. 5, the subject-matter of which forms the reason for introducing the Bill. Clause 2 seeks to amend Section 20 of the principal Act. When a person undergoing sentence is convicted of another offence, involving deprivation of liberty, the clause will provide that the sentence shall take effect either concurrently or cumulatively. The third paragraph of the clause will enact as law what is already the practice of the courts. If a prisoner raises a point of law before sentence he is entitled to demand of the Judge that a case shall be stated for the Court of Appeal; but should the prisoner raise the point of law after sentence, it is optional with the Judge to state the case. Clause 3 has been transposed into the Evidence Bill recently passed, and therefore is not necessary here. Clause 4 amends the law relating to marriages. Any clergyman unlawfully celebrating a marriage is now liable to punishment. Sometimes a clergyman may commit a breach of the Marriage Act, not wilfully but through ignorance; and in such case he is to go harmless, as the clause will insert the words "knowingly and wilfully" before "celebrates." Clause 4 is designed to prevent the recurrence of such mining scandals as were rife some years ago. I refer to the scandals investigated by a Royal Commission of which the Hon. R. D. McKenzie was chairman, connected with the Boulder Deep Levels and Boulder Perseverance Gold Mines. False statements were published about the two mines, to the effect that a large quantity of ore of great value existed in them. The effect was to appreciate the shares in the market. It was afterwards proved conclusively that the value of the ore had been overstated by hundreds of thousands of pounds; so the shares, instead of being worth 30s. to £2, were in reality

worth only a few shillings. The clause will make it a criminal offence for the manager or other mine official to publish false information regarding a property. This clause is taken from the Californian law. The American Mining Conference which met in October last at Denver decided that "to hinder these frauds and to suppress them, so that the widow and orphan and the simple and the greedy may be protected," legislation similar to this should be enacted. The Government of this State promised to introduce a provision similar to this; and members will perceive how necessary it is to make mining just as clean as any other business. We should remove from it the gambling element, and make it as much a business enterprise as any other calling. The Mines Regulation Bill provides, if indeed this were not law before, that anyone pecuniarily interested in a mine may ascertain exactly what quantity and value of stone has been won. There is no reason why this should not be law. What would be said of a trading company which published a statement that it had 20 ships, or 20 locomotives, thus increasing the value of its shares, whereas it had actually only five instead of 20? There would be nothing to prevent anyone from ascertaining whether those ships or locomotives existed; and if not, the guilty persons would be liable to criminal prosecution. The clause provides that if the manager or other official issues false information about a mine, about the quantity or the value of the ore, he is criminally liable. So he ought to be. Inducing the public to buy shares at ten times their value is nothing less than robbery, and this provision will do much to restore confidence in our mines, and to put mining on a better footing. This is the principal reason for the Bill. Most of the other amendments were inserted to supply omissions from the existing Act, and to correct some errors. Clause 6 penalises false statements relating to the registration of births, deaths, and marriages. Clause 7 corrects a slight misprint, a word out of place. Clauses 8 and 9 are for the same purpose. Clauses 10 and 11 set forth the present practice of the courts, which practice it is desirable

to legalise formally. Clause 12 is in accordance with the Federal Judicature Act, and is a desirable amendment. Clause 13 corrects a misprint, and Clause 14 inserts in Section 710 of the principal Act the words, "Solicitor General or the" before "Crown Solicitor." There is not at the present time in this State any gentleman bearing the title of Crown Solicitor; hence the necessity for this amendment. If any other clause needs farther explanation, I shall be pleased to give it in Committee. I move that the Bill be now read a second time.

HON. T. F. O. BRIMAGE (North-East): I welcome this measure, which is certainly a step that should have been taken long ago. Undoubtedly there has been a good deal of swindling in the way of bolstering up ore reserves in mines; and in the past, as most of the directors of our mining companies live outside the State, we have never had an opportunity of prosecuting them or compelling them to publish true information. With regard to the mines which the Colonial Secretary cited, a statement was made in London by the general manager of the Boulder Perseverance that it had 450,000 tons of ore reserves in sight; yet some three or four months subsequently the mine was re-examined by one of Bewick, Moreing's experts, and less than half that quantity was found. It only goes to show that a measure of this kind is certainly necessary. These shares were something like 26s. or 27s., and when the true information was known there was a tremendous slump in them to 10s.; consequently the investing public, not only in Australia but in London and elsewhere, suffered severely, and it gave the country a bad name. We have never recovered from that serious slump. It was a hard knock to the country from a mining standpoint. I am therefore pleased that the Government should bring in a measure to make it punishable for a man to give false reports about ore reserves. The public should get the information not only once a year as now, but monthly, or on application to the mine's office, as to the value of the mine; because no doubt

in a thoroughly equipped mine the value is known from month to month. The British investors get the information once a year, and the colonial investors about six or eight weeks after the British investors get it. In that respect we are all behind in Australia. It is wrong that the colonial investors should not have more up-to-date information than they get at present. I have much pleasure in supporting the second reading.

HON. M. L. MOSS (West): It is a matter of considerable moment to deal with the Criminal Code, and we have a good cause to complain that a Bill of this magnitude should come down on the second-last day of the session, when Standing Orders are suspended and no opportunity is given to the House to examine the measure. It has been impossible, during the long hours the House has been sitting on the last few days and with the other duties one has to perform, to give the attention to important measures that they reasonably demand. This Bill was read for the first time in another place on the 21st November, and it got down here yesterday. I shall not express any opinion on the question raised by Clause 5. I have no sympathy at all with people who use the market as a vehicle for fraud, and for entrapping people into the purchase of shares that acquire a false value through misleading reports. If this legislation is going to punish those evil-doers and prevent a repetition of what members have spoken of, it should be heartily welcomed; but I do not know whether the clause will do all that it is said it will do. I believe it is a copy of California legislation, and that the legislation there is drafted so badly that the clause had to be considerably altered. I believe it still needs alteration, but I am not going to take the trouble to recast it. I merely hope that it will be productive of what that members have said it will do. I have risen more with the object of drawing attention to Clause 11 which repeals Section 667 of the Criminal Code. That section was passed to give every prisoner charged with a criminal offence, provided he or his counsel, before the verdict, called upon the Judge to reserve a point

law, the absolute right to go to the Full Court to get an expression from three or more Judges upon the judgment, whether there was sufficient to sustain a verdict of guilty against him. The law with regard to criminal appeals is in a very barbaric condition in most places within the King's dominions. So barbaric has it been as to cause such a revulsion of feeling in Great Britain at the treatment meted out to that man Adolph Beck. Until the passing of the Criminal Code and that dreadful scandal in England in connection with Beck's case, it was optional on a Judge of the Supreme Court sitting in criminal jurisdiction to decline to state any point of law for the opinion of a superior Court. If five shillings were in dispute in a civil court it was open to litigants to go to the Full Court of the country and obtain an expression of opinion on the law points, and in fact, in the Local Court procedure, an absolutely new trial on questions that arose relating to that civil dispute; but where the rights and liberties of the subject were concerned, and where terrific pecuniary penalties might be imposed on the subject, there was absolutely no right of appeal; it was a purely discretionary matter on the Judge whether he would reserve any point of law for the Full Court. In England they dealt with the matter on the footing I believe as is contained in Clause 11. When we passed the Criminal Code in 1901, however, we enacted a provision thus:—

When any prisoner is indicted for any indictable offence, the court before which he is tried must, on the application of counsel for the accused person made before verdict, and may in its discretion either before or after judgment, without such application, reserve any question of law which arises on the trial for the consideration of the Supreme Court.

The judges of the Supreme Court up to date have considered that in every case where counsel alleges that a point of law arises, they should reserve the question for the Full Court.

THE COLONIAL SECRETARY: No matter how frivolous.

HON. M. L. MOSS: Of course, I at once admit that there were numbers of

absurdly frivolous cases that went before the Full Court, and which the Full Court disposed of in a very few minutes; but I do not consider that comes into this question at all. It does not matter how frivolous fifty of them are as long as one case is reserved and the person who, according to the law of the country, has committed no offence has the right to go and get an expression of opinion from our highest Court. I pause to make this statement as a very strong illustration of what I am driving at. In a case where six or seven persons were charged with a capital offence—I am speaking of the Smith's Mill murder case—the learned Judge before whom these people were tried said that no point of law arose, but he reserved the case; and although six or seven people were sentenced to death, in the case of six of them the Full Court said there was not any evidence at all against them, and that it should not have gone to the jury. It is now sought to alter Section 667 because Mr. Justice Rooth has decided that it is for the Judge presiding in the Criminal Court to say whether a point of law does arise. Therefore, what Parliament did when it passed the Criminal Code, saying that the Judge must reserve the point of law, is useless, and we are in just the same position as before the Code was passed, and when a Judge makes a statement that there is no point of law arises there is no machinery to compel him to reserve the point and state a case for the Full Court. Now, Clause 11 is put into this Bill to enable an application to be made for the stating of a case, and if the Judge declines to state a case the accused or his counsel may go on notice to the Full Court and get an order compelling the Judge to reserve the point of law for the Full Court, if the Full Court comes to the conclusion that a point of law is involved. Where I think Clause 11 is defective is that there seems to be nothing here to say when the Full Court shall sit. There is nothing in the clause to say that if the prisoner or his counsel intimates his intention to go to the Full Court to compel the Judge to state a case, the prisoner must not suffer imprisonment.

THE COLONIAL SECRETARY: But the prisoner would always be allowed out on bail.

HON. M. L. MOSS: I do not know. I know that when a Judge says that no point of law arises, and that he will not state a case, he passes sentence and the man is convicted: and so far as I know, there is no prison regulation, though he is going to the Full Court under the provisions of this Clause, to prevent his being put into a prison cell, and clothed in prison clothes, and having his beard shaved off and being submitted to all the indignities to which a prisoner is subjected. I do not think the clause goes far enough. It strikes me that there should be some provision that the Full Court should sit within a certain time, and that, pending the sitting of the Supreme Court, the prisoner should be treated as one awaiting trial.

HON. J. W. HACKETT: Then you would have plenty of appeals.

HON. M. L. MOSS: I would rather permit an appeal in half a dozen cases than see one innocent person suffer. I could give scores of illustrations. Supposing a person were convicted of murder and the principal evidence was the dying depositions of the person murdered: supposing a statement were made by the person at the time he anticipated that he would die, this statement, made under fear of pending dissolution, is evidence against the accused person, and it might be admitted against the prisoner, but something may have taken place at the time the depositions were admitted which, on its being submitted to the consideration of three other Judges, might cause them to say the evidence was wrongly admitted. That is not the only illustration. I think that until he can get to the Full Court with the object of having this question decided, the prisoner under conviction should have the same rights, and not be submitted to any greater indignity at any rate than a person awaiting trial. He should either be remanded in custody or allowed out on bail, as is the case with a prisoner under committal. But in Clause 11 the position is that he is a convicted person. He is bound to be taken into custody, clothed with prison clothing,

and probably subjected to every one of the indignities that a convicted prisoner bound to undergo. I think Clause 11 very ill-considered, and I think it a great pity that a measure of this kind should be brought down at the last hour of the session. Even had I felt inclined in the circumstance to endeavour to make the clause a little better than it is, I do not profess to be able with the time at my disposal to give proper consideration to it. I merely rose, not with the object of opposing the second reading, because I shall vote for it, and I shall vote for Clause 11 to go through, but I rose with the object of pointing out that we are repealing Section 667 and substituting for it what in my opinion does not improve the position of affairs. There should be some legislation enactment compelling the Full Court to sit within six or seven days to deal with these criminal appeals and there should assuredly be all the necessary provisions in the clause to entitle a convicted person to be treated as a person under committal, and not as a convicted prisoner until the point of law is decided.

THE COLONIAL SECRETARY (in reply): I did not intend to take the Bill into Committee now, but at a later hour of to-day, because a matter has cropped up of considerable importance. We hear to-day that kangaroo trappers in different parts of the State have gone the length of getting cyanide and poisoning the water wells in order to poison kangaroos. This is a serious state of affairs, because not only might stock drink the water, but human beings might do it unknowingly. Unfortunately there is no law on the statute-book to effectively deal with such acts.

HON. M. L. MOSS: Surely that cannot be so.

THE COLONIAL SECRETARY: The Crown law authorities think it is. Some clauses are now being drafted which luckily will come before us and can be added to the Bill. I do not think members need fear the objections raised by Mr. Moss. He must know of course that he is setting up rather a strained case. Such things are possible, but we should

not look at an extreme case. If a prisoner asked a Judge to state a case for the Full Court, and the Judge refused, and if the prisoner had to apply by affidavit to have a case stated, is it likely the Judge would refuse to give him bail if there was anything in the point at all?

HON. M. L. MOSS: You cannot give bail to a convicted prisoner. Do you not know that?

THE COLONIAL SECRETARY: I will put it in another way. He certainly would not refuse it, if there was anything in the point.

HON. M. L. MOSS: Your provision is only when he refuses to state a case. It is when he refuses to state a case that a higher tribunal can compel him to do so. A Judge would say "This man is convicted; he must go to gaol."

THE COLONIAL SECRETARY: It would naturally lead to numerous frivolous objections. We should have a prisoner asking that a case should be stated in order that he might be able to be out of gaol, when he ought to be in it. What is suggested is quite possible, as lots of things are possible under different Acts, but is it probable? I do not know that I need add anything farther. I can give members additional information in Committee.

Question put and passed.

Bill read a second time.

At a later stage of the sitting the Bill was farther considered—

IN COMMITTEE.

Clauses 1 to 17—agreed to.

HON. G. RANDELL: In relation to a Bill of this description, coming at a period so late that it was impossible for members to look up the original Act, it was desirable that the marginal notes should be inserted with greater fulness so that members might follow the legislation proposed. At present we were taking the Bill entirely on trust from another place.

New Clause:

THE COLONIAL SECRETARY moved that the following be added as Clause 4:—"The fourth paragraph of Section 187 of the Code is repealed."

This was consequential on an amendment made in the Evidence Bill. In regard to the remarks by Mr. Randell, the Bill did not involve any new principle. It was necessary to bring it down, even though late, for enacting Clause 5 dealing with mining companies, and for a new clause relating to poisoning.

Question passed, the clause added.

New Clause—Poisoning Waterholes:

THE COLONIAL SECRETARY moved that the following be added as Clause 5:—

A new section is inserted in the Code, as follows:—207. Any person who—(a.) Without lawful justification or excuse places in any waterhole or other place containing water of which he is the owner or lawful occupier, or (b.) without the leave of the Minister for Lands first had and obtained, places in any waterhole or other place containing water situated on unoccupied Crown land; or (c.) places in any waterhole or other place containing water on any private land of which such person is not the owner or lawful occupier—any poisonous or noxious matter in any quantity sufficient to render such water unfit for human consumption, or unfit for consumption by cattle, horses, camels, sheep, or other animals, is guilty of a misdemeanour and liable to imprisonment with hard labour for two years; or he may be summarily convicted before two justices, in which case he is liable to imprisonment with hard labour for six months. On any prosecution under this section the onus lies on the accused person to prove all averments of fact negatived in the complaint or indictment.

This clause was particularly needed in respect of what had taken place lately. Some kangaroo shooters in different parts of the country had seen fit to procure a quantity of cyanide and poison the waterholes. This was a very serious thing. Not only might sheep and cattle drink this water, but human beings might do so.

HON. V. HAMERSLEY: Had the fact been taken into consideration that people might find it necessary to poison water in some instances through the incursion of rabbits? It would probably be on Crown lands.

THE COLONIAL SECRETARY: The consent of the Minister was necessary.

Question passed, the new clause added.

Title—agreed to.

Bill reported with amendments; the report adopted.

BUSINESS TO BE DEALT WITH— PROROGATION.

HON. J. W. HACKETT (South-West): Would the Colonial Secretary make a statement about the business, and as to the prospect of prorogation?

THE COLONIAL SECRETARY had intended to make a statement later in relation to prorogation.

HON. J. W. HACKETT: Could not the hon. gentleman do it now?

THE COLONIAL SECRETARY: There was an amendment to the Dividend Duty Act, a short amending measure, and he did not think there would be any objection raised to it; the Evidence Bill was to be dealt with, in regard to which there was a little amendment; also there was the Harbour Trust Bill, which was not now a debatable matter, as all the borrowing clauses had been struck out; the object of this measure being simply to amend the existing provisions to make them workable and give the Harbour Trust powers for handling cargo. He did not know that any other business would come down to-day.

HON. J. W. HACKETT: What about prorogation?

THE COLONIAL SECRETARY: We should probably prorogue to-morrow. He might be able to make a definite announcement later in the sitting.

BILL—EVIDENCE.

COUNCIL'S AMENDMENT.

One amendment made by the Legislative Council and disagreed to by the Legislative Assembly was now farther considered in Committee.

No. 19—First Schedule, third column, after "Chapter 64" insert "the seventh paragraph of Section 185, the fourth paragraph of Section 187":

THE COLONIAL SECRETARY: When these matters were included in the schedule, it was not intended to bring in this amendment of the Criminal Code. He moved, that the Council's amendment be not insisted on.

Question passed, the Council's amendment not insisted on.

Resolution reported; the report adopted.

BILL—DIVIDEND DUTY ACT AMENDMENT.

SECOND READING.

THE COLONIAL SECRETARY (Hon. J. D. Connolly) in moving the second reading said: As members will see, this is a very small Bill. It is simply to amend and put right some very necessary provisions in the principal Act. The present position in regard to the duty on dividends under the Dividend Duty Act of 1902, is that companies in Western Australia pay on dividends, whilst those trading elsewhere than Western Australia pay on profits earned; that is to say, if a company other than a Western Australian company makes a profit, it has to pay a duty on that profit whether it distributes the profit in the way of a dividend or not. It may sometimes buy farther stock or property with the money. If a company has a head office outside Western Australia that does not constitute it a company doing business elsewhere. Under the original Act, therefore, most of the mining companies, though having their head offices elsewhere than in Western Australia, are not constituted as companies trading other than in Western Australia. The object of introducing the Bill is to amend certain mistakes in the present Act. The Treasurer, after this Act was passed, found some considerable difficulty in collecting duty from interstate shipping companies. It was found very hard, almost impossible to compel them to say what profits were made elsewhere. However, when Mr. Gardiner was Treasurer an agreement was arrived at that these companies should pay $2\frac{1}{2}$ per cent. on an estimated profit of five per cent. on the gross earnings. This basis was found not to work satisfactorily, because certain of these companies had also a trading business in the way of coal. They made a profit on their shipping business, but seemingly made a loss on their coal trade; and so there was really no duty or very little that we were able to collect from them. The $2\frac{1}{2}$ percentage is found to be on too low a basis; therefore we propose to raise it. Since the passing of the Dividend Duty Act, the interstate shipping companies have done business to the extent of no

less than £3,712,101 and made a profit of £17,540, yet only £5,109 has been collected from the 11th July 1899 to the 30th June 1906. Members will readily perceive that something must be amiss, seeing that so little dividend duty has been paid by these companies. Another amendment in the measure is to compel breweries and other companies to pay dividend duty.

HON. J. W. HACKETT: Have you done with shipping companies?

THE COLONIAL SECRETARY: I have a lot of figures here in connection with them which I will give later on. I have some particulars about the agreements proposed to be entered into.

HON. G. RANDELL: Have you explained Clause 4?

THE COLONIAL SECRETARY: That is the clause I am touching on.

HON. G. RANDELL: I wanted to ask what five per cent. means.

THE COLONIAL SECRETARY: It is both the inward and outward traffic, including passenger fares; and five per cent. is to be on their gross takings.

HON. G. RANDELL: It is five per cent. duty on five per cent. profit?

THE COLONIAL SECRETARY: It has been $2\frac{1}{2}$ per cent. duty on 5 per cent. estimated profit; and now we raise it from $2\frac{1}{2}$ to 5.

HON. J. W. HACKETT: Will the agreement referred to be a public agreement?

THE COLONIAL SECRETARY: I should say so.

HON. J. W. HACKETT: Open to anybody to inspect?

THE COLONIAL SECRETARY: Do you mean published in the newspapers?

HON. M. L. MOSS: This form of legislation is unexampled in the world.

THE COLONIAL SECRETARY: So far as I know there is certainly no need to keep the agreements a secret. Mr. Moss interjects that this legislation is unexampled. No doubt the hon. member knows much of shipping companies, and I shall listen patiently to what he has to say on the Bill. But this amending Bill has been asked for, and is badly needed. It is admitted that the shipping companies have not been paying the proper dividend duties, and this is the only means

of compelling them to pay. The Bill was passed almost unanimously in the other House. Another feature of the measure is a clause to compel brewery and other companies to pay dividend duty. For some reason unknown to me, brewery companies and others paying excise duty were in the principal Act exempted from dividend duty. Why should such companies be exempt when the publican who pays a license fee is not exempt? I do not think any objection can be raised to the proposal of the Bill which will compel brewery companies who pay excise duty to pay the same dividend on their profits as is paid by any other company.

HON. M. L. MOSS (West): This Bill, as I interjected just now, is I think unexampled in the House for a considerable period, and I shall be able to show in a brief space the position in which the Government are about to land the country and some of the best organisations we have carrying on business in this State. I refer to life assurance companies. This Bill will operate not only to their detriment but to the detriment of all the local policy-holders. It is inconceivable to me why a Bill of this magnitude and importance should be left to the last hours of the session, in so thin a House, though the Bill has received practically no consideration in another place, the members of which, I venture to say, did not know for what they were voting. I will show the country presently where it is proposed to put the life assurance companies.

THE COLONIAL SECRETARY: I thought the Bill was to deal with shipping companies.

HON. M. L. MOSS: It is bad for the hon. member to think or to imagine that he can read my thoughts.

THE PRESIDENT: I think the Minister had better not interrupt.

HON. M. L. MOSS: I will show where some of those useful and necessary organisations will be landed by such legislation. In the parent Act the word "company" was defined to include every incorporated company or association, but to exclude every friendly society, every life assurance company, and every brewery or other company paying duties of excise. I quite

agree that a brewery company should pay the dividend duty. I now perceive I am in error with regard to life assurance companies. I find they are exempt. This shows that when a measure is brought in and practically no time is given for its consideration, a member can easily and legitimately fall into a trap. If life assurance companies had been excluded from the exemption contained in Section 2, the A.M.P. Society and all similar companies would have been compelled to pay dividend duty on their profits in Western Australia. I am glad to see that is not proposed. The Bill will make liable to the duty any brewery or other company contributing to the excise. The next feature that strikes me as unexampled in the history of legislation is Clause 4, which enables the Minister, not the "Governor" which means the Executive Council, to enter into agreements with shipping or other companies carrying on any business to which the provisions of the clause cannot be conveniently applied—for the assessment of profits, and to accept a dividend duty on such basis as may be mutually agreed on. In plain English, that means the Treasurer may make private agreements with shipping companies, and may fix the amount of duty they shall pay. He can, therefore, make an agreement on one basis with one company and on a different basis with another company, thus imposing differential duties on companies. I say that is absolutely unexampled, for this reason. Did any member ever hear of a stamp duty being assessed differently on different persons or companies? Did any member hear of Customs duties being imposed at one rate on one member of the community and at a different rate, by private agreement, on another member? Yet this is what the clause will enable the Treasurer to do. Again, regarding Subclause 5 of Clause 4, I ask, what is a shipping company? The subclause enables the Minister to enter into agreements with the shipping companies and other companies. Nearly every mercantile company, in setting forth its proposed objects in its memorandum of association filed at the Supreme Court, empowers the

directors to buy and sell merchandise and to do all those acts which private individuals may do in business: empowers the company to charter and own ships, to carry goods for freight, and to carry passengers on payment of passage fares. When we use the words "shipping company," that is not a generic term confined to any kind of company. The phrase does not necessarily comprehend only such companies as compose what is known as the Interstate Shipping Combine, or the line of ships running from Fremantle to Singapore. And when we are dealing with shipping companies, how about the cargo tramp, particularly the cargo tramp entered on a German registry of shipping, a tramp which is largely subsidised by the German Government. Will the clause catch that class of corporation? I venture to think it will do nothing of the kind; and when we use the words "shipping company" I think we are most assuredly including nearly every mercantile concern like the firm of J. & D. Fowler, Fremantle. That company has to my knowledge in its memorandum of association as extensive powers to carry on shipping business as the Adelaide Steamship Company.

HON. J. W. HACKERT: The words make the clause more comprehensive and that is right.

HON. M. L. MOSS: Is it right, in view of the fact that it enables the Treasurer to say to such companies, "You shall not pay five per cent. as in the past; I will let you off for three per cent.?" I think the hon. member will admit that can be done. In the case of a grocery company having power to charter or to own vessels, the Treasurer may say, "Though you are bound to pay five per cent., you have shown me good ground for accepting three per cent." I think this clause can be improved. Once a tax is imposed, no interest in the country should be exempt from bearing its just burden. That was my complaint about the land tax. If we have a dividend duty, every company ought to pay. Is there any reason why because Google Durrant & Company in this city have availed themselves of limited liability and are therefore subject to the tax, a firm like

Sargool's competing with that company should escape because it is not incorporated! That, I admit, opens up a wide question; but I think we can make this clause much better than it is, and before I assent to it we shall have to make it better. The Treasurer should not have the power given by the clause. That power should vest in the Executive Council. Secondly, before any such agreement is entered into, the Minister or the Executive should notify in the *Government Gazette* the intention to treat with a particular company or companies under the provisions of this new clause, so that the public may have an opportunity of saying, "We have by statute indicated that everybody shall pay five per cent. Here is a proposal to put some companies on a different basis." That intention should be advertised in the *Government Gazette* a month beforehand—the intention of the Governor to enter into an agreement with particular companies, pursuant to this clause.

HON. G. RANDALL: The agreement should be submitted to Parliament.

HON. M. L. MOSS: It should after be laid on the table of the House. We are dealing with a taxation proposal, a proposal that one section of the community shall be taxed on five per cent. of its dividends, if it be a local company, or five per cent. of its profits if it be a foreign company; and we are providing that shipping companies, or other companies carrying on any business to which the provisions of the Bill cannot conveniently be applied, may be taxed at the discretion of the Minister, the Executive Council, or Cabinet. If we are to have differential duties, it must be obvious to all members that full publicity should be given before such duties are imposed. I make this statement with all the knowledge I possess of legislation in this country and elsewhere, that I do not think I have met with a case parallel to Clause 4, which I am now discussing. Undoubtedly such extensive power should be exercised by the Government only, and not by a single Minister, and then after at least a month's publicity in the *Government Gazette*; and the agreement should be laid on the table of the House, so that at

the first opportunity it may be treated exactly in the same manner as regulations under the Interpretation Act. I am glad to know that life assurance companies are not to be taxed. I see Subsection (b) of Section 2 remains intact. Unless we have a promise from the Minister that Clause 4 of the Bill will be remodelled on the lines I have indicated, later on I shall do my best to prevent the Bill from passing.

THE COLONIAL SECRETARY (in reply): It is rather amusing to hear the hon. member tell of the awful things that are to happen to shipping companies and fire and life assurance societies, and then two minutes after to say that the Bill does not apply to life insurance companies. The hon. member said an awful disaster will occur to shipping companies if they have to pay a dividend duty which they are lawfully entitled to pay; and then he said after all the Bill contains only the machinery to be applied in obtaining the duty which a company is justly entitled to pay.

HON. M. L. MOSS: I wish to explain that I with a good deal of force said that shipping companies and other companies should pay their just dues. I did not say that shipping companies should escape the burden, but that everybody should pay.

THE COLONIAL SECRETARY: There can be no objection why the agreement should not be published. I may say it was intended that it should be. If the Committee think it desirable that arrangements should be made with the Governor-in-Council and not with the Minister, I cannot see any objection to such amendment. That is the sole objection after all.

HON. M. L. MOSS: And the publication in the *Gazette*.

THE COLONIAL SECRETARY: That was the only objection raised by the hon. member.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2, and 3—agreed to.

Clause 4.—Amendment of Section 7:

HON. M. L. MOSS: What did the Minister propose to do?

THE COLONIAL SECRETARY: This was a most peculiar attitude for the member to take up. If the member wished to move an amendment, it would receive the consideration of the Committee. The only amendments which the hon. member spoke about and which he (the Minister) thought necessary were as to the publication of the agreement, and that the word "Governor" should be inserted in place of "Minister."

HON. M. L. MOSS: Would the Minister make the necessary amendments in view of the objection taken?

HON. J. W. HACKETT moved an amendment—

That in line 3 of Clause 4 the word "Minister" be struck out and "Governor" inserted in lieu.

Amendment passed.

HON. M. L. MOSS moved an amendment—

That in Subclause 5 the following be inserted: "Provided that no such agreement shall be entered into until one month's notice of intention to do so has been published in the *Government Gazette*."

THE COLONIAL SECRETARY: There was no objection to the amendment. It would perhaps be better if the amendment read that after the agreement had been entered into it should be published. A similar provision existed in the Land Act as to granting firewood tramways.

HON. M. L. MOSS: Once the agreement appeared in the *Government Gazette* it was open to the public to discuss the question, which might be productive of good.

Amendment passed; the clause as amended agreed to.

Clause 5—Balance-sheet when no dividend declared:

HON. F. CONNOR: This was legislation that did not appeal to the principles of commercial morality. Certain people could evade the tax. Because some people formed themselves into a joint-stock company they were liable to pay the tax, while a private firm trading in the same line of business would not have to pay the tax.

THE COLONIAL SECRETARY: It seemed rather hard that a private firm

could escape while a registered company had to pay dividend duty; but if we went beyond companies to firms and individuals, it would be a question of income tax.

Clause put and passed.

Bill reported with amendments, the report adopted, and leave given to sit again on receipt of message from the Assembly.

BILL—FREMANTLE HARBOUR TRUST ACT AMENDMENT.

Received from the Legislative Assembly, and read a first time.

SECOND READING.

THE COLONIAL SECRETARY (Hon. J. D. Connolly) in moving the second reading said: In this Bill members will recognise a measure that has been before the House previously. Certainly all those clauses to which some members then took exception, as giving power to the Trust to borrow money on the security of the harbour works, have been eliminated from the Bill; and it is now intended purely to make the present Act more workable. I will explain briefly what is intended to be enacted. Clause 2 provides that the Trust shall make a yearly balance instead of half-yearly; that is to say, instead of going to the expense of issuing and printing a report each half-year as is now done, they will only be required to make a yearly report.

HON. G. RANDELL: Does the Auditor General approve?

THE COLONIAL SECRETARY: The Auditor General asked for it. It will save a considerable expense. This year the printing of the report cost £46, and all that is necessary can be embodied in the yearly report. The Trust will of course continue to make the monthly or weekly balance of the books. Clause 3 amends Section 25 of the principal Act, and empowers the Commissioners to construct certain defined works out of revenue. A proviso was added to this in another place as follows:—"Provided also that the total cost of any one of the undertakings shall not exceed two thousand pounds." To this I propose to add

these farther words, "by the Commissioners." This is necessary, because if these words be not added, the Government will be prevented from carrying out any contract costing more than £2,000. Clause 4 repeals Section 26 of the principal Act, and reenacts it with some slight amendments. Clause 7 is merely a machinery clause which enables the Trust to take Lloyd's measurement for any vessel, if deemed fit instead of going to the expense of measuring the vessel for themselves. Clause 8 gives power to the Trust to strike a harbour improvement rate. They have at present the power to strike certain rates, and this clause merely gives the power to strike a special rate for what is called in all other ports a harbour improvement rate. Clause 9 provides for the creation of a fund for the replacement of depreciating property, and I think members will agree this is very necessary, because if boats and other articles which are easily worn out have to be bought outright each time, that adds to the cost while at the same time the Trust will have no more property at the end of a given term than they had at the beginning. The intention is that they shall pay £100 or £200 each year into the replacement fund, and as boats and such like are required the money will be available out of that fund. Clause 11 is a machinery clause inserted at the request of the Auditor General to provide for a proper balance-sheet, as the clauses in the present Act are somewhat defective. Clauses 13 and 14 are also machinery clauses connected with the audit and have been suggested by the Auditor General. Clause 15 is a slight amendment of Section 60 of the principal Act, which is the Section under which the Trust make by-laws. This clause gives the Trust additional powers in this regard. For instance, at the present time the Trust have no legal right in the matter of handling cargo, though they have been doing very successfully, to suit the convenience of consignors. Legally they are going outside their powers in doing that, and the object of this clause is to give the Trust power to make by-laws to enable them to do this legally. Clause 17 gives power to the

different municipalities at Fremantle to make by-laws covering the whole of the harbour. At the present time the driver of a cab licensed to ply for hire by the Fremantle Council may, once he gets beyond the municipal boundary and into the area controlled by the Trust, act just as he pleases; he is beyond the municipal boundary and is not subject to control by the Trust. This clause will give the different municipalities the right of supervision in such matters. Those are, briefly, the features of the Bill, and I now beg to move the second reading.

Question put and passed.

Bill read a second time.

IN COMMITTEE.

Clauses 1, 2—agreed to.

Clause 3—Harbour Extensions:

On motion by the COLONIAL SECRETARY, in line 14, after "undertakings," the words "by the Commissioners" were inserted.

Clause as amended agreed to.

Clause 4—Roadways and approaches:

HON. G. RANDELL: Would this entirely relieve the Commissioners from liability for any accident that might occur on the wharf through their fault?

HON. M. L. MOSS would, with the Minister's sanction, explain the point, as he was acquainted with the subject. Under the existing Act, a serious responsibility was placed on the Trust in that wharves, docks, piers, etcetera, had to be well and sufficiently lighted. Thus far the wording of the clause was identical with that of the principal Act, but in the clause the following words were added, "but a breach of the duty imposed by this subsection shall not confer a right of action on a person who may suffer damage therefrom." The reason for the insertion of the words was a recent action against the Trust in which it was ruled that as a condition rested on the Commissioners to light the wharves, they were liable. No wharf in the world was better lighted than the Fremantle wharf, but juries were usually sympathetic and only required a pretext in order to bring in a verdict against the Government or public body. The cost in the case referred to amounted to between £1,600 and £1,800;

and, knowing that the wharves were so well lighted, Parliament should not render it possible for action to be brought against the Trust. The only alternative to the passing of the subclause was that the Trust would shut up the wharves at night.

Clause put and passed.

Clauses 5 to end—agreed to.

Title :

HON. G. RANDELL: In consideration of the greater work which would be entailed on the chairman of the Harbour Trust Commissioners, had the Government considered the desirability of the chairman remaining a member of Parliament?

THE COLONIAL SECRETARY: The matter had not been considered in that aspect, but the passing of the measure would not entail much more work on the chairman. The country was under a debt of gratitude to the present chairman for the great amount of work he had done, but there was no reason to suppose that it would be too much for a member of Parliament to do.

HON. M. L. MOSS: The State made a very good bargain in securing Captain Laurie as chairman of the Harbour Trust Commissioners. The Bill would not entail any additional duties on Captain Laurie; but if the State had to pay some other gentleman to do the work as well as Captain Laurie did it, we would have to pay five or six times as much as Captain Laurie received. Captain Laurie was entitled to draw £400 per annum in fees, but in no year drew more than £300.

HON. G. RANDELL: It was universally admitted that the chairman of the Harbour Trust Commissioners discharged his duties in an admirable manner; but the question struck him whether the Government had considered the matter of paying a higher salary to a man who would devote much more of his time to the work, because on the chairman depended the success of the administration of the Trust. Undoubtedly in Captain Laurie we had a man like the manager of the Agricultural Bank, admirably fitted for the position. In the first instance he (Mr. Randell) had opposed the idea of a member of Parliament being chairman of the Harbour Trust, and he was still of that opinion, because there

were political reasons why it should not be; it was a violation of the Constitution in spirit, if not in letter. Members would acquit him of any attempt to attack Captain Laurie in the slightest. That gentleman was underpaid for carrying out his duties.

HON. M. L. MOSS: It was inexpedient to mention the names of officers, but Mr. Stevens, the secretary to the Harbour Trust, was one of the finest men in the public service.

Title put and passed.

Bill reported with an amendment; the report adopted.

THIRD READING.

Bill read a third time, and returned to the Legislative Assembly with an amendment.

At 5:27 o'clock, the sitting was suspended awaiting messages.

At 7:30, Chair resumed.

PAPERS PRESENTED.

By the COLONIAL SECRETARY: Annual Reports of the Medical Department, the Aborigines Department, and the Surveyor General.

REMARKS BEFORE ADJOURNMENT.

THE NEWSPAPER INCIDENT.

THE COLONIAL SECRETARY: As there was no farther business to go on with, he would move that the House at its rising do adjourn until 12 o'clock to-morrow. He would be glad if members would be in attendance, as there would be a couple of third readings to pass, and perhaps a message or two from another place. The House would meet at 12 o'clock, get through the business perhaps in half an hour or an hour, and His Excellency the Governor would be asked to prorogue Parliament at 3. He would like to refer to the question of adjournment which was raised by Mr. Patrick this afternoon. Mr. Patrick took exception to a statement appearing in the *Morning Herald*, and he (the Colonial Secretary) was sorry that state-

ment appeared. It was to be regretted that Mr. Patrick thought the statement emanated from him (the Colonial Secretary). At the time the motion was moved he was taken somewhat unawares and then stated that he had no idea that the hon. member would move the adjournment without acquainting him. Moreover, he had not heard of the reference in the paper until the hon. member read it. He (the Colonial Secretary) then stated that he did not remember making the statement to the Press, nor did he make any statement whatever. Some conversation did take place in respect to Mr. Randell, but it was not really a statement to the Press. The first portion, in regard to Mr. Randell, he remembered stating; but he did not say anything in reference to Mr. Patrick. The way in which the matter appeared in the Press seemed to him to be comment on the part of the paper. He referred to the following remarks:—

The absentees who did not explain why they abstained from voting were Mr. Patrick and Mr. Hamersley. The former was a Government supporter until a few days ago; but one of the opponents to the Bill, with whom he was seen a good deal on Friday, won him over, and on Saturday morning he suddenly decided to leave the city for Cne.

That was what Mr. Patrick took exception to, and he (the Colonial Secretary) had no recollection whatever of making such a statement to the Press. A representative of the paper had seen him, and bore out what he had previously said, that the statement was not made by him (the Colonial Secretary), but that it was comment on the part of the paper.

HON. W. KINGSMILL: Did he explain why he put it in the paper as coming from the Colonial Secretary?

THE COLONIAL SECRETARY: It might be taken either way. It is headed—"Colonial Secretary disappointed." It appeared to him (the Colonial Secretary) at the time that it was comment on the part of the paper. The representative of the *Morning Herald* said that was what it was.

HON. W. KINGSMILL: Very improper comment.

THE COLONIAL SECRETARY: The representative of the newspaper bore him out and said he wished it to be under-

stood as comment on the part of the paper. He (the Colonial Secretary) knew that Mr. Patrick paired with Mr. Hamersley, and that Mr. Patrick had to leave on important business. He regretted Mr. Patrick felt hurt over the matter.

ADJOURNMENT.

The House adjourned at 7-36 o'clock, until the next day at noon.

Legislative Assembly,

Thursday, 13th December, 1906.

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THE SPEAKER took the Chair at 3 o'clock p.m.

PRAYERS.

PAPER—EXPLANATION.

THE TREASURER: In connection with the return of expenses of Ministerial and Parliamentary visits, laid on the table yesterday, there was an item on October 11th "Refreshments, His Excellency the Governor, Mundaring, £13 9s. 10d." It should read "Governor General."